

October 17, 2017

Via email to: BOR-PNR-SnowLakeEA@usbr.gov

Mr. Steve Kolk
Wenatchee/Entiat Subbasin Liaison
Bureau of Reclamation
301 Yakima Street, Room 319
Wenatchee, WA 98801-2966

RE: **Snow Lake Valve Control Structure Draft Environmental Assessment**

Dear Mr. Kolk:

The undersigned conservation and recreation organizations submit these comments on the Snow Lake Valve Control Structure Draft Environmental Assessment (EA). The Draft EA proposes a significant 60% increase in valve size (from 50 cfs to 80 cfs), which had not been previously disclosed to the public. The Bureau of Reclamation (BuRec) allowed only 15 days for the public to submit comments.

The affected lakes are inside Alpine Lakes Wilderness and the Okanogan-Wenatchee National Forest. The lakes are in Chelan County. Chelan County and the Washington State Department of Ecology have been co-leading a multi-year Icicle Work Group process regarding water infrastructure at these lakes, as well as other lakes and streams in the Icicle Creek watershed; BuRec is a member of the Icicle Work Group (IWG).

The EA asserts false and misleading descriptions of “Public Involvement” and “Scoping.”

Section 1.6 of the EA (p. 16 of the PDF) addresses “Public Involvement” and unfortunately this section of the EA is full of false and misleading assertions.

The EA says “Scoping for this project was initiated by the Icicle Work Group meetings as part of the State Environmental Policy Act document.” [sic] That is not true, because public scoping was not conducted for this valve replacement project.

The EA says this project “was ... included” in the Programmatic Environmental Impact Statement for the Icicle Strategy. That is false and misleading, because the draft PEIS has not even been released yet.

The EA’s page-long recitation of the Icicle Work Group’s past SEPA scoping activities is misleading, because that SEPA scoping process was about other projects, and did not disclose this project. Chelan County admitted in an email that IWG’s public scoping “did not get into the project-level details that are outlined in the current EA.” Details now disclosed in the new EA, such as the 60% increase in valve size and consequent 60% increase in discharge rate (from 50 cfs to 80 cfs), or the number of proposed helicopter flights, were not disclosed to the public prior to the EA release on October 2.

Thus, the EA's assertion that IWG's prior scoping "allowed for comments to be collected regarding this proposed action and helped inform this document" is disingenuous and incorrect. This valve replacement project wasn't mentioned in the IWG slideshows and posterboards displayed at public SEPA meetings conducted by IWG. As a result, the valve replacement project is not mentioned by the public in the "collected" public comments that can be read (and word-searched) at the online url address listed in the EA's misleading assertions about "public involvement."

Indeed, IWG's public slideshows assured the public that IWG's environmental review process would follow this sequence: after a scoping period, IWG would release a draft PEIS, followed by a public comment period, and only after that would IWG "Issue final PEIS and begin project-level environmental review." Here, a project-level environmental review is being conducted on a 15-day expedited comment period, before the draft PEIS has been released, putting the cart before the horse and contradicting IWG's public assurances about its environmental review process.

The EA's previously undisclosed proposal for a 60% increase in valve size (and consequent 60% increase in potential volume of water released down a Wilderness creek) also raises other major questions. The Snow Lake valve replacement project should be included in the Icicle SEPA process prior to project-level NEPA review, as laid out by IWG. IWG's "Icicle Strategy" purports to lay out and evaluate all the major alternative ways of increasing stream flows in the de-watered stretch of Icicle Creek. The proposed 60% increase in valve size is a topic that fits squarely within IWG's descriptions of the scope of its mission. The fact that the Bureau of Reclamation is pursuing the 60% increase outside of the IWG process raises questions about NEPA segmentation or trying to avoid full transparency around this project.

BuRec also misinformed the public about the EA comment deadline, with a BuRec letter emailed on October 3 that stated comments "must be received by October 11" (the actual deadline is October 17, which is still a very short comment period for such a significant proposal).

