

The Mount St. Helens No Mine Coalition

Cascade Forest Conservancy • Vancouver Audubon Society • Sierra Club Loo Wit Group • Conservation Northwest • Willapa Hills Audubon Society • Washington Wild • Access Fund • Great Old Broads for Wilderness – Cascade Volcanoes Broadband • Vancouver Wildlife League • The Wilderness Society • American Rivers • Wild Steelhead Coalition • Mazamas • American Whitewater • Native Fish Society • Lower Columbia Canoe Club • Oregon Canoe and Kayak Club

February 5, 2018

The Honorable Jay Inslee
Governor, State of Washington
Office of the Governor
PO Box 40002
Olympia, WA 98504-0002

Dear Governor Inslee:

Our organizations, representing over 85,000 Washingtonians, are gravely concerned about efforts to permit and move forward mining exploration and development in the Green River valley bordering the Mount St. Helens National Volcanic Monument. We are opposed to efforts by the U.S. Forest Service (USFS) and Bureau of Land Management (BLM) to issue permits and allow exploratory drilling by Ascot Resources, a foreign mining company despite significant community opposition and the risks mining poses to the treasured lands and waters of this valley. We respectfully request your support to protect the Green River Valley through voicing your opposition to the USFS and BLM and supporting legislation to withdraw the area from mining permanently. This letter outlines key arguments supporting the permanent protection of the Green River Valley from mining activities.

I. The federal agencies have discretion to deny exploratory drilling on these lands, and they should exercise that discretion given the value of the resources at risk.

The 900 acres of USFS land involved in the current exploratory drilling proposal were acquired by the agency under Land and Water Conservation Fund (LWCF) and the Weeks Act in the late 1980s. On these acquired lands, mining is not governed by the 1872 Mining Law, which calls for mining to be a preeminent use on federal lands. In 1917, Congress authorized the Secretary of Agriculture to permit limited mineral development on lands acquired under the Weeks Act.¹ This authority was transferred to the Department of the Interior by Section 402 of the Reorganization Plan No. 3 of 1946.² If exploratory drilling on these lands is considered at all, it must be pursuant to the provisions of the 1946 Reorganization Plan No. 3 and no permit, or any authorization to develop these acquired lands, can occur if such an action would “interfere with the primary purposes for which the land was acquired,” and only if such an action would “protect such purposes.”³

¹ Act of Mar 4, 1917 (codified in 16 U.S.C. § 520).

² 5 U.S.C. App. 1.

³ 5 U.S.C.A. app. § 1 (2012)

With the help of The Trust for Public Land, the USFS acquired 900 acres in the Green River Valley—170 acres of which were purchased with funding from the Land and Water Conservation Fund and the rest donated by The Trust for Public Land to the USFS—in an effort to consolidate public land ownership following the catastrophic eruption of Mount St. Helens. When the lands were transferred to the USFS, Gifford Pinchot National Forest Supervisor Robert Williams reported to Congress that the acquired property “will aid in the preservation and integrity of the Green River prior to its entering the National Volcanic Monument, and will also aid in the preservation of the scenic beauty of this area which is to become an important Monument portal.”⁴ The Forest Service’s stated purposes for acquiring the land using LWCF were outdoor recreation, protection of the Green River’s water quality, and scenic beauty—not facilitating further commercial development of mineral resources in the area.

Therefore, since these lands are not bound by the 1872 Mining Law, the USFS has discretion to deny these drilling permits and ensure that industrial-scale mining does not gain a foothold in the Green River Valley.

II. The federal government protected these lands through the Land and Water Conservation Fund; allowing mineral exploration and development is in direct conflict with the reason why these lands were protected.

The USFS recognized the importance of this area for recreation when they purchased it in 1986 with funding from the Land and Water Conservation Fund. Congress established the Land and Water Conservation Fund (LWCF) in 1964 to safeguard important natural and cultural areas, and to provide recreation opportunities to all Americans. For over 50 years, the LWCF program has protected nearly five million acres of public lands with high conservation and recreation values for future generations to enjoy. Congress created this legacy to mitigate the impacts of offshore oil and gas extraction, and maintaining the integrity of this program—and the lands protected by this forward-thinking mechanism—is essential.

For the lands acquired with LWCF funding, outdoor recreation must be considered a primary purpose for which the land was acquired as established by the LWCF appropriation authority. In 2014, a federal court confirmed that outdoor recreation must be considered a primary purpose for which the LWCF lands were acquired and that the agencies must make an express determination that the exploratory drilling is not inconsistent with outdoor recreation.⁵ Exploratory drilling is simply incompatible with the primary purpose for which the lands were acquired because exploration activities will: (1) harm the ecological integrity of the Green River; (2) interfere with public access and enjoyment of outdoor recreation opportunities; (3) negatively affect wildlife habitat and attendant endangered species; and (4) mar the scenic beauty of the area.⁶

If the Forest Service and BLM allow mining activities on LWCF lands within the Green River valley, it calls into question the protection offered through LWCF. A mine approval here would imply that no LWCF lands are safe from commercial development that would destroy irreplaceable

⁴ Letter from Robert Williams, Gifford Pinchot National Forest Supervisor to The Honorable Slade Gorton, United States Senator (Feb. 3, 1986)(on file with the Forest Service).

⁵ *Gifford Pinchot Task Force v. Perez*, No. 03:13-cv-00810-HZ, p. 20-22 (D. Or. 2014).

⁶ See *Gifford Pinchot Task Force et. al comments re: Goat Mountain Hard Rock Prospecting Permit Applications Modified EA* p. 7-15.

public conservation and recreation values. Ascot Resources' drilling proposal not only threatens the Green River valley, but also millions of acres nationwide that have been conserved through LWCF.

