



EIGHTMILE DAM REBUILD AND RESTORATION

VOLUME 2: APPENDIX F, RESPONSES
TO COMMENTS

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APPENDIX F: RESPONSES TO COMMENTS ON THE DRAFT EIS

Responses to comments provided in this appendix address environmental issues raised during the public comment period for the Draft EIS. Responses are provided for each comment in the following sections. They are intended to provide clarification and refinement of information presented in the EIS and, in some cases, to correct or update information in the EIS.

The text of the EIS has been revised as appropriate in response to comments and to reflect new or updated information, and the revised text has been incorporated into the Final EIS, supporting Chapters 1 through 20.

Responses to comments in Appendix F are organized and presented in two main sections:

- (1) Global Responses to Comments (starting on page F-2 of this appendix).
- (2) Responses to Specific Comments (starting on page F-13 of this appendix).

F.1 Global Responses to Comments

Numerous comments on the Draft EIS raised common concerns or questions that are most appropriately answered or clarified in one comprehensive, or “global,” response. Ecology has provided Global Responses to address these common concerns. Responses to comments received on the Draft EIS related to these topics refer to the pertinent Global Response.

The Global Responses are organized as follows, presented in the following pages of this appendix.

- Visual Resources
- Helicopter Use in Alpine Lakes Wilderness
- Lake Level and Bathtub Ring
- Telemetry Equipment
- Water Conservation
- Recreation
- Water Rights Topics
- Tentative Determination of Extent and Validity
- Relinquishment
- Multi-fill Analysis
- No Change to Municipal Use
- Trust Donation
- Instream Flow Rule

F.1.1 Visual Resources

Several comments indicated concern related to visual impacts in the wilderness and asked for clarification on impacts and mitigation measures for visual resources. Because the dam is within the Alpine Lakes Wilderness, viewer sensitivity to man-made features in the area is high. Chapter 11 of the Draft and Final EISs describes potential impacts and measures to reduce impacts on visual resources from operation of the dam.

Impacts on visual resources from construction activity, including the visual impacts associated with lake drawdown and helicopter use for all action alternatives, would be adverse in the short term and would occur during peak hiker and overnight camper usage in the area; however, these impacts would be temporary (lasting for only one construction season). Operational impacts for the action alternatives would largely be the result of water level changes that would be visible during the summer and fall, when recreational use of the lake is highest. The lake level would be higher later into the summer, and lower during low water conditions. These fluctuations are not expected to generally alter view quality.

Mitigation measures include:

- Minimize clearing area for staging and construction activities, and restore all disturbed areas to Forest Service standards.
- Revegetate areas following construction.
- During design of the dam, specify materials and colors that will visually blend with the landscape around the dam, to the extent feasible.
- In the dam design, minimize the use of long, linear, and sharp rectangular edges to the extent feasible to reduce the contrast of the structure with the natural surroundings.
- Plant and allow low-growing vegetation, such as grasses and herbaceous plants, on the armored downstream face of the dam to the extent that this is compatible with safe operation of the dam.

Based on comments received on the Draft EIS, IPID, in conjunction with Ecology, has identified Alternative 2 as the preferred alternative for the proposed action. Alternative 2 meets the project objectives and is the least visually intrusive alternative. With no mechanical gates, Alternative 2 will blend into the landscape more than Alternative 1. The No Action Alternative and Alternative 3 do not meet all of the project objectives.

F.1.2 Helicopter Use in Alpine Lakes Wilderness

Many comments were related to the impacts of helicopter use within the Alpine Lakes Wilderness. As described in Chapter 2 of the Draft and Final EISs, other construction transportation alternatives were explored, including overland vehicle transport and pack animals, but they were ultimately removed from further consideration due to infeasibility, cost, and impacts.

Motorized overland transport through the Alpine Lakes Wilderness was initially considered, but it was not analyzed in the Draft or Final EIS because IPID acknowledged that air transport would be preferable to both wilderness users and to IPID. Additionally, this method of transportation was removed from consideration because of comments received during scoping expressing substantial concerns about impacts from overland transport.

Transportation of materials and equipment using pack animals to the dam site was also considered but determined infeasible due to the amount and weight of transported materials, the elevation gain to the dam site, and the number of animal trips needed.

Although the use of helicopters would increase noise levels during construction, it would result in the fewest impacts on the Eightmile Lake Trail and the shortest construction period. Figures 9-1 through 9-8 in Chapter 9 of the Draft and Final EISs illustrate the extent of potential noise exposure in the Icicle Creek Valley due to construction-related helicopter operations. Please see Section 9.7 for discussion of potential mitigation measures to reduce noise impacts due to construction activities. Refer to Section 8.4 for discussion on noise impact on wildlife due to construction activities.

Eightmile Dam and some of the inundated bed and shore of Eightmile Lake are on two parcels of land (120 acres) subject to a Special Warranty Deed. Through the Special Warranty Deed, IPID retained certain rights through the land exchange with the Forest Service in 1990 after the creation of the Alpine Lakes Wilderness (see Chapter 2). The Special Warranty Deed (see map in Figure 1-2) reserves IPID's rights to maintain and operate the dam and exercise their water rights. (See Chapter 2 for discussion of the Special Warranty Deed.) These "reservations" explicitly allow uses (motorized transportation and equipment or aircraft) otherwise prohibited by the Wilderness Act. The Deed includes the following description of the rights it reserves:

"... a nonexclusive, perpetual easement across, through, along, and upon the property described herein for the purposes of maintenance, repair, operation, modification, upgrading and replacement of all facilities presently located in or upon the property described herein, together with a nonexclusive right of ingress to and egress from all such facilities for all such purposes, in accordance with Rules and Regulations of the Secretary of Agriculture, 36 CFR 251.17 and 251.18, attached hereto and made a part hereof, in such manner as not unreasonably to interfere with its use by the United States, its authorized users or assigns, or cause substantial injury thereto.

The Grantor [IPID] may exercise the rights hereunder by any means reasonable for the purposes described, including but not limited to the use of motorized transportation and equipment, or aircraft. These rights include the right to regulate water level of all facilities located upon the property described herein. In performing maintenance, repair, operation, modification, upgrading and replacement of facilities located in or upon the property described herein, the

Grantor will not without prior written consent of the Forest Service, which consent shall not unreasonably be withheld, materially increase the size or scope of the facilities.”

As described in Chapter 1, IPID proposes to rebuild the Eightmile Dam to meet current dam safety standards. To rebuild and restore the dam, IPID will need to access the dam site, located completely on Special Warranty Deed land, which includes transporting people, materials, and equipment into the Alpine Lakes Wilderness with the use of helicopters.

F.1.3 Lake Level and Bathtub Ring

Several comments were received regarding the changes in lake levels related to potential impacts on vegetation and aesthetics. As noted in Section 7.3.8 of the Draft and Final EISs, Eightmile Lake was created by a large earthen embankment (landslide) that blocked the drainage of Eightmile Creek, forming the lake. The southern lakeshore is a steep talus slope with sparse vegetation. As described in Chapter 11 of the Draft and Final EISs, restoring the lake level water surface elevation to 4,671 feet under Alternatives 1 and 2 would contrast with existing conditions where some areas above the current high water level (4,667 feet) would be submerged by an additional 4 feet of water. Refer to **Figure F-1** and **Figure F-2** for photographs of the lake at these water surface elevations.

Additional submerged areas would include rocky and sparsely vegetated shoreline areas as well as the wetland at the west end of the lake. Some vegetation would likely die as a result of inundation, and additional wetland area will likely be created at the west end of the lake. While some people would see the additional inundation of these areas as adversely affecting views, others would likely see the larger lake size as a visual benefit. The lake would remain a dominant feature with the restored water level, and the additional inundation would not eliminate any areas specifically valued for their visual character. Please see the visual simulations in Chapter 11 for the predicted visual changes from fluctuating water levels proposed under Alternatives 1 and 2. The high water level under Alternative 3 would remain at roughly the current level.

A number of comments were received regarding the visual impacts associated with a “bathtub ring” remaining visible during low water levels. The dam is a form of human manipulation of the water level and flow that existed prior to the establishment of the Alpine Lakes Wilderness, and its continued use is authorized by the Special Warranty Deed. Assuming the dam is constructed no higher than the existing lake (water surface elevation 4,667 feet), the primary manipulation is that the dam slows the release of water in late spring and early summer, and increases flows during the drier months of late summer and early fall. These water level changes are often apparent by the “bathtub ring” left from when the water was held at a higher level. A bathtub ring is currently present at the lake when the lake is held at a low water level in the late summer and fall (see Figure 11-4 in the Draft and Final EISs for a photo taken in October 2020). The bathtub ring associated with Alternatives 1 and 2 would be similar to what is currently present at Eightmile Lake, but would appear slightly higher on the shoreline than it currently does. Low lake levels under Alternatives 1 and 2 can be seen (as a simulation) on Figures 11-20a and 11-20b of the Draft and Final EISs. The low lake level and bathtub ring associated with dam removal are simulated in Figures 11-16a and 11-16b.

Figure F-1. Eightmile Lake at current high water surface elevation 4,667 feet.



Figure F-2. Eightmile Lake at past and future high water surface elevation 4,671 feet.



F.1.4 Telemetry Equipment

Several comments were received about the size, location, and operation of telemetry equipment in the Alpine Lakes Wilderness. The telemetry equipment at the repeater station would be located outside of the Alpine Lakes Wilderness on Icicle Ridge (Figure 1-2). As described in Chapter 2 of the Draft and Final EISs, the telemetry equipment would be similar in scale to the Forest Service's existing repeater station on Icicle Ridge. Figure 2-10 in the Draft and Final EISs shows the existing Forest Service repeater equipment. Telemetry equipment located at the Eightmile Dam site would be replaced with equipment similar in size and scale to the existing telemetry equipment currently at the site. Installation of telemetry equipment would greatly benefit dam operations under the action alternatives. IPID would be able to more closely monitor the dam operation and have improved control over the amount and timing of water released by improving operational efficiency. Refer to Section 2.6.1 of the Draft and Final EISs for more detail.

F.1.5 Water Conservation

A number of comments were received regarding the need for additional water conservation, and the need to prioritize water conservation over water storage.

While conservation projects are outside the scope of this EIS, water conservation/efficiency is a key component of the Icicle Strategy, which is intended to balance out-of-stream and instream water demand and resolve habitat and fisheries issues. The Icicle Strategy includes a number of projects increasing water supply and reliability, including the Eightmile Dam Rebuild and Restoration Project. Please refer to the 2019 Final Programmatic EIS (January 2019) for additional information on other projects including conservation projects as part of the larger Icicle Strategy.

To improve water use efficiency, IPID developed a Comprehensive Water Conservation Plan in 2018 (Anchor QEA 2018b), in coordination with Trout Unlimited – Washington Water Project. This plan includes a comprehensive plan for improving irrigation efficiency and promoting conservation. Refer to that document for a complete discussion of projects and programs to be undertaken to improve efficiency in the IPID system, and the amount of water savings that could be realized through implementation of the proposed projects. IPID prioritizes conservation and will continue to pursue funding for conservation programs with several partners, including Ecology's Office of Columbia River, Washington State Conservation Commission, the Bureau of Reclamation, and others.

The Comprehensive Water Conservation Plan promotes consistency with two of the Icicle Work Group (IWG) Guiding Principles:

- Improved streamflow that will result from more efficient use of water diverted from Icicle Creek, and reduced diversion from the creek.
- Improved agricultural reliability that will result from more efficient use of water and implementation of conservation projects.

The City of Leavenworth published a *Water System Plan* in 2018 (Varela & Associates 2018) that included a detailed Water Use Efficiency (WUE) Program. This program outlines several efforts to increase conservation, focused on commercial conservation and consider a conservation-oriented rate structure, among other approaches. The City also implemented smart meters to help customers monitor their usage, and a customer education program to educate consumers on water efficiency. The City of Leavenworth is committed to water conservation and will continue to look for ways to increase water use efficiency.

However, water conservation does not eliminate the need for storage. Storage is an important part of the Icicle Strategy that allows for targeted late season instream flow benefits and contributes to climate change resiliency since storage is more climate resilient.

F.1.6 Recreation

Several commenters requested information regarding mitigation for impacts on recreation. As described in Chapter 10 of the Draft and Final EISs, construction activities have been planned to minimize the impacts on hikers and recreationists to the greatest extent possible. Some users may experience delays or choose to avoid the area during construction, as helicopter noise will be noticeable. Recreationists at Eightmile Lake would experience visual changes due to fluctuating water levels, as described in Chapter 11, *Visual Resources*. Fluctuating water levels would also alter informal fishing opportunities around the lake, potentially making some areas less suitable for fishing and other areas more desirable, depending on the water level. While the future operation of the dam would change recreational opportunities at Eightmile Lake, some of these changes could be experienced as improvements by some recreationists, and there would be no permanent closure of recreation.

As described in Section 10.6 of the Draft and Final EISs, IPID would implement the following measures to limit impacts on recreation:

- Construction activities would generally occur between the hours of 7 a.m. and 6 p.m.
- Coordinate with the Forest Service to forewarn visitors of potential disruption of wilderness experience due to construction activities, including notice to people seeking reservations through the lottery and to those awarded reservations.
- Provide signage to alert trail users regarding construction activity, including dates and hours of helicopter use, heavy equipment operation, and blasting with explosives.
- Provide a general description of work period and work impacts, including potential areas that will be closed to the public such as the staging and construction areas, prior to the Forest Service lottery for overnight permits in the Enchantment Permit Area.
- Provide alert of construction on the Forest Service Website for Alpine Lakes Wilderness: Okanogan-Wenatchee.
- Provide notification and signage at the Leavenworth Ranger Station and suggestions of other recreational opportunities in the area.
- While not expected, blasting with explosives could be necessary during construction. Should that occur, the Eightmile Lake Trail from its junction with the Caroline Lake Trail could be closed periodically over the course of 1 or 2 days. Blasting would be scheduled for mid-week between 11 a.m. and 3 p.m. and prior notification would be provided to the greatest extent possible through the alert systems noted above, press releases, and notification from outdoor recreation organizations.
- Following construction, restore disturbed areas to Forest Service standards.

Operation of the rebuilt dam is not expected to result in any impacts on recreation.

F.1.7 Water Rights-Related Global Responses

Tentative Determination of Extent and Validity

Several comments assert that the Draft EIS is flawed because Ecology has not performed a tentative determination of the extent and validity of the Eightmile Lake water right. However, as explained in the introduction to Chapter 6 of the Draft and Final EISs, the EIS itself does not make or include a tentative determination of extent and validity of the IPID's Eightmile Lake water right because the EIS process is not an action that triggers any requirement for such a tentative determination. Under Ecology Policy 1120, the Water Resources Program Policy for Conducting Tentative Determinations of Water Rights, the proposed project does not require any water right-related approval or action that

involves a tentative determination. Such determinations are required for rights associated with water right change applications under RCW 90.03.380, RCW 90.44.100, and related statutes. Since no change application has been filed by IPID for the Eightmile Lake water right, the requirement for a tentative determination of the extent and validity of this water right has not been triggered.

In addition to being required when Ecology evaluates water right change applications, other circumstances described in Policy 1120 for which a tentative determination of extent and validity is made by the Department include *“evaluating existing water uses associated with water rights pursuant to RCW 90.14.130 or other regulatory statutes that results in a departmental order.”*² RCW 90.14.130 concerns administrative orders issued by Ecology for water right relinquishment. RCW 90.14.130 authorizes Ecology to issue an order to notify a water rights holder when it appears that their right has reverted back to the state for nonuse as a result of relinquishment. As explained below in the Global Response to comments related to Relinquishment, Ecology has ascertained that issuance of an order for relinquishment of the Eightmile Lake right is not warranted.

Although IPID has not filed a change application, the Draft EIS describes IPID’s intent to donate a portion of the Eightmile Lake water right to the State Trust Water Rights Program for the purposes of instream flow. The quantification requirement for Trust donations under RCW 90.42.080(4) does not include a tentative determination but ensures that the water right donated into Trust *“shall not exceed the extent to which the water right was exercised during the five years before the donation nor may the total of any portion of the water right remaining with the donor plus the donated portion of the water right exceed the extent to which the water right was exercised during the five years before the donation.”* Policy 1120 specifically states that a tentative determination of extent and validity is not warranted when a water right is donated into Trust.

Following the issuance of the Draft EIS, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes. Following issuance of the Final EIS, Ecology will conduct a review of the quantities available (if any) for the Trust donation in accordance with the process prescribed by RCW 90.42.080(4). The results of this review will be part of a final decision on the requested Trust donation and will follow and be informed by the EIS process.

As stated, the EIS process is not used to make a tentative determination of extent and validity. Rather, the purpose of the EIS process is to outline a range of possible outcomes for a proposed action. In this case, the EIS performed a reasonable evaluation to bracket the amount of water likely available under the existing water right to ensure that the alternatives considered and associated active storage capacities were reasonable within the right, and then to outline the range of potential outcomes that can result from those alternatives. In outlining the range of potential outcomes, consistent with WAC 197-11-080 (3)(b), the Draft EIS documents the worst-case analysis within the range of outcomes. As such, the analysis made in the Draft and Final EISs adequately examines a reasonable range of active storage volumes and associated impacts that could occur from the proposed dam rebuild, regardless of whether a portion of the right may or may not be available as a result of Ecology’s quantification of the water right for purpose of the Trust donation under RCW 90.42.080(4). This analysis is also consistent with the water rights response included in the *Scoping Summary Report* (Ecology 2021d), available on the Ecology website, which points to water rights analyses to be conducted in the Draft EIS based on preliminary information and that IPID’s water rights will be addressed in relation to meeting the needs of the alternatives in the Draft and Final EISs.

The EIS describes action alternatives with design active storage volumes that were determined to be reasonable given the review of information available on water use and storage at Eightmile Lake under IPID’s existing right at the time of Draft EIS preparation. Following issuance of the Final EIS, Ecology will review the quantities (if any) available for donation into Trust based on the extent to

² Department of Ecology Policy No. POL 1120, *Water Resources Program Policy for Conducting Tentative Determinations of Water Rights*. Effective August 30, 2004 (Revised). Section 3.

which the water right was exercised during the 5 years before the donation date. If IPID asserts a sufficient cause for nonuse (see Appendix B and the Global Response for Relinquishment) for a period immediately prior to the May 2024 Trust donation application date, and Ecology finds it to be excused under RCW 90.14.140 for that period, then the 5-year review period will be moved to precede such asserted and excused period of nonuse or partial nonuse. In any case and as described above, the analysis and determination of the quantity of water available for and accepted into Trust for instream flow does not constitute a tentative determination of extent and validity of the water right. It only reflects how the right was exercised in the 5-year period considered in the evaluation for the donation. As such, a later adjudication of the water rights in the Icicle Creek Subbasin or an action triggering a tentative determination of extent and validity (such as IPID filing a water right change application) as described above would result in a quantification of water use and annual quantity under the right. If a future quantification (through adjudication or future water right action) results in an annual active storage quantity that is less than the 2,000 acre-feet considered in this EIS, the physical active storage volume in the lake can be reduced through shortening the intake pipe outlet as described in the Final EIS without necessitating any changes to the main design.

In any case, the total quantity accepted into Trust for instream flow plus the quantity retained by IPID for irrigation cannot be used in excess of the maximum active storage volume of 2,000 acre-feet that is considered in this EIS for the potential impacts analysis described above. The monitoring and reporting plan to be executed as part of the Trust donation process will be reviewed and approved by Ecology and will ensure that the 2,000 acre-foot limit of active storage is not exceeded on an annual basis and that the Trust donation is managed properly.

Relinquishment

As explained in Section 6.2 of the Draft and Final EISs, and further discussed in Appendix B, relinquishment occurs when a water right has not been fully used at least once every 5 years unless the right qualifies for one of several specified exceptions that excuse the nonuse. The EIS explains that relinquishment occurs through nonuse by operation of law, but a relinquished right (in part or in full) is still recorded as active (that is, not determined to be relinquished, in a water right document or decision, for example, superseding certificate or order) if there has not been an action that triggers a tentative determination of extent and validity.

As discussed in Appendix B, RCW 90.14.130 – 180 governs relinquishment, and Ecology's Policy 1060 provides specific definitions and departmental policies related to relinquishment. Policy 1060 states relinquishment *"occurs when a water right has reverted to the state because of nonuse for five or more successive years after 1967 without sufficient cause that excuses the nonuse."* RCW 90.14.140 lists numerous specific exceptions that are defined as sufficient causes that excuse nonuse of water and prevent relinquishment.

Several comments stated that at least a portion of IPID's Eightmile Lake water right has been relinquished as a result of nonuse; at least one comment stated that Ecology knows of this relinquishment. Several comments stated that the relinquishment has occurred since the 1990s, with one stating the nonuse has occurred due to dam erosion and irrigation efficiency improvements.

However, it is not clear that there has been unexcused partial nonuse of the Eightmile Lake water right. This water right authorizes storage of water in the lake, and, as described in the Draft EIS and in the Global Response for Multi-fill Analysis below, through multiple filling of the lake, IPID has stored water in excess of the reservoir's current capacity. While there may be partial nonuse of the storage right if the reservoir is only filled at one time each year, there is evidence showing that it is filled at multiple times (see Chapter 6, page 6-7 of the Draft EIS). Thus, while the storage capacity of the lake has been reduced during the last several decades, IPID has still exercised its storage right through multiple same-season filling.

In addition, as explained above, because there is no water right change application, a tentative determination of extent and validity has not been conducted for the right. If an appropriate water right action had occurred and less than the full quantity were to be tentatively determined as having been used, as suggested in some of the comments, then IPID as the water right holder would then have the opportunity to provide additional information to show sufficient cause for the nonuse by asserting an exception from relinquishment. One exception that possibly would be asserted by IPID and have to be considered by Ecology is the exception for “drought, or other unavailability of water” under RCW 90.14.140(1)(a). There may be a viable argument that the erosion of the dam has been caused by natural events and has resulted in the “unavailability of water,” and repairs to the dam to restore its function to the pre-erosion level could not readily be made due to circumstances outside IPID’s control, for example, the time required to get approval for construction access within the wilderness area. Further, one or more of the other exceptions to relinquishment may be asserted and may need to be considered as part of the analysis. For these reasons, Ecology has not deemed that the factual scenario for this water right warrants commencement of a relinquishment action.

Ecology has not determined that relinquishment has not occurred, but, rather, that it is uncertain and undetermined as to whether relinquishment has occurred. Relinquishment occurs as a matter of law whether or not Ecology takes a formal action leading to a relinquishment order. And while the law allows Ecology to issue a relinquishment order for some situations other than during the water right application process, under Ecology’s standard practices, such an order is only issued when there is clear and compelling evidence that relinquishment has occurred. In this case, while there is a supposition by some that relinquishment has occurred, there is not clear evidence showing that there has actually been unexcused partial nonuse of the water right.

Multi-fill Analysis

Many comments were received concerning the Multi-fill Analysis. These comments generally either requested that the Multi-fill Analysis document (Aspect 2022a) be attached as an appendix to the Final EIS and/or suggested that there is no precedent for using a Multi-fill Analysis to determine the extent of a water right and that WAC 508-12-270 specifically states that only the initial filling of storage applies because only one filling of the reservoir is allowed under a water right.

The multi-fill report provided by IPID (Aspect 2022a) describing the Multi-fill Analysis was reviewed and considered along with other information provided by IPID in preparing the Draft EIS, with the purpose of determining whether the range of storage volumes considered in the three action alternatives was reasonable given the existing storage right at the lake. The Multi-fill Analysis is described in footnote 8 in Section 6.2 of the Draft and Final EISs, and additional discussion has been added to the text of Section 6.2 of the Final EIS.

The Multi-fill Analysis is based on a water-balance spreadsheet model using a range of historical IPID uses and practices and representative wet, dry, and average years. The methodology and spreadsheet modeling tool used is similar to the mass-balance approach used as part of the FPEIS to estimate the Eightmile Lake watershed yield (Appendix B of Ecology 2019a). The model uses a daily mass-balance to estimate change in storage at the lake over the season, which includes both inputs to the lake (precipitation and snowmelt data) and outputs from the lake (estimates of leakage out of the lake, evaporation, and a range of typical operational releases). Additionally, the model prioritized meeting senior water rights prior to multi-fill. While Ecology has not re-created the Multi-fill Analysis, it conducted a general review of the information and assumptions used, as well as the general methodology, and has ascertained that the analysis is reasonable. As noted in WAC 197-11-420(4) “...an applicant may volunteer to provide any information or effort desired, as long as the EIS is supervised and approved by the responsible official.”

The multi-fill report itself, as noted above, was not produced by Ecology. It is one of many background documents used in the EIS evaluation. All information sources used in the preparation of

the EIS are listed as references in Chapter 18 of the Draft and Final EISs. Some of these sources are available for review on the internet, and all are available through a public records request to Ecology.

As mentioned, many comments referenced WAC 508-12-270, which states:

Unless otherwise specified, a reservoir permit will allow the permittee to fill the reservoir once annually and the permit shall specifically state the period during which the water may be used to fill the reservoir. If water in excess of one filling of the reservoir is required, a further application for the additional water must be filed.

This rule was filed on March 23, 1960.

The above-mentioned footnote to Section 6.2 of the Draft and Final EISs explains that the “one-fill” rule under WAC 508-12-270 is not applicable to the Eightmile Lake water right because the right, with a priority date of August 2, 1926, pre-dates the adoption of WAC 508-12-270. At least one comment asserted that the one-fill rule could still apply because the rule “*could have simply been putting into writing the longstanding and historical practice of authorities responsible for implementing Washington’s water code.*” However, there is no evidence presented for this. Further, even if true, a longstanding practice in and of itself does not constitute a law or a rule. Rather, the applicable legal principle is that laws, when enacted, are not retroactive unless specifically noted as such. And this principle is especially appropriate for agency rules, which are not statutes enacted by the legislature but, rather, are rules promulgated by an agency under authority delegated by the legislature. With respect to the Eightmile Lake water right, the certificate, and other documents for the right, do not include any condition requiring only one filling of the reservoir. Thus, since there is no one-fill condition, and WAC 508-12-270 is not applicable to the right, IPID’s multiple-filling of the reservoir has been lawful under its 1926 water right.

No Change to Municipal Use

There are several comments on the potential to convert some of the use under the Eightmile Lake water right from irrigation use by IPID to municipal use (for the City of Leavenworth). It is not possible for the right to be used directly for municipal purposes; that could not occur without the filing and approval of a water right change application requesting a change in purpose of use to add instream flows for the mitigation of a new municipal out-of-stream water use (under a separate new water right application) as a purpose of use authorized under the water right. Such an application has not been filed, nor is one expected to be filed in the future. Section 2.8.4 of the Draft and Final EISs states that increasing the municipal water supply as a component of this project has been removed from further consideration: “*During the scoping process, several comments were received expressing concern over water from the Alpine Lakes Wilderness being used for municipal supply purposes. Based on such comments, Ecology has determined that water will not be made available for instream flow purposes for the mitigation of new out-of-stream uses, including municipal water supply use.*”

Trust Donation

Comments were received related to whether the portion of the right to be donated to instream flows would stay instream permanently, and whether the water would remain instream to the Pacific Ocean.

