March 20, 2020

Jeffrey Rivera, District Ranger
Wenatchee River Ranger District
600 Sherbourne
Leavenworth, WA 98826
comments-pacificnorthwest-wenatchee-wrrd@fs.fed.us

RE: Proposed Development near Mission Ridge
Concerns

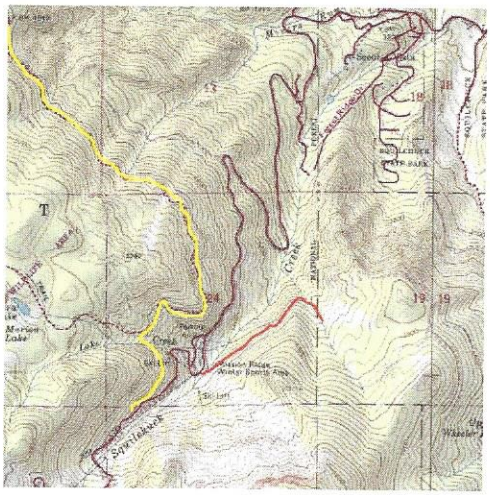
Dear Mr. Rivera,

The board of directors of the Squilchuck-Miller Water Users Corporation (Miller), the Squilchuck Water Users Association (Flood), and the Beehive Irrigation District (Beehive) appreciate the opportunity to comment on the February 2020 Mission Ridge Expansion Project: Draft Environmental Analysis.

The District is concerned with protecting the quality of water that flows in Squilchuck Creek. It has come to our attention that in 2018, as part of this project, a temporary road was built, apparently without supervision, through USFS land from the existing parking lot at Mission Ridge Ski Area, to the private property owned by a developer who happens to also be the owner of Mission Ridge Ski Area. It was reported to us that no erosion control measures were taken, that the two seasonal creeks were crossed with no protective provisions, that no silt fences were erected, and all debris were cast down the hill below the new road. This method of construction is unacceptable to the managers of the irrigation waters of the Squilchuck Creek. Uncontrolled erosion contributes to cloudy water that plugs water filters in our water user's private systems and can lead to water quality unsuitable for irrigation resulting in crop loss to orchardists.

We are concerned about the conditions under which Mission Ridge was allowed to construct the road. It appears to us that the developer and Mission Ridge are getting a freebee in regards to USFS oversight, and we are concerned that the USFS is not considering Mission Ridge's plans in an objective way, but instead acting as an advocate and bending the rules in their favor. Chapter 1 of the Mission Ridge Expansion Project: Draft Environmental Analysis has the tone of a marketing campaign. The persuasive language in the document mimics the public marketing effort of Mission Ridge for the currently proposed development, and reads as if it was written by Mission Ridge's marketing professionals. Following is evidence of the bias of the USFS toward assisting the developer. We have two arguments. First, that insufficient upfront effort was required by the USFS before permission to build the road was granted, and second, that there was insufficient oversight during the road construction.

ARGUMENT 1 - INSUFFICIENT PERMITTING REQUIRED BY USFS



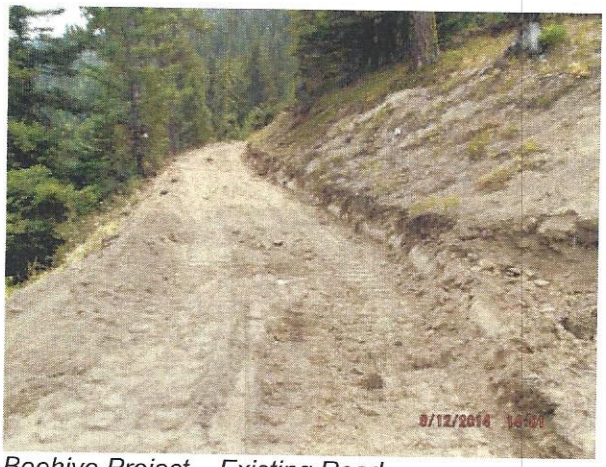
In 2014 and 2015, Beehive Irrigation District completed a pipeline replacement project on an existing road that was built in the early 1950's. The project is on federal land inside an easement that specifically allows maintenance. The Mission Ridge Road project was constructed in 2018 and is similar in location and terrain to the Beehive project. In the adjacent photo, the yellow line represents the approximate location of the Beehive pipeline and the red line represents the approximate location of the Mission Road project.

