

File Code: 1950; 7730; 1510 (8511397)
Date: MAR 29 2019

The Honorable Maria Cantwell
United States Senate
511 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Cantwell:

Thank you for your letter of December 21, 2018, co-signed by your colleagues, regarding the redevelopment of an access road to the Excelsior mine in the Mount Baker North Inventoried Roadless Area. I apologize for the delayed response.

I understand your concern about impacts to the landscape and I assure you that the U.S. Department of Agriculture's Forest Service is committed to meeting our responsibilities under the 2001 Roadless Rule. The Mount Baker-Snoqualmie National Forest staff developed reasonable alternatives for the environmental assessment within the framework of the 2001 Roadless Rule that balanced resource protection and the needs of the project.

Please see the enclosed answers to your specific questions. I welcome the opportunity to discuss them further if you have additional questions.

Thank you for your interest in this project, and for your support for the management of National Forest System lands. A similar response is being sent to your colleagues.

Sincerely,



VICTORIA CHRISTIANSEN
Chief

Enclosure



Enclosure

1. How can maintenance or reconstruction of this unclassified non-system road be permitted, understanding the Roadless Rule only allows maintenance of classified roads within Inventoried Roadless Areas [See 36 CFR 294.12 (c)] and the Roadless Rule's definition of road reconstruction only applies to classified roads? [See 36 CFR 294.11]?

Response: The 2001 Roadless Rule recognizes that existing mineral availability, exploration, and development for locatable minerals, access rights, and related road construction or reconstruction can continue (36 CFR 294.12(b)(3)), subject to the General Mining Law of 1872, and is regulated by provisions of Title 36 CFR 228, subpart A.

While the Roadless Rule explicitly allows for the maintenance of classified roads (§ 294.12 (c)) within inventoried roadless areas, the Roadless Rule does not expressly prohibit the construction, reconstruction, use, and maintenance of temporary roads. A temporary road is defined within the Roadless Rule as a "road authorized by contract, permit, lease, or other written authorization... (§ 294.11(3)). The plan of operations for the Excelsior mine, when signed, is the permit to allow for the restoration, maintenance, and use of a temporary road.

The project proposes restoration, use, and maintenance of an existing road to provide reasonable access for mineral sampling at the Excelsior mine, consistent with the 2001 Roadless Rule. The access to mine portals will be by way of an existing road prism (the "upper road") within the Inventoried Roadless Area. This existing road will require the addition of minor road improvements such as drivable drain dips and routine maintenance to allow vehicular access. This access route is on a temporary road (§ 294.11(3)) and would be decommissioned as part of the required reclamation plan to restore the roadless character of the area.

2. Is road construction or reconstruction through the Mt. Baker North Inventoried Roadless Area "needed" to provide access to the mine, given that road access to the mine could also be provided on a partially decommissioned classified road (FS Road 3700-031)? [See 36 CFR 219.12(b)(3)]. Additionally, what level of vehicle access is needed considering that the proposal calls for handpicking rocks for processing and evaluation off site rather than exploratory drilling or other more significant mechanical work?

Response: Utilizing Forest Service Road (FSR) 3700-031 as an access route to the mine was considered as an alternative. Historically, FSR 3700-031 was the main access road to both mine portals. However, in 1992, as part of required reclamation, a bridge was removed from this road segment and the segment of road from the bridge to the Mill Level portal was obliterated. In order to make this road functional, the bridge would have to be replaced and the obliterated road would require reconstruction. As a result, re-establishing access by utilizing FSR 3700-031 would require extensive repairs and new construction.

The location of the former bridge is in close proximity to Wells Creek and we anticipate the construction, use, and maintenance of the road would lead to fine sediment contribution to the creek. Impacts to hydrologic, fish, and soil resources would be considerable when compared to the impacts on these same resources from the use and maintenance of the upper road.

Vehicular access to the mine portal is needed to excavate and repair the blacksmith portal and to transport samples. Vehicular access was proposed by the mine claimant and the Forest Service Responsible Official determined that such access would be incidental to what is proposed in the plan of operations.

Utilizing this access route would not minimize impacts to surface resources as directed by Forest Service mining regulations (36 CFR 228.8) and forest plan direction (USDA Forest Service 1990, p. 4-136). Due to the existing condition of the obliterated road segment of FSR 3700-031, and the permissions within the Roadless Rule as written, this alternative was eliminated from detailed study.

3. Has the Forest Service thoroughly analyzed the alternative access route (FS Road 3700-031) and made that analysis available for public comment through the NEPA process?

Response: The Forest Service considered the alternative access route (FSR 3700-031) in the environmental assessment but eliminated it from detailed study because of the impacts to hydrologic, fish, and soil resources. The rationale for eliminating the alternative access route was discussed in the environmental assessment (Section 2.3, pp. 14-15) which the public had access to in the draft and final environmental assessments.

4. How is this road building proposal, which is located within the North Fork Nooksack River Key Watershed, consistent with the Northwest Forest Plan's prohibition on road construction in roadless areas within Key Watersheds (such as the North Fork Nooksack)?