As discussed above, after issuance of the Draft EIS, IPID submitted a request to donate a portion of its Eightmile Lake water right to the State Trust Water Rights Program for instream flow purposes for the life of the rebuilt dam and related infrastructure. Although the timeframe is technically temporary, the Trust donation for instream flow purposes is tied to the life and existence of the infrastructure for the rebuilt dam and, as such, will likely be for a long period of time (for example, the existing dam’s life is reaching the 100-year mark). This also means that the quantities donated for instream flow would be used for those purposes exclusively as long as the infrastructure and project improvements are present and capable of storing water for release. As described above,

Ecology will consider the request and make a determination on acceptance of the Trust donation following issuance of the Final EIS.

If Ecology's review under RCW 90.42.080(4) and final decision on the Trust application results in less than 1,400 acre-feet (the quantity currently needed by IPID), then no water would be available for acceptance into the Trust Water Rights Program. This would not preclude IPID from making annual donations in years where it has surplus water and may not need the full 1,400 acre-feet. However, without the added annual benefit to instream flows as a result of the project under the pending May 2024 Trust donation application, Ecology's OCR may not fund the dam construction as it would not meet the directives of OCR's program. This does not preclude the use of emergency funds should there be a health and safety issue. IPID would still need to rebuild the dam to meet the requirements for the dam as required by Ecology's Dam Safety Office, but it would need to seek alternative sources of funding.

However, if Ecology's review under RCW 90.42.080(4) and final decision on the Trust application results in excess of 1,400 acre-feet of water (beyond the quantity currently needed by IPID) and, thereby, water is available for donation into Trust, then the project would qualify for Ecology's OCR funding for meeting instream flow demands. Any water donated to Trust as part of this project will only benefit instream flow and will not be used to mitigate any new out-of-stream uses.

[RCW 90.42.080](#) authorizes Ecology to accept donations to the State Trust Water Rights Program. The donated portion of the water right will be released from storage in Eightmile Lake to augment flows in Icicle Creek in order to benefit fish, with releases scheduled based on coordination with Icicle Work Group members, co-conveners, and fishery co-managers. See Section 2.6 of the Draft and Final EISs, and Section 6.5 of the Final EIS.

Ecology holds and has legal authority to manage all Trust water rights within the framework of the prior appropriation system. Unlike Trust water rights that Ecology acquires through means other than a donation, which it actively protects, Ecology typically does not actively manage donations to the Trust Water Rights Program. However, in this case, the donated portion of the water right will be released from storage in Eightmile Lake to augment flows in Icicle Creek in order to benefit fish, and because of this benefit to fish, Ecology does intend to manage this donated water instream from the outlet of Eightmile Lake to the confluence of Icicle Creek with the Wenatchee River. Given the relatively senior priority date of this Eightmile Lake water right (1926, Class V), it is likely to remain instream to the confluence of Icicle Creek with the Wenatchee River. The scheduled releases for instream flow will be coordinated with Icicle Work Group (IWG) members, Icicle Strategy instream flow subcommittee, IWG co-conveners, and fishery co-managers (see Section 2.6 of the Draft and Final EISs).

Instream Flow Rule

As explained in Section 6.2 of the Draft and Final EISs, the waters of Washington State are a public resource whose use is controlled by water rights under the prior appropriation doctrine (first-in-time, first-in-right). Under the Water Resources Act of 1971, the state required Ecology to retain adequate flow in streams to protect instream flow resources. As a result, the instream resources protection program for the Wenatchee River Basin (Chapter 173-545 WAC) established minimum instream flows for Icicle Creek. These minimum instream flows are essentially water rights for the creek and have priority dates (6/3/1983 and 11/2/2001) just like any other water right. All rights on Icicle Creek with priority dates prior to those established for instream flow can legally divert water from the creek regardless of the flow level in the creek. Water rights with priority dates later than those for the creek can also legally divert water from the creek, but only when the instream flows are being met.

In the case of IPID, their rights to divert water from Icicle Creek predate the instream flow rule; therefore, they can legally divert water from the creek up to their water right amount, even in drought years.

F.2 Responses to Specific Comments

This section of Appendix F contains copies of all comments received on the Draft EIS, and responses to those comments. This introduction explains the organization of comments and responses, and describes how to locate a response to a specific comment. Comment letters/emails/website comments were initially organized by date received, and by the type of entity providing the comments, in the following order:

- State government agencies (coded as S-)
- Organizations (coded as O-)
- Individuals (coded as I-)
- Public meeting/hearing comments (coded as M-)
- Form letter comments (coded as FL-)

Note: No formal comments on the Draft EIS were received from federal agencies, local agencies, or tribes. Ecology has conducted formal consultation with tribal governments on potential impacts on cultural and tribal resources. Consultation with the tribes will continue as the project moves through permitting and construction.

Each comment letter/email/website comment received was given an identifying (ID) number (e.g., F-1), and each specific comment within that letter was numbered sequentially (e.g., F-1-1, F-1-2, etc.). Similarly, using a verbatim transcript of the three public hearings (one in-person, two virtual), each speaker and each specific comment by that speaker was assigned an identifying number (e.g., M-1-1). Appendix F also contains several index tables that enable a reader to find their comment letter and the associated responses. The index tables, organized by the entity type as shown above, list each comment letter received; the name and/or organization of that comment; and a hyperlink to the reproduced comments and associated responses in this PDF. Separate index tables are presented for each entity type in the bulleted list above (e.g., State government agency). Because of the length of the reproduced comments and associated responses, the best way to navigate this appendix is digitally, using the bookmarks and hyperlinks within the PDF, as well as searches in this PDF (i.e., using Edit/Find or Control-F on an IBM PC computer, or Command-F on a Mac computer).

Following each index table, each comment letter and its corresponding responses appear side by side, with the comment letter on the left side of the page and the responses on the right side. Comments have been delineated (or bracketed) and numbered within each comment letter. Each specific comment is marked in the margin with the number of the comment and correlative response.

A few additional notes to help readers in reviewing the responses to comments:


- Several comment letters included attachments or exhibits, which were reviewed and considered by the EIS team but are not reproduced on the following comment/response pages due to length.
- Where a specific comment is addressed by information in one or more Global Responses, the response refers to the Global Response(s). Where a specific comment is addressed by another specific response, the reader is referred to the other response to avoid duplication.
- Four form letters were submitted through four different organizations (Sierra Club, The Mountaineers, Washington Wild, and Washington Trails Association). Because responses to each comment letter were similar, only one version of each is included in the responses that follow. A table listing all individuals that submitted a form letter is include in Attachment A.

F.2.1 State Agencies

Index of Comments from State Agencies

Comment ID	Agency	Name	Page
S-1	WDFW	Brock Hoenes	STATE-1

S-1

	COMMENT	RESPONSE
	S-1-1 Comment noted.	
	S-1-2 Comment noted.	
	S-1-3 Comment noted.	
	<div><div><p>State of Washington DEPARTMENT OF FISH AND WILDLIFE REGION TWO Mailing Address: 1550 Alder Street NW, Ephrata, WA 98823-9699 · 509 754-4624 · TDD 360 902-2207 Region Two Office Location: 1550 Alder Street NW, Ephrata, WA</p></div><p>June 5, 2023</p><p>Department of Ecology Office of Columbia River Attn: Melissa Downes 1250 West Alder Street Union Gap, WA 98903</p><p>Subject: WDFW Comments on the Eightmile Dam Rebuild and Restoration SEPA Draft Environmental Impact Statement</p><p>Dear Ms. Downes,</p><p>Thank you for the opportunity to comment on the draft Environmental Impact Statement (EIS) for the Eightmile Dam Rebuild and Restoration Project. The Washington Department of Fish and Wildlife’s (WDFW) interest in this project is based on our agency’s mandate to perpetuate fish, wildlife, and their habitat (RCW 77.04.012). More specifically for this project, WDFW offers our technical assistance and pre-application review for the Hydraulic Project Approval (HPA) permit under the Washington State Hydraulic Code, Chapter 220-660, as well as technical assistance regarding WDFW Priority Habitat and Species (PHS). As both a technical advisor and permitting agency, we offer these observations and recommendations to consider for this project.</p><p><u>Preferred Alternative</u></p><p>Upon review of the alternatives and available supporting documents for this project, WDFW supports Alternative 1 due to increased operational flexibility to manage and bolster instream flows. Alternative 1 is especially important considering projected climate change impacts showing earlier peak flows and significant reductions in minimum average flows and late summer flows.</p><p><u>Wildlife and Wildlife Habitat Impacts</u></p><p>The following information is needed to identify impacts and address mitigation needs for terrestrial species and habitats that occur in the area of the project proposal boundary.</p><ul style="list-style-type: none">- We recommend that permanent vegetation removal is limited to the minimum footprint needed to construct the project. To minimize vegetation impacts, we recommend clearing rather than grubbing. Grubbing removes underground vegetation, including stumps, roots, and buried logs. Clearing would limit vegetation removal to only surface vegetation. Clearing is only a temporary impact to the vegetation rather than a permanent</div>	
S-1-1		
S-1-2		
S-1-3		

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COMMENT

RESPONSE

S-1-2

impact. Keeping stumps, roots and buried logs intact in riparian management zones will help reduce the risk of erosion, and some plant species can resprout from the remaining roots. We recommend a revegetation plan be required that describes the replacement and mitigation required for impacts to riparian and forested habitats. The revegetation plan should include a monitoring and management requirement to ensure successful revegetation.

S-1-4

- Page 4-27 of the draft EIS states “Although the lake area has a potential for larger fluctuations as compared to existing conditions, the relatively small increases and decreases of 6 percent or less would not substantially alter water resources in the lake. This minor percent variation would not substantively change lake hydrology.”
 - o WDFW is concerned that broader post-construction drawdown and pool raise within the Eightmile reservoir, even if relatively small, may impact aquatic and terrestrial species. The draft EIS does not address amphibian egg stranding relative to Alternatives 1 and 2 where additional acreage will be inundated, subsequently dried, and with increasing frequency.
 - o Please include actions that will prevent impacts to this species’ life history stage.

S-1-5

- On page 8-36, the draft EIS states “The construction of Alternative 2 would require about 10,000 cubic yards of materials to be excavated from elsewhere on the site and used to build the dam.”
 - o The draft EIS does not currently specify the source and location of the 10,000 cubic yards of native material and its impacts on wildlife and wildlife habitat. We recommend that the source and location of the “native backfill” needed to construct the project be identified for all three alternatives.

Fish and Fish Habitat Impacts

The following information is recommended to identify impacts and address mitigation needs for aquatic species and habitats that occur in the area of the project proposal boundary.

S-1-6

- On page 8-32, the draft EIS states, “none of the action alternatives would result in an expansion of the existing dam footprint into Eightmile Lake, so no benthic lake habitat would be lost.”
 - o It is unclear whether the alternatives will result in a loss of aquatic habitat in Eightmile Creek. Please clarify whether there will be any impact to the benthic habitat in Eightmile Creek as a result of Alternative 2.
- On page 8-36, the draft EIS states “the primary spillway length of 180 feet is 120 feet longer than under Alternative 1.”
 - o We recommend including additional information to specify if this will affect any fish habitat within the increased footprint of Alternative 2.

S-1-4 Operation of the dam associated with all action alternatives would be similar to current conditions with the timing and release of drawdown. Water levels in the lake are highest in the spring and lowest in late summer. Amphibian species present in the area are adapted to surface water elevation changes. Additionally, water level manipulations are expected to occur outside of the breeding season. As noted in the EIS, impacts may occur on individuals associated with the aquatic changes, but because of the relatively small affected area, overall impacts are expected to be less-than-significant.

S-1-5 As noted in Section 2.7.1, rock and earthen materials would be sourced from excavations associated with the new dam and piping. Section 8.5.3 of the Final EIS has been revised to clarify that materials would be sourced from the Special Warranty Deep parcels. Impacts on wildlife and wildlife habitat are described in Section 8.5 of the Draft and Final EISs.

S-1-6 None of the alternatives would result in a loss of aquatic habitat in Eightmile Creek. As recommended, additional information has been provided in Chapter 8 of the Final EIS on the effect of the wider spillway with Alternative 2 on fish habitat in the lake. The spillway in Alternative 2 will impact approximately 2,000 square feet of lake shoreline habitat at full water surface elevation. This small increase in spillway length and associated habitat loss associated with Alternative 2 is not expected to have a significant impact on fish in Eightmile Lake.

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RESPONSE

Water and Water Rights Impacts

This additional information is recommended to identify impacts and address mitigation needs for water resources and water rights that occur in this area of the project proposal boundary.

S-1-7

- The water quality data for Eightmile Lake is nearly 50 years old and the water quality data for Eightmile Creek is over 20 years old. Will additional water quality monitoring take place before and after construction, and who will collect the data? We suggest collecting new data and using it to make informed decisions about water quality-related actions.

S-1-8

- As written, the draft EIS describes the potential for reduced streamflows in Icicle Creek during construction of any of the project alternatives. Drought conditions during the construction phase of this project would exacerbate potential streamflow impacts and could create additional stressors for aquatic species, including Endangered Species Act protected salmonids. WDFW suggests including the following elements to the final EIS to increase our understanding of the potential for significant impacts to streamflows:
 - o A more thorough analysis of the potential impacts to streamflows occurring during the construction phase. This analysis should consider a range of potential water years (i.e., above average water supply, median water supply, and below average water supply) that would provide more clarity on potential impacts.
 - o Additionally, this analysis should study how storage from the other Alpine Lakes operated by Icicle-Peshastin Irrigation District (IPID) could be managed to fulfill IPID's water needs and maintain the instream flow protections contained in Chapter 173-545 of the Washington Administrative Code (Wenatchee Basin Instream Flow Rule). While WDFW understands that the instream flow levels set in administrative rule are junior to IPID's right, we'd like to see minimal impacts from construction activities affecting fish and wildlife.

S-1-9

- The sequencing of this project creates unnecessary uncertainty. The draft EIS provides analysis on the environmental impacts resulting from a dam project, but the underlying water rights stored behind the dam lack clarity. We are unable to locate a reservoir permit securing IPID's right to store water in Eightmile Lake. The extent and validity of IPID's appropriative water rights have not been tentatively determined by the Washington Department of Ecology (Ecology). Having clarity on the water rights before assessing the environmental impacts would increase our understanding of the potential environmental benefits of the project. Absent clarity on the underlying water rights, it will be impossible to ascertain the quantity of streamflow benefits derived from this project.

S-1-10

- WDFW is unclear how water donated as a result of the project would be protected instream from other diverters junior to IPID's water right, but senior to the instream flow rule. WDFW ultimately wants to ensure the water donated by IPID is protected instream in perpetuity all the way to the Pacific Ocean.

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S-1-7 Comment noted. Water quality monitoring in Eightmile Lake and Eightmile Creek will be conducted during construction to ensure water quality standards are being met, and in conjunction with any Section 401 Water Quality Certification permit requirements. Additional water quality monitoring is not currently planned as part of the Eightmile Dam Restoration and Rebuild Project. The recommendation for additional water quality data collection may be better suited for inclusion in future projects by the Icicle Work Group.

S-1-8 Changes in the timing and magnitude of flow in Eightmile Creek during construction, from both surface water discharge at the dam and groundwater flow under, are believed to represent less-than-significant impacts on water quantity in the creek because flow volumes and timing will be within the typical range seen from current reservoir operations when year-to-year variations in the hydrologic cycle are considered. This certainly relieves the necessity of additional analysis for above-average and average water years suggested by the commenter.

Considering it is IPID's standard policy to release water from Eightmile Lake prior to releases from its other lakes/reservoirs, the early release of water during construction would likely represent a similar pattern to what is done normally during a severe drought year. IPID is planning on managing their other reservoirs to make up for any lack of flow from Eightmile Lake.

S-1-9 The sequencing of the project as it relates to water rights is being followed as prescribed by state law, Ecology's policies, and established Ecology procedures. As part of the EIS, Ecology has reviewed the water right and the Multi-fill Analysis to determine whether the active storage volumes considered for each design alternative (up to 2,000 acre-feet) are reasonable and inform the appropriate analysis of potential impacts of the alternatives. Without a water right action or clear evidence of non-use of the right (when considering potential for re-fills of the lake and statutory exemptions to non-use), Ecology has not conducted a tentative determination of extent and validity of the Eightmile Lake water right or a determination of relinquishment (refer to Global Responses on these topics). After the Draft EIS was issued, IPID filed an application for Trust donation requesting that a portion of the right be donated for instream flow. After the Final EIS is released, Ecology will review the application for Trust donation, according to the process prescribed by RCW 90.42.080(4), and issue a final

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	COMMENT	RESPONSE
		<p>decision. A Trust agreement will document the monitoring and reporting requirements and terms of the donation. Following final design and construction of the rebuilt dam, the monitoring and reporting will ensure that quantity donated to Trust and released for instream flow will remain within the quantity accepted for donation. The donated portion of the water right will be released from storage in Eightmile Lake to augment flows in Icicle Creek in order to benefit fish, with releases scheduled based on coordination with Icicle Work Group members, co-conveners, and fishery co-managers. See Section 2.6 of the Draft and Final EISs.</p> <p>IPID’s water right on Eightmile Lake (Surface Water Certificate 1228) authorizes the storage and use of water for irrigation purposes. The single water right that was certificated in 1939 includes 25 cfs for both storage and diversionary uses. Additional information on the storage component of the right is provided in response to comment O-9-15 of the Sierra Club letter.</p>
S-1-10	WDFW is unclear how water donated as a result of the project would be protected in stream from other diverters junior to IP ID's water right, but senior to the instream flow rule. WDFW ultimately wants to ensure the water donated by IPID is protected in stream in perpetuity all the way to the Pacific Ocean.	<p>S-1-10 Water donated by IPID to the Trust Water Rights program will be managed instream within the framework of the prior appropriation system with respect to both diversionary rights and minimum instream flows established under WAC 173-545. In the context of the Icicle Creek subbasin, IPID's Eightmile Lake water right, including the portion requested for donation to Trust, has a priority date that is senior to the effective date of the instream flows set forth in WAC 173-545. Additional information is provided in Section 6.3.1 of Chapter 6: Water Rights of the Draft and Final EISs.</p> <p>In addition, refer to the Global Response for Trust Donation. As described in the Global Response, Ecology intends to manage this donated water instream from the outlet of Eightmile Lake to the confluence of Icicle Creek with the Wenatchee River. The releases will be coordinated with Icicle Work Group (IWG) members, Icicle Strategy instream flow subcommittee, IWG co-conveners, and fishery co-managers. Coordination and decisions surrounding lake releases and flow management within the Icicle Creek watershed will be informed, in part, by a separate IWG process including a decision support tool being developed as part of the Icicle Strategy. Also refer to the Section 2.6 (Dam Operation) of the Draft and Final EISs.</p>

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Miscellaneous technical comments

Draft Eightmile EIS Chapter	Draft Eightmile EIS Page/text	Comment
4: Surface Water Resources	Page 4-8 of the draft EIS states "COIC's water right at the joint diversion structure allows for a diversion of 11.9 cfs for irrigation."	This 11.9 cfs number is stated multiple other places in the draft EIS. There is current uncertainty of the actual amount of Cascade Orchards Irrigation Company's (COIC) water right. Until this final amount is clarified through a tentative determination of extent and validity analysis by Ecology, WDFW recommends language stating that COIC <u>may</u> have a water right up to 11.9 cfs, pending the issuance of a final Report of Examination by Ecology.
5: Groundwater Resources	Page 5-5 of the draft EIS states "Seepage losses out of the COIC canal have been identified at about 5 percent of the total canal flow, or about 0.3 cfs (Ecology 2019a)."	This seepage number is different than the number cited in the water right change draft Report of Examination (ROE) for the COIC canal project. Both state seepage is about 5% loss, but the COIC draft ROE says seepage equals 0.5 cfs whereas the draft Eightmile EIS says it equals 0.3 cfs. Please ensure consistency between the two documents.
6: Water Rights	Multiple places in the draft EIS reference a multi-fill event analysis conducted by Aspect Consulting used to estimate IPID's historic storage in Eightmile Lake and to determine the range of the maximum active storage volumes for the action alternatives.	Please include the multi-fill event analysis as an Appendix to the final EIS so there is increased transparency around these calculations.
6: Water Rights	Footnote 17 on Page 6-14 of the draft EIS states "There has been neither a tentative determination of validity and extent by Ecology nor a court	For the purposes of this draft EIS, WDFW understands that a determination of extent and validity of IPID's water rights related to Eightmile Dam is not required and acknowledges that this draft EIS process is not the correct venue to

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S-1-11 Prior to the writing of the Draft EIS, the last water right action concerning the Cascade Orchards Irrigation Company (COIC) right was in 1940, which confirmed the amount of the right at 11.9 cfs. In 2020, COIC filed an application for change of its water right, and in August 2023, following the issuance of the Draft EIS, Ecology issued a final Report of Examination and change decision (CS4-35001J@1) to change the point of diversion and change the place of use. Additionally, Ecology decided that the component of COIC's Irrigation Efficiencies and Pump Exchange Project that involves the downstream change in point of diversion qualifies as a "water conservation project" under RCW 90.42.020(6) and 90.42.030. RCW 90.42.020(6) defines a "water conservation project" as "any project or program that achieves physical or operational improvements that provide for increased water use efficiency in existing systems of diversion, conveyance, application, or use of water under water rights existing on July 28, 1991." As part of its decision, Ecology found that 11.9 cfs and 4,012.6 acre-feet/year were available for change and authorized up to 8.0 cfs and 1,319 acre-feet for irrigation by COIC, subject to a development schedule. The amount identified for instream flow purposes varies by reach but is a maximum of 11.9 cfs and 4,012.6 acre-feet. Refer to the CS4-35001J@1 Report of Examination for additional information on the development schedule, provisions regarding requirements for water use under the right, and the portions and reaches identified for instream flow. The discussion of the COIC right was modified in the Final EIS to reflect these changes.

S-1-12 The Final EIS has been revised to correct this discrepancy.

S-1-13 The Multi-fill Analysis (Aspect 2022a) itself is not a part of the EIS, nor is it a product of Ecology. It was used as an information source for the EIS preparation and, therefore, is not included as an appendix of the EIS. The Draft EIS contains four appendices. One is a letter from Ecology; the other three are work products produced by the EIS consultant team. None are separate, outside information sources. All information sources used in the preparation of the EIS are listed as references in Chapter 18 of the Draft and Final EISs. These sources are available for review either on the internet or through a public records request to Ecology. Access to the document is also noted in the Global Response for Multi-Fill Analysis.

S-1-14 Comment noted. As described by the commenter, the Draft EIS is clear that the water rights review in the EIS is not a tentative determination of extent and validity of IPID's water right. After the Draft EIS was issued, IPID requested to donate a portion of its water right to Trust for instream flow purposes. Following issuance of the Final EIS, Ecology will conduct its review of the quantities available for the Trust donation under the right in accordance with the process prescribed in RCW 90.42.080(4). The Trust donation review and acceptance decision will follow the standard Ecology practices. As part of that process, Ecology will post the Trust donation on its water right public posting page of its website for a 30-day period, as it does for other donations.

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	adjudication that has determined whether this entire figure is valid."	comment on water right details. However, WDFW is concerned that the numbers used in this draft EIS are being used semi-authoritatively as justification for IPID's water right claims and their plans for using their claimed water. WDFW wants to reiterate that the water right analysis is preliminary and that there is not yet an opportunity for public comment and resulting iteration of the analysis.
6: Water Rights	Footnote 20 on page 6-18 of the draft EIS states "Page 15 of the ROE for S4-33068A notes: 'Prior to issuance of this decision, reserve accounting based on observed permitted and exempt uses estimated 0.006 cfs has been allocated against the Icicle Subbasin Reserve as of 2011 (Aspect 2013).'"	Per the "Instream Flow Rule Amendment" document distributed to the Icicle Work Group, the amount allocated against the Icicle Subbasin Reserve is 0.010 cfs as of 2023. Please ensure consistency between the two documents.

S-1-15 A review was made of the 2023 Instream Flow Rule Amendment document mentioned in the comment and included on the Icicle Work Group webpage (Aspect 2023). The document references Chelan County's Riverbank software system and reports the amount allocated against the reserve to be 0.090 cfs with 0.010 cfs remaining available as of 2023.

As noted by the commenter, footnote 20 on page 6-18 of the Draft EIS reports 0.006 cfs as allocated against the reserve based on information as of 2011 from the Report of Examination for the City of Leavenworth's right S4-33068(A). This information was provided in the Draft EIS for context in discussion of the City's right but was not intended to be a statement of the present status of the reserve. The discrepancy between the footnote and the 2023 document mentioned by the commenter is likely the result of the time period of reporting (that is, 2011 vs. 2023). The footnote was modified for the Final EIS to reference Chelan County's updated reporting from the 2023 memo.

S-1-16 Comment noted. Ecology and IPID appreciate the assistance provided by WDFW. IPID will provide the information requested at the time of permit submittal.

S-1-16

Hydraulic Project Approval Application

The proposed project will require a HPA permit from WDFW. WDFW is available to work with the applicant prior to submitting an HPA application. For the Eightmile Dam Rebuild and Restoration Project, whichever alternative is selected, additional information will be required. Additional information includes but is not limited to:

- Detailed plans showing equipment and materials staging locations, access roads, and all other areas that will be impacted by construction. All construction staging areas and access routes should be clearly identified for all project locations.
- A scour analysis of the project site. This information will help provide the proper size, depth, and volume for either rock armoring or a concrete sill (Alternative 3) that is being proposed downstream of the dam relative to the anticipated flow velocities.
- Detailed plans and information about the second overflow spillway. More specifically, design drawings should include a plan view, cross-sectional/profile view, Ordinary High Water Line (OHWL), height and depth of placed materials, and construction access.

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- Clarification on whether the work being proposed will be phased over multiple years. If work is going to be overwintered between annual work windows, please provide detailed information on how the project site will be stabilized for the winter.
- A construction dewatering and de-fishing plan for the project site. The plan should include: in-water site isolation method, such as cofferdams; method for bypassing fish around the project area; number and sizes of pumps for de-watering; fish screening, and the location of the upland area where the construction water will be pumped including the method for energy dissipation at the pump outlet to reduce erosion.
- A revegetation plan for areas where riparian vegetation will be impacted by construction.

S-1-17

Conclusion

Going forward from this EIS process, WDFW offers our technical assistance to IPID and Ecology as you continue with this project. Our staff are available to coordinate for further review of the project.

S-1-18

Additionally, we are very interested in ensuring that the proposed instream flow benefits resulting from this project are protected on a permanent basis. This is particularly important given that these flow benefits are being considered to offset permanent, additional, consumptive withdrawals from Icicle Creek under a proposal to access 0.4 cfs of reserved Icicle Creek water from the Wenatchee Reserve. WDFW looks forward to reviewing and commenting on IPID's forthcoming Trust Water Program donation applications to ensure that donated flows are protected in perpetuity for the benefit of fish and wildlife.

Thank you for the opportunity to comment on the draft Eightmile EIS. If you have any questions, or if I can be of further assistance, please contact me at Brock.Hoernes@dfw.wa.gov or 360-529-6812.

Sincerely,



Brock Hoernes
North Central Region Director

S-1-17 Comment noted. Thank you for your assistance with this project.

S-1-18 Thank you for your comment. Refer to the Global Response for Trust Donation.

As described, Ecology intends to manage the donated water instream from the outlet of Eightmile Lake to the confluence of Icicle Creek with the Wenatchee River. The Reservation of Water for Certain Future Uses under WAC 173-545-090 and the process for considering an additional 0.4 cfs under WAC 173-545-090 (1)(d)(iv) is separate and beyond the scope of this EIS, which will require adherence to standard rule making procedures including opportunities for public comment.

