



June 30, 2017

Erin Uloth

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Submitted electronically to: comments-pacificnorthwest-mtbaker-snoquamie-mtbaker@fs.fed.us

Re: Draft EA Comments for Proposed Swen Larsen Quarry Expansion

Dear Ms. Uloth:

On behalf of the 21 undersigned organizations and the tens of thousands of forest users, Washington residents and federal taxpayers whom they represent, we are writing to respond with comments to the recently released draft Environmental Assessment (EA) for the proposed Plan of Operations submitted by United Western Supply.

Many of our organizations were among the 19 conservation and recreation organizations who signed a scoping comment letter on this issue on October 12, 2016. We appreciated that the draft EA listed four of the concerns we raised as part of our comment letter as key issues for this project, including impacts to Inventoried Roadless Areas, the City of Bellingham Municipal Watershed, fish and wildlife and old growth forests (EA Pg. 9).

We have concerns about the dramatic impact that the quarry expansion will have on the values of the area proposed for expansion. The expansion area is entirely within the Mt Baker West Inventoried Roadless Area, which is afforded protection from new road construction and related development under the Roadless Area Conservation Rule of 2001. Roadless areas are comprised of unlogged ancient forests which are underrepresented on national forest lands due to unsustainable logging practices decades ago.

Moreover, these protections were the hard-fought result of one of the most extensive public involvement processes in the history of federal rulemaking. Hundreds of thousands of citizens weighed in between 1999 and 2001 in support of protecting nearly 60 million acres of undeveloped national forests from road-building and associated industrial activity. During the 2000's, conservation, recreation and sportsmen groups worked

hard to defend the Roadless Rule from administrative attempts to weaken the rule and legal challenges. Ultimately those defensive efforts prevailed.

We are also concerned about the impacts to the quality of water within the Middle Fork Nooksack River, which serves as a source of the safe and clean drinking water supply for more than 85,000 residents of the City of Bellingham. The underlying forest plan allocation for the expansion area is focused on protecting this municipal watershed.

As stated on the City of Bellingham website:

The City of Bellingham operates a water diversion dam on the upper reaches of the Middle Fork Nooksack River approximately 20 miles east of the City of Bellingham, at an elevation of approximately 838 feet above sea level. The City has used the diversion dam since 1962 to divert water from the Middle Fork into its water supply system. From the river, the water flows through a tunnel and pipe into Mirror Lake and then into Anderson Creek, which empties into Lake Whatcom. The lake is the drinking water reservoir for over 85,000 City and County residents.

After reviewing the draft EA, we have the following comments to submit:

I. This project should require an Environmental Impact Statement level of analysis under the National Environmental Policy Act

The Forest Service opted to prepare an Environmental Assessment rather than a more rigorous Environmental Impact Statement (EIS) for this project. However, Forest Service NEPA regulations identify classes of actions normally requiring Environmental Impact Statements including:

“Class 2: proposals that would substantially alter the undeveloped character of an inventoried roadless area or a potential wilderness area.” [36 CFR 220.5(a)(2)]

The regulations provide a specific example that is directly relevant to the Swen Larsen Quarry Expansion:

“Approving a plan of operations for a mine that could cause considerable surface disturbance in a potential wilderness area.” [36 CFR 220.5(a)(2)(iii)]

As evidenced by Figure 1 the current quarry operations has resulted in almost complete surface disturbance contrasted to the intact forest not yet impacted and part of the Mt. Baker West Inventoried Roadless Area.

We request that the Forest Service develop an EIS for this project to comply with their own regulations.

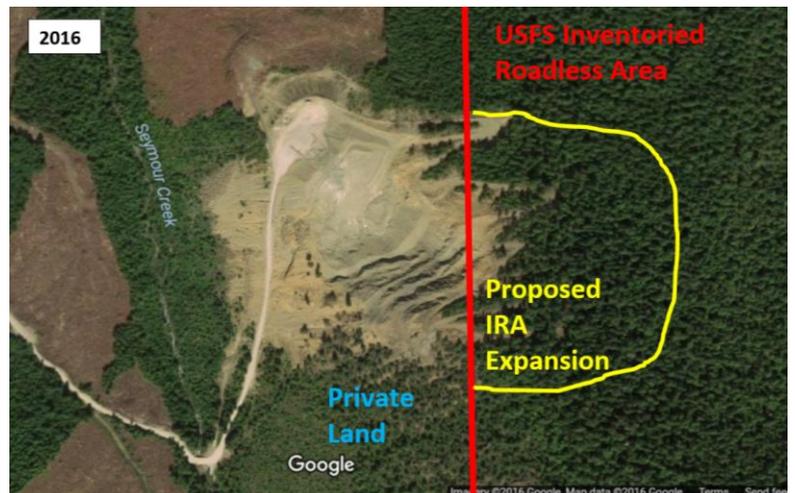


Figure 1: 2016 Satellite Image of Swen Larsen Quarry showing existing quarry and proposed expansion into Mt. Baker West Inventoried Roadless Area.

