



June 5, 2023

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 Washington State Department of Ecology
 1250 Alder Street
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Comments submitted electronically to: 8mile@ecy.wa.gov

RE: Eightmile Dam Restoration and Replacement Project Draft Environmental Impact Statement

Dear Director Tebb:

Thank you for the opportunity to provide comments on the Eightmile Dam Restoration and Replacement Project Draft Environmental Impact Statement (Draft Plan). Many of the undersigned organizations provided comments in 2016 and 2018 during the development of the Icicle Strategy and in 2021 as part of the scoping period for the Draft Plan. As you will see below, many of the issues highlighted during previous iterations of this issue remain concerns that need to be addressed.

The 28 undersigned organizations have come together out of our concern and respect for the Alpine Lakes Wilderness and the Enchantment basin. The Alpine Lakes is one of the most iconic and treasured places in the National Wilderness Preservation System and one of the most visited wilderness areas in the country. Eightmile Lake lies within the Enchantment Permit Zone, which has seen considerable growth in visitation in the last decade, with combined day and overnight use increasing from 19,678 visitors in 2009 to 45,810 visitors in 2018 because of the unique recreational experiences offered in the area. Our organizations and members have great interest in the management and stewardship of these lands and are committed to working to ensure wilderness, recreation, scenic, and other natural resource values are fully protected into the future.

Our organizations also support the maintenance of the Eightmile Lake dam, recognizing the import of protecting public health and safety downstream. We also support the opportunity (with minimal and limited impacts to the Alpine Lakes Wilderness) to provide quality and quantity of water to support instream flows within the historic river channel of Icicle Creek and on through the Wenatchee and Columbia Rivers to the ocean in support of both fish and tribal treaty rights.

Appreciation for Concerning Activities Not Proposed for Action in the Draft Plan

We would like to acknowledge that, based on analysis of federal laws (like the 1964 Wilderness Act), regulations (like the 2001 National Forest Roadless Area Conservation Rule), and input from more than 17,600 public comments during the 2021 scoping period for this project, the Draft Plan has eliminated a number of proposed or potential actions that would have raised significant issues.

We appreciate that none of the four alternatives in the Draft Plan:

- Include a proposal to construct a road within the Alpine Lakes Wilderness boundary which would be a violation of the 1964 Wilderness Act and dramatically impact the wilderness character in a negative manner.
- Include construction activities outside of the special warranty deed area within the Alpine Lakes Wilderness.
- Include any new road construction or improvements outside the Alpine Lakes Wilderness within an inventoried roadless area, which precludes such activity.

Concerns Relating to the Draft Plan

Our organizations respectfully submit the following concerns and potential adjustments for Ecology's careful consideration and evaluation as the agency moves forward with the complex Eightmile dam repair project:

1. The Draft Plan must ensure no precedent-setting actions are considered as part of the Eightmile Dam project and ensure compliance not only with the 1964 Wilderness Act but also the 1981 Alpine Lakes Area Management Plan

All three of the action alternatives would have significant impacts to the Wilderness character of the area protected by the 1964 Wilderness Act. The following pose concerns with respect to both the character of the physical wilderness and the experience of the wilderness user and should be further mitigated in the Final EIS:

- Wilderness Aesthetics of the Repaired Dam - The current dam is not particularly conspicuous to Wilderness users and has a minimal visual footprint. Alternatives 1 & 2 would increase the footprint of a reconstructed dam, height of the dam, and associated spillways. Alternative 1 would also add mechanized gates that would be very conspicuous and have significant impacts to the Wilderness character.
- Motorized Use – The Draft Plan references the use of “[e]xcavators and other equipment such as boulder busters would be used to move rock and earth to construct the dam,” (Draft Plan Pg. 3-11), but the extent and duration of motorized uses is not disclosed. These activities should be detailed and any efforts or options to mitigate the use of motorized equipment should be discussed or proposed.
- Helicopter Flights – The Draft Plan proposes a significant number of helicopter flights to transport materials ranging from 81 flights (Alternative 1 & 3, Option 1) to 256 flights (Alternative 2, Option 2). The Draft Plan is not clear about whether helicopter flights would be limited to the dam construction phase or extended to a later maintenance phase. We do not want to see helicopters used for maintenance activities. We would like to see the number of helicopter flights conducted in the Wilderness reduced to the greatest extent possible.
- Additional Repeater and Telemetry Sites – All alternatives in the Draft Plan call for the installation of telemetry equipment secured with guy wires at the lake to allow for remote operation of release valves and gates. This equipment would be flown in by helicopter. While the telemetry devices located at the lake may not increase the planned number of helicopter flight associated with the dam construction, consideration of using pack animals to transport separate telemetry materials to Icicle ridge (away from the dam construction site) as a minimum tool should be proposed to avoid additional helicopter flights. All maintenance activities on these telemetry sites should be done without helicopters or motorized transport. We call your attention to the Alpine Lakes Area Land Management Plan (page 162) which states in part: “[Dams] will continue to be maintained by primitive means unless an environmental analysis indicates that the work cannot be accomplished without motorized equipment.” Please comply with this Forest Service Land management requirement in the Final EIS.