In addition, after the Draft EIS was issued, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes. Following issuance of the Final EIS, Ecology will conduct its review of the quantities available for the Trust donation in accordance with the process prescribed in RCW 90.42.080(4) and will follow standard Ecology practices for issuing decisions for Trust donations. Although the timeframe requested is for the life of the rebuilt dam infrastructure (long-term temporary), the donation will be tied to the life and existence of the infrastructure for the rebuilt dam and, as such, the quantities donated for instream flow would be used for those purposes exclusively as long as the infrastructure and project improvements are present and capable of storing water for release.

F.2.2 Organizations

Index of Comments from Organizations

Comment ID	Organization	Name	Page
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O-2	Stemilt Growers	West Mathison	ORG-2
O-3	Alpine Lakes Foundation	David Knibb	ORG-3
O-4	IPID	Anthony Jantzer	ORG-7
O-5	Washington Trails Association	Michael DeCramer	ORG-12
O-6	Harnden Orchards Inc Peshastin Irr. District	Daryl Harnden	ORG-15
O-7	Peshastin HiUp Growers	Shawn Cox	ORG-16
O-8	Blue Star Growers	Gene Woodin	ORG-17
O-9	Sierra Club	Margie Van Cleve	ORG-18
O-10	Icicle Creek Watershed Council	Sharon Lunz	ORG-88
O-11	Center for Environmental Law & Policy	Margaret Franquemont	ORG-91
O-12	Trout Unlimited	Lisa Pelly	ORG-102
O-13	Washington Wild	Tom Uniack	ORG-104
O-14	Alpine Lakes Protection Society (ALPS)	Rick McGuire	ORG-112

O-1

	COMMENT	RESPONSE
	I am President and CEO of Blue Bird, Inc. a fruit packing co-operative founded in the Wenatchee River Valley in 1913. Blue Bird and Washington Cherry Growers a Blue Bird subsidiary represent over 200 growers and 4000 acres of tree fruit in Washington State. Of that acreage 1700 acres is in the Wenatchee River Valley; these farms and farm families are dependent on the Icicle Irrigation system for the very survival.	O-1-1 Thank you for your comments.
O-1-1	Not only the farm families rely on this industry supported by the irrigation systems but there are 400 employees who work for our warehouse, which packages and stores the product for consumer sales. Agriculture is a key employer in the valley. My sons are raising the sixth generation on farms dependent on the water supplied by the Icicle Irrigation District. The late season water is particularly important for tree health in the desert climate we farm in. Draught is a constant threat. The Icicle Irrigation District is well managed by environmentally sensitive management and a board with a history of wildlife and wilderness preservation.	O-1-2 Your comment has been noted.
O-1-2	Their actions speak for themselves as they have proceeded with maintenance work in a manner to minimize all impacts in the wilderness areas. The Wenatchee Valley is the last of the Washington tree fruit regions populated by family farms. Owned and operated by generational farm families not corporate farms. The continuation of their water supply without costly red tape is integral to their survival.	

O-2

COMMENT

RESPONSE



May 30, 2023

To whom it may concern,

O-2-1

I am writing to convey Stemilt Growers support of the Eightmile Dam Rebuild and Restoration Project Draft Environmental Impact Statement. We learned of this comment period from the Icicle Working Group, a multi-stakeholder group that has worked for 10 years to develop proposals that address the most urgent issues in Icicle Creek.

O-2-2

This project is welcomed by pear growers because it will restore the needed capacity to the reservoir and provide a functional dam for years ahead. These reservoirs are valuable for providing farmers with irrigation water late in the season, and during drought years. It also includes the installation of remote gates to operate reservoirs at each lake, which will allow for efficient use of the reservoirs during irrigation season while allowing the gates to be open at certain times to increase flow for fish populations.

Stemilt works with many pear growers in the Icicle Creek area, and rebuilding Eightmile Dam will help growers continue to grow fruit in these ideal sites to the benefit of our local economy. We fully support the rebuild of Eightmile Dam and additional restoration work. Thank you for your time and consideration.

Thank you,

West Mathison

President/CEO
Stemilt Growers

O-2-1 Comment noted.

O-2-2 Comment noted.

O-3

COMMENT

RESPONSE

June 1, 2023
The Alpine Lakes Foundation submits these comments on the draft EIS for rebuilding the Eightmile Lake dam.

We do not question that the Icicle Peshastin Irrigation District has an existing private right to water from Eightmile Lake. The question is how much.

This question is central to proposals to rebuild the dam because Eightmile Lake is within the Alpine Lakes Wilderness. Federal law prohibits structures or installations in the wilderness, subject only to existing private rights. Wilderness Act section 4(c), 16 U.S.C. § 1133. Courts have strictly construed the meaning of “existing private rights”. See *High Point, LLLP v. National Park Service*, 850 F.3d 1185, 1197 (11th Cir. 2017) (private rights exception is “narrow” compared to the Wilderness Act’s “strong preservation purposes”). See generally *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073 (9th Cir. 2014) (government could refuse to renew permit for private operator in wilderness); *McMaster v. United States*, 731 F.3d 881, 889-90 (9th Cir. 2013) (owner of mining claim not entitled to surface rights after area became wilderness).

It is settled law that a non-confirming use such as a water right within a wilderness may not be expanded. Even if it were clear that the irrigation district had continued to use whatever water right it owned when Eightmile Lake became part of the Alpine Lakes Wilderness, it could not now enlarge that right. The U.S. Forest Service Land Management Plan for the Alpine Lakes underscores this point on page 162 under Management Direction: “Current water diversions will not be expanded.” Again, on page 164: “Except as provided for in Section 4(d)(4) of the Wilderness Act [requiring presidential approval], watersheds will not be altered or managed to provide increased water quantity, quality, or timing of discharge.”

The Department of Ecology (“Ecology”) says that it has not made a tentative determination of the validity and extent of the irrigation district’s water right because no application has been filed to trigger a formal review of that right. This disregards Ecology’s obligation to resolve the extent of the irrigation district rights before proposing a dam. Without knowing the extent of those rights, designing a replacement dam puts the cart before the horse.

Many groups and individuals have long claimed that the irrigation district has

O-3-1 The comment concerning federal law prohibiting structures or installations subject only to existing private rights is noted. The comment concerning the prohibition on expanding water rights within the wilderness is also noted. However, there is no proposal to expand the Eightmile Lake water right. The amount of water use under the water right is limited to the extent of the right and no more, and the alternatives analyzed in the EIS would allow IPID to exercise its current water right. The comment implies some of that water right has been relinquished, but relinquishment has not been established; and if partial relinquishment has occurred, the range of active storage volumes considered in the EIS adequately addresses impacts (see the Global Response for Relinquishment).

O-3-2 Ecology did not conduct a tentative determination of extent and validity as part of the EIS process, as described in the Global Response for Tentative Determination of Extent and Validity. Refer also to the Global Response for Multi-fill Analysis.

The comment about inchoate rights and relinquishment of unused rights is noted. Relinquishment for the Eightmile Lake right has not been established. See the Global Response for Relinquishment. Also refer to response to comment number O-9-15 for information regarding perfection of the right along with the Global Response for the Tentative Determination of Extent and Validity. While the annual quantity was not included on the Eightmile Lake water right certificate when it issued in 1939, it is clear that some, and potentially all, of the right was perfected based on available information in the record related to infrastructure and historical beneficial use.

The comments concerning the early history of the right and issues with the dam are noted. Additional information is provided in Chapter 6 of the Draft and Final EISs.

From the comment, it is unclear which study conducted by the Center for Environmental Law & Policy is being quoted, and additional context and a reference would be needed to evaluate this conclusion on historical use.

Concerning the comments about the requirements of RCW 90.14.130, Ecology has established standard practices as to when to conduct a formal review of a water right. Due to the many relinquishment exemptions that may apply in this case, it is not clear that a portion of the water right has been relinquished (see the Global Response for Relinquishment).

O-3

COMMENT

RESPONSE

O-3-2

never put to beneficial use the full water right granted to it, described at the time of the grant as “inchoate”. Inchoate refers to something anticipated, not yet fully formed or developed. Under Washington law, the unused portion of that right was never acquired or has been relinquished through non-use. For years the extent of this relinquishment has been a subject of public debate.

The irrigation district's claim to Eightmile Lake stems from a 1929 adjudication granting it 2,500 acre-feet per year for agricultural purposes. A year later it filed a proof of appropriation. But there were problems from the outset. The dam leaked. It was never built high enough to store 2,500 acre-feet. It further deteriorated over the years. The gate valve stopped working decades ago. Since then, the irrigation district has mainly relied on gravity flow.

The Center for Environmental Law & Policy, which has studied this issue, recently concluded: “We are aware of no evidence that IPID [the irrigation district] has ever withdrawn more than 1800 acre-feet, and it may be that no more than 1600 has ever been used.” This appears to be the best evidence available to estimate the extent of the irrigation district's current water right.

RCW 90.14.130 directs Ecology (using the term “shall”, not “may”) to determine the extent of any relinquishment “[w]hen it appears to the department of ecology that a person entitled to the use of water has not beneficially used his or her water right or some portion thereof,”

This statutory requirement does not depend on the irrigation district first making an application that would “trigger a formal review.” The statute says “when it appears” that a person has not used “some portion” of their water right, Ecology must determine the extent of that relinquishment. That is precisely the situation here. Yet, Ecology has taken no action under this statute.

We are aware of an analysis prepared by Aspect engineers for the irrigation district's attorneys. This analysis is not included in the draft EIS, but the EIS refers to it. Aspect claims that the irrigation district has in fact continued to use all or most of its full water right through what is called a multi-fill operation at Eightmile Lake. If that is accurate, then the irrigation district would not need a higher dam – as two of the alternatives propose -- to obtain its full water right. It could continue to operate on a multi-fill basis at the current reservoir level.

The Multi-fill Analysis prepared by Aspect was referenced in Section 6.2 of the Draft and Final EISs. All information sources used in the preparation of the EIS are listed as references in Chapter 18 of the Draft and Final EISs. Some of these sources are available for review on the internet, and all are available through a public records request to Ecology. Refer to the Global Response for Multi-fill Analysis for additional information.

O-3-3 The height of the dam does not determine the water right, and the restored height (aligns with pre-erosional height of 4,671 feet; see Section 4.3.1 of the Draft and Final EISs) of the dam under Alternatives 1 and 2 does not affect the limits of use under the water right authorization. The amount of water use under the Eightmile Lake water right is limited to the extent of the right and no more. The design volumes of up to 1,698 acre-feet and 2,000 acre-feet represent the maximum active storage water volumes that were considered for impacts in the EIS and were found to be reasonable active storage volumes that fall within the limit of the water right. If a future quantification (through adjudication or future water right action) results in an annual quantity that is less than the 2,000 acre-feet considered in this EIS, the physical active storage volume in the lake can be reduced through shortening the intake pipe outlet, as described in the Final EIS without necessitating any changes to the main design. Regardless of the final dam height and single-fill active storage volume, the water use is limited to IPID's right, and any excess water would be allowed to pass through the lake as natural flow without being actively managed and released for beneficial use. Also refer to the Global Response for the Multi-fill Analysis. The Multi-fill Analysis is described in the Water Rights Global Responses and was relied on (in part) for the water right evaluation in the Draft EIS to assess whether the range of storage capacities for design alternatives being considered were reasonable. Refer also to the Global Response for Tentative Determination of Extent and Validity. Following the issuance of the Draft EIS, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes. Refer to the Global Response for Trust Donation.

O-3

COMMENT

RESPONSE

O-3-3

To put it in terms of the Wilderness Act, multi-fill operation with a higher dam would impermissibly allow the irrigation district to expand rather than simply maintain its existing private right. It is not clear if this multi-fill analysis is an acceptable way to measure a water right or if Ecology is relying on it. If it is not, then the best available evidence is that the irrigation district has relinquished all but some 1,600-1,800 acre-feet annually and the irrigation district concedes that it only needs about 1,400 acre-feet on a single-fill basis for irrigation purposes. Neither it nor Ecology can rely on a multi-fill analysis to conclude there has been no relinquishment, as the Aspect engineers suggest, and then use a single-fill analysis to justify a higher dam. Either there has been no relinquishment on a multi-fill basis so a higher dam is not needed to use the full water right, or a single-fill analysis shows substantial relinquishment so that a higher dam is not needed to use the remaining water right. They cannot use one analysis for measuring relinquishment, and the other analysis for deciding the height of the dam.

Under either analysis, a dam higher than the current dam would allow the irrigation district to expand rather than maintain its water right. Again, expansion of its water right is not allowed.

Alternative 3 is the only alternative that arguably complies with these limits. The other two would allow withdrawal of up to 2,000 acre-feet annually on a single-fill basis, far more than the irrigation district has ever used and thus has a right to use.

O-3-4

The draft environmental statement estimates that under Alternative 3, withdrawal could be "up to 1698 acre-feet". This may allow for too much water use given the known facts, but at least it comes closer to compliance with Washington's law on relinquishment and comes closer to maintaining but not expanding an existing private right under section 4(c) of the Wilderness Act. Alternatives 1 and 2 would violate both those laws.

Ecology's State Environmental Policy Act Handbook says at page 36: "A reasonable alternative is a feasible alternate course of action that meets the proposal's objective at a lower environmental cost." [emphasis added]

Alternatives that would violate the law are hardly reasonable or "feasible".

O-3-4 Refer to Global Responses for Relinquishment, Tentative Determination of Extent and Validity, and Multi-fill Analysis, as well as the response to the comment above for O-3-3. The amount of water use under the Eightmile Lake water right is limited to the extent of the right and no more. A tentative determination of extent and validity is not a part of the EIS or Trust donation process as described in the Global Response for Tentative Determination of Extent and Validity. The monitoring and reporting plan will ensure that the 2,000 acre-foot limit of active storage is not exceeded on an annual basis, that the Trust donation is managed properly, and that any excess water would be allowed to pass through the lake as natural flow without being actively managed and released for beneficial use.

O-3

	COMMENT	RESPONSE
O-3-5	<p>The Special Warranty Deed does not expand the irrigation district’s right to more water or a bigger dam. The district may only retain rights that it had before granting the deed, and it did not have such pre-existing rights. Purporting to include them in the deed adds nothing. For instance, the irrigation district could have reserved in its special warranty deed a right to build an airport at Eightmile Lake, but that does not actually give it the right to build an airport.</p> <p>This point was affirmed when the irrigation district claimed a right, as expressly reserved under its Special Warrant Deed, to open a road to Eightmile Lake. Based on the foregoing analysis — basically, that you can’t give yourself a right you don’t have — the Forest Service correctly denied that request. That decision was in fact mandated by the Wilderness Act, section 4(c), which says in pertinent part:</p> <p style="padding-left: 40px;">there shall be 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</p> <p>The minimum requirements necessary for administration of the area for purposes of the Wilderness Act do not warrant a road and there is no emergency involving the health or safety of anyone in the area. Any proposals for a road through the wilderness must remain off the table.</p> <p>Thank you for considering these comments.</p> <p>Alpine Lakes Foundation By David Knibb Vice-President</p>	<p>O-3-5 As noted in Section 2.8.2 of the Draft and Final EISs, overland transport through the Alpine Lakes Wilderness was originally considered but removed from consideration following the scoping process. No new roads will be built in the Alpine Lakes Wilderness associated with this project.</p>

O-4

		COMMENT	RESPONSE
	<div>Icicle Directors Melvin Weythman Dennis Rudolph Craig Christensen</div> <div>Peshastin Directors Daryl Hamden Richard Smithson Bill Davies</div> <div>Icicle & Peshastin Irrigation Districts Chelan County 5594 Westcott - Post Office Box 371 Cashmere Washington 98815-0371</div>	<div>Levi Jantzer, Secretary Manager Jose Gracia, Deputy Secretary Telephone: (509) 782-2561 Fax: (509) 782-8233</div>	
		O-4-1	Comment noted.
		O-4-2	Comment noted.
		O-4-3	Comment noted.
	<p>June 1, 2023</p> <p>Department of Ecology, Central Regional Office Attn: Melissa Downes 1250 West Alder Street Union Gap, WA 98903</p> <p>Subject: Eight Mile Reservoir Dam Replacement Environmental Impact Statement Comments</p> <p>Dear Melissa</p> <p>The districts are very concerned that option 3 is being seriously considered as a viable option for the replacement of the Eight Mile Lake Dam. Permanently setting the maximum water level at 4667 would be a severe impact to the Lakes ecosystem and to the entire watershed. Regardless of the districts' water rights it is very important to be able to raise the lakes water level back to the 4671 elevation. Not being able to recharge the upper end wetlands of the lake has been a negative impact on the lakes ecosystem and to continue this into the future would continue harm to the lake's ecosystem. Recharging the high wetlands, providing a larger mass to carry the lakes cooler temperatures farther into the late summer, providing for temperature gradients, providing a more varied habitat are all important to this entire watershed. This lake has been a reservoir for almost 100 years and supports a very healthy ecosystem.</p> <p>I listened to all the individuals give testimony at the hearings and was quite disgusted. None of them have been to the lake more than I. I have been to the lake at least 50 times; sometimes for personal reasons, such as fishing or camping, having taken youth up to the lake on numerous occasions; for work, to release water, check on status, and to perform maintenance. I have hiked around the lake and flown over the entire water shed. I do not believe that there is a person alive that is more familiar with the lake and its water shed than I am. I have been at the lake when water was flooding over the dam and when the lake was about as low as it gets. I have thoroughly enjoyed all my visits to the lake. Having seen the lake just after the Jack Creek Fire was very disheartening at first but I have come to see the new beauty of the place. I would doubt that there is a person alive that has seen the lake before it became a reservoir. They would have to be well over 100 years old to have any memories of the lake prior to it becoming a reservoir. The forest service has said that this is the most visited lake in the wilderness; if so, being a reservoir must not have had a bad impact on its beauty or outdoor experience.</p> <p>There are no good reasons to set the high-water line below the historic waterline. It would not improve the ecosystem. It would not improve the esthetics of the lake. It would not improve the wilderness experience. It would harm the ecosystem of the lake and watershed and have a detrimental impact on the districts.</p> <p>I would also like to enter into the record for consideration my letter submitted to the Scoping Process as it is still valid.</p> <p>Just in case you might not understand, the districts are very opposed to setting the permanent high-water line in the lake to elevation 4667 and do not support option 3 as a viable alternative. It does not meet the districts' or the watersheds' needs.</p> <p>Sincerely</p> <p>Anthony D. Jantzer Project Manager</p> <p>1 Attached LTR Jan 30, 2021, Scoping Comments</p>		

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COMMENT

RESPONSE

O-4-4

Comment noted. This information was received in January 2021 during the Draft EIS scoping period, and was analyzed and incorporated into the Draft EIS.

Icicle Directors
Melvin Weythman
Dennis Rudolph
Craig Christensen

Peshastin Directors
Daryl Hamden
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Anthony Jantzer, Secretary Manager
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Icicle & Peshastin Irrigation Districts

Chelan County

5594 Westcott - Post Office Box 371
Cashmere Washington 98815-0371

January 30, 2021

Department of Ecology, Central Regional Office
Attn: Melissa Downes
1250 West Alder Street
Union Gap, WA 98903

Subject: Eight Mile Reservoir Dam Replacement Scoping Comments

Dear Melissa

Listening to and reviewing comments given by many through the scoping process on the EIS for the Eight Mile Lake/Reservoir Dam Replacement, it is clear to me that many of the commentators do not have a clear picture of the needs of the district or the Icicle Creek Watershed. The reservoirs within the wilderness are mainly needed during drought years such as 2015, but water is generally released from at least one reservoir every year. During 2015 the districts released water from all their storage facilities. Even with all the reservoirs being used, both districts had to prorate their deliveries to customers down to 4.5 gallons per minute per share/acre (normal district deliveries are 6.75 gpm) and the historic channel of Icicle Creek saw flows as little as 15 CFS; neither of which are acceptable to the districts. Lucky for our farmers we were blessed with some rains during key times to get through the season without major crop damage.

There are individuals that say that the districts can conserve their way out of the need for the reservoirs within the wilderness. Natural flows in Icicle Creek, during the months of July through October in 2015, above the district's diversion, fell below 50 CFS. Even if the districts had never existed flows and temperatures within the creek would have been unacceptable to the goals of the Icicle Working Group. The districts' reservoirs during this time were releasing 50 to 85 CFS. The districts are not the only diverters on the creek nor are they the only reservoir operators on the creek. During this time frame the Bureau of Reclamation was releasing 50 CFS below the district's diversion. Even if the District had zero system loss and our farmers were 100% efficient taking all of the water in the creek, there would not have been enough water in the creek without the reservoirs to meet their minimum needs. 2020 was not a declared drought and the district was releasing water from both Eight Mile and Square Lakes and the historic channel of Icicle Creek dropped below 10 CFS. To say, or imply, that the storage water is not needed by the district or watershed is not in any way correct. With the introduction of migratory fish within the Icicle Creek watershed, the water is needed more than ever.

The districts have been in a conservation and upgrading mode since the early 1920's, prior to the creation of the reservoirs. The districts were formed to be able to float bonds to improve the canal systems. Over the past 15-20 years the districts have spent several million dollars on conservation, piping about 7 miles of ditch and replacing about 2,000 feet of concrete liner per year. As part of the Icicle Working Group the districts have committed to conserve 10 CFS. As part of that commitment the districts doubled the canal maintenance fund that is used to purchase cement and pipe. The districts are committed to conservation and improving instream flows.

The districts did not build the reservoirs on a whim. They needed a stable water supply to become viable fruit producers. It cost the districts thousands of dollars and resources to construct the five

O-4-4

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COMMENT

RESPONSE

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reservoirs that they did, and they have continued the expenses through the years maintaining and operating them. Eight Mile dam was constructed starting in 1927 and completed in 1929. The outlet works have been modified several times over the years and extensive repairs have also been done, 2018 being the most recent major project on the dam. Eight Mile Lake is the easiest of the reservoirs to get to and the one that had the most heavy equipment used during construction. It is clear by the waste piles that the 25-foot-deep trench dug during the construction was done by an overhead line/wench system. They were moving rocks that weighed up to 10,000 pounds and leaving spoils in piles. The area was not a declared wilderness at the time (it was in fact private property) and little effort was made to restore the esthetics of the area. Waste piles and the pit where they acquired the dirt for the earthen portion of the dam are still visible.

In the proof of appropriation document filed in 1939 the district shored up two different kinds of storage water rights. First through the constructed outlet works and the known leak in the lake the district proofed up active storage of approximately 2,000 AF. The outlet gate releasing approximately 1,680 AF and the leak allowing the district to use about 320 AF. The district, not being able to gravity release the entire 2,500 AF of inchoate water right awarded by the 1929 adjudication, stated in the proof of appropriation document that it would pump the remaining water during extreme droughts thus claiming 500 AF of dead storage. The three proof of appropriation documents filed on the same day and by the same person clearly state that the entire inchoate water right of Eight Mile Lake was put to beneficial use in 1930.

Many comments have come in stating that the district has relinquished part of their water right based on two different scenarios. First that the district has not used the entire 2,500 AF of water within a five-year window. This is a storage water right that comes with a diversionary water right of 25 CFS to fill the lake. The diversionary water right of 25 CFS has been used every year since it was awarded. The storage right of 2,500 AF the district states that the lake has never held less than 2,500 AF of water. Yes, there has been a shift from active storage to dead storage of approximately 320 AF due to the damage to the earthen portion of the dam, but the lake still holds more than 2,500 AF of water in its current condition. Second, the district is unable to raise the lake to its historic high-water level, the difference of the 4 feet of elevation should be relinquished due to the fact that the lake has been unable to be raised to the 4671 elevation for over 30 years. Being that this is a reservoir, the districts believe that relinquishment does not apply, but that abandonment is the rule that applies to reservoirs and stored water, and since the districts have performed maintenance on the outlet works throughout the history of the reservoir and have continued to use and release water from the reservoir the districts are sure that the water right has not been abandoned.

Many of the comments have come in stating that we should wait to design the dam until an extent and validity determination on the districts water rights has been completed. There is no current legal reason for an extent and validity check to be done at this time. If the district decides to transfer a portion of its water right to the state, an extent and validity check will be done at that time. The district is going through a voluntary preliminary extent and validity check with DOE to see if there is enough water right left to transfer some water to DOE. If not, the districts may not do a transfer thus negating any need for an extent and validity being done on their water right.

The dam design is not contingent on the water right. The driving factor on the dam design is the passing of flood water not the amount of storable water. If the water right ends up less than is currently thought, then all that needs to be done is to shorten the outlet pipe. Only one end needs to be shortened to limit the amount of water that can be released from the lake. The districts feel strongly (no matter what the water right ends up being) that it is best for all concerned to have the maximum elevation be restored to its pre-man level (4671) and leaving the largest pool possible at maximum drawdown of the lake. Having the inlet to the outlet pipe as deep as possible will help hold temperatures in the creek down and having a larger pool in the lake will also help temperatures in the lake. The biggest question on the dam design is do we want a smaller dam with gates or a larger dam without gates on top. The larger dam will

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COMMENT

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take considerably more concrete and disturb more ground in construction and staging and take more transportation of supplies.

The biggest concern that I heard was for the transportation of equipment and supplies in and out of the construction site. Many have stated that they want us to use normal wilderness ingress and egress (pack animals) for the project. I do not think that they have thought this through. It takes 60 60-pound sacks of concrete mix to make a yard of concrete. It currently looks like it will take between 250 to 350 yards of concrete to construct one of the dams. 250 times 60 equals 15,000 sacks of concrete. If you loaded each pack animal with 4 sacks (240 pounds) it would take 3,750 trips to haul the cement alone. You are only allowed to have 8 heart beats per group in the enchantments, so that would leave 6 pack animals, a horse and driver. If you could get 3 trips per day, it would take 208 days to get 250 yards of ready mix to the lake. If you had two sets of teams you could cut that to 104 days. Some of the stuff needed is just not possible to haul in with pack animals. Also, the sheer number of trips with pack animals would devastate the trail and that is just for the minimum concrete only.

We are looking at flying all of the equipment and supplies in via heavy lift helicopters. Using only a heavy lift helicopter would force us to take everything in at once due to the extreme mobilization charge. Basically, a heavy lift helicopter costs about \$100,000 minimum for showing up, so you get as much done as quickly as possible. Using a heavy lift helicopter would allow us to get a small mid-size excavator up to the lake in pieces where we would have to reassemble it. It would also allow for fewer trips in and out. Transportation in would likely take around 70 trips. This would require the largest staging area both at the lake and pickup point. We are working on getting a quote at this time but this will cost over \$300,000 in and about \$125,000 out.

The second option would be to have a heavy lift come in to fly up the excavator and any oversize/weight items and then have a huey fly in the rest of the stuff at about 2,000 pounds per trip. The cement alone would take about 450 trips. I have not worked out which would cost more. The huey would allow for smaller staging areas so would disturb less forest land but, would require 3 to 4 times as many flight days.

The third approach is to walk the excavator up to the lake through the wilderness. There is a road that goes up to the edge of the wilderness. It is in poor shape but could be fixed up in a couple of days. The excavator would not need to create a road but just move rocks and downed trees out of the way to get up to the lake. We could then fly up the rest of the stuff with a huey. This would allow for a larger excavator to be taken into the job sight. Having a 200-size machine verses a 120-size machine would likely cut the construction time by at least one quarter. This would likely save over \$250,000 off of the project by itself. An excavator walking in and out of the wilderness would leave very little footprint.