Beehive Irrigation District was not allowed to do this relatively minor project by categorical exclusion, but instead was required, at considerable cost and a one year project delay, to obtain a special use permit. In stark contrast, Mission Ridge was allowed by categorical exclusion to construct a new road on a steep slope with large earth cut banks, large tree removal, uncontrolled crossing of two streams, dumping of spoils down the hill, and a ground disturbance up to 200 feet downhill from the work. The disparity in permitting requirements between the 2014 Beehive Irrigation District Pipeline replacement project and the 2018 Mission Ridge road construction project are demonstrated in the following table:

PERMITTING COMMPARRISON

	2014 Beehive Pipeline Replacement	**2018 Mission Ridge Road Construction**
Authorizing Action	SUP 2014 WNR0121 SUP 2015 WNR0153	Categorical Exclusions FHS 1909.15 CH 32.12(8) 36 CFR 220.6(d)(8) 36 CFR 220.6(e)(8)
Authorizing Agent	Jeffery Rivera, District Ranger	Jeffery Rivera, District Ranger
Project description	Pipeline replacement in existing roadway	Construction of a new road
Project location	West adjacent to MR	East adjacent to MR
Project Elevation	5000'	4600'
Project width	15'	16'
Year of Construction	2014-2015	2018
Tribal Consultation	Yes	No
Scoping/Public Comment	Yes	14 days for DNS
Cultural Resource Study	Yes – Field Survey	No Field Survey
Biological Study	Yes – Field Survey	No Field Survey
Oversight Cost Recovery	Yes - $1124	No - 0$

The permitting for the 2014 Beehive minor disturbance repair project was far more onerous than what was required for the 2018 Mission Ridge road construction project, yet the actual disturbance caused by Mission Ridge's road construction project was far greater than that of the Beehive project.



Beehive Project – Existing Road

Mission Ridge Project – New Road

In fact the categorical exclusions cited don't appear even to apply to building a road.

FHS 1909.15 CFR 32.12(8), cited as 36 CFR 220.6(d)(8) reads as follows:

(8) Approval, modification, or continuation of minor, short-term (1 year or less) special uses of National Forest System lands. Examples include but are not limited to:

(i) Approving, on an annual basis, the intermittent use and occupancy by a State-licensed outfitter or guide;

(ii) Approving the use of National Forest System land for apiaries; and

(iii) Approving the gathering of forest products for personal use.

Cite this category as 36 CFR 220.6(d)(8)

The road is not a modification or continuation, is not minor, and is not short term as it has now existed for 2 years. How is this categorical exclusion appropriate for building a new road on steep terrain?

36 CFR 220.6(e)(8) reads as follows:

(8) Short-term (1 year or less) mineral, energy, or geophysical investigations and their incidental support activities that may require cross-country travel by vehicles and equipment, construction of less than 1 mile of low standard road, or use and minor repair of existing roads. Examples include but are not limited to:

(i) Authorizing geophysical investigations which use existing roads that may require incidental repair to reach sites for drilling core holes, temperature gradient holes, or seismic shot holes;

(ii) Gathering geophysical data using shot hole, vibroseis, or surface charge methods;

(iii) Trenching to obtain evidence of mineralization;

(iv) Clearing vegetation for sight paths or from areas used for investigation or support facilities;

(v) Redesigning or rearranging surface facilities within an approved site;

(vi) Approving interim and final site restoration measures; and

(vii) Approving a plan for exploration which authorizes repair of an existing road and the construction of 1/3 mile of temporary road; clearing vegetation from an acre of land for trenches, drill pads, or support facilities.

Cite this category as 36 CFR 220.6(e)(8)

While this exclusion does mention construction of less than 1 mile of low standard road, the examples clearly show the intention of this exclusion is low impact work. It is outside the intent of this exclusion to construct a road on steep terrain as was done. The road is not an incidental support activity, but a major construction project with obvious environmental effects. The intent of the exclusion appears to have been stretched by the decision makers to allow the road building activity. In contrast to the hoops that Beehive Irrigation district had to navigate to replace a pipe on an existing road, this permissive allowance stands out as bias rather than impartial judgement.

ARGUMENT 2 – INSUFFICIENT OVERSIGHT BY USFS

The road was built in the fall of 2018 immediately following scoping for the proposed project described as:

1) *Amend the Mission Ridge Special Use Permit and expanded permit area,*
2) *Build a new access road to a second base area, and*
3) *Construct new alpine lifts and ski runs on National Forest lands.*

The Decision Memo dated December 15, 2017 indicates that only one acre will be disturbed, that all work will be monitored by an approved archaeologist, that the road will be constructed along the alignment of the proposed access road, that bridges would be constructed over two streams, that no trees greater than 8" DBH would be removed, and that construction would comply with applicable erosion control regulations. The August 14, 2018 DFW Determination of Nonsignificance quotes the same requirements.

None of these conditions were met. We suspect that there was no construction oversight by the USFS or any archaeologist. Here is evidence of non-compliance with each of these items which collectively were cited by the decision makers as evidence that *"…there are no extraordinary circumstances that could potentially result in a significant effect on the environment*." (quoted from Decision Memo).