2. As the primary federal agency obligated to manage the Alpine Lakes Wilderness, the U.S. Forest Service (Okanogan-Wenatchee National Forest) needs to play a larger role in the state EIS process

The Okanogan-Wenatchee National Forest (OWNF) manages 87 percent of the land in the Icicle sub-basin, 74 percent of which is located within the Alpine Lakes Wilderness. As discussed, Eightmile Lake is located within the Alpine Lakes Wilderness, which adds multiple layers of federal law and regulations to consider for all actions proposed on federal

land, most notably the 1964 Wilderness Act, 1976 Alpine Lakes Area Management Act, and the 1981 Alpine Lakes Area Land Management Plan.

While the OWNF will need to do its own NEPA analysis based on the action chosen by the WA Department of Ecology, the OWNF needs to be more involved in the SEPA process, sharing their expertise and exercising their federal obligation under the provision of the 1964 Wilderness Act and to ensure that the wilderness character is appropriately addressed by this Draft Plan. This needs to be evident in the selection and analysis of alternatives and identification of and compliance with all applicable federal laws, regulations and management plans.

Wilderness Act Compliance and Managing for Wilderness Character

A Wilderness designation is the highest level of protection on federal lands and is guided by the Wilderness Act of 1964 which stated the following purpose in Section 2(a):

“In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States..., leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness.” Section 2(a)

The Forest Service has an obligation and experience in managing designated Wilderness areas to preserve their wilderness character. Because a handful of primitive dams (including Eightmile Lake) pre-existed the designation of this area as federal Wilderness, the repair of those dams presents a complicated management issue. In these cases, the agency does have discretion under Section 4(c) of the 1964 Wilderness Act to determine the “minimum requirements,” necessary to administer the area consistent with the Wilderness Act involving a non-conforming use.

“Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act and except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.” (Section 4(c) of the Wilderness Act)

Actions that might be subject to a minimum requirement wilderness analysis include, but are not limited to scientific monitoring, research, wildlife management, recreational developments (trails, bridges, signs, etc.), and activities related to special provisions mandated by the Wilderness Act or subsequent legislation (such as grazing, mineral rights, access to inholdings, maintenance of water developments, and commercial services).¹

We do not take lightly potential exceptions to the Wilderness Act that would allow the use of motorized equipment. We regard the use of the agency’s discretion under the Wilderness Act as something to be considered carefully and rarely on a case-by-case basis. We expect the OWNF to prepare a Minimum Requirement Analysis (MRA) to ensure that the use and frequency of helicopters, motorized equipment and nonnative materials is consistent with Section 4(c) of the Wilderness Act.

¹ Arthur Carhart National Wilderness training Center Minimum Requirement Decision Guide Overview, https://winapps.umn.edu/winapps/media2/wilderness/NWPS/documents/MRDG/MRDG_overview.pdf

Compliance with the 1981 Alpine Lakes (Wilderness) Area Management Plan

Six years after the designation of the Alpine Lakes Wilderness Act in 1976, the (then) Wenatchee National Forest completed the Alpine Lakes Wilderness Management Plan (ALAMP) in 1981. This plan laid out specific management guidance for the 393,000-acre Alpine Lakes Wilderness (including the Eightmile Lake area), taking into consideration compliance with the Wilderness Act and other federal laws relating to the Wilderness area. The ALAMP was subsequently referenced and incorporated in the Wenatchee National Forest Land and Resource Management Plan (LRMP) Final EIS and its associated LRMP of 1990.

In the 464-page Draft Plan, the 1981 Alpine Lakes Wilderness Management Plan is mentioned only once, in the 2012 goals identified by the Icicle Working Group (Draft Plan 1-7). It is not referenced in the law and regulatory section of the Draft Plan, which is concerning. Greater involvement by the OWNF in the draft plan would have likely led to the inclusion of a reference in this plan that speaks to management of the wilderness character. Below are two examples that directly relate to the Eightmile dam repair discussion:

- In the Management Direction section, it states “Current water diversions will not be expanded. They will continue to be maintained by primitive means unless an environmental analysis indicates that the work cannot be accomplished without motorized equipment. Use of motorized equipment will comply with direction described in [section] Administration [paragraphs] 10 and 11.” (pg. 162 the ALAMP)
- In the Water section, it states: “Except as provided for in Section 4(d) of the Wilderness Act, watersheds will not be altered or managed to provide increased water quantity, quality, or timing of discharge.” (pg. 164 the ALAMP)

Managing the Specialty Warranty Deed

While the IPID negotiated a Special Warranty Deed with the USFS pursuant to the 1979 Alpine Lakes Area Acquisition Final EIS to continue to maintain and operate its infrastructure in the wilderness, the USFS retains its land management authority and responsibility to ensure all elements of this project comply with federal law. Furthermore, the Specialty Warranty Deed is clearly part of the Wilderness and subject to the provisions of the Wilderness act of 1964. OWNF needs to ensure that, despite the location of the dam site and its repair, the Specialty Warranty Deed area must not be treated as a private inholding or even as general Forest Service land during the construction and maintenance phases of this project. No waste should be left on the ground and the site should be restored to as natural a condition as possible to blend in with the surrounding wilderness character. The Draft Plan is unclear on this point and more detail is required.