The last approach would be to take everything in overland. The district would rent or purchase a tracked style dump truck capable of hauling about the same as the heavy lift helicopter. Admittedly the excavator on its way in would need to do a better job of prepping a path for the dump truck. An excavator can climb over and scramble up things that you would never guess it could. Tracked dump trucks are somewhat limited in what they can get over and climb. This approach would leave a scar on the land for several years but that could be minimized by work on the way out to restore the disturbed area. This would be the cheapest option by far.

Many during the comment period have incorrectly stated that the district cannot use the overland method. The special warranty deed specifically states:

“EXCEPTING AND RESERVING to the grantor, its successors and assigns, a nonexclusive, perpetual easement across, through, along and upon the property described herein for the purposes of maintenance, repair, operation, modification, upgrading and replacement of all facilities presently located in or upon the property described herein, together with a nonexclusive right of ingress to and egress from all such facilities for all such purposes, in accordance with the Rules and Regulation of the Secretary of

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COMMENT

RESPONSE

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Fax: (509) 782-8233

Agriculture, 36 CFR 251.17 and 251.18, attached hereto and made a part hereof, in such manner as not unreasonably to interfere with its use by the United States, its authorized users or assigns, or cause substantial injury thereto.

The Grantor may exercise the rights hereunder by any means reasonable for the purposes described, including but not limited to the use of motorized transportation and equipment, or aircraft. These rights include the right to regulate water level of all facilities located upon the property described herein. In performing maintenance, repair, operation, modification, upgrading and replacement of facilities located in or upon the property described herein, the grantor will not without the prior written consent of the Forest Service, which consent shall not unreasonably be withheld, materially increase the size or scope of the facilities.

The United States of America shall charge no fee for the exercise of the rights reserved or granted hereunder, nor shall it require any further permission for the Grantor to exercise the rights granted or reserved herein."

I feel that this language is very clear in that the districts have the "right of ingress to and egress from" the sight and "including but not limited to the use of motorized transportation and equipment, or Aircraft."

The districts have been very clear that their preferred method of ingress to and egress from the lake would be option one followed closely by option two. This of course is based on the ability of the districts to afford the extra cost. This would increase the cost of the project by \$300,000 to \$500,000. If we can find someone to pay for the air transport, we would obviously fly the equipment and supplies into and out of the lake. The major planned funding source for the project is the sale of water to the state for use in improving flows within Icicle Creek. If the districts end up with no water that they feel they can sell, this could limit the ability of the districts to afford the extra cost. Make no mistake, the districts have no choice; they have to repair/replace the dam whether or not they get outside funding. The districts have offered to remove the ingress and egress with motorized transportation, equipment from the special warranty deed if we can get through this process intact and without using it for this action.

Sincerely

Anthony D. Jantzer
Secretary, Manager

O-5

COMMENT

RESPONSE

Comment submitted as an attachment. Thank you.

O-5-1 Comment noted.

O-5-2 Thank you for your comment. Refer to the Global Responses for Relinquishment and Tentative Determination of Extent and Validity.



Washington Trails Association
705 Second Avenue, Suite 300, Seattle WA 98104 • 206.625.1367 • wta.org

June 2nd, 2023

G. Thomas Tebb Director,
Office of Columbia River
Washington Department of Ecology
Central Region Office
1250 West Alder St. Union Gap,
WA 98903

RE: Eightmile DEIS
*comments submitted electronically through the comment portal -
<https://comment-tracker.esassoc.com/EightmileDamDraftEIS/index.html#/28/welcome>*

Dear Director Tebb:

Washington Trails Association appreciates the opportunity to provide comment on the Draft Environmental Impact Statement for the Eightmile Dam Rebuild and Restoration. Our organization provided comments during the scoping for this project and during the Icicle Strategy process.

Washington Trails Association has a more than 50-year legacy of engaging the hiking community. WTA enhances hiking experiences in Washington state by empowering a diverse and growing community of hikers to explore, steward and protect trails and public lands. WTA is the nation's largest state-based trail maintenance and hiking advocacy nonprofit organization, with more than 26,000 member households. In 2022, WTA crews largely composed of volunteers performed over 152,000 hours of trail maintenance across the state. During the upcoming summer, WTA volunteer crews will work in partnership with the Okanogan-Wenatchee National Forest on projects in the Enchantment Permit Zone of the Alpine Lakes Wilderness. WTA's stewardship work speaks to the hiking community's deep passion for recreation and concern for public lands stewardship.

The Alpine Lakes Wilderness 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. The proposed construction will impact the wilderness qualities of the Eightmile drainage and affect recreation experiences and visual resources. WTA is concerned about these impacts. Our organization is also concerned that the Department of Ecology is preparing to select an alternative without determining the extent and validity of the water rights held by the Icicle and Peshastin Irrigation Districts (IPID).

O-5-1

O-5-2

O-5

COMMENT

RESPONSE

O-5-2

Wilderness management requires government agencies to act with restraint and use only the minimum tool required to administer an area. The Department of Ecology cannot reasonably determine whether alternatives that would increase the storage capacity of the Eightmile dam are legal and justified without understanding whether IPID has relinquished any portion of its historic water rights to the state of Washington under RCW 90.14.160. We ask that the responsible official study the extent and validity of IPID's rights prior to selecting an alternative so that Ecology may select an option that is in the public's best interests.

O-5-3

The Draft EIS gives wide deference to the special warranty deed in its consideration of the proposed construction activities impacts on the Alpine Lakes Wilderness. The special warranty deed was negotiated with the Forest Service in 1990 and grants IPID "...a nonexclusive, perpetual easement across, through, along, and upon the property described herein for the purposes of maintenance, repair, operation, modification, upgrading and replacement of all facilities presently located in or upon the property...". This easement gives IPID the legal authority to maintain the Eightmile dam. However, this nonexclusive easement is constrained by Forest Service policy. The federal government acting through the Department of Agriculture agreed to the special warranty deed language in the understanding that the easement would align with wilderness management and the existing 1981 Alpine Lakes Management Area Land Management Plan (ALAMP). If the Eightmile dam was intended to be exempted from the provisions of the ALAMP, the Forest Service would have created a management plan amendment. This did not occur. Rather, the ALAMP, which was incorporated into the Wenatchee Forest Plan, clarifies what was intended nine years later when the federal government agreed to the special warranty deed. The ALAMP 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" (ALAMP p162).

O-5-4

WTA is concerned that all three alternatives propose to expand water diversion. All three alternatives include a pipe that would grant IPID "the ability to draw the lake down to 4,636 feet, which is approximately 4 feet lower than the current low water level." The ability to lower the lake constitutes a new structure that expands the water diversion in the wilderness. Alternative 1 and Alternative 2 propose to increase the elevation of the lake by four feet. WTA believes that these actions exceed the granted right to modify, upgrade, and replace current facilities. The Department of Ecology should develop an alternative to rebuild the current dam to meet Department of Ecology's dam safety standards that does not expand IPID's ability to raise and lower the lake beyond what is currently enabled by existing facilities. The dam should be constructed to blend into the aesthetics of the natural landscape as the current dam does.

O-5-5

Altering the lake level will have significant impacts on the recreational experience of visitors to the Alpine Lakes Wilderness. WTA's analysis suggests that if the lake elevation is increased to 4,671 feet parts of Eightmile Lake Trail #1552 on the north side of the lake and located outside of the special warranty deed would be inundated. This flooding impact is in addition to the proposed relocation of trail #1552 due to direct construction activities summarized in Figure 11. Lowering the lake during periods of drought will change the recreational experience. Visitors will have a more difficult time accessing the lake

O-5-3

The Draft and Final EISs considered other construction methods, including primitive measures such as the use of pack animals (as described in Section 2.8.3). See the Global Response for Helicopter Use in Alpine Lakes Wilderness for a discussion of why pack animals are not proposed for use during construction and why the project proposes to use motorized equipment. As described in Section 2.7.2, dam construction is expected to occur in one season, which would not be possible without the use of motorized equipment.

In regard to the expansion of water diversions, see the Global Responses for Water Rights as well as responses to comments O-3-1 and O-3-4. There is no proposal to expand the Eightmile Lake water right. The amount of water use under the water right is limited to the extent of the right and no more.

O-5-4

Section 6.2 of the Draft and Final EISs describes the regulatory context related to IPID's water right. The range of active storage volumes proposed for the action alternatives (up to 1,698 to 2,000 acre-feet) appears to be reasonable based on IPID's records of their historical storage and release practices at the lake and their estimated range of multi-fill volumes. Refer also to the Global Response for Multi-fill Analysis. As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology-approved monitoring plan will be developed in which IPID will monitor and report total annual active storage and release volumes for instream flows as well as for IPID's irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered regardless of the configuration of the proposed structure and regardless of whether practices in a given year involve multiple fillings or a single fill. If a future quantification (through adjudication or future water right action) results in an annual quantity that is less than the storage volumes considered in this EIS, the physical active storage volume in the lake can be reduced through shortening the intake pipe outlet as described in the Final EIS without necessitating any changes to the main design. Also refer to the Global Responses for Tentative Determination of Extent and Validity and Lake Levels.

With regard to aesthetics, refer to the Global Response for Visual Resources.

O-5-5

Due to site topography, the higher water level would not inundate any recreational opportunities in the area, including Trail #1552. During the 15- to 20-week construction period, access to the area directly adjacent to the dam and staging area would be restricted, and a small portion of the trail would be

O-5

COMMENT

RESPONSE

			temporarily relocated to direct hikers away from the active construction. Following construction, the original trail will be reopened and the detour trail restored. Refer to Sections 10.4, 10.5, and 10.6 of the Draft and Final EISs for further discussion. During low water periods (in late summer and during a drought), recreationists would still be able to access the lake as the topography on the north side of the lake is gently sloping. Figures 11-20a and 11-20b provide visual simulations of low lake levels associated with Alternative 1. The low lake level of 4,636 feet would be the same for all action alternatives.
O-5-6	<p>and encounter a landscape further dominated by human modification. The visual impact of a largely empty reservoir located inside an area designated by Congress for protection in perpetuity would be quite severe. Based on the Forest Service's Scenery Management System, the drainage should be managed for "preservation." In the draft EIS, the planning team writes:</p> <p>The project is in the Alpine Lakes Wilderness, which is designated under the Wenatchee Forest Plan for preservation. However, the Alpine Lakes Area Land Management Plan recognizes that certain pre-existing human modifications are allowed to continue and be maintained, such as the Eightmile Dam.</p>	O-5-6	The water level at Eightmile Lake has fluctuated since the dam's inception in 1929. Alternatives 1 and 2 would restore the lake to the pre-1990 level. Figures 11-16a through 11-24 in Chapter 11 of the Draft and Final EISs show visual simulations of the fluctuating lake levels under each alternative from several key viewpoints. Refer to Global Responses for Visual Resources and Lake Levels.
O-5-7	<p>WTA appreciates that existing uses with impacts on visual resources can be maintained in this area under the Alpine Lakes Area Land Management Plan. However, this proposed action would change lake size and elevation from historic levels and constitute a new impact on the wilderness's visual quality. Under Forest Service policy maintaining a visual quality of preservation demands a "very high" standard of scenic integrity "where the valued landscape character 'is' intact with only minute if any deviations. The existing landscape character and sense of place is expressed at the highest possible level" (USDA Handbook 701). We did not find sufficient discussion of the impact of mechanically controlled fluctuations in lake level from key viewpoints to demonstrate a thorough analysis of the proposed action's impacts on protected visual resources. WTA encourages the Department of Ecology to consider an alternative that maintains the maximum elevation of the lake at 4,667 feet and does not create a new ability to draw down the lake level to 4,636 feet. The final EIS should analyze the proposed action and discuss how it complies with the scenery management system. If such an analysis does not occur, it will need to be undertaken during a federal NEPA process.</p>	O-5-7	Comment noted. The EIS alternatives meet the project objectives outlined in Section 1.4 of the Draft and Final EISs. As noted in Section 1.11, the Forest Service will conduct a review under NEPA, which will include an analysis of visual impacts.
O-5-8	<p>WTA is also concerned about the potential for trail closures and displacement of trail users. We ask that any construction closures allow the public to safely move through the area when construction activities are paused, such as on weekends. It is important to WTA that any trail or area closures are limited in size and duration and preserve the public's ability to enjoy nearby areas including trail #1554 to Lake Caroline and Windy Pass.</p> <p>Thank you for considering our comments. WTA staff would be happy to clarify any of the information we have provided or answer any question you might have.</p> <p>Sincerely,</p> <p>/s/ Michael DeCramer</p> <p>Michael DeCramer Policy and Planning Manager Washington Trails Association</p>	O-5-8	Section 10.4.2 of the Draft and Final EISs describes that the small portion of the trail that would be closed during construction activities and temporarily relocated to direct hikers safely around the construction area, and that recreational opportunities would not be limited during construction. While not expected, blasting with explosives could be necessary during construction. Should that occur, the Eightmile Lake Trail from its junction with the Caroline Lake Trail could be closed periodically over the course of 1 or 2 days. Blasting would be scheduled for mid-week between 11 a.m. and 3 p.m. Refer to the Global Response for Recreation and Section 10.6 of the Draft and Final EISs.

O-6

COMMENT

RESPONSE

Dept. of Ecology
Attn: Melissa Downes
1250 West Alder St.
Union Gap, Wa. 98903

O-6-1 Comment noted.

O-6-2 Comment noted.

O-6-1

My son and I farm 250 acres of orchard in the upper Wenatchee River valley. Because of the climate, the soil and most important a dependable supply of irrigation water this area is the premier valley in the world for growing pears. Because of the dams that were installed almost 100 years ago farmers have had a reliable supply of late season water to finish out the growing season. In the 45 years I have been farming there have been many years (2015 being the last one) that we would not have had enough water to finish the growing season.

It is important to understand that there are multiple benefits from these dams. The late season release of water also improves the habitat for fish and other wildlife. And as we look to the future and the effects of climate change these dams will take on a more important role. As the snowpacks are diminished and there is less water available the dams will be the only means to have any water available late in the season.

O-6-2

These are the reasons I feel that Alternative 1 is the best option going forward. We need to have capability to store as much water as possible to meet present and future demands. There will be impacts on the wilderness from any of the three alternatives. Any additional impacts from alternative 1 are justified because of the long term gain in additional storage capacity. I believe every effort will be made to minimize damage in the wilderness area.

This has been a long process involving many different interested parties. Everybody has had to give a little to be able to reach this decision. This is going to be our only chance to fix the dam at Eight Mile lake. I believe it is imperative that we do the one option that gives us the most flexibility into the future. Whether the water is for irrigation or for the fish we need the most that we can store. And that is why I support Alternative 1.

Thank You,

Daryl Harnden

Vice President Harnden Orchards Inc.

President Peshastin Irrigation Dist.

O-7

	COMMENT	RESPONSE
O-7-1	<p>My name is Shawn Cox and I am General Manager of Peshastin HiUp Growers and a 4th generation pear farmer in the Wenatchee Valley.</p> <p>Created in the 1920's, Peshastin HiUp Growers is a Co-Operative, with 34 grower families, that packages pears for retail markets. We have over 100 full time year round employees and over 200 during peak season.</p> <p>The creation and management of the irrigation water for the farms in this valley has created an economy and destination that many people vacation and want to raise their families in. The continued management and Eight Mile dam project is absolutely necessary for these communities to survive. If you would like to see how devastating potential irrigation issues can create on communities, please talk with those in Medford OR.</p> <p>Farmers are great stewards of the land, whether it be irrigation, wildlife, habitats, or overall environmental stewardship. I am confident that the board and management of the IPID will determine the correct amount of water our growers minimally need while using the best management practices to conserve natural habitat and water for our streams.</p> <p>It is essential to have a storage reservoir for late season irrigation and availability of water in draught years. Also, I see that there are concerns over annual maximum water rights and the only thing I can personally say is that the irrigation water is well managed and distributed to the growers. After the Jack Creek fire, I have suffered economic losses because the water is turned on later and turned off earlier than in years prior. While I don't know the entire history, I do know that there has been a reduction that has caused a negative impact since the reservoir was damaged. It also shows that previous to the fire there was more irrigation used to enable our farmers the highest chance of success in the market. At current times our growers are struggling and many work second jobs to pay the bills. Irrigation water is integral to the success of our farmers and I urge you to move forward with the Eight Mile project so we can get back to the levels of irrigation we had prior to the Jack Creek Fire.</p> <p>I appreciate you taking the time to read my comment and feel free to reach out to me with any questions that you may have.</p> <p>Regards,</p> <p>Shawn Cox General Manager of Peshastin HiUp Growers and Cox Orchards LLC</p>	<p>Comment noted. Economic impacts on the agricultural community associated with the project alternatives are discussed in Chapter 15, Agriculture, Development, and Other Economic Activities, of the Draft and Final EISs.</p>

O-8

COMMENT

RESPONSE



O-8-1

Comment noted.

O-8-2

Comment noted.

June 2, 2023

To whom it may concern,

O-8-1

Blue Star Growers is pleased to express our support for alternative 1 of the Eightmile Dam Rebuild and Restoration Project Draft Environmental Impact Statement. We were informed about the comment period through the Icicle Working Group, a collaborative entity dedicated to addressing crucial concerns in Icicle Creek over the past decade.

O-8-2

The significance of this project cannot be understated for pear growers, as it will reinstate the necessary reservoir capacity and establish a functional dam for the years to come. These reservoirs play a vital role in providing farmers with irrigation water, particularly during the late season and drought years. Furthermore, the inclusion of remote gates for the reservoir operation at each lake will ensure efficient utilization during the irrigation season, while strategically opening the gates at certain times to bolster fish populations.

As an organization that works closely with 71 pear growers farming over 2,800 acres in the Icicle Creek region, Blue Star Growers recognizes that the restoration and reconstruction of Eightmile Dam will enable growers to continue cultivating Pears in these highly favorable locations. This, in turn, will contribute to the prosperity of our local economy. We wholeheartedly endorse the rebuilding of Eightmile Dam, along with any supplementary restoration efforts that may be necessary.

We appreciate your time and consideration in reviewing our perspective. Thank you.

Sincerely,

Gene Woodin
General Manager
Blue Star Growers Inc.

P.O. Box 1 • Cashmere, WA 98815 • (509) 782-2922

O-9

COMMENT

RESPONSE



O-9-1

Comment noted.

June 5, 2023

Tom Tebb
Director, Office of the Columbia River and Icicle Work Group Co-lead
Washington State Department of Ecology
1250 Alder Street
Union Gap, WA 98903
Comments submitted electronically to:

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

Dear Director Tebb:

Thank you for the opportunity to comment on the Draft Environmental Impact Statement (EIS) for Eightmile Dam Rebuild and Restoration. As an organization we have participated in the Icicle Workgroup process for at least a decade, submitting comments, both written and oral, at various times.

The Sierra Club was one of several environmental organizations that submitted comments for the draft programmatic EIS for the Icicle Creek Water Resource Management Strategy in July 2018. The concerns we raised in 2018 included the lack of water conservation as well as concerns about going forward with this process before a significant number of outstanding questions regarding the Icicle and Peshastin Irrigation District's (IPID's) water rights were settled.

The Sierra Club participation in this process intensified when the facilitated wilderness stakeholder group was convened in January 2020 and later when Sierra Club volunteers participated in both Icicle Workgroup and Icicle Steering Committee meetings, which continue. We believe the facilitated wilderness stakeholder group led to productive conversations and furthered an understanding of the range of issues as perceived from multiple points of view.

The Sierra Club has been consistent in stating that we support the reconstruction of the Eightmile Lake dam to meet Dam Safety requirements as well as the provisioning of water in Eightmile and Icicle Creeks for instream flow necessary for salmon, steelhead and other aquatic species.

We stated our disappointment when the Eightmile Dam Rebuild and Reconstruction Scoping EIS was released in December 2020 because a last minute "surprise" was inserted into the mix. That "surprise" (which had never been discussed at any Icicle workgroup meeting, Icicle steering Committee meeting or the wilderness stakeholder group) was the consideration of "overland ground transport" to access the dam site. This meant that road construction was suddenly an option for dam access in a federal wilderness area. The Sierra Club submitted comments on the draft Eightmile Dam Rebuild and Restoration Project Scoping EIS in January, 2021. Our reply stated that we believed such a road would be a clear violation of the Wilderness Act and we are glad to see this access option has been deleted from consideration and so documented in this draft EIS.

180 Nickerson Street | Suite 202 | Seattle WA 98109 | 206-378-0114

O-9

COMMENT

RESPONSE

O-9-2 In April, 2023, almost 27 months after submission of scoping comments, the draft EIS for the Eightmile Dam Rebuild and Reconstruction was released. The goal of the Sierra Club in evaluating this document is simple: determine which alternative provides for dam reconstruction with the least impact to wilderness while at the same time providing sufficient water necessary to support salmon, steelhead and other aquatic species in Icicle Creek. While the draft EIS is over 450 pages, it fails to provide the information necessary to make this determination and it contains yet another "surprise." The "surprise" in this instance is a new method of water storage calculation that is referenced in the draft EIS without the necessary detail to determine the viability of such an approach. Again, like "overland ground transport," this methodology was not discussed in the Icicle workgroup meetings or the Icicle steering Committee meetings. (The wilderness stakeholder group has been inactive for several years.) The DEIS provides no rationale for why this new method of calculation is being discussed at this late date, it is not consistently applied throughout the document, and there is some question about the legality of this approach.

O-9-3 This draft EIS does not answer the following questions which are central to our goal for selection of an alternative: "How much water is available for Trust Water rights? Will the trust water rights be specified for permanent instream flow? Has IPID relinquished any water rights? Who is going to pay for reconstruction of the dam?" The DEIS is at best, incomplete, but often silent on these matters. Because of this, it appears this EIS is trying to sell a "pig in a poke." More detail is needed to assuage the uncertainty that spread throughout the draft EIS.

O-9-4 Our attached comments ask for clarification on many issues, some of which we have asked repeatedly since at least 2018. We respectfully request the Department of Ecology clearly respond to our comments so we can continue to support the timely reconstruction of the Eightmile Lake dam.

O-9-5

Regards,

Margie Van Cleave

Margie Van Cleave
Sierra Club – Washington State Chapter Conservation Chair

Cc: Governor Jay Inslee
U.S. Senator Patty Murray
U.S. Senator Maria Cantwell
U.S. Representative Kim Schrier
USFS Region 6 Regional Forester Glenn Casamassa
Okanogan-Wenatchee National Forest Supervisor Kristin Bail
Wenatchee River District Ranger Jeff Rivera
Laura Watson, Director of Ecology
Dave Blodgett, Technical Coordinator, Yakama Nation
Chuck Brushwood, Senior Policy Advisor, Colville Confederated Tribes.

O-9-2 The comment appears to be discussing the Multi-fill Analysis completed by IPID's consultants and reviewed as part of the EIS process. Refer to the Global Response for Multi-fill Analysis for further discussion.

O-9-3 Refer to the Global Responses for Trust Donation and Tentative Determination of Extent and Validity.

In addition, the focus of the water rights review in the EIS was to assess whether the range of active storage capacities for design alternatives being considered were reasonable. This review was accomplished by reviewing the information available, including the Multi-fill Analysis. After the Draft EIS was issued, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes. Following issuance of the Final EIS, Ecology will conduct its review of the quantities available for the Trust donation in accordance with the process prescribed by RCW 90.42.080(4).

O-9-4 Refer to the Global Response for Relinquishment.

O-9-5 Project financing is described in Section 1.9 of the Draft and Final EISs.

O-9

COMMENT

RESPONSE



O-9-6

Comment noted.

June 5, 2023

Submitted via online form at: ecology.wa.gov/Eightmile

Tom Tebb, Director and Icicle Work Group Co-Lead
Office of Columbia River
Washington Department of Ecology
Attn: Eightmile Draft EIS
1250 W Alder St.
Union Gap, WA 98903

RE: Sierra Club – WA Chapter Comments on Draft Environmental Impact Statement for Eightmile Dam Rebuild and Restoration Project

Dear Director Tebb:

Thank you for the opportunity to comment on the Draft Environmental Impact Statement for the Eightmile Dam Rebuild and Restoration Project (“DEIS”). The following comments were prepared on behalf of the Washington State Chapter of the Sierra Club. Please include these comments and the attached exhibits in the record for the Eightmile Dam project planning process.

I. Introduction

The Sierra Club is a 501(c)(4) non-profit organization with over 100,000 members and supporters in Washington State and over 3.8 million members nationally. The Washington State Chapter is headquartered in Seattle and is one of 64 Sierra Club chapters across the country. Washington Chapter members and supporters live, work, and recreate throughout the state of Washington, including in the Alpine Lakes Wilderness area. The Sierra Club has a long-standing interest and involvement in the Alpine Lakes Wilderness. Many Sierra Club members worked to establish the Alpine Lakes Wilderness leading up to the 1976 designation, as well as the Alpine Lakes Area Land Management Plan of 1981. In addition, the Sierra Club worked with other organizations to advocate for the expansion of the Alpine Lakes Wilderness in 2014. The Alpine Lakes Wilderness is a treasured resource for many of Sierra Club’s members locally as well as nationally.

The Sierra Club has also been actively involved in and following the development of the Icicle Strategy and its related processes. The Sierra Club has been a member of the facilitated Wilderness stakeholder group that was created by the Icicle Workgroup in 2020. The Sierra Club believes the exchange of ideas and information in that group—consisting of members of the Department of Ecology Office of Columbia River (OCR), U.S. Forest Service (USFS), Icicle Peshastin Irrigation District (IPID), and various environmental organizations—has been

Crag Law Center • 3141 E Burnside St. • Portland, OR 97214 • crag.org

O-9-6

O-9

COMMENT

RESPONSE

Sierra Club – WA Chapter Comments on Eightmile Dam DEIS
June 5, 2023

productive. Sierra Club submitted comments during the Scoping Process for the Eightmile Dam Rebuild and Restoration Project.

The Sierra Club understands the need to rebuild Eightmile Lake dam in accordance with the requirements of the Office of Dam Safety. The Sierra Club also respects and recognizes the importance of salmon and other fish species in Icicle Creek and the Wenatchee River basin to the inherent rights and Treaty rights of the Confederated Tribes and Bands of the Yakama Nation and the Confederated Tribes of the Colville Reservation. The Sierra Club recognizes and supports the need for additional water in Icicle Creek to support both wild fish and the hatchery fish bred to mitigate for the construction of the Grand Coulee Dam, which eliminated spawning habitat for huge numbers of wild salmon and other fish species.

While Sierra Club has several significant concerns with the DEIS as detailed in these comments, Sierra Club would like to first commend the Department of Ecology (Ecology) for eliminating several of the major concerns identified in Sierra Club's scoping comments. In particular, Sierra Club is very pleased to see that the DEIS has excluded the option of road construction through the Alpine Lakes Wilderness to provide access to the dam site for reconstruction. Similarly, Sierra Club is glad to see that the dam construction footprint, associated dam infrastructure, and construction related activities will be limited to the area within the Special Warranty Deed parcels. Additionally, Sierra Club supports Ecology's statement that any amount of water donated from IPID's Eightmile Lake water right to the State Trust Water Rights program will be used only to supplement instream flow and will not enable any additional allocation of water to the City of Leavenworth.

The Sierra Club is generally supportive of the objectives of the Eightmile Dam Project, particularly the objective of improving instream flows in Icicle Creek to support fish habitat. However, Sierra Club is concerned with Ecology's overall approach to the Project and the sequencing of decision-making that may or may not occur throughout the process leading up to the replacement of Eightmile Dam. The discussion in the DEIS spotlights two key areas of uncertainty that must be addressed before Ecology can proceed with further review and approvals related to the Project.