Erosion Control

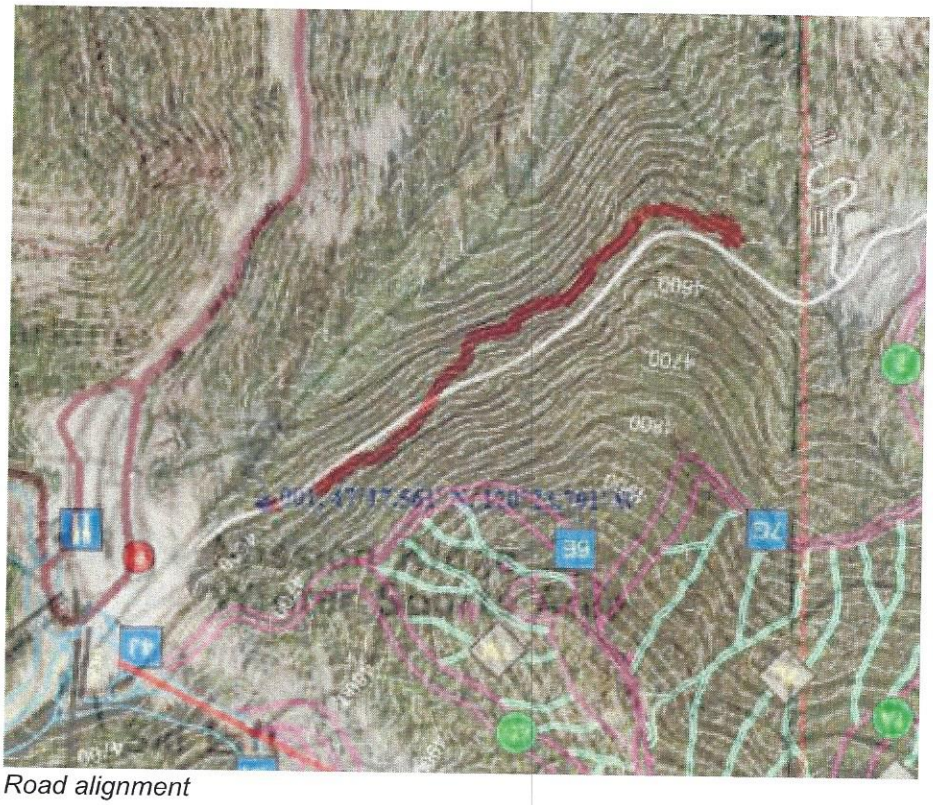
Cut spoils and trees were cast downhill from the road. No effort to control erosion is evident in this project.

Side cast below road

Side cast below road

Road Alignment

The plan to avoid cutting large trees is to weave back and forth within the 32 foot proposed alignment with the temporary 16 foot road. This sounds possible on flat ground but is completely impractical on 90% slopes. The plan to reduce impact was to keep the road within the alignment of an expected future road. The road appears to have started out from the Mission Ridge parking lot along the proposed alignment. However, during construction, the road builder encountered rock and diverted the temporary road downhill to avoid working through the rock. The bulk of the road is constructed well outside the proposed alignment as can be seen in the following picture which shows the intended alignment in white and the actual alignment in red. This temporary road will not be mitigated by construction of the final road, instead there will now be two disturbed areas. The cut has been cast down the hill making topographic repair to original grade unrealistic. What is the plan for remediation of this road? The Decision Memo indicates planting with native species and installing drainage features. This does not seem adequate.



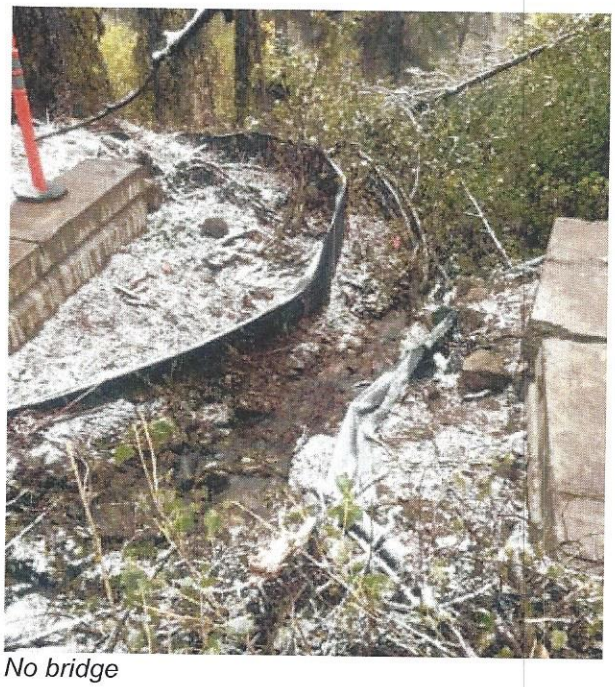
Road alignment

Disturbed Area

The permitting documents indicate only one acre will be disturbed. Because the slash and cut spoils were cast down a steep hill and extended up to 200 feet (all the way to the creek below!), a much larger area was affected. Conservatively assuming only a 50 foot disturbed strip, the actual area disturbed is 50 feet, times 0.67 miles, times 5280 feet per mile, divided by 43,560 square feet per acre, equals **4.06 acres**. This is four times the allowed disturbance.