Beginning on October 3, the Alpine Lakes Protection Society alerted BuRec to these errors and asked that BuRec distribute another email during the comment period to inform its EA recipients of the errors, but BuRec did not do that, thus hiding the errors from the people who were then writing comments to submit.

This exacerbates the growing concerns about the Icicle Work Group process.

The purpose of the previously undisclosed proposal to enlarge the valve and its discharge rate by 60% (from 50 cfs to 80 cfs) is not adequately explained or analyzed.

BuRec indicates the proposed valve size increase from 50 cfs to 80 cfs will meet the "capacity desired" by IPID and LNFH. However, the EA does not clearly define the purpose and need for the 60% increase. The EA should explain that the purpose of the action includes to increase the amount of water discharged, not merely to replace the valve, and the reasons for increasing the valve's discharge rate should be analyzed in detail. If the main reason for the valve replacement

is that the current one is near the end of its service life, there should be an alternative that replaces it with a new valve of the same size.

The previously undisclosed proposal to enlarge the valve by 60% (from 50 cfs to 80 cfs) is highly significant, but the EA ignores the impacts of that increase.

Increasing the valve size and discharge rate by 60% (from 50 cfs to 80 cfs) allows a significant increase in the volume of water (tons of water) that could be released down Snow Creek in Alpine Lakes Wilderness, impacting the biology of that wilderness creek and the plants and animals that live in it and along it. The 60% increase also increases the chances that Snow Lake would not refill in the winter. These environmental impacts need to be analyzed under NEPA. The Draft EA ignores these impacts, and thus fails to adequately analyze these impacts, violating NEPA.

In 2010, Fred Wurster (who was in charge of the Water Resources Branch for Region 1 in Portland OR) recommended keeping releases between 7,000 and 6,000 acre-feet in years where runoff in Icicle is closer to the average. The reason Wurster recommended releasing no more water than 7,000 acre-feet was to ensure the lake would recharge in the late fall, winter and spring months. However, if the newly proposed 60% larger valve (80 cfs) was open for 60 days, 9,500 acre feet would be released from Snow Lake, which is significantly more than the maximum of 7,000 recommended by Wurster (the maximum water that can be held in Snow Lake is 12,450 acre-feet). The estimated probability that Upper Snow Lake will fill after releasing 80 cfs in August and September is about 30% for any given year.

In the past, it was erroneously assumed that extra water released from Snow Lake would help increase aquatic life when added to the low flows in the over-appropriated lower Icicle Creek. However, the water released through the valve is taken from the bottom of Snow Lake (called the hypolimnion). Water from that stratum of the lake contains elevated levels of nutrients and metals, low dissolved oxygen concentrations, and altered temperature relative to downstream waters. Hypolimnion water has already been entering Icicle Creek when it flows from Snow Creek to the Hatchery diversion. This same problem occurs when taking water from 30 feet down in Square, Klonauqua, Eightmile and Colchuck Lakes. These negative impacts must be analyzed, including impacts on amphibians and aquatic invertebrates.

As stated in the EA's Introduction (section 1), the 2015 NMFS BiOp requires delivery of "up to" 50 cfs "in cooperation with IPID," which suggests 50 cfs is a maximum for both LNFH and IPID needs combined. We see no reason to enlarge the Snow Lake valve by 60% from 50 cfs to 80 cfs. Furthermore, the proposed 60% increase in valve size has not been discussed with stakeholders, let alone analyzed.

Many sections of the EA (including Tables 2-1 and 3-1) ignore the impacts of the 60% increase in discharge downstream (and increased drawdown of the lake, and potential that it would not refill), and discuss only the impacts of the valve replacement action, including Water Rights, Fisheries, Threatened and Endangered Species, Cultural Resources, Sacred Sites, Vegetation, Water Quality, Wetlands, Wildlife, and Recreation Values and Uses.

The proposed 60% increase is too significant for an EA, and an EIS is required.