First, there is a concerning lack of clarity regarding the scope and status of IPID's Eightmile Lake water right and an acknowledged uncertainty regarding the historic use of the water right. This in turn creates confusion regarding the DEIS's discussion of how storage volume is measured at Eightmile Lake and the proposed donation of some portion of IPID's water right to the Trust program. The Sierra Club is concerned with the precedent that Ecology may be setting with its analysis of IPID's Eightmile Lake water right and how that analysis will be applied to water rights associated with the other IPID dams in the Alpine Lakes Wilderness that are part of the broader Icicle Strategy.

Second, and related to the above issue, the DEIS does not clearly define the scope and extent of IPID's "existing private rights" under the Wilderness Act. This is an important consideration because Eightmile Lake and the surrounding area, particularly including the Special Warranty Deed parcels, are protected under the Wilderness Act and any activities that take place on protected Wilderness must be consistent with applicable laws and regulations,

O-9-7

Ecology is following its standard policies and practices with regard to the Eightmile Lake water right for the Draft and Final EISs, as discussed in the Global Responses for Relinquishment and Tentative Determination of Extent and Validity.

The focus of the water rights review in the EIS was to assess whether the range of active storage capacities for design alternatives being considered were reasonable. This review included late season refill of the active storage volume as presented in the Multi-fill Analysis. After the Draft EIS was issued, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes. Following issuance of the Final EIS, Ecology will conduct its review of the quantities available for the Trust donation in accordance with the process prescribed by RCW 90.42.080(4). Also refer to Global Responses for Trust Donation and Multi-fill Analysis. Water rights associated with the other Alpine Lakes are outside the scope of this EIS.

O-9-8

The introduction to Chapter 3 of the Draft and Final EISs describes the Special Warranty Deed and the rights it reserves. The Deed reserves IPID's rights to maintain and operate the dam and exercise their water rights. A copy of the Special Warranty Deed has been included in Appendix E of the Final EIS. Under Ecology's standard policies and practices, there has been no action to further define the extent of the water right (see the Global Response for Tentative Determination of Extent and Validity).

O-9

COMMENT

RESPONSE

Sierra Club – WA Chapter Comments on Eightmile Dam DEIS
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subject only to “existing private rights.” Whether the activities proposed in the action alternatives are feasible, and therefore reasonable, necessarily depends on the scope of IPID’s “existing private rights” under the Special Warranty Deed.

The alternatives in the DEIS are premised upon the scope of IPID’s rights under Washington water laws and the Special Warranty Deed issued pursuant to the Wilderness Act. However, the DEIS does not clearly or adequately define those rights and instead defers any determination of the scope of IPID’s rights to a later decision or review process. Yet, the DEIS acknowledges that the final design and construction of the Eightmile Dam Project is contingent on the scope of these rights. This approach continues to result in an inefficient use of agency and public resources and risks further investment of significant time and energy into pursuing project alternatives that ultimately prove to be infeasible. Moreover, it is difficult for the public to fully understand and engage regarding the potential environmental impacts of the proposed alternatives in light of such uncertainty. The Sierra Club respectfully requests that Ecology address these two fundamental issues either before or as a part of the Final Environmental Impact Statement (FEIS).

II. SEPA Background

The State Environmental Policy Act (SEPA) process identifies and analyzes the environmental impacts of government decisions. RCW 43.21C.010. These decisions may involve issuing permits for private projects, constructing public facilities, or adopting regulations, policies, or plans. The SEPA review process makes transparent and explains to agency decision makers, applicants, and the public the environmental impacts of a proposed project. WAC 197-11-030. Under SEPA’s environmental review process, agencies must prepare an environmental document that consists of the range of proposed activities, alternatives, and impacts to be analyzed in accordance with SEPA’s goals and policies. WAC 197-11-060. More specifically, the lead agency¹ must make a threshold determination to determine whether an EIS is required. WAC 197-11-330. If the lead agency determines that the proposal will have significant adverse environmental impacts, then the agency must prepare an EIS. *Id.*

An EIS must describe the proposal, including construction activities, operation/use, post operation/closure, related physical activities and physical changes/disturbances, and agency requirements; identify reasonable alternatives, including the no action and preferred alternatives; and the affected environment, significant impacts, and mitigation measures. WAC 197-11-402; SEPA Handbook, at 35-38 (2018). The range of impacts that must be evaluated in an EIS include the direct, indirect, and cumulative impacts of the proposal, the short-term and long-term impacts, as well as the likelihood that the proposal will serve as precedent for future actions. WAC 197-11-060(4).

Under WAC 197-11-440, an EIS must include a discussion of alternatives as well as the proposed action. While an EIS is not required to examine all potential alternatives; the number and range of alternatives must be reasonable. *Weyerhaeuser v. Pierce County*, 124 Wn.2d 26, at 41 (1994). According to SEPA regulations, a reasonable alternative is an action that could

¹ The lead agency develops or is presented with a proposal. They are the agency with the main responsibility for complying with SEPA’s procedural guidelines. WAC 197-11-050.

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As stated in Chapter 6 of the Draft and Final EISs, it is not the role of the EIS to determine the status of any particular water right, nor is the EIS the proper venue for such determinations. The focus of the water rights review in the EIS was to assess whether the range of active storage capacities for design alternatives being considered were reasonable within the existing right. As described in the Global Responses, the Multi-fill Analysis was relied on (in part) for the water right evaluation in the Draft EIS to assess whether the range of active storage capacities for design alternatives being considered were reasonable. The Multi-fill Analysis provides a range of stored volumes based on re-fill estimates (in dry, average, and wet years) sufficient to support that 2,000 acre-feet of active water storage and release is reasonable at the lake. The EIS recognizes there is some uncertainty in the amount of the water right due to possible relinquishment; therefore, the analysis for the EIS covers a range of values such that the analysis will still be valid if partial relinquishment has occurred. Following the issuance of the Draft EIS, IPID submitted an application to donate a portion of its water right to instream flow. Following issuance of the Final EIS, Ecology will review quantities in accordance with RCW 90.42.080(4). As described in the Global Response for Tentative Determination of Extent and Validity, the analysis and determination of the quantity of water available for and accepted into Trust for instream flow does not constitute a tentative determination of extent and validity of the water right. If a future quantification (through adjudication or future water right action) results in an annual quantity that is less than the 2,000 acre-feet considered in this EIS, the physical active storage volume in the lake can be reduced through shortening the intake pipe outlet, as described in the Final EIS, without necessitating any changes to the main design. The monitoring and reporting plan to be executed as part of the Trust donation process will ensure that the 2,000 acre-foot limit of active storage is not exceeded on an annual basis and that the Trust donation quantities are managed properly.

See the Global Responses for Relinquishment, Tentative Determination of Extent and Validity, Trust Donation, and Multi-fill Analysis.

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Comments regarding SEPA and WAC sections are noted. Ecology issued a Determination of Significance (DS) and prepared the Draft EIS that reviewed a range of reasonable alternatives, consistent with WAC 197-11-440. The objectives for the project are outlined in Section 1.4 of the Draft and Final EISs. A wide range of alternatives were considered during the preliminary

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development and consideration of alternatives; Section 2.8 of the Draft and Final EISs describes alternatives that were considered but not carried forward, along with the reasoning behind why they were dropped from consideration. Alternative 3 was added for review as a result of public comment received during the scoping process.

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feasibly attain or approximate a proposal's objectives, but at a lower environmental cost or decreased level of environmental degradation." WAC 197-11-440(5)(b). Reasonable alternatives may be those over which an agency with jurisdiction has authority to control impacts, either directly, or indirectly through requirement of mitigation measures. *Columbia Riverkeeper v. Port of Vancouver USA*, 188 Wn.2d 80, 97 (2017). WAC 197-11-070(1) prohibits an agency from taking an action on a proposal that would limit the choice of reasonable alternatives before a final determination of non-significance or a final environmental impact statement on the proposal is issued by a responsible official. *Columbia Riverkeeper*, 188 Wn.2d at 85.

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In addition, SEPA borrows heavily from NEPA and reference to NEPA's procedural requirements is appropriate when construing SEPA's requirements. *Coalition for a Sustainable 520 v. United States DOT*, 881 F.Supp.2d 1243, 1259 (W.D. Wash. 2012) (noting that the court's findings on the reasonable range of alternatives under NEPA were dispositive under SEPA). Washington courts have held that an EIS which is sufficient to meet NEPA may also be used to satisfy SEPA requirements so long as notice provisions have been met. *Id.* at 1260; RCW 43.21C.150. Under NEPA, the alternatives analysis is the "heart of the environmental impact statement." 40 C.F.R. § 1502.14(a). "Consideration of reasonable alternatives is necessary to ensure that the agency has before it and takes into account all possible approaches to, and potential environmental impacts of, a particular project." *Northern Alaska Environmental Center v. Kempthorne*, 457 F.3d 969, 978 (9th Cir. 2008). The requirement ensures that the "most intelligent, optimally beneficial decision will ultimately be made." *Id.*, quoting *Calvert Cliffs' Coordinating Comm. v. U.S. Atomic Energy Comm'n.*, 449 F.2d 1109, 1114 (D.C. Cir. 1971).

III. The EIS and Alternatives Should be Based on an Accurate Understanding of IPID's Water Right, Rather Than Hypotheticals That May Depend on an Invalid or Unperfected Water Right.

O-9-11

The DEIS identifies IPID's water right at Eightmile Lake as an "Issue to be Resolved" due to uncertainty surrounding the scope and status of the water right. DEIS at 1-10.² Despite this recognition, the DEIS proceeds to analyze alternative designs for the Eightmile Dam replacement and the associated impacts without resolving any of the uncertainty with IPID's water right. Ecology instead says it will defer any determination on the status of IPID's water right until an unspecified and uncertain-to-occur future trust water right donation from IPID. As a result, the DEIS is replete with assumptions about the status of IPID's water right that are not adequately explained or supported by the historical record. Ecology's SEPA analysis and the proposed alternatives cannot be based on such an opaque presentation of this foundational issue.

The discussion in the DEIS is inadequate in several respects and should be corrected in the FEIS. First, the DEIS puts the cart before the horse by defining and analyzing alternatives

² Sierra Club has raised this as an issue that needs to be resolved as part of this process since its comments submitted for the Draft Programmatic Environmental Impact Statement for the Icicle Creek Water Resources Management Strategy in July 2018. (Comments begin on page A-39, water rights on page A-41: https://www.co.chelan.wa.us/files/natural-resources/documents/Planning/icicle_work_group/Environmental%20Review%20Page/Final%20PEIS/A%20-%20DPEIS%20Comments%20-%26%20Responses.pdf).

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While there is some uncertainty as to the annual active storage volume of IPID's Eightmile Lake water right, the range of volumes addressed in the Draft and Final EISs encompass the water right even if partial relinquishment has occurred. The EIS process is not a vehicle to determine relinquishment nor the extent and validity of the water right, although Ecology is confident that IPID possesses sufficient rights to support the range of alternatives in the EIS. If a future quantification (through adjudication or future water right action) results in an annual quantity that is less than the 2,000 acre-feet considered in the EIS, the physical active storage volume in the lake can be reduced through shortening the intake pipe outlet as described in the Final EIS without necessitating any changes to the main design.

After the Draft EIS was issued, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes. Following issuance of the Final EIS, Ecology will conduct its review of the quantities available for the Trust donation in accordance with the process prescribed in RCW 90.42.080(4).

Now that the Trust donation process has started, Ecology will ascertain the quantity of the right available for Trust donation purposes after the Final EIS issuance, since that is the correct venue for addressing this issue. To date, there has not been clear and compelling evidence of relinquishment, which is required for Ecology to initiate a relinquishment action. See the Global Responses for Relinquishment, Tentative Determination of Extent and Validity, and Trust Donation.

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that may later be determined to be infeasible because they are based on an invalid water right. The FEIS should include a more detailed explanation for how Ecology is characterizing IPID's water right and how that characterization is supported by the law and historical record. Second, Ecology should fully explain the basis for and application of the multi-fill analysis that is referenced in the DEIS. Third, the DEIS incorrectly asserts that Ecology is precluded from making a determination on the validity of IPID's water right now as part of this process. The FEIS should include a tentative determination of IPID's water right and the alternatives should be revised based on the outcome of that determination. Finally, the FEIS should provide a more detailed explanation and analysis of the potential trust water right donation from IPID in order for the public and Ecology to have a more complete understanding of the environmental impacts of the proposed alternatives.

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O-9-13

O-9-14

A. The FEIS must provide clarity on the scope and classification of IPID's Eightmile Lake water right.

The DEIS provides contradictory and unsupported characterizations of IPID's water right at Eightmile Lake. The development of alternatives for the EIS is based on IPID's irrigation needs and the extent and scope of IPID's water right. Ecology cannot proceed to a FEIS that includes an adequate alternatives analysis without providing a clear description of the scope and classification of IPID's water right that is supported by the law and the historical record. Specifically, Ecology must clarify and explain whether IPID's water right includes both the right to use the water from Eightmile Lake (*i.e.* a surface water right) and the right to store water in Eightmile Lake (*i.e.* a reservoir or storage right). Additionally, Ecology must explain the legal basis for its assumption that IPID's water right includes an annual quantity and how Ecology will determine the valid annual quantity of the water right as is necessary to support the ultimate design and permitting of the Eightmile Dam replacement project.

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The DEIS at some points describes IPID's water right at Eightmile Lake as "authorizing the storage and use of 25 cfs of water," DEIS at 6-1, and includes the water right in IPID's "estimated total storage rights." DEIS at 6-13. Elsewhere, the DEIS describes IPID's Eightmile Lake water right as simply authorizing the "use of 25 cfs for irrigation purposes." DEIS at 6-2. The DEIS muddles the two different classifications of water rights (surface and storage) and fails to acknowledge the legal and practical differences between them. Ecology should clarify and properly support the classification of IPID's water right in the FEIS, consistent with state law and the history of the water right.

Washington's water laws, the historical evidence of IPID's water right, and Ecology's Water Rights Tracking System (WRTS) all distinguish between a surface water right for the diversion and beneficial use of water and a reservoir or storage right to impound water as a source for a beneficial use. To begin, the 1917 Water Code—which was in effect at the time IPID's predecessor, Icicle Irrigation District, applied for a permit to use water from Eightmile Lake—established the process for applying for a permit to appropriate water. WA Session Laws, 1917, Ch. 117, Sec. 28. The law established different application requirements depending on the proposed use of the appropriation. Specifically, the 1917 Water Code provided:

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See the Global Response for the Multi-fill Analysis.

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See the Global Response for Tentative Determination of Extent and Validity.

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Refer to the Global Responses for Trust Donation, Tentative Determination of Extent and Validity, and Multi-fill Analysis.

One focus of the water rights review in the EIS was to assess whether the range of active storage capacities for design alternatives being considered were reasonable within the existing right. This review included late season refill of the active storage volume as presented in the Multi-fill Analysis. After the Draft EIS was issued, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes. Following issuance of the Final EIS, Ecology will conduct its review of the quantities available for the Trust donation in accordance with the process prescribed by RCW 90.42.080(4).

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The comment raises whether the water rights analysis in the EIS is sufficient to support the analysis of the alternatives. As part of this concern, it questions how much is perfected and whether the SWC1228 is a storage right or a diversionary right only.

First, Chapter 6 of the Draft and Final EISs adequately describes the water right for the purposes of the EIS. As further described in the Global Responses, a Tentative Determination of Extent and Validity is outside the scope of the EIS review. Instead, one of the purposes of the water rights evaluation in the EIS is to determine whether the active storage design volumes are reasonable for the alternatives being analyzed. This was accomplished through review of information available at the time of the Draft EIS and supplemental information provided by IPID, which describes the multiple fillings of the active storage volume particularly in late season. The analysis is described in the Global Response for Multi-fill Analysis and relies, in part, on the information presented in IPID's multi-fill memo (Aspect 2022a) and Ecology's review of that information and other records provided by IPID. As described in Section 6.2 of the Draft and Final EISs, although the eroded capacity of Eightmile Lake with stop boards installed is 1,151 acre-feet, lake releases allow for additional late season storage capacity and, coupled with subsequent late season precipitation events, can serve to refill some of the

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"If for agricultural purposes, [the application] shall give the legal subdivision of the land and the acreage to be irrigated, as near as may be, and the amount of water expressed in acre-feet to be supplied per season.

* * *

If for construction of a reservoir, it shall give the height of the dam, the capacity of the reservoir, and the uses to be made of the impounded waters."

Id. Section 38 of the 1917 Water Code imposed additional requirements for an applicant proposing to apply water stored in a reservoir to a beneficial use:

"All applications for reservoir permits shall be subject to the provisions of sections 27 to 33 of this act, both inclusive. But the party or parties proposing to apply to a beneficial use the water stored in any such reservoir shall also file an application for a permit, to be known as the secondary permit, which shall be in compliance with the provisions of sections 27 to 33 of this act, both inclusive."

Id. at Sec. 38.³

The application for IPID's Eightmile Lake water right (Permit No. 828) provides that the applicant seeks to appropriate waters from "Eight Mile Lake" in the amount of 25 cubic feet per second, to the extent of 2000 acre-feet and is to be applied for the beneficial use of "irrigation." Exhibit A at p.1. The application identifies the land to be irrigated as approximately 7,000 acres within the Icicle Irrigation District and the Peshastin Irrigation District. *Id.* at p.2. Under "Description of Works" the application states "channel cut at outlet or lake, 6 feet wide and control gate installed with wood structure." *Id.* at p.1. Beneath that section, the application form provides: "**When storage works are contemplated a storage permit must be filed in addition to the above." *Id.* Nowhere in the application is there any information regarding the height of the dam proposed to be constructed at Eightmile Lake or the capacity of the proposed reservoir for storage.

By all objective measures, the application was to appropriate water for "agricultural purposes," rather than for "construction of a reservoir," as contemplated in the 1917 Water Code. Accordingly, the permit for IPID's Eightmile Lake water right provides that, "the amount of water appropriated shall be limited to the amount which can be applied to beneficial use and not to exceed 25.0 cubic feet per second, or its equivalent in case of rotation." Exhibit A at p.4. The permit does not identify any annual quantity or reservoir storage capacity. *Id.* Further, there is no indication that IPID's predecessor ever filed a separate application for a storage or reservoir permit as was required under the law and explicitly noticed on the application form. Moreover, while the Notice of Beginning of Construction for the water right, filed in July 1927, stated the

³ This requirement remains in Washington's Water Code to this day. RCW § 90.03.370(1)(a). However, in 2002 the Washington legislature amended the statute to provide, "A secondary permit for the beneficial use of water shall not be required for use of water stored in a reservoir where the water right for the source of the stored water authorizes the beneficial use." 57th Legislature, 2002 Reg. Session, HB 2993, Sec. 10; see RCW § 90.03.370(1)(c).

capacity and add to the annual volume of water actively storage at the lake. As described in the Draft EIS, this multi-fill practice reasonably supports the design volumes of 1,698 acre-feet (under Alternative 3) and 2,000 acre-feet (under Alternatives 1 and 2) for the alternatives considered. If a future quantification of the water right (through adjudication or future water right action) results in an annual quantity that is less than the 2,000 acre-feet considered in the EIS, the physical active storage volume in the lake can be reduced through shortening the intake pipe outlet as described in the Final EIS without necessitating any changes to the main design. In addition, the monitoring and reporting plan to be executed as part of the Trust donation process will ensure that the maximum design volume of up to 2,000 acre-foot limit of active storage is not exceeded on an annual basis and that the Trust donation quantity is managed properly. Refer to the Global Response for Tentative Determination of Extent and Validity for additional information.

Second, it is clear from the documentation, particularly the Icicle Creek Decree, that the right does include the right to store water as well as to use it for irrigation. The comment notes that nowhere in the application is there information regarding the height of the proposed dam or the proposed storage capacity. The implication is that a storage right was never applied for. However, this statement is contradicted by later documents and the Icicle Creek Decree, which clearly show storage as part of the right. For example, in the remarks section of the Proof of Appropriation, a description of the dam construction work is provided, including reference to a dam being built. Also, the Decree clearly includes a storage right. The comments on the permit and notice of construction are noted. However, subsequent documents support that IPID has a valid storage right. Specifically, the Icicle Creek Decree (which post-dates the permit) states "*the claimant, Icicle Irrigation District, is the holder of the following permits to appropriate and store water from lakes tributary to Icicle Creek*" (emphasis added). Following this statement in the Decree is a list of three lakes, including Eightmile Lake. Additionally, current practices of issuing separate water right documents for reservoir and diversionary rights do not necessarily reflect past practices.

Finally, the comment goes on to note the certificate also does not reference an annual quantity or storage capacity. This is duly noted. However, the 1929 Icicle Creek Decree confirms the water right permit for Eightmile Lake includes storage of water and the subsequent 1939 certificate states that

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permit as including “the appropriation of (25) twenty-five second-feet and the storage of 2000 acre-feet of the unappropriated waters of Eight Mile Lake,” Exhibit B at p.1, subsequent documents do not support a conclusion that IPID has a valid storage right.

In October 1929, the Chelan County Superior Court issued the Icicle Creek Decree adjudicating the water rights to Icicle Creek and its tributaries. For the Eightmile Lake water right (Permit No. 828), the Decree notes the permitted amount of water as 25 cubic feet per second with a yearly maximum of 2,500 acre-feet. Exhibit C at p.6. The DEIS notes that there is no documented explanation for the increase in the maximum annual quantity from 2,000 acre-feet as stated in the application, to the 2,500 acre-feet stated in the Decree. DEIS at 6-11, n 12. The Decree states that the Eightmile Lake water right was “inchoate but may be perfected by compliance with provisions under which the permits were issued.” Ex. C at p.6. According to the DEIS, “inchoate water rights have not been used, and are, therefore, not perfected.” DEIS at 6-1.

However, the DEIS concludes in a footnote, “since the dam was completed in 1929, IPID has been storing water. Thus some, if not all, of this 2,500 acre-feet has been used and, therefore, is perfected and no longer inchoate. That said, the perfected amount has not been determined by Ecology or by a court through an adjudication of water rights.” DEIS at 6-1, n 2. The DEIS does not explain the legal or factual basis for this conclusion that IPID has perfected an annual quantity or storage right potentially up to 2,500 acre-feet from Eightmile Lake. This conclusion is foundational to the alternatives analysis in the DEIS; however, it is not supported by the historical record.

As noted, the adjudication Decree provided that the Eightmile Lake water right could be perfected under the provisions stated in the permit. Ex. C at p.6. Permit No. 828 established a timeline by which IPID’s predecessor was required to put the water to beneficial use, which was to be completed on or before October 22, 1930. Ex. A at 4. Under the 1917 Water Code, once a water user demonstrated that an appropriation had been perfected, the state hydraulic engineer was required to issue a certificate establishing the water right. 1917 Water Code, Sec. 34. IPID’s predecessor submitted the required documentation to demonstrate that it had perfected the Eightmile Lake water right on August 16, 1939. Neither the Notice of Completion of Construction nor the Proof of Appropriation filings make any reference to storage capacity or an annual quantity for appropriation. Exhibit B at 2; Exhibit D. Instead, these documents reference only the 25 cfs appropriation from Eightmile Lake. *Id.*

The logical conclusion from these documents is that IPID’s predecessor did not provide documentation to demonstrate that it had perfected the 2,500 acre-feet maximum annual quantity stated in the adjudication Decree, or any storage right, within the time period specified in the permit. Accordingly, the water right certificate (No. 1228) confirms that IPID’s Eightmile Lake water right is only for the use of water from Eightmile Lake for the purpose of irrigation on 7,000 acres within the Icicle and Peshastin Irrigation Districts and “shall not exceed twenty-five (25) cubic feet per second.” Exhibit E. The Certificate does not include an annual quantity and makes no reference to any storage or reservoir right. *Id.* Ecology’s Water Rights Tracking System confirms the classification of IPID’s Eightmile Lake water right as a “surface water” right, rather

“said waters has been perfected.” It is historically clear that IPID and its predecessor have been storing and using Eightmile Lake water since the dam was constructed. A water right is perfected when it is put to use. Since storage and use of water has been occurring since 1930 per the proof of appropriation and IPID records, some or all of the 2,500 acre-feet of storage has clearly been perfected. This is the factual basis for the conclusion in the EIS that at least some of the storage right has been perfected. Further, knowing the exact valid annual quantity is not required for the EIS process since the EIS covers a range of active storage volumes such that if some of the amount was not perfected or has been partially relinquished, the storage volumes used in the EIS are still reasonable given the information provided and for the purpose of the analysis. Additionally, it was common practice in the last century for water right certificates to not list annual quantities and for Ecology to later define said annual quantities during later water rights actions. To date, there have not been further water right actions on the Eightmile Lake right (and as stated in the Draft and Final EISs, the EIS process is not a water rights action). Refer to the Global Response for Tentative Determination of Extent and Validity.

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than a “reservoir” right, and does not specify any annual quantity. See WRTS, Certificate 01228, Record No. S4-*01825AACWRIS.⁴

There is no discussion in the DEIS or known documentation that indicates that IPID’s predecessor sought an extension of time to perfect the 2,500-acre-foot maximum annual quantity, as was required under the 1917 Water Code. See 1917 Water Code, Sec. 33. And there is no support in the law for Ecology’s suggestion in the DEIS that IPID’s predecessor was allowed to perfect the annual quantity of the water right over an indefinite period of time since 1930 and without any real-time documentation to prove that a specified annual quantity of water was put to beneficial use.

Additionally, as detailed above, there is no support in the historical record that IPID has a reservoir or storage right in Eightmile Lake under Washington’s water laws. The DEIS references an easement that the Department of Public Lands granted to IPID’s predecessor in October 1927 to “overflow and perpetually inundate” the “bed and shores of . . . Eight Mile Lake.” DEIS at 6-11. However, an easement is not the equivalent of a water right and does not have the effect of creating a right to store water in Eightmile Lake under Washington’s water code. The DEIS does not explain what relevance the easement has to the status of IPID’s water right. Moreover, the DEIS fails to specify the extent of the easement, which is relevant to the status of IPID’s “existing private rights” that were preserved under the Wildemess Act, as discussed further below.

Ecology’s assumption that IPID holds a valid water right to some annual quantity forms the basis for the analysis and proposed alternatives discussed in the DEIS. The DEIS also presents the range of alternatives for storage capacity based on a multi-fill analysis and would increase the active storage capacity under each action alternative; this assumes that IPID’s Eightmile Lake water right constitutes a “reservoir” or storage right. As discussed further below, Ecology should not proceed to a FEIS without clarifying the status and scope of IPID’s Eightmile Lake water right.⁵ Such uncertainty cannot form the basis of a reasoned and informed environmental analysis.

B. Ecology’s reliance on the multi-fill analysis is not adequately explained in the DEIS and is not supported by law.

The DEIS relies on a “multi-fill analysis” completed by Aspect Consulting as support for the assertion that IPID has historically stored and released at least 1,400 acre-feet, and potentially exceeding 2,500 acre-feet, per year. DEIS at 6-6, n 8 (citing Aspect 2022a). Ecology seems to rely on this analysis as presumptive proof that IPID’s water right has not been relinquished. DEIS at 6-6. As discussed further below, this does not relieve Ecology of its obligation to make a

⁴ In contrast, IPID’s water right for Snow Creek is classified in Ecology’s WRTS as a “reservoir” right and includes only an annual quantity of 1,000 acre-feet. See WRTS, Certificate No. 1592, Record No. R4-*02752CWRIS.