II. The draft EA should be clear about any decision limitations with respect to the General Mining Law of 1872

This public process is different from many others due to the considerable impact of the General Mining Law of 1872. This antiquated law, signed by Ulysses S. Grant, gave miners a property right in valuable mineral deposits and is still the basic law governing hardrock mining on federal lands. The Organic Administration Act of 1897 does not allow the Forest Service to prohibit prospecting, locating, and developing hardrock minerals; however, it does require any such mining to comply with all rules and regulations covering the national forests (16 U.S.C. 478). Forest Service regulations adopted in 1974 require that hardrock mining activities be “conducted so as to minimize adverse environmental impacts on National Forest System surface resources” (36 C.F.R. 228.1), but they do not authorize outright denial of a proposed plan of operations. . As a result, Forest Service officials feel that they are unable to “just say no” to mining related proposals.. This is reflected in the draft EA under the Environmental Assessment:

“Therefore, the role of the designated decision maker is to determine if the alternative should be selected as is or modified.” (EA Pg. 6)

To the extent that the agency feels they cannot choose the No Action Alternative, greater attention should be focused on addressing and minimizing the considerable impacts to the four key issues identified in the draft EA: namely, impacts to Inventoried Roadless Areas, the City of Bellingham Municipal Watershed, fish and wildlife and old-growth forests (EA Pg. 9).

III. The Affected Environment Analysis in the Draft EA relating to impacts to Inventoried Roadless Areas is Insufficient

The draft EA makes the point that specific exceptions related to mining under the General Mining Law of 1872 are being utilized with respect to this project’s impacts on the Mt. Baker Inventoried Roadless Area (IRA). However, several statements are perpetuated in the draft EA as additional rationale for diminishing the impacts to the IRA values that are incorrect and not compelling:

“This Inventoried Roadless Area is assigned to non-wilderness uses and therefore the project site does not fall within a designated or potential wilderness area. The quarry’s site makes up a small (0.0025%) fraction of the overall Mt. Baker-Snoqualmie National Forest N.F. Inventoried Roadless Area and is located on the western edge of the National Forest.” (EA Pg. 69)

The statement that the Mt Baker West IRA does not fall within a “potential wilderness area” is incorrect and misleading. Potential wilderness areas refer to inventoried roadless areas when being considered as part of an inventory process for a forest plan revision. The terms are largely synonymous. No underlying forest allocation or other factors would strip a roadless area identified under the 2001 Roadless Rule of its protections afforded therein.

Whether the proposed expansion into the roadless area is on the periphery or only a certain percentage of the whole is not a useful rationale for diminishing its importance. The site’s elevation, forest cover, species diversity, slope and other factors are equally relevant to its value and importance as its size.

IV. The Discussion in the draft EA relating to new or temporary roads associated with the expansion lacks transparency and sufficient detail

We are aware of the many challenges the U.S. Forest Service (USFS) faces with its oversized and under-maintained road system. With nearly 400,000 miles of roads as a byproduct of logging decades ago, the maintenance backlog is in the billions of dollars.

The Mt. Baker-Snoqualmie National Forest has been a leader in the efforts to identify a minimum and sustainable road system. The Forest went the extra mile to gather public input toward a required sustainable roads analysis and then invested in two Access Travel Management plans for specific watersheds including the Nooksack adjacent to the project area.

Due to the significant social, economic and political investment in the goal of establishing a sustainable road system, any project that proposes additional roads on the Forest needs to be looked at honestly and carefully.

There is little to no discussion about new or temporary roads that would be needed as part of the proposed quarry expansion. There is no discussion of new or temporary road miles that would be proposed as part of the expansion. This is perplexing due to the nature of hauling and transporting material required within the expansion.