EA section 1.5 asserts that the project “involves essentially routine operations and maintenance activities.” This is false and misleading. In fact, the project proposes a 60% increase in valve size and discharge rate, and increases the chances that Snow Lake would not refill in the winter. The proposed 60% increase is too significant for an EA, and a full EIS is required.

The 15-day public comment period is insufficient for such a significant proposal.

BuRec allowed only 15 days for the public to submit comments on this major proposal. BuRec also misinformed the public about the EA comment deadline initially with a BuRec letter emailed on October 3 that stated comments “must be received by October 11,” *i.e.* eight days later. Beginning on October 3, the Alpine Lakes Protection Society alerted BuRec to these errors and asked that BuRec distribute another email during the comment period to inform its EA recipients of the errors, but BuRec failed to do that, thus limiting the ability of the public to sufficiently participate in the public comment process. Only through clarification with agency staff was an October 17 deadline confirmed (to this group of stakeholders), and 15 days is still a very short comment period for such a significant proposal.

The EA fails to analyze the proposed quantity of water usage, and effects on water rights.

The EA discusses the proposed 60% increase in valve size and discharge rate (from 50 cfs to 80 cfs), but the EA does not discuss how this increased discharge rate might affect the total quantity of water removed from the lakes each year (*e.g.* how many more acre-feet of water will be used). This information is biologically significant due to the de-watering of the ecosystem. It could also be legally significant. The unused portion of a water right can be relinquished. It is unclear that BuRec has the right to divert 80 cfs from Snow Lake (and it is not clear why BuRec would be enlarging the valve). Given that BuRec’s practice has been to divert less, it cannot unilaterally increase the discharge rate. The EA should disclose the proposed quantity of water usage, and should contain a much more robust analysis of water rights.

The EA’s “Regulatory Compliance” section omits The Wilderness Act.

Compliance with The Wilderness Act is one of the so-called Guiding Principles of the Icicle Work Group. However, The Wilderness Act is not even listed in the “Regulatory Compliance” portion of the EA (sections 1.8 and 1.8.1 through 1.8.7). The Wilderness Act is only briefly mentioned in another part of the EA (Recreation section 3.2.1).

The EA fails to analyze significant impacts on Alpine Lakes Wilderness, and eliminates those impacts from consideration.

The EA occasionally mentions Alpine Lakes Wilderness as “surrounding” the parcel managed by USFWS at the Snow Lake project site; the EA also mentions Alpine Lakes Wilderness lands managed by USFWS. BuRec and USFWS must abide with all the provisions of the Wilderness Act of 1964 and the Alpine Lakes Area Management Act of 1976, and any potential impacts

(onsite or offsite) from activities on USFWS-managed lands must be clearly identified, described and evaluated.

However, the EA fails to acknowledge or analyze the many ways that the proposed 60% increase in valve size would have impacts on Alpine Lakes Wilderness lands managed by USFWS or on Alpine Lakes Wilderness lands managed by another federal agency, the U.S. Forest Service, including lands along Snow Creek. The Wilderness lands (and flora and fauna) downstream would be impacted by the extra tons of hypolimnion water to be released from Snow Lake, and these impacts should be analyzed accordingly.

The EA's first map (Figure 1-1) fails to mention Alpine Lakes Wilderness, and fails to show the wilderness boundary, thereby failing to show that Snow Creek and the lakes are inside Alpine Lakes Wilderness. The second map (Figure 1-2) does show that Snow Creek is inside Alpine Lakes Wilderness, but fails to identify the U.S. Forest Service as manager of National Forest lands in the Wilderness.

The EA identifies BuRec and USFWS as co-leads on the project (EA section 1) but the U.S. Forest Service is not identified as a co-lead.

The EA asserts (in section 3) that "Resources that may experience non-significant impacts can be found beginning on Table 3-1." Table 3-1 is labeled "Resources that were eliminated in the Impact Analysis." One of the "eliminated" resources is "Wilderness," and the EA states this as the "Rationale For Elimination":

"Helicopters would fly over the ALWA, but construction and helicopter landings would occur on land owned by the USFWS. Construction would not occur on any USFS managed wilderness areas. There would be short-term noise increases; however, they would occur over a small area and be short in duration."