⁵ Ecology should explain whether and how its “reasonable quantity” analysis for determining the Qa for the City of Leavenworth’s water right, where the certificate did not include a Qa figure, applies in the context of IPID’s Eightmile Lake water right. See DEIS at 6-15-6-16.

- O-9-16 Discussions to the level of detail suggested by the commenter concerning historical permit extensions is beyond the scope of the Draft and Final EISs, where a summary of the water right is sufficient in order to discuss impacts from the alternatives.
- Concerning the comment about there being no support or historic record about IPID having a reservoir or storage right on Eightmile Lake, refer to the response to comment O-9-15.
- The October 1927 easement referenced in the comment is not considered as part of the Eightmile Lake water right; instead, it is presented as background of historical events at the lake after the water right permit issued and prior to the Icicle Creek Decree.
- O-9-17 Refer to the response to comment O-9-15 as well as the Global Responses for Relinquishment, Tentative Determination of Extent and Validity, and Multi-fill Analysis.
- O-9-18 Refer to the Global Responses for Multi-fill Analysis and Relinquishment. Also refer to response to comment O-9-15 for discussion of the storage component of the Eightmile Lake water right. In addition, the comment states *“Ecology seems to rely on this [multi-fill] analysis as presumptive proof that IPID’s water right has not been relinquished.”* However, the Draft EIS does not state that relinquishment has not occurred, only that it is undetermined.
- The commenter states the EIS does not provide a justification of its reliance on the Multi-fill Analysis and that even if the Eightmile Lake right is a valid storage right, the inadequacies in the discussion of the Multi-fill Analysis in the EIS must be addressed. It is important to note that the Multi-fill Analysis is just one of many documents and studies reviewed and used as part of the EIS process, and any reliance on the Multi-fill Analysis provides a reasonable range of storage volumes rather than exact quantities. The Multi-fill Analysis provided was authored by IPID and not Ecology, and does not represent Ecology’s determination of quantities or extent of the water right. Refer to the Global Response for Multi-fill Analysis for additional information.

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formal determination of the validity of IPID's water right. Additionally, the referenced analysis is not provided as part of the DEIS and should be included as an appendix to the FEIS.

The DEIS finds support for the multi-fill analysis by referencing WAC 508-12-270, which imposes a "one-fill" requirement on reservoirs, and the fact that the regulation was adopted after the established priority date for IPID's water right at Eightmile Lake. DEIS at 6-6, n 8. Thus, Ecology reasons, "WAC 508-12-270 is not applicable to the Eightmile Lake water right." *Id.* However, WAC 508-12-270 applies specifically to "a reservoir permit." As discussed above, IPID's water right at Eightmile Lake is not classified as a reservoir permit; therefore, the question of whether a "one-fill" or "multi-fill" analysis is appropriate for determining the extent of IPID's water right is entirely misplaced. IPID does not have any perfected or certificated right for reservoir storage. The multi-fill analysis is based on the false premise that "IPID's storage right provides for 2,500 acre-feet (AF) of storage." Aspect 2022a at p.1.

The DEIS does not provide any other explanation or justification for its reliance on the multi-fill analysis. Even if Ecology were to somehow determine that IPID holds a valid storage/reservoir right, there are numerous inadequacies in the DEIS's discussion of the multi-fill analysis and the multi-fill analysis itself that must be addressed and corrected in the FEIS.

First, it is not clear whether there is any precedent for Ecology employing a multi-fill analysis to determine the extent of a storage water right. The DEIS notes the 1960 adoption of WAC 508-12-270 as the justification for concluding that the regulation does not apply to water rights that pre-date its adoption. However, the mere adoption of a rule does not itself indicate that the principle embodied in the rule was non-existent in the law prior to the rule's adoption. In other words, the rule could have simply been putting into writing the long-standing and historical practice of authorities responsible for implementing Washington's water code. Ecology should explain and provide support for its assertion that reservoir storage rights were quantified based on a multi-fill analysis prior to 1960. Ecology's reasoning in this decision has the potential to set the precedent for other storage water rights in the state, including those associated with the other projects that IPID seeks to complete as part of the Icele Strategy.

Second, the multi-fill analysis includes modelling of historical operations based on release rate scenarios of 35 cfs and 20 cfs, which the memo states are "considered to be a typical range based on patterns described by IPID, and conservative compared to the maximum historic release rates described of 40-50 cfs." Aspect 2022a at p.2. This is at odds with—and likely an exceedance of—IPID's Eightmile Lake water right. The only certificated water right that IPID holds at Eightmile Lake is for 25 cfs of instantaneous diversion. Ex. E. Therefore, any modeling which forms the basis of the alternatives in the EIS—not to mention Ecology's determination of the lawful historical use of the water right—should be limited by the extent of the water right itself. The DEIS should not consider alternatives that provide for storage capacity in Eightmile Lake based on a release rate of 35 cfs, or higher; all alternatives should be based on a release rate of 25 cfs.

Third, the DEIS relies on the multi-fill analysis to determine the historical quantity of water put to beneficial use and is based on the current active storage volume of 1,151 acre-feet. DEIS at 6-1–6-2. However, each of the action alternatives would significantly increase the active

- O-9-19 See the response to comment O-9-18 as well as the Global Response for the Multi-fill Analysis.
- O-9-20 Comment noted. Ecology recognizes the instantaneous quantity (Qi) for the Eightmile Lake water right is 25 cfs, and the alternatives in the EIS are based on this rate. The Qi for the storage component of the right is considered as the rate of inflow entering the lake and filling it, rather than the amount released at the dam. A range of release rates were presented in the IPID report and are described based on observations by IPID and assumptions described in the 2022 memo (Aspect 2022a). As described in response to comment O-9-18, the Multi-fill Analysis was a part of the information reviewed. Also see the Global Response for the Multi-fill Analysis.
- O-9-21 The Multi-fill Analysis was used in estimating the reasonableness of the maximum active storage volumes for each alternative. The volume available for active storage and release from a rebuilt dam will be based on the evaluation of the Trust donation request that was submitted to Ecology after the issuance of the Draft EIS. Following issuance of the Final EIS, Ecology will conduct its review of the quantities available for the Trust donation in accordance with the process prescribed by RCW 90.42.080(4). As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology-approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flows as well as for IPID's irrigation use such that uses of actively stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered (2,000 acre-feet) regardless of whether practices in a given year involve multiple fillings or a single fill. The monitoring and reporting plan will also ensure that the Trust donation is managed properly. Refer to Global Responses for Trust Donation, Tentative Determination of Extent and Validity, and Multi-fill Analysis for additional information.
- Additionally, the EIS generally discusses historic uses and volumes of water based on supporting documents, but does not make a determination of historical quantities used, nor does it make a tentative determination of the extent and validity of the right. Refer to the Global Response for Tentative Determination of Extent and Validity.
- The comment also questions the estimates of the difference between maximum active storage volumes and multi-fill volumes (cumulative annual

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	<p>active storage under the right). The physical active storage volume, which is essentially the same as a single-fill volume (assuming the lake level was down to the low-level outlet pipe prior to filling) can be straightforwardly calculated for each alternative as the physical volume of the actively managed portion of the lake. It is essentially the maximum instantaneous active storage available for each alternative without any refill. Multi-fill volumes, essentially the cumulative active storage volume over an entire season of use, include the initial filling of the lake plus additional fillings resulting from late season precipitation refilling an evacuated space in the active storage reservoir due to releases earlier in the season. Multi-fill volumes vary from year to year depending on releases and volume of late season precipitation and are helpful in looking at the total active storage under the right in a given year. Active storage volumes are the maximum volumes that are presented and evaluated for potential impacts in the EIS for each alternative and they cannot be exceeded in lake operations for a rebuilt dam. As described above, required monitoring and reporting of total annual storage and releases will ensure that total annual active storage use will not exceed the maximum active storage volume of the design alternatives considered (2,000 acre-feet) and will also ensure that the Trust donation is managed properly.</p>

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O-9-21	<p>Sierra Club – WA Chapter Comments on Eightmile Dam DEIS June 5, 2023</p> <p>storage volume of Eightmile Lake over current conditions to as much as 2,000 acre-feet. DEIS at 2-2, Table 2-1. In discussing the impacts of each action alternative on water resources, the DEIS only presents the total storage based on a single-fill analysis. DEIS at 6-23. Thus, it appears that if a multi-fill analysis were completed for each of the action alternatives based on the increased active storage volume, each alternative would result in a significant increase in the total storage and release of water from Eightmile Lake. This would likely exceed the extent of IPID's valid water right. Without a uniform analysis between the no action and action alternatives, Ecology cannot conduct a true comparison of alternatives. Moreover, Ecology risks evaluating alternatives that significantly exceed the legal extent of IPID rights in and around Eightmile Lake. The FEIS must apply a uniform analysis to each alternative to allow for a realistic comparison between the alternatives and their impacts.</p>	<p>O-9-22 The Multi-fill Analysis (Aspect 2022a) is a reference document for the EIS but not a part of the EIS itself. There is no need to define terms within that document that are not used in the EIS. The terms "multi-fill active storage" and "multi-fill reserve pool storage" are not used in the EIS. Refer to response to comment number I-35-3 for terms used within the EIS document.</p>
O-9-22	<p>Finally, the multi-fill analysis and the DEIS's discussion of it relies on terminology that is not defined in the law or the analysis memo. <i>See</i> Aspect 2022a. Specifically, the DEIS should define the following terms that form the basis for the multi-fill analysis:</p> <ul style="list-style-type: none"> • Usable Storage Volume • Active Storage Volume • Multi-fill Active Storage • Multi-fill Reserve Pool Storage <p>Without a clear understanding of these terms, it is difficult for the public to understand what the multi-fill analysis actually means and whether it is consistent with the law.</p>	<p>O-9-23 See the Global Responses for Relinquishment and Tentative Determination of Extent and Validity.</p> <p>As described in Section 1.10 of the Draft and Final EISs, the physical active storage capacity of the lake has been limited to approximately 1,151 acre-feet due to damage to the dam; however, the annual active storage volume under the Eightmile Lake water right is greater due to partial refill(s) of the active storage capacity, which varies year to year. See the Global Response for Multi-fill Analysis for additional information.</p>
O-9-23	<p>C. Ecology could and should complete a tentative determination of relinquishment for IPID's water right at Eightmile Lake before finalizing the EIS.</p> <p>The DEIS acknowledges that the status of IPID's water right is an unresolved issue and that IPID's storage of water in Eightmile Lake has been limited to 1,151 acre-feet due to damage of the dam for some unspecified amount of time, at least since 2017 and potentially as far back as the early 1990s.⁶ DEIS at 1-10; 7-3. Despite this uncertainty, the DEIS details a potential outcome where the extent and validity of IPID's water right is never determined. DEIS at 6-6–6-7. Ecology appears poised to avoid ever making any tentative determination on the extent and validity of the water right and asserts that it has no authority to make such a determination unless and until a change application is filed. DEIS at 6-6 (referring to Ecology Policy 1120); <i>see</i> RCW 90.42.040(9).</p>	<p>The Draft and Final EISs acknowledge that the annual quantity under IPID's Eightmile Lake water right (see Section 1.10) has not been determined, and such a determination is outside the scope of an EIS. The unresolved issue is the quantity available under the water right for donation to the Trust Water Rights Program for instream flow, which will be determined following issuance of the Final EIS as part of Ecology's review and decision on IPID's pending Trust application that was submitted in May 2024. Regardless, the water right has an active status, and its authorized quantities are no more unresolved than the thousands of other water rights in the state that have not had actions that would trigger a tentative determinations of extent and validity. Refer to the Global Responses for Tentative Determination of Extent and Validity and Trust Donation.</p>

⁶ The DEIS is conspicuously vague on the timing of damage to the Eightmile Lake dam and how long the active storage has been limited to 1,151 acre-feet. The "Project Background" section of the DEIS completely omits any reference to damage to the dam and instead jumps from the construction of the dam in the 1920s straight to the 2017 Jack Creek Fire. DEIS at 1-2. Elsewhere, the DEIS acknowledges that the active storage has been limited due to damage "in recent years prior to the Jack Creek Fire." DEIS at 1-10. In a later section, the DEIS details a 1995 DSO evaluation which noted potential erosion of the embankment and a prior failure of the earthen embankment. DEIS at 7-3. Ecology should provide as complete and accurate a history of the Eightmile Lake dam as possible in the FEIS.

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However, Ecology's Policy 1120 – "Water Resources Program Policy for Conducting Tentative Determinations of Water Rights" provides a list of multiple circumstances where a tentative determination should be conducted. Policy 1120 at p.2. That list of circumstances includes when Ecology evaluates "existing water uses associated with water rights pursuant to RCW 90.14.130 or other regulatory statutes that results in a departmental order." *Id.* RCW 90.14.130 is the section of the water code that governs relinquishment of a water right.

The DEIS acknowledges that relinquishment is "an issue of potential concern with respect to the water right associated with the project because of uncertainty over the historical amount of water that has been stored in and released from Eightmile Lake." DEIS at 6-6. The DEIS states that "erosion of the earthen embankment portion of the dam structure has reduced the active storage available for release by gravity without pumping or siphoning to less than 1,400 acre-feet under current conditions." DEIS at 1-7. And that this reduced capacity of the Eightmile Lake dam dates back to some unspecified time before the 2017 Jack Creek Fire. DEIS at 1-10.

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RCW 90.14.130 provides that "[w]hen it appears to the department of ecology that a person entitled to the use of water has not beneficially used his or her water right or some portion thereof, and it appears that said right has or may have reverted to the state because of such nonuse, as provided by RCW 90.14.160, 90.14.170, or 90.14.180, the department of ecology shall notify such person by order[.]"⁷ Ecology's Policy 1060 – "The Relinquishment, Recession, and Abandonment of Water Rights" details three ways that voluntary relinquishment can occur, including through an administrative order, a change application, or an adjudication. Policy 1060 at p.6-7. RCW 90.14.130 uses mandatory language and requires Ecology to proceed with a "show cause" letter if it has sufficient evidence that a water right may have been relinquished.

The DEIS details sufficient evidence that at least some portion of IPID's Eightmile Lake water right may have been relinquished or abandoned due to non-use for at least a period of 5 years, and potentially much longer. No change application is required for Ecology to make a tentative determination; indeed, Ecology is required to issue IPID a show cause letter where it appears the water right has or may have been relinquished or abandoned due to a period of nonuse.

A clear understanding of the status of the water right is necessary to inform the reasonableness of the action alternatives and the appropriate sizing of dam. Each of the action alternatives would increase the active storage capacity of Eightmile Lake above current conditions. DEIS at 6-2. As discussed above, IPID does not have a water right certificate for any annual quantity or storage volume at Eightmile Lake and there has been no determination of how much (if any) of the 2,500 acre-feet maximum annual quantity stated in the adjudication Decree

⁷ RCW 90.14.160 provides: "Any person entitled to divert water or withdraw waters of the state through any appropriation authorized by enactment of the legislature prior to enactment of ch 117, Laws of 1917, or by custom, or by general adjudication, who abandons the same, or who voluntarily fails, without sufficient cause, to beneficially use all or any part of said water right to divert or withdraw for any period of five successive years after July 1, 1967, shall relinquish such right of portion thereof." This provision appears to apply to the 2,500 acre-feet annual quantity for IPID's water right that was confirmed in the adjudication decree but was never perfected and certificated. See *supra* Part II.A.

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Refer to the Global Responses for Relinquishment and Tentative Determination of Extent and Validity.

In regard to the comment on perfection, a water right is perfected when it is put to beneficial use. While the annual quantity of the Eightmile Lake water right was not included on the certificate when it issued in 1939, it is clear that some, and potentially all, of the right was perfected based on available information in IPID's water right records related to infrastructure and historical beneficial use. Refer to response to comment O-9-15 for additional information.

Following the issuance of the Draft EIS, IPID submitted a request to donate a portion of its Eightmile Lake water right to instream flow. After the Final EIS is issued, Ecology will review quantities available for the Trust donation in accordance with RCW 90.42.080(4) and make a decision on what quantities to accept into Trust. Quantities in excess of the 1,400 acre-feet required for use by IPID will be placed in Trust for instream flow purposes. As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology-approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flow as well as for IPID's irrigation use such that the total uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered (2,000 acre-feet). The monitoring and reporting plan will also ensure that the Trust donation is managed properly.

As stated in Chapter 6 of the Draft and Final EISs, it is not the role of the EIS to determine the status of any particular water right, nor is the EIS the proper process for such determinations. The focus of the water rights review in the EIS was to assess whether the range of active storage capacities for design alternatives being considered to meet IPID project objectives in a safe and effective manner. As described in the Global Responses, the Multi-fill Analysis was relied on (in part) for the water right evaluation in the Draft EIS to assess the reasonableness of the maximum active storage design volumes for each alternative. Ecology reviewed the multi-fill memo provided by IPID along with additional information in the record and determined that the design volumes of up to 1,698 to 2,000 acre-feet of active water storage were reasonable. The EIS recognizes there is some uncertainty in the amount of the water right due to possible relinquishment; therefore, the analysis for the EIS covers a range of volumes such that the impacts analysis will still be valid if partial

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relinquishment has occurred or the Trust donation results in less than the maximum design volumes considered. Additionally, the monitoring plan will ensure that the total actively stored and released volumes are within the limits of the maximum active storage volume of the design alternatives considered (2,000 acre-feet) and that the Trust donation is managed properly.

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has been perfected. *Supra* Part II.A. How can Ecology adequately develop and propose reasonable alternatives based on such significant uncertainty surrounding the water right that is at the core of this project? How can Ecology approve an annual monitoring plan to ensure that water use is not increased beyond the limits of IPID's water right, when the valid extent of the water right is not known? See DEIS at 6-21.

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It is an inefficient use of agency and public resources to develop action alternatives and complete the SEPA analysis based on an uncertain and potentially invalid water right. The DEIS acknowledges that the dam design may need to be changed in the future upon an evaluation of the water right. DEIS at 6-7 ("If the Trust volume calculation under RCW 90.42.080 results in reduced annual quantities, these maximum design volumes will need to be reduced, possibly through modification of the syphon and intake pipe as part of the final design phase."). Ecology should complete a tentative determination of the extent and validity of IPID's water right before proceeding any further with the EIS and should revise the proposed alternatives and impacts analysis consistent with that determination.

D. The DEIS does not include adequate details on the potential donation of water right to State Trust Water Rights Program.

Sierra Club is generally supportive of the proposal that IPID will donate a portion of its Eightmile Lake water right to the State Trust Water Rights Program to be used to supplement instream flows. However, there are many unanswered questions in the DEIS's discussion of the potential Trust water right donation and a lack of clarity over when and how the Trust donation would be completed or what procedures will be followed in the process. Sierra Club requests that Ecology fully address the following issues in the Final EIS.

i. Ecology should clearly explain how much water could or will be donated to the Trust.

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The DEIS states that IPID requires 1,400 acre-feet of storage capacity at Eightmile Lake to support its irrigation needs. DEIS at 6-2. Currently, IPID estimates that it stores a cumulative total of 1,464 to 2,228 acre-feet of water in the lake under a range of conditions. *Id.* Under the action alternatives, the active storage capacity of the dam would be increased to either 1,698 or 2,000 acre-feet. DEIS at 6-23. The DEIS provides that under Alternatives 1 and 2 "up to 600 acre-feet" could be used to supplement instream flows through a Trust donation. *Id.* Under Alternative 3, "almost up to 300 acre-feet" could be used to supplement instream flows. *Id.* In other words, the amount of water available for donation to the Trust is dependent on the designed active storage capacity for the three action alternatives.

However, the DEIS states that because the amount of water stored in the Lake cannot exceed the storage quantity authorized by the water right, following IPID's request for a Trust donation, Ecology will determine the storage quantity authorized in the water right through the Trust donation process. DEIS at 6-21, n 22. According to the DEIS, "should that process indicate a Q_a less than 2,000 or 1,698 acre-feet, the storage allowed under the alternatives will be reduced, as would the maximum active storage capacity for the final design." *Id.* Thus, it seems that it is entirely unknown how much water will or could be donated to the Trust program to

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Refer to the Global Responses for Tentative Determination of Extent and Validity, Trust Donation, and Multi-fill Analysis. Additionally, response to comment O-9-21 provides more information on the distinction between the physical active storage volume and the cumulative annual active storage volume based in part on multi-fill as raised in this section.

These Global Responses describe the process for determining the quantity of water that may be available for donation to Trust, a process that follows the Final EIS. They also describe Ecology's review of the maximum physical volumes (up to 2,000 acre-feet) considered to be reasonable for the design alternatives considered in the EIS and used to analyze the potential impacts of these alternatives. Neither of these reviews includes a tentative determination of Extent and Validity of the water right.

Specifically, after the Draft EIS was issued, IPID submitted a formal Trust donation request to Ecology. Following issuance of the Final EIS, Ecology will conduct its review of the Trust donation as prescribed in RCW 90.42.080(4) and make a decision on what quantities to accept into Trust. Quantities in excess of the estimated 1,400 acre-feet currently required for irrigation use by IPID will be placed in Trust for instream flow purposes. The Final EIS considers an appropriate and reasonable range of active storage volumes under each alternative to analyze for potential impacts. The maximum physical active storage volumes considered for each alternative are up to 1,698 acre-feet for Alternative 3 and up to 2,000 acre-feet for Alternatives 1 and 2.

Refer to response to comment O-9-21 for additional explanation of how active storage and cumulative (multi-fill) volumes are calculated and used in the analysis. The multi-fill volume is appropriate to use for the RCW 90.42.080(4) analysis of the quantity of water actively stored and available for donation to Trust in the prescribed 5-year period. In addition, the active storage volume that is physically present in the lake can be reduced through shortening the intake pipe outlet as described in the Draft and Final EISs without necessitating any changes to the main design, if a future quantification (through adjudication or future water right action requiring Tentative Determination of Extent and Validity) results in an annual quantity that is less than the 2,000 acre-feet considered in this EIS.

As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology-approved monitoring plan will be developed in which IPID will monitor and

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report total annual storage and release volumes for instream flows as well as for IPID's irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered (2,000 acre-feet) regardless of whether practices in a given year involve multiple fillings or a single fill. The monitoring and reporting plan will also ensure that the Trust donation is managed properly in accordance with the Trust agreement.

Refer to the Global Responses for Trust Donation and Multi-fill Analysis for additional information.

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supplement instream flows. This uncertainty further calls into question Ecology's backwards approach of developing alternatives and completing the environmental analysis under SEPA *before* making any determination on the extent and validity of IPID's Eightmile Lake water right, which Ecology admits may ultimately require changes to the proposed alternatives.

Moreover, it is not clear when the DEIS is referring to active storage volume versus cumulative (multi-fill) storage volume for Eightmile Lake for purposes of describing how much water IPID requires, the current storage capacity, and what quantity of water may be available for instream flows. The discussion of the alternatives appears to be referring to active storage volume when evaluating the quantity of water available for donation to the Trust, DEIS at 6-23, but elsewhere, the DEIS refers to the storage quantities for the alternatives in terms of annual quantity, DEIS at 6-21, n 22. If the amount of water available for donation to the Trust is being described in terms of active storage volume, then the actual cumulative amount of water potentially available for instream flows should be much higher based on IPID's multi-fill analysis. How does 600 acre-feet of active storage volume translate into the amount of water dedicated to instream flow? How will Ecology determine the actual quantity of water available for donation to the Trust based on active storage volume if Ecology is simultaneously using the multi-fill analysis to determine the historic use of IPID's water right at Eightmile Lake?

Alternatively, if the DEIS is describing the amount of water available for donation to the Trust in terms of cumulative storage volume, then it is not clear why the potential donation amount is being limited to 300-600 acre-feet. If the multi-fill analysis is applied to the action alternatives, it is likely that the cumulative storage volume in Eightmile Lake will exceed 2,500 acre-feet in some years. The DEIS does not explain how IPID proposes to manage stored water that significantly exceeds its minimum required storage capacity of 1,400 acre-feet. Will the amount of water available for the Trust donation vary from year-to-year based on how much water is available for cumulative storage under a multi-fill analysis? Without a clear understanding of how Ecology will determine and define the amount of water available for donation to the Trust, it is difficult to understand how the potential Trust donation will benefit instream flows or impact other water users. As a result, the impacts analysis in the DEIS is not adequate.

ii. The DEIS does not specify whether the Trust donation will be permanent or temporary.

The DEIS does not specify whether the Trust donation from IPID would be a permanent or temporary donation. This is an important distinction that could significantly change the long-term impacts of the proposed alternatives. For example, Ecology's Policy 1010 – "Administration of the Statewide Trust Water Rights Program" provides that the terms of a temporary donation may be modified by the water right holder prior to the expiration of the donation without submitting a new donation form. Policy 1010, Sec. 5.1. If IPID's donation to the Trust is only temporary, how can Ecology ensure that the IPID will not subsequently alter the donation to reduce the quantity of water provided and thereby reduce the benefits of the project to instream flows? Additionally, if the donation is only temporary, what will happen with that portion of IPID's water right after the term of the donation expires? The DEIS does not explain

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Refer to the Global Response for Trust Donation.

After the Draft EIS was issued, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes for the life of the rebuilt dam and related infrastructure. Although the donation is technically temporary, it is tied to the life and existence of the infrastructure for the rebuilt dam so it will likely be for a long period of time (for example, the existing dam's life is reaching the 100 year mark). As part of the Trust donation process, IPID is also entering into a Trust Water Right Agreement, which will reiterate that the temporary Trust donation is for instream flow purposes only, must remain in place for the life and existence of the infrastructure of the rebuilt dam, and cannot be terminated sooner.

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or analyze the potential long-term environmental impacts that would result if IPID's water right reverted to IPID to be used for irrigation.

Sierra Club supports a donation of water to the Trust so long as it is a permanent donation and is explicitly conditioned to limit the use for instream purposes. See RCW 90.42.080(1)(a).

iii. The EIS should clearly explain how the water right be defined for purposes of the Trust donation.

The DEIS discusses the potential Trust donation from IPID in terms of acre-feet. DEIS at 6-23. As discussed above, the DEIS appears to be defining the amount of water available for donation to the Trust in terms of active storage volume. But, water rights for instream flow are not defined in terms of active storage volume. How will Ecology translate the measurement of active storage volume to a donation of water for instream flows? How can the Trust donation be defined in terms of acre-feet when the instream flow rules, and the trigger for determining whether junior users must curtail use, are based on cubic-feet-per-second?

Moreover, how can Ecology accept a donation of water from IPID in terms of acre-feet or storage capacity when IPID does not have a certificated water right that specifies any annual quantity or storage right? Ecology's Program Guidance for the Trust Water Rights Program provides that Ecology will not accept donations of permits, "which are not perfected water rights." Ecology Publication 22-11-012 at p.4. This would seem to apply to a donation of water from IPID that is defined based on IPID's unperfected and uncertificated 2,500 acre-feet of storage that was determined in the Adjudication Decree. Similarly, Ecology's process for permanent donations to the Trust require the applicant to file a quit claim deed conveying the water right to Ecology and provides that for a partial donation, "the deed should clearly delineate instantaneous and annual quantities so that each portion of the water right is clear." *Id.* at p.20. How could a quit claim deed for a donation of a portion of IPID's Eightmile Lake water right delineate instantaneous and annual quantities when no annual quantity is specified in the water right certificate?