Response: The Northwest Forest Plan directs that “[n]o new roads will be built in remaining unroaded portions of inventoried (RARE II) roadless areas” (Standards and Guidelines C-7). While the project is located within a Key Watershed, access to the mine would utilize an existing road (not build a new road) within the Mt. Baker North Inventoried Roadless Area. The project would only authorize the reconstruction of water bars and maintenance of the existing road.

File Code: 1950; 7730; 1510 (8511397)
Date: MAR 29 2019

The Honorable Suzan DelBene
U.S. House of Representatives
2442 Rayburn House Office Building
Washington, D.C. 20515

Dear Congresswoman DelBene:

Thank you for your letter of December 21, 2018, co-signed by your colleagues, regarding the redevelopment of an access road to the Excelsior mine in the Mount Baker North Inventoried Roadless Area. I apologize for the delayed response.

I understand your concern about impacts to the landscape and I assure you that the U.S. Department of Agriculture's Forest Service is committed to meeting our responsibilities under the 2001 Roadless Rule. The Mount Baker-Snoqualmie National Forest staff developed reasonable alternatives for the environmental assessment within the framework of the 2001 Roadless Rule that balanced resource protection and the needs of the project.

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VICTORIA CHRISTIANSEN
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Response: The Northwest Forest Plan directs that “[n]o new roads will be built in remaining unroaded portions of inventoried (RARE II) roadless areas” (Standards and Guidelines C-7). While the project is located within a Key Watershed, access to the mine would utilize an existing road (not build a new road) within the Mt. Baker North Inventoried Roadless Area. The project would only authorize the reconstruction of water bars and maintenance of the existing road.



File Code: 1950; 7730; 1510 (8511397)
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The Honorable Patty Murray
United States Senate
154 Russell Senate Office Building
Washington, D.C. 20510

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Congress of the United States
Washington, DC 20510

December 21, 2018

Vicki Christiansen, Chief
USDA Forest Service
1400 Independence Ave, SW
Washington, DC 20250-1111

Re: Excelsior Mine Redevelopment Impacts on 2001 Roadless Rule Protections

Dear Ms. Christiansen:

We are concerned about potential impacts from road building in the Mt. Baker North Inventoried Roadless Area, as proposed in the draft environmental assessment and the recently released draft decision notice regarding plans to redevelop the Excelsior mine within the Mt. Baker District of the Mt. Baker-Snoqualmie National Forest. While we appreciate that mining is one of many activities that can and do occur on our national forests with respect to valid claims, the proposed road building could cause serious damage to this roadless area in Washington's North Cascades.

Our understanding is that the preferred alternative would develop road access to the mine on an unclassified, non-system road through the roadless area by invoking an exception in the Roadless Area Conservation Rule for road construction or reconstruction when "a road is needed pursuant to reserved or outstanding rights, or as provided for by statute or treaty." [36 CFR 294.12(b)(3)]. We also understand that alternative access could be provided on a partially decommissioned road (FS Road 3700-031) outside of the roadless area.

As you may know, we have been strong champions for roadless area protections ever since the Roadless Area Conservation Rule was adopted in 2001. The Roadless Rule is a balanced policy that seeks to protect some of our last remaining old-growth forests, backcountry recreational opportunities, intact watersheds, and sources of clean water. These federal lands support thousands of jobs in outdoor recreation, provide opportunities for hunting and fishing, protect critical habitat for 1,600 threatened or endangered species, and supply clean drinking water to millions of Americans in more than 350 communities throughout Washington and across the United States.

Because of increasing threats to roadless area protection both at the local project level and more broadly through recent state petition efforts, this summer we introduced legislation in the Senate to codify the administrative protection in the Roadless Rule.

We hope and expect that the Forest Service will do their due diligence to ensure that the 2001 Roadless Rule is being carefully upheld and followed. All reasonable alternatives should be considered to avoid or mitigate potential harm to the Mt. Baker North Inventoried Roadless Area, and the public should have adequate opportunity to participate in the environmental review and decision-making process.

We would appreciate your response to the following questions regarding the proposed Excelsior mining road.

1. How can maintenance or reconstruction of this unclassified non-system road be permitted, understanding the Roadless Rule only allows maintenance of classified roads within Inventoried Roadless Areas [See 36 CFR 294.12 (c)] and the Roadless Rule's definition of road reconstruction only applies to classified roads? [See 36 CFR 294.11]?

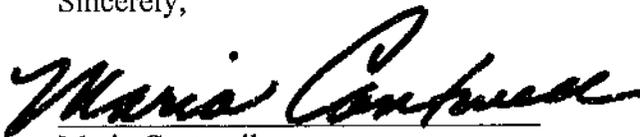
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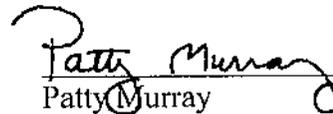
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Thank you for your attention to this important issue.

Sincerely,



Maria Cantwell
United States Senator



Patty Murray
United States Senator



Suzan DelBene
United States Representative