However, the EA fails to consider the effects of the 60% increase in hypolimnion water released down through Nada Lake and Snow Creek in the Wilderness, or the effects of the increased drawdown of Snow Lake (and possible inability of the lake to refill) on the ecosystem of Snow Lake itself. Section 3.8 ignores impacts of noise on wildlife that need a natural soundscape.

EA Section 3.1.1 says the "Area of Potential Effect" includes "six different locations" but those are only the sites of construction activity and helicopter landings; Snow Creek is omitted.

The EA fails to consider impacts occurring outside the 7-to-21-day timeframe of valve replacement activity.

The EA repeatedly discusses impacts that may occur during the 7-to-21-day timeframe of valve replacement construction activity (from helicopter flights, contractor camping etc.) but fails to consider impacts occurring during the longer timeframe of the 60% discharge rate increase (two months each year) and the longer timeframe of the increased drawdown of Snow Lake (and possible inability to refill) which could be year-round, *i.e.* 365 days per year.

The EA’s “Clean Water Act” section fails to analyze discharges into Snow Creek.

Section 1.8.3 of the EA addresses Clean Water Act compliance in two paragraphs, but speaks only about discharge of dredge or fill material. It fails to discuss Clean Water Act issues raised by the proposed 60% increase in discharge of Snow Lake hypolimnion water down through Nada Lake and Snow Creek, see USGS / EPA Investigations Report 2016-5164, *Protecting Aquatic Life from Effects of Hydrologic Alteration*.

Helicopters should not be used to transport workers.

In the Draft EA, one alternative proposes 30 helicopter flights, and another alternative proposes 15 helicopter flights, to Upper Snow Lake inside Alpine Lakes Wilderness. Alternative 3 indicates 15 helicopter trips would likely be the preferred alternative.

The Draft EA’s discussion of the need for helicopters speaks only of the need to transport the large, heavy valve, asserting that pack animals could not transport it via trail. There is no explanation why the workers cannot walk to the site; they do not need to be flown in by helicopter across the Wilderness. Fewer helicopter flights are needed, which would reduce helicopter-caused impacts on the Wilderness and its flora and fauna and human visitors.

Thank you for considering these comments.

Karl Forsgaard, President
Alpine Lakes Protection Society

Sharon Lunz, President
Icicle Creek Watershed Council

Tom Uniack, Executive Director
Washington Wild

George Nickas, Executive Director
Wilderness Watch

Harry Romberg, National Forests Co-Chair
Washington State Chapter
Sierra Club

Kitty Craig, WA State Deputy Director
The Wilderness Society

Trish Rolfe, Executive Director
Center for Environmental Law & Policy

Kurt Beardslee, Executive Director
Wild Fish Conservancy

Art Campbell, President
North Central Washington Audubon Society

Gus Bekker, President
El Sendero Backcountry Ski & Snowshoe Club

Kathi & Greg Shannon, Steering Committee members
Friends of Enchantments

William Beyers, President
Alpine Lakes Foundation

Andrea Imler, Advocacy Director
Washington Trails Association

Tom Hammond, President
North Cascades Conservation Council

John Spring, President
Spring Family Trust for Trails

Doug Scott, Principal
Doug Scott Wilderness Consulting

Judy Hallissey, President
Kittitas Audubon Society

Bill Campbell, President
Friends of Lake Kachess

Jerry Watts, Chair
Kittitas Fire District 8

Terry Montoya, President
Kachess Ridge Maintenance Association

Chris Maykut, President
Friends of Bumping Lake

Mark Boyar, President
MidFORC

Dave Kappler, President
Issaquah Alps Trails Club

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George Milne, President
Federation of Western Outdoor Clubs

Constance Sidles, Conservation Committee Chair
Seattle Audubon Society

cc: IWG members
SEPA commenters
elected officials