III. The Green River provides unique and critical fish habitat that is incompatible with mining activities.

The Green River and its tributaries provide critical habitat for salmon and steelhead, species that are culturally, recreationally, and economically important to Washington. In 2014, the Washington Department of Fish and Wildlife (WDFW) recognized the importance of the river's cool, clean waters to wild steelhead populations and designated the Green River a gene bank for wild winter steelhead. Steelhead gene banks are an important component of the regional management plans developed by WDFW for lower Columbia steelhead.⁷ These gene banks are intended to protect wild steelhead populations from the effects of hatchery programs. Factors considered in the selection of gene banks are the habitat quality, land ownership in the watershed, importance of the population to overall recovery of wild steelhead in this Distinct Population Segment (DPS), and whether land uses degraded steelhead habitat. Mining along the headwaters of the Green River risks polluting the river with acid mine drainage, including toxic metals that could have catastrophic impacts on the wild steelhead population. Furthermore, mining in the headwaters of the Green River risks introducing mining pollution into the watershed. Salmon and steelhead require clean water to survive, and are particularly susceptible to mining pollution such as increased copper levels. This mining project poses an unacceptable risk to fish populations in the Green River and the viability of the river as a steelhead gene bank – one of four gene banks established for the Lower Columbia River DPS.

IV. The Green River valley provides world-class backcountry recreation experiences for a diversity of users.

For generations people have visited the Green River valley for a variety of backcountry recreational experiences, from hiking and flyfishing to hunting and horseback riding. The valley provides access to the Tumwater Inventoried Roadless Area and the Mount St. Helens National Volcanic Monument, and serves as a gateway and connection to wild lands in the region.

Prior to the 1980 eruption of Mount St. Helens, this valley contained one of the largest stretches of old-growth forest in southwest Washington, providing a unique recreational experience. Today, hiking trails allow visitors to experience the edge of the 1980 blast-zone and mountain views, wildflowers, lakes, and sections of old-growth forest that survived the eruption. This area is also a destination for mountain bikers with the St. Helens International Festival of Trails as well as backcountry horsepackers who frequent the Green River Horse Camp and surrounding trails. Furthermore, the Green River Valley is valued for elk hunting and flyfishing opportunities along the proposed wild and scenic Green River. Whitewater rafters and kayakers also recreate on the Green River a few miles downstream (Green River to South Fork Toutle confluence). Due to these threats to recreation, and a concern of citizens who get their drinking water from the Toutle/Cowlitz, in March 2016 the City of Kelso passed a resolution against mining in the Goat Mountain area.

Ascot Resources' drilling proposal will bring 24-7 operations to this quiet valley, requiring road construction, tree removal, waste disposal truck activity, excess light and noise, and more that will have a significant impact on valley visitors during the peak recreation season, which will coincide

⁷ https://wdfw.wa.gov/conservation/fisheries/steelhead/gene_bank/columbia_river/lcr_gene_bank_options.pdf

with the drilling season. These activities will not only impact recreational users of the valley, it will also coincide with breeding times for game species, including the deer and elk that roam this valley.

V. The ongoing volcanic activity at and around Mount St. Helens makes any commercial mining venture risky.

Mount St. Helens is one of the most active volcanoes in the Cascades, and there is constant seismic activity in this area. As recently as January 3, 2018, a series of earthquakes occurred near the volcano. One earthquake, measured at 3.9, was felt by people in Portland and Seattle. Earthquakes are relatively common in the area surrounding the Green River valley, and each of these earthquakes would potentially destabilize and future mine infrastructure, posing an unacceptable risk to the watershed and downstream communities. While an eruption may not occur during the life of a potential mine, too often mines are abandoned and left for future generations to clean up.

Throughout the country, abandoned mines continue to pollute watersheds, even at sites closed over a century ago. Under current laws, mining companies are not required to clean up mine sites, so the cost of clean-up often falls to taxpayers. The EPA estimates that hardrock mining waste has polluted nearly 40 percent of stream reaches in the headwaters of western watersheds.⁸ From 1997 to 2008, federal agencies spent at least a total of \$2.6 billion to reclaim abandoned hardrock mines on federal, state, private, and Indian lands.⁹ In 2008, the Government Accountability Office (GAO) determined that at least 161,000 abandoned hardrock mine sites in the 12 western states and Alaska, and at least 33,000 of these sites had degraded the environment, by contaminating surface water and groundwater or leaving arsenic-contaminated tailings piles.¹⁰

The ecological risks of abandoned hardrock mines would only be increased in this seismically active region.

V. Conclusion

We respectfully request your support for the permanent protection of the Green River valley and to voice your opposition to the USFS and BLM to proceeding with the exploratory drilling in this treasured valley. The federal agencies are not bound by the 1872 Mining Law in this case; they have the discretion to deny these permits and to fulfill the purpose for which these lands were originally acquired and transferred: to support outdoor recreation, and protect the water quality of the Green River and the scenic beauty of the Green River valley—not facilitate commercial development of mineral resources in the area.

Thank you for your leadership on this issue at this critical time in the decision-making process and for being a stalwart champion of Washington's public lands and environment. Please contact Nicole Budine, Cascade Forest Conservancy, at 503-222-0055 or Nicole@cascadeforest.org with any questions or to further discuss this issue.

⁸ <https://nepis.epa.gov/Exe/ZyPDF.cgi/20004GRW.PDF?Dockey=20004GRW.PDF>

⁹ <https://www.gao.gov/products/GAO-11-834T>

¹⁰ *Id.*

Sincerely,

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