



December 1, 2017

Todd Griffin, Project Lead  
Mt. Baker Snoqualmie National Forest  
810 State Route 20  
Sedro-Wooley, WA 98284  
Submitted electronically to: [toddgriffin@fs.fed.us](mailto:toddgriffin@fs.fed.us)

**Re: Excelsior Mine Plan of Operations**

Dear Mr. Griffin:

On behalf of the undersigned organizations we appreciate the opportunity to provide scoping comments on the proposed plan of operations for the Excelsior Mine located in the Mt. Baker Ranger District of the Mt Baker-Snoqualmie National Forest.

While we recognize that mining is one of the allowed uses on Forest Service lands, the potential impacts of mining to the surrounding watershed and environment and the antiquated 140-year old law (e.g., the 1872 Mining Law) governing such activities requires a thorough and serious analysis to avoid detrimental impacts to long standing conservation, recreation, wildlife and Tribal values

Many of the organizations signing this letter also submitted scoping comments in January 2014 on a similar issue. Over the past three years the project related to the Excelsior Mine redevelopment appears to have grown in scope. We have outlined our concerns below and ask that changes be made to the proposed plan to minimize harm to natural resources, including any impacts to inventoried roadless areas.

**I. General Concerns**

Inventoried Roadless Areas

The proposed mine redevelopment directly impacts the Mt. Baker North Inventoried Roadless Area. This roadless area was part of nearly 60 million acres of unroaded unlogged national forest stands nationwide that were protected from new road construction under the National Forest Roadless Area Conservation Rule of 2001. The rule was established as road maintenance backlogs on over 372,000 miles of national forest roads ballooned to \$10 billion accompanied with increasing aquatic risks to watersheds and threatened species resulting from decades of unsustainable logging of old growth forests. Proponents of

the rule argued that if the Forest Service can't pay for the roads they already have, they should not build any new roads in the few areas of the forest that remain unroaded.

After the most extensive federal rulemaking in the history of the federal government, spanning 16 months, and resulting in more than 2.5 million individual comments (95% supportive) and more than 600 public meetings, the Roadless Rule is a balanced and popular policy that has stood the test of time and decades of legal challenges. With more than one-half of America's National Forests already open to logging, mining, and drilling, the rule was intended to preserve the last third of undeveloped forestlands as a home for wildlife, a haven for recreation, a source of clean water and a heritage for future generations. A wide-range of activities are permissible in inventoried roadless areas however building roads is not.

While FS Roads 3700-031 and 3700-033 are outside the boundaries of the Inventoried Roadless Area, the proposed "upper road" is slated to be located entirely within the inventoried roadless area boundary. The scoping notice anticipates this new road in the roadless area to be on the landscape for 20 years. Not only would this upper road violate the Roadless Rule but it would also be adding mileage and maintenance costs to the Forest's already unsustainable road system (the new road segment would be classified as a Maintenance Level 2 or high-clearance road). This would happen at a time when the Mt. Baker Snoqualmie National Forest has just completed a two-year public process resulting in decisions on two Access Travel Management Plans (including the Nooksack watershed) that were focused on complying with an agency mandate to reduce their road system to a sustainable level from a maintenance perspective.

Building a new road into the Mt. Baker North Inventoried Roadless Area is unacceptable. Access can still be provided to the mine site using existing roads outside the roadless area. Furthermore, we are concerned about a number of projects over the past few years put forward by the Mt. Baker Ranger District that are beginning to show a persistent pattern of violating Inventoried Roadless Areas. The Swen Larsen Quarry expansion would completely destroy 10 acres of the Mt. Baker West Inventoried Roadless Area without any mitigation for the loss of wildlife habitat and associated late successional forests that have never been logged. We understand that other road proposals would potentially violate the Mt. Baker South Inventoried Roadless Area currently being considered.

### Eligible Wild and Scenic River

Much of the area of the proposed operation 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 Mt. Baker Snoqualmie National Forest Plan. The Outstandingly Remarkable Value cited for this stream was "wildlife," including mountain goat winter range and Spotted Owl Habitat Area (SOHA)<sup>1</sup>. The accompanying map to the scoping notice does not identify the status of Wells Creek as an eligible river.

The US Forest Service Handbook,<sup>2</sup> 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:*

---

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

<sup>2</sup> Section 1909.12, Chapter 80

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.*

It is unclear whether the proposed project is consistent with the agency handbook and will not impact the Wells Creek Outstandingly Remarkable Values.

In addition, 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 Values cited for this river includes scenic, recreation, fish, wildlife and historical/cultural.<sup>3</sup> 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 (listed as “Threatened” under the Endangered Species Act (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 (listed as “Threatened” under the ESA) and bull trout (listed as “Threatened” under ESA). The proposed action does not clearly state how these threatened species will be protected from impacts.

### 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.<sup>4</sup> While it is difficult to determine the exact boundaries of this designation, a map is attached showing the designated areas in “Unit 4” (Attachment 1)<sup>5</sup>. 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. Seasonal restrictions and other considerations may be relevant.

### Aquatic Conservation Strategy & Riparian Reserves

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.”<sup>6</sup> 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 aquatic habitat conservation areas is problematic and has a high likelihood of producing detrimental impacts.