What will be the other parameters of the portion of the water right that is donated to the Trust? Will the Trust donation be limited to the same period of use as IPID's water right? What happens to trust water once it enters the next downstream water? Does it become available for withdrawal? Will the trust donation create instream flow rights only in the Icicle Creek Stream Management Unit, or will the right extend to the Wenatchee River units at Peshastin and Monitor?

The answers to these questions necessarily affect the analysis of impacts and scope of reasonable alternatives. Ecology should provide more clarity on the feasibility and procedure for a Trust donation from IPID's Eightmile Lake water right.

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Refer to response to comment O-9-25. The quantity of water available for Trust has not yet been determined and will not be based on the active storage volume for the preferred alternative. Instead, it will be determined pursuant RCW 90.42.080(4). In addition, the total annual water volume actively stored and released by IPID will not exceed the maximum active storage quantities considered for the analysis of potential impacts under the EIS. As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology-approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flows as well as for IPID's irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered (2,000 acre-feet). The monitoring and reporting plan will also ensure that the Trust donation is managed consistent with the terms of the Trust Agreement.

The Ecology-approved monitoring plan described above in response to comment O-9-21 will be included as part of the Trust donation process and will require monitoring and reporting of storage and release volumes. Releases will be monitored through telemetry at the dam outlet in terms of flow rate, which can then be converted to volume for a given release duration to ensure the Trust donation releases remain within the quantity accepted into Trust, and the total releases remain within the maximum 2,000 acre-feet of actively stored water considered for potential impacts. In addition, the releases will be coordinated with Icicle Work Group (IWG) members, Icicle Strategy instream flow subcommittee, IWG co-conveners, and fishery co-managers. Coordination and decisions surrounding lake releases and flow management within Icicle Creek will be informed, in part, by a separate IWG process including a decision support tool being developed as part of the Icicle Strategy. See the Global Response for Trust Donation for additional information.

The comment raises questions on how an unperfected right could be donated to Trust. Water accepted into the Trust program under the Eightmile Lake water right will include perfected quantities under Certificate SWC1228 issued in 1939 and further described in response to comment O-9-15. As noted in response to comment O-9-26 and the Global Response for Trust Donation, IPID's request to donate water to Trust is on a temporary basis for the life of the rebuilt dam and related infrastructure.

Finally, as described in the Global Response, Ecology intends to manage this donated water instream from the outlet of Eightmile Lake to the confluence of Icicle Creek with the Wenatchee River in cooperation with the IWG.

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iv. The DEIS does not adequately analyze and disclose the reasonably foreseeable impacts of the proposed Trust donation on instream flows.

O-9-28

Given the uncertainties outlined above, it is difficult to understand how the proposed alternatives will actually benefit or impact instream flows in Icicle Creek. The DEIS states that instream flows for both the Icicle Creek Basin and the Wenatchee River are often not met, particularly in drought years. DEIS at 6-9. How will the donation from IPID change or impact this outcome? According to the multi-fill analysis, under a variety of modeled releases for a range of water years the minimum active releases at the dam exceed 1,400 acre-feet under all scenarios and the maximum releases are in the range of 1,950 to 2,041 acre-feet. Aspect 2022a at 7. If IPID has actually been storing and releasing as much as 2,000 AF of water from Eightmile Lake historically, but only requires use of 1,400 AF, will a trust donation actually result in any change in stream flows from current conditions?

O-9-28

Donating a portion of the Eightmile Lake water right to Trust for instream flow purposes allows Ecology, in cooperation with its Icicle Work Group partners, to manage the releases to benefit fish. Without accepting a Trust donation, Ecology lacks the authority to target releases for optimal instream benefit. Timing is important, and the ability to release water when it will most benefit fish is critical, particularly in response to climate change. Coordination and decisions surrounding lake releases and flow management within Icicle Creek will be informed, in part, by a separate IWG process including a decision support tool being developed as part of the Icicle Strategy. Also refer to the Section 2.6 (Dam Operation) of the Draft and Final EISs and the Global Response for Trust Donation.

O-9-29

The DEIS does not evaluate how often, if at all, instream flows may be met as a result of the Trust donation. Nor does the DEIS explain whether the amount of water available through the Trust donation will vary based on the total water availability in Eightmile Lake. In other words, will the Trust donation water be released in drought years, even if there is not enough water available to satisfy IPID's minimum 1,400 acre-foot requirement? The DEIS indicates that there will be no summer minimum flow release from the outlet pipe under any of the alternatives. DEIS at 4-24. This appears to indicate that even with the Trust donation, minimum instream flows will not be guaranteed. The DEIS also does not explain when the Trust donation water will be released for instream flow. Will the donated portion of the water right be released at the same time as water that is released for IPID's irrigation use, or will the Trust water be released only at the end of the season after IPID has exhausted its 1,400 acre-feet of storage? The DEIS does not explain whether instream flows will be improved year-round, during the summer months, or only during some shorter period of time as a result of the Trust donation. The DEIS does not include sufficient information to support its conclusion that the proposed alternatives will have substantial benefits to surface water resources.

O-9-29

Refer to the response to comment O-9-28 for information on how the releases for the Trust donation will be managed to benefit fish both in terms of timing and quantity. Releases will be independent from those required by IPID for irrigation purposes and would be accomplished by opening the valve remotely via automation on the low-level outlet at the lake. The overall timeframe for releases is limited to the season of use of the Eightmile Lake Water Right, Certificate 1228. Additional information on dam operation under all the design alternatives is presented in Section 2.6 of the Draft and Final EISs.

O-9-30

The DEIS does not reference any action-forcing mechanism for IPID to donate a portion of its water right to the Trust. Instead, the DEIS relies on IPID's intentions. DEIS at 6-2. How will Ecology ensure that IPID actually follows through with a donation to the Trust? Is there any requirement or binding agreement that IPID donate a portion of its water right? If IPID does not follow through with the donation, will Ecology ever make a tentative determination of the extent and validity of IPID's water right, or will Ecology proceed with approving the Eightmile Dam replacement project based on the assumption that IPID has a valid and perfected water right to store 2,500 acre-feet of water?

As described on page 6-2 of the Draft EIS, IPID has indicated that it needs 1,400 acre-feet of active storage capacity for irrigation and that any excess would be donated to Trust for the purpose of augmenting instream flows. In a year when less than the full donated quantity plus the 1,400 acre-feet for irrigation is available for release from the lake, then IPID's 1,400 acre-feet for irrigation will be fully satisfied prior to releasing any water under the Trust donation for instream flow. Also refer to the Global Response for Trust Donation for additional information.

O-9-31

Sierra Club has serious concerns about the lack of clarity and certainty surrounding IPID's water right and the proposed Trust donation, as well as Ecology's mis-ordered approach of designing alternatives that are premised on these uncertainties. Sierra Club is supportive of improving instream flows through a Trust donation, but only if all available water in excess of IPID's minimum requirement of 1,400 acre-feet is permanently donated to supplement instream flows.

O-9-30

Refer to Global Responses for Tentative Determination of Extent and Validity and Trust Donation.

Further, the results of this review will be part of a final decision on the requested Trust donation and will follow completion of the EIS process.

The comment raises the question whether up to 2,500 acre-feet could be stored at a new proposed dam. The maximum quantity is limited to 2,000 acre-feet of actively stored water as this is the maximum quantity considered

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	<p>for impacts under the EIS. Refer to Section 1.10.1 of the Draft and Final EISs. Additionally as described in Sections 2.6 and 6.5 of the Draft and Final EISs and in the response to comment O-9-27, an Ecology-approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flows as well as for IPID’s irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered (2,000 acre-feet). In this way, the maximum design volume for the alternatives (up to 2,000 acre-feet) considered in the evaluation of potential impacts of the project would not be exceeded as part of the actively stored and released water at the lake. Additionally, the monitoring plan ensures that the Trust donation quantities are managed properly and that any excess water would be allowed to pass through the lake as natural flow without being actively managed and released for beneficial use.</p>
O-9-31	<p>Refer to the Global Responses for Trust Donation and Tentative Determination of Extent and Validity, as well as responses to comments O-9-21, O-9-25, and O-9-27.</p>

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IV. The EIS and alternatives should be based on an accurate and clear understanding of IPID's private existing rights within the Special Warranty Deed area as determined at the time the area was designated as wilderness.

A. Regulatory Background

The Alpine Lakes Wilderness area is regulated pursuant to the 1964 Wilderness Act (PL 88-577), the Alpine Lakes Area Management Act of 1976 ("ALAMA") (PL 94-357), and the Alpine Lakes Area Land Management Plan ("ALAMP"). The ALAMA designated the Alpine Lakes Area as wilderness, intended wilderness (lands to be added to the wilderness when intermingled private lands were acquired), and established a management unit encompassing the entire Alpine Lakes Area to be managed by a single management plan. DEIS at 3-6. The legislation recognized that there were valid existing rights within the area, which included Eightmile dam and inholdings owned by the Icicle Irrigation District (IID). *Id.* Five years later in 1981, the Forest Service published the ALAMP which guides the management of the Alpine Lakes Wilderness for recreation and economic utilization. *Id.* Finally, 9 years later, the SWD was executed in 1990 between the Forest Service and IPID, which detailed and reserved IPID's private existing rights.

The Wilderness Act defines wilderness as being free from permanent improvements and protected to preserve the area's natural conditions. 16 U.S.C. § 1131(c). More specifically, wilderness appears substantially untouched by humans and provides outstanding opportunities for solitude or a primitive and unconfined type of recreation. *Id.* Section 4(b) of the Act states that the relevant agency is responsible in administering a wilderness area for the purpose of preserving the area's wilderness character. 16 U.S.C. § 1133(b). The Wilderness Act categorically prohibits structures, permanent roads, motorized equipment, and commercial enterprises subject to two exceptions: a private rights exception and an administrative needs exception. 16 U.S.C. § 1133(c). These exceptions should be construed narrowly. *See High Point, LLP v. Nat'l Park Serv.*, 850 F.3d 1185, 1197 (11th Cir. 2017) (stating the exceptions to the section 4(c) prohibitions are "subject to only very limited, narrow exceptions"); *see Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1088 n.8 (9th Cir. 2014) (noting that Congress did not mean for the existing private rights exception to be a "crystal ball" allowing all possible uses existing before the withdrawal to continue indefinitely.).

The ALAMA directs the Forest Service to "administer in accordance with the provisions of ALAMA and with the provisions of the Wilderness Act...whichever is the more restrictive" lands acquired and designated as "wilderness" or "intended wilderness," Pub. L. No. 94-357, 90 Stat. 906 § 3(c). The Secretary "shall administer the Federal lands in the management unit in accordance with the laws, rules, and regulations applicable to the national forests in such a manner as to provide for the management of all of the resources of the management unit." *Id.* at § 3(b). The Secretary shall prepare a wilderness management plan for the Alpine Lakes Area. *Id.* at § 5. The ALAMP is the management plan that provides the management objectives and directives for the Alpine Lakes Area. The Forest Service does not have the authority to administer the lands so acquired in a manner inconsistent with or less restrictive than the Wilderness Act. In addition, the Forest Service cannot override the Wilderness Act or the Alpine

O-9-32

As described in Section 1.11 of the Draft and Final EISs, the Forest Service will review the proposed action under NEPA. IPID developed three design alternatives that were evaluated through this SEPA review process. The SEPA process will allow the Forest Service to consider a well-developed proposed action.

Once the Forest Service receives IPID's preferred dam proposal, it will assess whether the proposed actions are consistent with the rights that IPID reserved in the Special Warranty Deed, which defines the extent of IPID's existing private rights under section 4(c) of the Wilderness Act. The Forest Service will assess the consistency of IPID's proposal with the direction in the Alpine Lakes Area Land Management Plan as part of its NEPA analysis.

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Lakes Area Management Act as part of its land acquisition of non-federal lands within the wilderness and intended wilderness.

The Special Warranty Deed (“SWD”) was authorized by the direction of the Wilderness Act and the ALAMA, pursuant to the decisions reached in the Alpine Lakes Area Acquisitions Final EIS, 1979.⁸ These statutes allow private parties to reserve easements and protect existing private interests and access while also uniformly allowing the Forest Service to regulate the use of reservations and easements. Under the SWD the Irrigation District granted all property rights in the land to the U.S. subject to certain specified rights which were reserved in the SWD, including the right to maintain and operate the Eightmile Lake dam.

The SWD grants IPID certain specified rights within the Wilderness Area. These rights include a nonexclusive perpetual easement across, through, along, and upon the property for the purpose of maintenance, repair, operation, modification, upgrading, and replacement of all facilities presently located in and upon the property. Exhibit F at p.2. The deed permits the grantor to exercise these rights by any means reasonable for the purposes described, including but not limited to the use of motorized transportation, equipment, and aircraft. *Id.* Further, in performing maintenance, repair, operation, modification, upgrading, and replacement of facilities located in or upon the property, the grantor will not without written consent of the Forest Service, materially increase the size or scope of the facilities. *Id.* In addition, IPID maintains the right to regulate water level of all facilities located upon the property. *Id.* Finally, the deed grants IPID the right to overflow and inundate the bed and shore of Colchuck, Eight Mile, and Klonauqua lakes and reserves all other water rights in favor of IPID. *Id.* at 3.

B. The DEIS does not provide sufficient information to determine the scope of IPID’s “existing private rights” under the Special Warranty Deed.

The SWD reserves IPID certain rights that existed prior to the establishment of the Alpine Lakes Area as wilderness. Under the SWD, IPID may exercise certain rights and nonconforming uses to the extent indicated in the deed. The Special Warranty Deed Area comprises parcels that now exist within the Alpine Lakes Wilderness. DEIS at 1-2. More specifically, the SWD overlaps with the south and northeast sides of Eightmile Lake and adjoining upland habitats. *Id.* at 8-13.⁹ Ecology should evaluate and describe the extent of IPID’s “existing private rights” reserved in the SWD in order to fully evaluate whether the proposed alternatives are consistent with the Wilderness Act.

⁸ Additional authority for federal land acquisition is provided in the Weeks Act, General Exchange Act, and FLPMA. The General Exchange Act allows the Forest Service to exchange forest service land for private land subject to reasonable regulations of the Forest Service. 16 U.S.C. § 486. The Weeks Act allows the Forest Service to exchange land in the public interest subject to Forest Service laws and regulations. 16 U.S.C. § 518. Finally, FLPMA provides the Secretary with the authority to acquire lands through exchange when it is in the public interest subject to applicable laws, rules, and regulations. 43 U.S.C. § 1716.

⁹ See also *Eightmile Special Warranty Deed Parcels*, <https://fortress.wa.gov/ecy/ezshare/ocr/eightmile/EightMileSWD.pdf>.

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The locations of the Special Warranty Deed parcels are depicted in Figure 1-2 of the Draft and Final EISs. Additionally, a copy of the Special Warranty Deed is included in Appendix E of the Final EIS.

IPID's rights reserved through the Special Warranty Deed are described in Chapter 3 of the Draft and Final EISs. Once the Forest Service receives IPID's preferred proposal, it will assess whether the proposed actions are consistent with the rights that IPID reserved in the Special Warranty Deed, which defines the extent of IPID's existing private rights under section 4(c) of the Wilderness Act. The Forest Service will assess the consistency of IPID's proposal with the direction in the Alpine Lakes Area Land Management Plan as part of its NEPA analysis.

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The original dam was completed in 1939 and provided gravity draw down of the lake of 25 feet. Exhibit G (Aspect Consulting, Review of Eightmile Lake Storage Authority (2014)) at 4. The structure included a 25-foot-deep cut in the outlet channel to hold a creosoted wood stave pipe 30 inches in diameter, a standard reservoir cast iron gate embedded in concrete, and a concrete cut-off wall placed in channel approximately 50 feet down the stream from the control gate. *Id.* Drawings of the dam from IPID's files and Ecology's Dam Safety files show two dams, the main impoundment and a second dam incorporating the spillway structure. *Id.*¹⁰ At the time IPID's water right included a water diversion rate of 25 cfs and a storage amount of 2000 acre-feet. *Id.* at 3. Initially the dam was intended to increase the height of the lake to 4,681 feet but was redesigned during construction to eliminate the additional storage, only utilizing the maximum historic water elevation of 4,671 feet. DEIS at 7-2. Other dam structures included a flow-control notch with insets for "stop logs," wing walls, and a spillway constructed of stone and concrete masonry, an earthen fill embankment to backfill the excavated area and connect structures to the natural earthen embankment, and low-level outlet pipe with a water-control gate at the upstream end. *Id.* at 7-2–7-3. It also appears that the inlet and outlet pipe were modified over the years. Aspect 2022a, Declaration of Tony Jantzer, at 24–25.

It's unclear from the DEIS and other supporting documents what the specifications of the dam—including specific measurements such as height, width, and length of the structural features—were at the time the SWD was granted. The FEIS should provide a clear, detailed discussion of the dam's dimensions and footprint as well as the length and size of the inlet and outlet pipe at the time of the land exchange. Without this information, there is no way for Ecology or the Forest Service to determine the extent of IPID's private existing rights and whether the proposed alternatives comply with the SWD.

I. The SWD does not authorize a permanent expansion of the dam.

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All of the action alternatives in the DEIS will increase the size and capacity of Eightmile dam. More specifically, Alternative 2 will triple the length of the primary spillway, double the length of the secondary spillway, and increase the height of the secondary spillway. Alternative 1 will double the length of the secondary spillway, and increase the elevation of the primary and secondary spillways. Alternative 3 will double the length of the secondary spillway and increase the elevation of the secondary spillway. In addition, all of the proposed action alternatives involve the use of concrete at a deeper elevation below the surface as compared to the current dam, which will restrict the natural flow of water from the Lake into Eightmile Creek. DEIS at 5-8–5-9. Although the DEIS never explicitly states that IPID's rights include permanent expansion of the dam, the document implicitly makes that assumption, given that all of the alternatives increase the size and footprint of the dam.

The ongoing maintenance of the dams is likely permissible under the Wilderness Act as an existing private right. *See Wilderness Watch and Friends of Clearwater v. King*, 2013 U.S.

¹⁰ The document notes it's unclear if the drawing is of the proposed dam or is an as-built, and that the extent to which the dam has been modified since original construction is unknown. *Id.* at 4. By the 1995 inspection after the SWD was executed, there was no second dam and the spillway was incorporated into the main impoundment dam. *Id.* Further, the drawing indicated a 36-in diameter reinforced concrete pipe or stone conduit discharge pipeline. *Id.*

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IPID's rights reserved through the Special Warranty Deed are described in Chapter 3 of the Draft and Final EISs. A copy of the deed is included in Appendix E of the Final EIS. The Special Warranty Deed acknowledges IPID's right to maintain the dam to be able to maintain its existing water right.

The Eightmile Dam project is not a "water expansion project." There is no intention to expand the existing water right. The amount of water use under the Eightmile Lake water right is limited to the extent of the right and no more. As described in Section 1.4 of the Draft and Final EISs, the goal of the dam restoration project has three objectives:

- Restore the storage capacity of Eightmile Lake so that it meets IPID's irrigation and storage needs under its existing water rights.
- Comply with DSO regulations for a High Hazard Dam.
- Provide additional water to enhance instream flow volumes in Icicle Creek and to the extent possible, time dam outflows to meet fish utilization needs.

The third objective references additional water to enhance instream flow volumes. However, this "additional water" is in reference to the requested Trust donation. The total water use (including for both irrigation and instream flow under the Trust donation) still must fall within the limits of IPID's existing water right. Refer to the Global Responses for Tentative Determination of Extent and Validity, Relinquishment, and Trust Donation for additional information.

Ecology, Forest Service, and IPID have been working on developing the project alternatives and provided feedback throughout the preparation of the Draft and Final EISs. As described in Section 1.11, the Forest Service will conduct a NEPA analysis and authorization of the project.

Once the Forest Service receives IPID's preferred proposal, it will assess whether the proposed actions are consistent with the rights that IPID reserved in the Special Warranty Deed, which defines the extent of IPID's existing private rights under section 4(c) of the Wilderness Act. The Forest Service will assess the consistency of IPID's proposal with the direction in the Alpine Lakes Area Land Management Plan as part of its NEPA analysis.

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Dist. LEXIS 92344, at 17-18 (D. of Montana 2013) (finding that repairing an existing privately owned dam in a wilderness area served the purpose of Wilderness Act given the risk of flooding to the Wilderness area). Even more, the dam is a structure or installation that falls within the existing private rights exception. 16 U.S.C. § 1133 (“subject to existing private rights,” the Act prohibits “commercial enterprise,” “any structure or installation,” and the use of “motorized equipment” within wilderness); *see also High Sierra Hikers Ass’n v. United States Forest Service*, 2006 U.S. Dist. LEXIS 41842, at 31 (E.D. Cal. 2006) (stating that dams are “structures or “installations” within the meaning of the Wilderness Act).

However, IPID’s existing private right to maintenance, repair, operation, modification, upgrading, and replacement of facilities within the SWD does not extend to a permanent expansion of the dam. The DEIS’s reliance on the assumption that IPID’s existing private rights under the SWD permits the district to permanently expand Eightmile dam as part of its repair plans conflicts with the express language of the deed. The deed’s language grants IPID the right to regulate the water level of all facilities located within the SWD area. DEIS at 3-2; Ex. F. Further, the deed states that “in performing, maintenance, repair, operation, modification, upgrading and replacement of facilities located in or upon the property described herein, the Grantor will not without prior written consent of the Forest Service [...] materially increase the size or scope of the facilities.” *Id.*

Ecology cannot authorize permanently increasing the size of Eightmile dam given that the deed states that IPID may not materially increase the size and scope of facilities without permission from the Forest Service. *See High Point, LLP v. Nat’l Park Serv.*, 2015 U.S. Dist. LEXIS 24132, at 20–21 (finding that extending plaintiff’s existing rights to relocating a materially identical dock conflicted with the terms of the deed, which stated that the plaintiff “cannot perform any new construction or change the topography of the land without having obtained permission in writing of the park service.”). The DEIS neither confirms whether the Forest Service has approved any of the proposed activities or alternatives nor does it explain how permanently expanding the size and footprint of the dam is consistent with the language of the deed and the Wilderness Act. Therefore, without such explanation or approval, IPID’s rights to repair and regulate water level of all facilities do not extend to permanently increasing the size of the dam.

ii. The SWD does not authorize the proposed extension of the inlet and outline pipes.

The action alternatives in the DEIS will replace the low-level outlet pipe/siphon and extend the pipe beyond the new dam structure. All three alternatives will also extend the inlet pipe further into the lake. DEIS at 2-7, 2-11, and 2-15. The original siphon pipe is approximately 50 feet long and 30 inches in diameter. Aspect 2022a, IPID Declaration of Tony Jantzer, at 24. Under Alternative 1, a new 30-in diameter low-level outlet pipe/siphon will extend from the inlet approximately 150 feet west of the new dam structure to an outlet in the Eight Mile creek channel approximately 314 feet downstream of the new dam structure. DEIS at 2-6. Alternative 2 would have the same outlet pipe/siphon design as alternative 1. *Id.* at 2-10. The DEIS’ description of Alternative 3 does not mention whether the outlet pipe/siphon will be extended. *Id.* at 2-14. In addition, the DEIS does not clarify whether new outlet pipe will extend an additional

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Project elements proposed under the action alternatives would be constructed completely within the Special Warranty Deed parcels as shown on Figures 2-4, 2-6, and 2-8. Figures 2-4, 2-6, and 2-8 show the locations of the pipe inlet and outlet structures.

The inlet pipe and outlet structure for Alternative 3 is identical to Alternative 1.

Sections 2.4 and 2.5 of the Final EIS have been revised to provide additional clarification of the outlet pipe for Alternatives 2 and 3.

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O-9-35	<p>Sierra Club – WA Chapter Comments on Eightmile Dam DEIS June 5, 2023</p> <p>150 feet to accommodate the new dam structure. Further, it is hard to discern from the diagrams provided for each alternative whether the outlet pipe extends an additional 150 feet, but it is clear that the outlet pipe will need to be rerouted and likely lengthened to accommodate a larger dam structure. <i>Id.</i> at 2-7, 2-11, and 2-15</p>	
O-9-36	<p>IPID's existing private rights to repair, maintain, and regulate water levels at all facilities do not extend to a permanent extension of the inlet and outlet pipe for the same reasons as stated for the permanent expansion of the dam structure. Again, the DEIS's assumption that IPID's existing private rights under the SWD permits the district to permanently extend the outlet and inlet pipe as part of its repair plans conflicts with the express language of the deed. The DEIS neither provides any explanation of how IPID's rights to maintain and operate the dam includes extending the length of the inlet and outlet pipe nor does it address how doing so does not conflict with the language of the deed itself. IPID's rights to repair and regulate water level of all facilities does not extend to permanently extending the lengths of the inlet and outlet pipes.</p> <p>Moreover, permanently extending the inlet and outlet pipe goes beyond the rights and uses established at the time the area was designated as Wilderness. IPID's existing private rights do not include an extended inlet and outlet pipe to accommodate a permanently expanded dam structure, the extension of which did not exist at the time the area was designated as wilderness. Further, expanding IPID's existing private rights to include extending the inlet and outlet pipe conflicts with court interpretations to construe the existing private rights narrowly.</p> <p>iii. IPID does not have authority under the SWD to lower the lake beyond current or historic levels.</p> <p>The DEIS's listed action alternatives permit the water surface level of Eight Mile Lake to be drawn down an additional 4 feet from 4640 feet to 4636 feet. DEIS at 2-2. Further, all the action alternatives allow the total lake area at low water surface level to decrease nearly 2.5 acres, from 41.2 acres to 38.7 acres. <i>Id.</i></p> <p>IPID's private existing rights do not include actions that take place outside of the SWD area. The total area and volume of the lake extend beyond the SWD area. Therefore, lowering the lake beyond current levels is geographically outside the SWD area and goes beyond IPID's existing private rights. Since the majority of the lake area is outside the geographical scope of the SWD parcels, the Forest Service may only authorize the lowering of the lake beyond current levels to the extent necessary. <i>See Wilderness Watch, Inc. v. U.S. Fish and Wildlife Serv.</i>, 629 F.3d 1024, 1037 (9th Cir. 2010) (holding that the FWS provided no basis for why the water structures were necessary and the FWS' evidence suggested that many other strategies could have met the goal of conserving bighorn sheep without constructing additional structures).</p> <p>Lowering the lake beyond current levels likely violates section 4(b) of the Wilderness Act unless the Forest Service can demonstrate that doing so is necessary and the only viable means to repair the dam and meet safety and output flow requirements. Such a showing of necessity is unlikely, especially if the evidence demonstrates there were other means of repairing the dam and meeting safety requirements that have less adverse impacts on the natural resource values of the wilderness area.</p>	<p>O-9-36 A copy of IPID's Special Warranty Deed is included in Appendix E of the Final EIS. All structures of the proposed dam replacement would be located within the Special Warranty Deed parcels.</p> <p>Ecology, Forest Service, and IPID have been reviewing the project alternatives and provided feedback throughout the preparation of the Draft and Final EISs. As described in Section 1.11, the Forest Service will conduct a NEPA analysis and authorization of the project.</p> <p>O-9-37 The lake level fluctuates within each summer season as well as from year to year. As shown on Table 2-1 in the Draft and Final EISs, Alternatives 1 and 2 actually restore the full lake elevation to its historic high level of 4,671 feet, while Alternative 3 would keep the full lake elevation at its current elevation of 4,667 feet. All three alternatives would allow a low lake elevation of 4,636 feet, 4 feet lower than the current estimated low level, although the current low level is only an approximation due to continued seepage under the dam after the current low-level outlet pipe is exposed. Therefore, the current low lake elevation is likely actually lower than 4,640 feet.</p> <p>See response to comment O-9-32 regarding existing rights within the Special Warranty Deed and Forest Service administration of acquired lands consistent with the Wilderness Act and the Alpine Lakes Area Management Act.</p> <p>Additionally, see response to comment I-220-46 regarding the Forest Service's preparation of a Minimum Requirements Analysis and actions that require the agency's authorization.</p>
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The Forest Service will conduct their own NEPA review of the project, as described in Section 1.11 of the Draft and Final EISs. The project will not be permitted to start construction until it has undergone Forest Service review and authorization.