Bridges

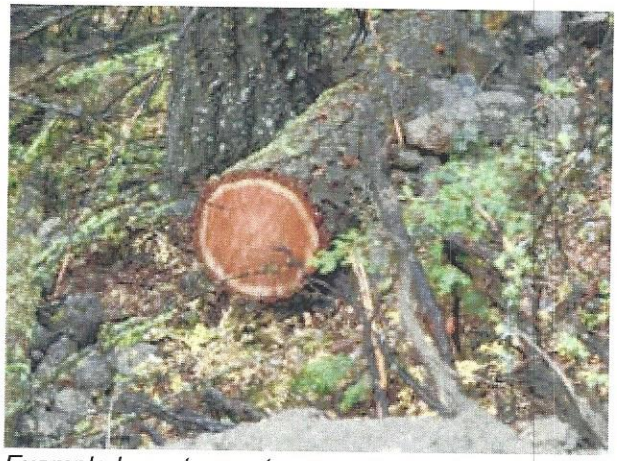
The permitting documents indicate that temporary bridges would be designed for 100 year flood level and would be placed over the two streams crossed by the road. From the DNS: "*Both temporary bridges would be designed with hydraulic capacity to pass the 100-year flood event (Q_{100}) and associated debris flow.*" Bridges were not installed. Blocks were placed on each side of the stream and construction equipment was driven right over the creeks.



No bridge

Trees greater than 8 inch DBH

The "weave about the 32 foot alignment strategy" was not realistic and the road was built in a straight line and large trees were cut and cast downhill.



Example large tree cut

Example large tree (note debris cast downhill)

The difference in ground disturbance between the two projects is obvious.

	2014 Beehive Pipeline Replacement	**2018 Mission Ridge Road Construction**
Ground disturbance	Minor and restored	Side-cast up to 200 feet
Slash Treatment	Scatter and Pile	Cast downhill over bank
Cut	None	15 feet
Cut Spoils	None	Cast downhill over bank

Despite the great difference in ground disturbance, **the Beehive project had regular oversight in the field by USFS personnel from the Leavenworth office, and the Mission Ridge project did not**. As an example of the difference in oversight, the photo below is of USFS, DOE and DFW scientists during a pre-construction site visit. Was there any kind of pre-construction site meeting of scientists and construction crew for the temporary road? The fact that the impractical concept of weaving around large trees within the proposed 32 foot alignment was presented as an approach to preserving large trees during construction suggests that the District Ranger may not have even visited the site.

Snapshot of Biologists and officials from USFS, Dept. of Ecology, and DFW providing oversight for Beehive Project.

The lack of permitting stringency and lack of construction oversight suggest that the USFS is giving preferential treatment to Mission Ridge and also to the private developer who intends to construct almost a thousand units at the head of Squilchuck Creek. The tone of the Draft EA sounds like the Forest Service has already made up its mind,

favors the project, and is contributing to the marketing campaign of Tamarack LLC by using persuasive language in the PURPOSE AND NEED section of the document.

The Forest Service must protect the quality of water in the Squilchuck drainage by enforcing its own rules concerning road construction. Orchardists in the Squilchuck drainage irrigate with surface water from Squilchuck Creek. Silt from erosion plugs the water filters in our water user's individual systems. The water is tested on a regular basis during growing season for compliance with legislated food safety standards. If the water fails the quality tests, fruit cannot be picked. The USFS should not contribute to conditions that could fowl individual water systems and could result in surface water failing quality testing due to ground disturbance on USFS lands.

We expect the Forest Service to review proposals in a critical and unbiased manner. However, we are concerned that the Forest Service is responding to public pressure instead of following its own rules and guidelines concerning allowing rights of way across national forest to access private property that can be accessed from non-federal land. We are concerned that the Forest Service will rubber stamp approve the proposed right of way and SUP area increase. If the permit holder cannot satisfy the conditions of the permit, and the USFS cannot provide adequate supervision to the holder, then further permissions and permits should not be granted.

Thank you for considering our comments.

Sincerely,

Gordon Zimmerman

Gordon Zimmerman, President
Beehive Irrigation District Board of Directors

Norm Gutzwiler, Vice President
Beehive Irrigation District Board of Directors

Terry Fitzpatrick, Secretary
Beehive Irrigation District Board of Directors

pc: Mark C. Shuppe, Watermaster, Department of Ecology
Mike Kaputa, Director, Chelan County Natural Resource Department
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