## **II. Specific Concerns Relating to Phases 1-3**

---

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

<sup>4</sup> 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

<sup>5</sup> Final Spotted Owl Critical Habitat Maps Washington Unit 1

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

<sup>6</sup> Standards and Guidelines Attachment B to the 1994 ROD; p.B-13

A. New Objective Maintenance Level for Excelsior Mine Road (FS Road 3700-031) to access mine site

Based upon the map provided and INFRA data from the Mt. Baker Snoqualmie National Forest, it appears that FS Road 3700-031 is currently at a maintenance level of “open” (ML 2) and is slated for an objective maintenance level of “closed” (ML 1). The objective maintenance level of ML1 reflects the fact that the recent Sustainable Roads System analysis identifies this road as “high” aquatic risk. The project identifies this road remaining open for the long term rather than being closed in the future and any environmental analysis should identify all the maintenance costs required to ensure that the aquatic risks are minimized over the lifetime of the project term.

B. Impact of using Dry Horse Road (FS Road 3700-033) to access private “upper road”

Based upon the map provided and INFRA data from the Mt. Baker Snoqualmie National Forest, FS Road 3700-033 is currently closed (Level 1) and is slated to be decommissioned and removed from the road system. Any Environmental Assessment must address and justify any differences in the recently completed Sustainable Roads Analysis under Subpart A of the Travel Management Rule.<sup>7</sup> Furthermore, the proposed commitment as part of this project would be for upgrading and then maintaining FS Road 3700-033 for a period of twenty years. Given that access to the mine site is to be provided by the existing FS Road 3700-031, it is unclear why a second access route using FS Road 3700-033 is necessary. We believe the addition of a second access route is not a responsible action given the current management direction for this area. Limited road maintenance funds will be directed here which will have financial impacts on other road maintenance priorities elsewhere on the Mt. Baker Ranger District where recreational and tribal access should be prioritized. This action also contradicts the objective maintenance level identified by the agency.

C. Construction of a new “upper road” in the Mt. Baker North Inventoried Roadless Area

The project proposes to build a new “road” within the Mt. Baker North Inventoried Roadless Area (IRA) expected to be in existence for twenty years. This is clearly inconsistent with the National Forest Roadless Area Rule of 2001, which generally prohibits new road construction in Inventoried Roadless Areas. No reference is made to this conflict in the scoping notice except for identifying the IRA boundary on the map. Additionally, it seems that access to the mine site could be provided via FS Road 3700-031 without constructing a new “upper road” into the Mt. Baker North Inventoried Roadless Area. It is not only troubling that this roadless area would be pierced by a new road, but it is equally troubling that the Forest Service failed to acknowledge the controversial and problematic nature of this action.

D. Potential impacts of activities at the mine portals to Wells Creek

The two mine portals are about 200 feet upslope, and perhaps 1/10th mile 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, needs to be evaluated.

We appreciate the opportunity to review the scoping notice and provide our comments in advance of the drafting of the Environmental Assessment. We remain very concerned about the building of a road in a

---

<sup>7</sup> 36 CFR § 212.5

roadless area and the impacts of mining activities to the recreational and conservation values of the forest and waters.

Sincerely,

Tom Uniack  
Executive Director  
Washington Wild  
[tom@wawild.org](mailto:tom@wawild.org)

Marlies Wierenga  
Pacific Northwest Conservation Manager  
WildEarth Guardians  
[mwierenga@wildearthguardians.org](mailto:mwierenga@wildearthguardians.org)

Pam Borso  
President  
North Cascades Audubon Society  
[borsope@aol.com](mailto:borsope@aol.com)

Timothy Manns  
Conservation Chair  
Skagit Audubon Society  
[bctm@fidalgo.net](mailto:bctm@fidalgo.net)

Gus Bekker  
President  
El Sendero Backcountry Ski & Snowshoe Club  
[gwbekker@charter.net](mailto:gwbekker@charter.net)

Katherine Hollis  
Conservation and Advocacy Director  
The Mountaineers  
[katherineh@mountaineers.org](mailto:katherineh@mountaineers.org)

Hilary Eisen  
Recreation Planning and Policy Manager  
Winter Wildlands Alliance  
[heisen@winterwildlands.org](mailto:heisen@winterwildlands.org)

Andrea Imler  
Advocacy Director  
Washington Trails Association  
[aimler@wta.org](mailto:aimler@wta.org)

Dave Werntz  
Science and Conservation Director  
Conservation Northwest  
[dwerntz@conservationnw.org](mailto:dwerntz@conservationnw.org)

Michael Davis  
President  
Mount Baker Club  
[mikesdavis@outlook.com](mailto:mikesdavis@outlook.com)

John McGlenn  
President  
Washington Wildlife Federation  
[johnmcglenn@gmail.com](mailto:johnmcglenn@gmail.com)

Ben Greuel  
Washington State Regional Director  
The Wilderness Society  
[benjamin\\_greuel@twc.org](mailto:benjamin_greuel@twc.org)

Don Parks  
Co-Chair, National Forest Committee  
Washington Chapter of the Sierra Club  
[dlparks398@gmail.com](mailto:dlparks398@gmail.com)

Tom Hammond  
President  
North Cascades Conservation Council  
[tphammond@gmail.com](mailto:tphammond@gmail.com)

Thomas O'Keefe  
Pacific Northwest Stewardship Director  
American Whitewater  
[okeefe@americanwhitewater.org](mailto:okeefe@americanwhitewater.org)

CC: Forest Supervisor Jamie Kingsbury  
Congresswoman Suzan DelBene  
Senator Patty Murray  
Senator Maria Cantwell