3. Evaluation and assurances of benefits of in stream flows for fish and tribal treaty rights

In addition to the need to repair the Eightmile Dam structure for functionality and safety issues, there is also a stated goal of restoring and providing adequate in stream flows for water users and fish throughout the year. The Draft Plan makes clear that additional water would not be used to augment new domestic users, but restore existing water right holders. Instead, there is an opportunity, in all three alternatives (but especially Alternatives 1 & 2) to have additional water available for instream flows to support resident fish, which utilize Eightmile Lake, and salmonids (including three species listed under the Endangered Species Act), which utilize fish habitat in the lower reaches of Eightmile Creek and the mainstem Icicle Creek.

This is an important goal for Tribes who hold treaty rights to fish in this watershed and there is an obligation by the federal government to support and protect those treaty rights. If instream flows are not sufficient for fish to spawn or navigate, that violates the Tribes’ treaty rights. We support sufficient instream flow for fish.

We strongly support a goal of designating additional water from the repaired dams to be permanently reserved for instream flows in the historical channel of Icicle Creek and distributed in the Wenatchee River and the Columbia River all the way to the ocean. However, the Draft Plan gives no assurances and provides no mechanisms to ensure that this will take place. The final EIS must clarify this important matter.

Without such assurances, it is likely that any additional water stored and released downstream will be allocated to existing out-of-stream water users and not benefit fish. There is one reference in the Draft Plan to this potential benefit to fish but it is far from certain nor is it a commitment:

“Under all action alternatives, the increase in storage capacity would potentially provide more water for summer instream flow supplementation, which would benefit fish downstream of the lake in Eightmile and Icicle creeks, including ESA-listed fish species and other anadromous salmonids that use these waterbodies.” (Draft Plan Pg. 8-1)

This lack of assurance around this important goal for fish leads us to be skeptical of the benefits of the larger storage options (Alternatives 1 & 2).

4. Avoid potential long-lasting disruptions to recreation in the project area

The Enchantment Permit Zone is one of the most cherished recreational options in Washington. For example, since 1998, Washington Trails Association has contributed 7,471 volunteer hours to trail work in the Enchantment Area Permit Zone. Collectively, hikers and climbers have filed over 1,100 trip reports for trails within the project, including the Enchantments Trail, Eightmile Lake Trail and Klonauqua Lakes Trail. This equates to more than 11,500 miles hiked on these trails alone.

As a highly managed recreational area, careful steps must be taken in this project to ensure the trails and campsites within it are maintained throughout the construction project and into the future. As this popular area requires weeks of planning and preparation for recreationists to access, the same careful planning should apply to the construction methods used for dam reconstruction.

Mitigation measures for any impacts to the lakeshore trail and campsites at Eightmile Lake should be detailed within the SEPA. Further, there should be advanced notice of any potential recreation impacts to this project, and we recommend measures be taken to avoid construction during peak season.

Lastly, we expect that the appropriate agencies within the Federal and Washington State governments have or will engage in the proper consultations with local Tribes as appropriate given their sovereign status and the fact that this landscape is within many of their usual and accustomed treaty rights related to hunting, fishing, gathering and resource management considerations. Our organizations recognize and respect that decisions under this project may have impacts on tribal treaty rights and lifeways.

Conclusion

We have expressed our concerns with respect to ensuring that this project complies with the 1964 Wilderness Act and protects the wilderness character of the Alpine Lakes Wilderness. To that end, the OWNF should be more engaged at the State SEPA level to ensure that they are able to fulfill their obligation to manage the wilderness area with respect to this project. We also have concerns about the realized benefit a reconstructed dam with additional water storage (Alternatives 1 & 2) would provide for permanent in-stream flow for fish all the way to the ocean.

In summary, we would like to have seen an alternative that focused simply on repairing the dam to address safety concerns for the foreseeable future associated with the minimal impacts to Wilderness character, recreation and wildlife. We also recognize that Alternative 3 would have the smallest footprint and least impact related to helicopter flights and aesthetics threatening wilderness character. We also recognize that Alternative 3 provides the least amount of water available for permanent instream flows to potentially benefit fish (rather than out of stream uses). However, in exchange for considerable disturbance of this important area, the Draft Plan falls short of giving any assurances that any additional water will end up being reserved for instream flow when fish will benefit from it the most. For this reason,

and the greater impacts to Wilderness character and questions about compliance with the Wilderness Act and the Alpine Lakes Area Land Management Plan we do not support Alternatives 1 & 2 without such assurances.

Thank you for the opportunity to provide comments on the Eightmile Dam Draft EIS. Our organizations acknowledge the need to take action to maintain the Eightmile Dam to protect public health and safety downstream and ensure IPID, Tribes and fish can continue to access the water they need. As Ecology moves forward with this project, we strongly urge the agency to carefully consider the recommendations and concerns in this comment letter. Eightmile Lake and the Alpine Lakes Wilderness are natural treasures that must be carefully stewarded for the benefit of future generations.

Sincerely,

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