We could only find three passages in the entire draft EA that reference plans to construct or establish new roads or transportation corridors in the proposed expansion within the Mt Baker West Inventoried Roadless Area. The first references the possibility of roads being added after the current NEPA review:

“For this project, claimants under the General Mining Law of 1872 can seek approval from the responsible official to build roads if needed. The Roadless Rule states “access for the exploration of locatable minerals pursuant to the General Mining Law of 1872 is not prohibited...access may include, but is not limited to, helicopter, road construction or reconstruction, or non-motorized transport” (36 CFR § 294.12(b)(3), 2001).” (EA Pg. 73)

“For Alternative B, application of this [Roadless] rule would apply, but it would follow the claimant’s statutory right under the General Mining Law of 1872 to access locatable minerals for the development of valid claims, which may require road construction or reconstruction, or non-motorized transport.” (EA Pg. 74)

Roads have measurable and important impacts on the watershed and surrounding environment. Moreover, the specific environment proposed for expansion has been and continues to be managed for unroaded values. The question of whether the project needs additional roads to be constructed should be addressed as part of this NEPA process so that the environmental analysis and affected environment can be evaluated properly. It is unacceptable to suggest that later additional roads may be approved as part of the expansion.

Later in the same section, the draft EA apparently tries to suggest that “two-track trails” would be used by heavy equipment in the expansion area to avoid calling these roads.

“Roads are defined as a, “motor vehicle travel way over 50 inches wide, unless designated and managed as a trail. A road may be classified, unclassified or temporary” (USDA, 2001). To access the expansion area temporary two-track trails will be built within the confines of the proposed expansion area.” (EA Pg 73)

It appears that the agency is making the argument that because the surface impacts are so complete that there is no need to create a “road” to mitigate surrounding impacts. For example, one would not build a road for a bulldozer on a construction site.

This underscores the significance of the surface impacts on the roadless and ancient forest values that would be completely lost as a result of this expansion. It is disingenuous for the agency to spend the bulk of the draft EA articulating how the impacts will be limited or acceptable, only to admit that they will actually be dramatic and wholesale in the transportation section.

V. The Affected Environment Analysis in the Draft EA relating to impacts to Old-Growth and Late Successional Forests is misleading and insufficient

The draft EA recognizes impacts to old-growth forests and their possible destruction as one of four key issues on Pg. 9. This was clearly a value that was common in scoping comments received by the agency. However, when articulating why an alternative focused on old-growth forest protection was not considered the EA references:

“Forest Service specialists confirmed that no old growth structure exists within the project site, only late-successional forest.” (EA Pg 15)

We assume that a technical definition of old-growth was used to make this assessment. While a threshold of old-growth structure (i.e., snags, woody debris, platform formations, canopy cover) may not have been reached during a site visit this does not eliminate the value of these uncut virgin forest, some in excess of 160 years old. The term old-growth has a variety of definitions to include scientific, social and political values.

Intact forests with complex structure due to their age and the avoidance of impacts from plantation logging are under-represented on the landscape due to unsustainable logging in the past. These values are present within the Mt. Baker IRA and the expansion area and we believe they should not be dismissed, but should be protected.

The statement on Pg 15 of the draft EA also differentiates the terms old-growth and late successional as if the former has ecological and social value and the latter does not. This could not be further from the truth.

The intent of the 1994 Northwest Forest Plan is to protect the integrity of the remaining late-successional old-growth forest ecosystems and wildlife habitat that remains as well as manage for additional old-growth habitat to meet habitat needs in the future through Late Successional Reserves. Late successional habitat is the next generation of old-growth forests and shares the same value.

While we might debate the definition used for old-growth forest, the draft EA acknowledges that the expansion area is characterized by late successional forest which are on the spectrum of exhibiting old-growth characteristics. To be clear, this project would eliminate all of these old previously uncut forests within the expansion area which provide emergent habitat for imperiled wildlife species such as the northern spotted owl and marbled murrelet. The draft EA does not sufficiently articulate the value of these forests for wildlife habitat, ecosystem function and social values in this region.

VI. Mitigation in the draft EA does not address the issues we have raised

While we appreciate that the draft EA identifies several mitigation measures, none address the concerns that we have identified in this letter. At issue is that the late successional or old growth forest and the ecological

communities and wildlife habitat that have been protected under the 2001 Roadless Rule within the Mt. Baker West Inventoried Roadless Area would not just be impacted but obliterated by this proposed expansion. The nature of the quarry expansion is akin to mountain top removal mining, where virgin forest will be transferred into a moonscape mining pit.

While there is discussion about timely reclamation in the draft EA, no reclamation is going to restore the existing late successional or old growth forests over the next 120 years. Moreover, the claim that any reclamation will be timely is in doubt given that the draft EA admits that to date only 1 acre has been reclaimed since 1971 (Pg. 74-75)

We are interested in exploring opportunities for mitigation that would give some real protection from further expansions into the roadless area in the future or support late successional or old growth forest protection or potential wilderness area identification elsewhere on the Mt. Baker District.

We appreciate the opportunity to give substantive comments in this public comment period. Feel free to contact Tom Uniack, Executive Director for Washington Wild directly, on behalf of the undersigned organizations, at 206-633-1992 or tom@wawild.org.

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