Once the Forest Service receives IPID's preferred alternative, it will assess whether the proposed actions are consistent with the rights that IPID reserved in the Special Warranty Deed, which defines the extent of IPID's existing private rights under section 4(c) of the Wilderness Act. The Forest Service will assess the consistency of IPID's proposal with the direction in the Alpine Lakes Area Land Management Plan as part of its NEPA analysis.

IPID rights reserved through the Special Warranty Deed are described in Chapter 3 of the Draft and Final EISs. The Special Warranty Deed acknowledges IPID's right to maintain the dam to be able to maintain its existing water right. For more information on IPID's water right, see the Global Responses for Water Rights.

Regarding the use of motorized access, see the Global Response for Helicopter Use in Alpine Lakes Wilderness and Section 2.8 of the Draft and Final EISs, which details alternative construction methods considered but not carried forward, including primitive means such as the transportation of equipment and materials via pack animals.

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Even if the SWD did apply to the entire lake, IPID's right to regulate the water levels of all facilities must be limited to the conditions that existed at the time the SWD was granted and by other rights granted in the SWD. Since at the time IPID was granted the SWD, the district could only lower the lake levels to 4,640 feet, that level marks the lower limit of IPID's right to regulate water levels. Lowering the lake level any lower would require IPID to expand the scope of the facilities, which exceeds their existing private rights and at minimum requires Forest Service approval.

Absent an existing private right, the only other exception to the Wilderness Act's provisions is the administrative needs exception. Given that entire lake extends beyond the SWD area and therefore does not fall under IPID's existing private rights, the IPID would need to meet the administrative needs exception to permissibly lower the lake level. To properly invoke an exception to prohibited conduct in a wilderness area, an agency must make an adequately reasoned finding of necessity. *Wilderness Watch v. Iwamoto*, 853 F. Supp. 2d 1063, 1075 (W.D. Wash. 2012). A generic finding of necessity does not suffice. *Id.*

Nothing in the DEIS suggests that the Forest Service has approved lowering the lake levels beyond current levels. However, should it do so, the Service would have to make a sufficient finding that such an action is necessary to advance the goals of the Wilderness Act. *See Id.* at 1076 (concluding that the Forest Service's chosen method for repairing the lookout were more than necessary to achieve the goals of the Wilderness Act; it "went too far [...] when there were less extreme measures that could have been adopted, such as relocation of the lookout outside the wilderness area, which would have had less impact on the "wilderness character" of the area but still furthered the goal of historical preservation."). Without a sufficient justification, the Wilderness Act prohibits the lowering of the lake level especially when less invasive and intrusive alternatives exist to meet IPID's repair needs.

iv. IPID's exercise of its "existing private rights" must be consistent with the Wilderness Act and ALAMP.

IPID's existing private rights under the SWD are subject to reasonable regulations by the Forest Service. The Wilderness Act states "except as otherwise provided in this chapter, each agency administering any area designated as wilderness shall be responsible for preserving the wilderness character of the area, and shall so administer such area for such other purposes for which it may have been established to preserve its wilderness character." 16 U.S.C. § 1133(b). The Service's regulations state that in conveyances of lands "where owners reserve the right to occupy and use the land for the purposes of [...] industry [] or commerce" the reservations shall be made subject to Forest Service regulations, which "shall be expressed in and made a part of the deed." 36 C.F.R. § 251.17. More specifically, "[t]he grantor [...] shall comply with the National Forest laws and regulations. *Id.* Where the grantor reserves "water and related rights," all "dams and supplemental structures, impounding or controlling more than 10 acre-feet of water or with a head in excess of 6 feet, shall be approved by the Regional Engineer of the Forest Service before construction shall begin." 36 C.F.R. § 251.19(f).

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The SWD specifically incorporates these Forest Service regulations, including the explicit direction that “the grantor [...] shall comply with the National Forest laws and regulations[...].” 36 C.F.R. § 251.17(d); *see* Ex. F at p.2. This includes ALAMA, the ALAMP, and the Wilderness Act. Therefore, the Forest Service may reasonably limit or regulate the use of these reserved interests to meet its management goals and the grantor holding those interests must follow the Forest Service’s regulations and laws.

Under the 1981 Alpine Lakes Area Management Plan, “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.” ALAMP, at 162. The ALAMP only permits the expansion of water diversions using motorized equipment when an environmental analysis indicates that that use of motorized equipment is necessary. The DEIS notes that the Forest Service will prepare an EA but the FEIS should also acknowledge that such analysis is required to comply with the ALAMP and the Wilderness Act. Until the Forest Service completes an EA on the need for motorized equipment, the dam structure cannot be expanded.

The ALAMP also states that “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.” *Id.* at 164. Further, “no roads [...] water maintenance structures, reservoirs or other improvements will be permitted, except as authorized under section 4(d) and 5(a) of the Wilderness Act. *Id.* at 162. The DEIS should acknowledge that the Forest Service must resolve how the dam repairs will meet the exception laid out in 4(d) in order to determine the feasibility of the proposed alternatives.

Further, the Forest Service’s management objectives for administration of the Alpine Lakes Wilderness Area are “to preserve the integrity of the Wilderness resource; [...] to conduct necessary administrative activities most protective of the Wilderness resource and with minimal impact on and from adjacent non-Wilderness lands.” *Id.* at 157. In carrying out those objectives, “all administrative activity will be conducted to minimize impacts on the Wilderness environment and the experience of users.” *Id.* at 58. Therefore, permanently expanding the dam beyond its current footprint is likely not consistent with the Forest Service’s mandate to manage the area as a wilderness. *See High Point LLP*, 750 F.3d at 1198 (limiting the existing private right to the structure that existed at the time of designation and finding that expansion or relocation violated the Wilderness Act). The expansion of the dam contradicts the Forest Service’s directive to preserve the wilderness character of an area when other less invasive alternatives exist that achieve the same administrative needs and purposes. The FEIS should consider an alternative that maintains the same size, design, and output as the current dam structure and has minimum impacts on the wilderness character of the area.

Similarly, extending the inlet and outlet pipes beyond the current length and lowering the lake level beyond current levels are not consistent with the ALAMP and Wilderness Act’s directive to preserve the wilderness character of the Alpine Lakes Area. Other alternatives are available that would still meet the purpose and need of the dam repair project and minimize the impacts on the wilderness environment. Again, the FEIS should consider an additional

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The design alternatives were developed to meet the project objectives outlined in Section 1.4 of the Draft and Final EISs. The dam will be rebuilt on IPID’s Special Warranty Deed parcel. As noted in Section 1.11, the Forest Service will be reviewing the project under NEPA, and has been consulted and involved throughout the SEPA process. Section 2.8.1 describes alternative dam configurations that were considered but not carried forward.

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	Sierra Club – WA Chapter Comments on Eightmile Dam DEIS June 5, 2023	O-9-40	Refer to the Global Response for Lake Level and Bathtub Ring.
O-9-39	alternative that maintains the same size and length as the current inlet and outlet pipe, maintains the same minimum lake level, and has minimum impacts on the wilderness character of the area.	O-9-41	Comment noted.
	C. The DEIS does not adequately analyze the proposed alternatives’ visual and auditory impacts on the area’s Wilderness character.	O-9-42	Refer to Section 11.6 of the Draft and Final EISs and the Global Response for Visual Resources for more information on visual-related mitigation measures. Refer to the Global Response for Lake Level and Bathtub Ring for additional information about changing lake levels. Impacts on wilderness character for the operation of each alternative are described in Section 3.5 of the Draft and Final EISs.
O-9-40	Each of the action alternatives will have greater aesthetic impacts than the no action alternative. First, all of the alternatives allow the total lake volume to be drawn down 4 feet lower than the existing conditions. DEIS at 3-17. ¹¹ In addition, the total lake area at low water surface elevation will be reduced by roughly three acres from 41.2 to 38.7 acres. The decrease of total lake volume and area at low water surface elevation will likely create and/or exacerbate an unsightly bathtub ring effect.		
O-9-41	Second, all of the alternatives would increase the size and visibility of the dam, making the structure more conspicuous and less discrete. <i>See</i> DEIS at 11-19–11-23, 11-25, 11-27, 11-28–11-29 (for a visual comparison between the existing dam and the proposed reconstruction alternatives). The DEIS states that Alternative 1 “would facilitate more manipulation of water levels than would the other action alternatives, and would include more conspicuous man-made elements in the dam, particularly the inflatable gates.” <i>Id.</i> at 3-1. The DEIS also states that Alternative 2 will require more “material and time to construct, and have a larger footprint area than the other action alternatives, particularly the secondary spillway that would be armored with rock and must be kept clear of trees.” <i>Id.</i> In addition, Alternative 2 will triple the length of the primary spillway from 60 feet to 180 feet and increase the primary spillway elevation by four feet. <i>Id.</i> at 2-2. Alternative 3 would have a similar footprint to Alternative 1 and fewer conspicuous man-made elements. <i>Id.</i> at 3-1. In addition, all of the alternatives will double the secondary spillway length from 12 feet to 24 feet. <i>Id.</i>		
O-9-42	The Wilderness Act defines wilderness as appearing substantially untouched by humans and states that wilderness areas should be managed to preserve their wilderness character. 16 U.S.C. § 1131(b)-(c). The DEIS notes that the Interagency Wilderness Monitoring Team describes wilderness character as being “primarily free from modern human manipulation and impact, with personal experiences in natural environments relatively free from the encumbrances and signs of modern society.” DEIS at 3-3. The DEIS acknowledges that “impacts would be considered significant if the project would substantially increase trammeling in the Alpine Lake Wilderness, reduce naturalness, increase development, or reduce opportunities for solitude and unconfined recreation.” <i>Id.</i> at 3-6.		
	However, in analyzing the operational effects of Alternative 1 on wilderness character the DEIS states that the “dam structure would be more conspicuous, with prominent wing walls, and not made with native stone as portions of the current dam are.” <i>Id.</i> at 3-18. Yet the DEIS concludes that Alternative 1’s impacts to wilderness character would not be significant because the effects are similar to those of the current operations. <i>Id.</i> Ecology provides no explanation or analysis on how Alternative 1’s visual and additional noise impacts from the motor-powered		
	¹¹ Lake full for no action is 4,667 feet and low WSEL without pumping is 4,460 feet, a difference of 27 feet. The difference is 35 feet for Alternatives 1 and 2, and 31 feet for Alternative 3, all of which are 4 to 8 feet more than the no action alternative.		

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	Sierra Club – WA Chapter Comments on Eightmile Dam DEIS June 5, 2023	O-9-43	IPID's Special Warranty Deed provides provisions that allow IPID to maintain the dam within the wilderness in order to utilize their existing water right.
O-9-42	inflatable gates will be similar to those of the current operations. The DEIS provides similar visual impacts for Alternatives 2 and 3 with identical conclusory explanations for why Alternatives 2 and 3 won't have a significant impact on the area's wilderness character. <i>Id.</i> at 3-19–3-20. The increased footprint and conspicuousness of the dam in the proposed action alternatives indicate at least increased development, reduced naturalness, and reduced opportunities for solitude and unconfined recreation. Furthermore, the DEIS provides no analysis or explanation on how the lowering of the lake level and subsequent bathtub ring effect of all the action alternatives will impact the wilderness character.		Under Alternatives 1 and 2, visual impacts from the dam reconstruction would result in a dam with a longer spillway and higher crest; however, due to the presence of the current dam and proposed mitigation measures, these impacts are expected to be less than significant. The dam would be located entirely within the Special Warranty Deed parcels. Any areas disturbed within the Special Warranty Deed parcels during construction would be restored following construction to align with the Visual Quality Objective of Preservation within the wilderness. No areas within the wilderness outside of the Special Warranty Deed parcels would be disturbed. Refer also to the Global Response for Visual Quality and the response to comment O-9-44.
	Additionally, the DEIS fails to evaluate the impact of the Eightmile Dam project as it relates to the Forest Service Visual Qualitative Objectives (VQO) and National Forest System Visual Resource Management Objectives (VRMO). Per the ALAMP, the visual quality objectives that apply to Wilderness are defined by the VQO for "Preservation", that reads as follows: "Allows for only natural changes. Management activities except for very low visual impact recreation facilities, are prohibited. This objective applies to specially classified areas including Wilderness." Appendix A, 'Management Direction Common to All Alternatives, Visual Quality,' Alpine Lakes Area Management Plan Final EIS, at 139 (1981); Preferred Alternative Map, Alternative E, Alpine Lakes Area Management Plan Final EIS (1981).		Additionally, construction has been limited to the greatest extent possible and would not utilize the entirety of the Special Warranty Deed parcels. Refer to Figure 2-13 in the Draft of Final EISs for the size of the dams and the estimated staging footprint within the Special Warranty Deed area. The Forest Service, including a visual resource expert, has reviewed the visual resource evaluations presented in the EIS. As discussed in Section 1.11 of the Draft and Final EISs, the Forest Service will conduct their own NEPA analysis and authorization of the project before it is constructed.
O-9-43	Therefore, any management activities within the Alpine Lakes Wilderness on federal lands must meet the VQO for "Preservation" without exception. The SWD parcels near Eightmile Lake are federal land and VQO requirements apply to portions of the parcel outside of those areas reserved by the SWD for reconstruction, operation, and maintenance of Eightmile dam. It is not expected that the entire SWD parcel will be required to fulfill activities reserved by the SWD. The DEIS must define the extent of this portion of the SWD parcel. The balance of the Eightmile Lake SWD parcels, while also federal land, must be treated with due consideration for its location contiguous to Wilderness lands. VQO requirements should be applied to the balance of these SWD parcels, to the greatest extent practicable. The DEIS should, to the greatest extent possible, address how the current project and the alternatives being evaluated meet, or don't meet, the VQO of Preservation for unaltered and altered lands. Forest visitors will primarily view the proposed action from Wilderness areas; therefore, it is reasonable that the DEIS honor the intent of Wilderness and its values. The DEIS should address the alternatives impacts using the USFS Visual Resource Management System so that this evaluation will be consistent with other evaluations for proposed actions within the Wilderness.	O-9-44	The visual resources analysis included an inventory and analysis of visual resources at Eightmile Lake and the surrounding areas, as described in Section 11.3.1 of the Draft and Final EISs. Figures 11-3 through 11-10 depict existing conditions at various points around the lake.
	I. The National Forest System Visual Resource Management Objectives (VRMO) The Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. § 1601), as well as other laws and regulations require that the Forest Service to include requirements for consideration, treatment, and protection of scenery and visual resources. The Forest Service is required to inventory and manage scenery and visual resources on National Forest System lands, and to assess the impacts of proposed actions on scenery and visual resources. FSM 2300- Recreation, Wilderness, and Related Resource Management, Chapter 2380-Landscape Management; <i>see also</i> The Visual		Following construction, all disturbed areas would be restored as described in Section 11.6. The dam structures proposed under the action alternatives would be larger than the existing dam; however, visual mitigation measures would be implemented as described under the Global Response for Visual Resources.
O-9-44			Visual quality is defined in the first sentence of Chapter 11 in the Draft and Final EISs as " <i>how well the visual environment meets a viewer's preferences for the natural and built environment of an area. This can vary depending on the sensitivity of viewers and how much they are exposed to certain views. Impacts on views are typically identified through technical, institutional, and public considerations.</i> " The significance criteria for visual resource impacts

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were based on the Alpine Lakes Area Land Management Plan visual management objectives, the Wilderness Act, and the user experience at Eightmile Lake during construction and operation of the project.

The Forest Service will assess the consistency of IPID's proposal with the direction in the Alpine Lakes Area Land Management Plan and other Forest Service management documents as part of the NEPA analysis.

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Management System, United States Dep't of Agriculture (April 1974).¹² The DEIS should adopt the Forest Service methods and processes and apply the VQO's to the greatest extent possible to the SWD parcels.

Chapter 2380 (Landscape Management)¹³ states that it is USFS policy to:

- Inventory, evaluate, manage, and, where necessary, restore scenery as a fully integrated part of the ecosystems of National Forest System lands and of the land and resource management and planning process.
- Employ a systematic, interdisciplinary approach to scenery management to ensure the integrated use of the natural and social sciences and environmental design.
- Ensure scenery is treated equally with other resources.
- Apply scenery management principles routinely in all National Forest System activities. FSM 2300- Recreation, Wilderness, and Related Resource Management, Chapter 2380- Landscape Management.

Scenery and visual resources on the portion of the Okanogan-Wenatchee National Forest where the proposed action is located are managed under the 1990 Wenatchee National Forest Land and Resource Management Plan, as amended. This plan requires the use of the Visual Management System. The DEIS should recommend the use of the VMS to describe the existing VQOs of the SWD lands for which the alternatives being evaluated and would be located on, the VQOs of lands within the viewshed of the alternatives, and the consistency of the alternatives with the VQOs of the Forest Plan before mitigation measures and with mitigation measures. The DEIS also needs to determine consistency with the VQOs contained in the ALAMP.

The only reference to "visual quality" in the DEIS is in relation to the Forest Plan and ALAMP is the minimal text found in Table 11.1 Regulations and Guidelines for Visual Resources Applicable in the Study Area. Performing an assessment based upon the VMS system (and using travel routes and use areas identified by the Okanogan-Wenatchee National Forest to identify areas from which to conduct the assessment) would provide a more rigorous way of conducting an assessment. The Sierra Club believes that the use of the VMS would provide a systematic explanation of how conclusions were reached rather than simply making conclusionary statements, without supporting information, such as the "less than significant impacts" found in section 11.7. DEIS at 11-30.

ii. Other Programs, Plans and Policies

In addition to the observations described above regarding conducting visual assessments on national forest system and SWD lands, there is a concern that the DEIS does not assess the consistency of the alternatives with the programs, plans and policies identified in Table 11.1 Regulations and Guidelines for Visual Resources Applicable to the Study Area. *Id.* at 11-

¹² USFS 1995, Landscape Aesthetics: A Handbook for Scenery Management, Agriculture Handbook Number 701, U.S. Department of Agriculture, U.S. Government Printing Office, Washington, DC. [https://blmwyomingvisual.anl.gov/docs/Landscape%20Aesthetics%20\(AH-701\).pdf](https://blmwyomingvisual.anl.gov/docs/Landscape%20Aesthetics%20(AH-701).pdf).

¹³ USFS 2003, Forest Service Manual 2800 - Chapter 2380: Landscape Management. https://blmwyomingvisual.anl.gov/docs/FSM_2380.pdf.

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Impact determinations related to visual components are included in Sections 11.4 and 11.5 of the Draft and Final EISs. Sections 11.5.2, 11.5.3, and 11.5.4 of the Draft and Final EISs discuss and provide visual simulations of the three action alternatives. In regard to mitigation of visual resources, see the Global Response for Visual Resources.

Operation of the gates themselves would be quiet. Raising the gates, which is expected to only happen once a year and over a short time period (a few hours), would require the use of an air compressor. Lowering the gates would not require operation of the air compressor. The noise level associated with operation of the dam would depend on how loud and how well insulated the air compressor is. The compressor could be located in a small structure or underground to minimize noise levels.

Ecology, in coordination with IPID, has identified Alternative 2 as their preferred alternative. Alternative 2 would not result in the installation of gates.

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3. DEIS Table 11.1 identifies the visual or scenic components of relevant programs, plans and policies, but nowhere in the DEIS is there an assessment of how, or if, the alternatives are consistent with directives of the programs, plans and policies. An assessment and description of whether the alternatives would be consistent with the programs, plans and policies identified in Table 11.1 should be included in the FEIS.

The DEIS's mitigation measures for the operational effects suggest using the quietest available motors and materials that visually blend with the landscape, but does not fully address the visual impacts from the increase in size and use of alternative building materials. DEIS at 3-22. Even more, the measures do not address how the noise from the gates will not reduce naturalness or personal experiences free from the encumbrances and signs of modern society. Therefore, the DEIS should provide more information and analysis on the impacts of the alternatives to the wilderness character of the area and whether those impacts will be significant.

Visually, Eightmile dam is a small dam, consisting primarily of rock masonry and concrete wall structure with an earthen embankment section. *Id.* at 1-2; *see also* 2-3. The dam covers less than a quarter of an acre and is composed of native rock, weathered concrete, and soil, which blends into the natural landscape. *Id.* at 3-9. The dam structure is most prominent and visible when the water levels are low. *Id.* Only a 4-foot portion of the dam is visible from the lake side when the lake level is at its highest and that portion of the structure is often partially obscured by wood debris. *Id.* Ecology should consider in the FEIS an alternative that maintains the primitive design and features of the current dam and minimizes any modern updates to the extent feasible. This would include maintaining the size of the dam to the extent that meets IPID's purpose and need and using materials that would reduce the visibility of the dam structure.

V. The DEIS's alternatives analysis is inadequate.

The DEIS neither presented reasonable alternatives nor a reasonable range of alternatives because each alternative is based on an uncertain and undetermined water right. Without such a determination, each alternative could conflict with some of the main objectives of the project and potentially permit IPID to violate state water law. Even more, the DEIS did not consider additional alternatives that do not increase the capacity and output of the dam, and have less of an impact on the environment.

The DEIS states three objectives for the proposed rebuild and restoration of the Eightmile Dam. First, restore the storage capacity of Eightmile Lake so that it meets IPID's irrigation and storage needs under its existing water rights. *Id.* at 1-7. Second, comply with DSO regulations for a High Hazard Dam. *Id.* Third, provide additional water to enhance instream flow volumes in Icicle Creek and to the extent possible, time dam outflows to meet fish utilization needs. *Id.* The DEIS puts forth four alternatives including the no action alternative.

The proposed alternatives in the current DEIS are all based on an undetermined and uncertain water right. Such a major uncertainty makes analyzing the potential environmental impacts of the project and the alternatives difficult and does not allow for the reasoned decision making that SEPA requires. The DEIS states that Ecology has not made "a tentative

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Section 6.2 of the Draft and Final EISs describes the regulatory context related to IPID's water right. The range of active storage volumes proposed for the action alternatives (1,698 to 2,000 acre-feet) appears to be reasonable based on IPID's records of their historical active storage and release practices at the lake and their estimated range of multi-fill volumes. Refer also to the Global Responses for Tentative Determination of Extent and Validity. As noted in the Global Responses, if a future quantification (through adjudication or future water right action) results in an annual quantity that is less than the 2,000 acre-feet considered in this EIS, the physical storage volume in the lake can be reduced through shortening the intake pipe outlet without necessitating any changes to the main design. Sections 2.6 and 6.5 of the Final EIS have been revised to provide additional detail. Refer also to the Global Response for Multi-fill Analysis.

The amount of water use under the Eightmile Lake water right is limited to the extent of the right and no more. As described on page 6-2 of the Draft EIS, IPID intends to donate any excess storage capacity above 1,400 acre-feet to instream flow. The design volumes of up to 1,698 acre-feet and 2,000 acre-feet represent the maximum storage water volumes that were considered for impacts in the EIS. As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology-approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flow uses as well as for IPID's irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum volume of the design alternatives considered (up to 2,000 acre-feet) regardless of whether practices in a given year involve multiple fillings or a single fill. The monitoring plan will also ensure that the Trust donation is managed properly and that any excess water would be allowed to pass through the lake as natural flow without being actively managed and released for beneficial use.

As stated in Chapter 6 of the Draft and Final EISs, the focus of the water rights review in the EIS was to assess whether the range of storage capacities for design alternatives being considered were reasonable. The EIS process is not a vehicle to determine relinquishment nor the extent and validity of the water right, although Ecology is confident that IPID possesses sufficient rights to support the range of proposed alternatives in the EIS.

As described in the Global Responses, the Multi-fill Analysis was relied on (in part) for the water right evaluation in the Draft EIS to assess the

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reasonableness of the maximum design volumes for each alternative. Ecology reviewed the multi-fill memo provided by IPID along with additional information in the record and determined that the design volumes of up to 1,698 to 2,000 acre-feet of water storage were reasonable. The EIS recognizes there is some uncertainty in the amount of the water right due to possible relinquishment; therefore, the analysis for the EIS covers a range of volumes such that the impacts analysis will still be valid if partial relinquishment has occurred or the Trust donation results in less than the maximum design volumes considered.

With regard to inchoate water rights, refer to the response to comment O-9-15.

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determination of the validity and extent of IPID's water right because no application has been filed to trigger a formal review of the right." *Id.* at 6-1. Each of the alternatives assumes that IPID's annual authorized quantity is 2,500 acre-feet even though the current active (single-fill) storage capacity is estimated at approximately 1,151 acre-feet. *Id.* at 6-1-6-2. The DEIS further notes in a footnote that the "adjudication decree states that this annual quantity of 2,500 acre-feet is inchoate. Inchoate water rights have not yet been used, and are, therefore, not perfected.... the perfected amount has not been determined by Ecology or by a court through an adjudication of water rights." *Id.* at 6-1.

Viable alternatives are feasible, meet the stated goals of the project, or are reasonably related to the purposes of the project. *See W. Watersheds Project v. Abbey*, 719 F.3d 1035, 1052 (9th Cir. 2013) ("Feasible alternatives should be considered in detail."); *Klamath Siskiyou Wildlands Ctr. v. BLM*, 2019 Dist. LEXIS 66314, at 11 (D. Oregon 2019). An agency need not discuss "alternatives which are infeasible, ineffective, or inconsistent with the basic policy objectives for management of the area." *Bering Strait Citizens for Responsible Res. Dev. v. United States Army Corps of Eng'rs*, 524 F.3d 938, 955 (9th Cir. 2008); *see also Klamath Siskiyou Wildlands Ctr.*, 2019 Dist. LEXIS 66314, at 19 (noting that the Ecological Forestry Approach alternative was feasible and still met the stated purpose of the project).

Here, all the alternatives may not be feasible or meet the stated goals of the project without a determination on the extent of IPID's water right. One of the DEIS's objectives is to meet IPID's irrigation and storage needs under its existing water rights. If IPID's water rights are determined to be less than 2,500 acre-feet, not only would all the alternatives conflict with one of the project's main objectives but would also violate state water law. All the alternatives would assume a storage amount that would be in excess of IPID's existing water rights.

If IPID's water right were assessed to be less than the DEIS's assumed 2,500 acre-feet, such an assessment would also render the range of alternatives considered unreasonable. The range of alternatives that must be considered in the EIS need not extend beyond those reasonably related to the purposes of the project. *Westlands Water Dist. v. United States DOI*, 376 F.3d 853, 868 (9th Cir. 2004). However, alternatives that conflict with the project's overall objectives and violate state water law would likely not be reasonably related to the purposes of the project.

Even more, "viable standards that meet the stated goals of the project should be considered." *Klamath Siskiyou Wildlands Ctr.*, 2019 Dist. LEXIS 66314, at 21. "The existence of a viable but unexamined alternative renders an [EA] inadequate." *Abbey*, 719 F.3d at 1050 (quoting *Westlands Water Dist.*, 376 F.3d at 868; *see also Muckleshoot Indian Tribe v. U.S. Forest Service*, 177 F.3d 800, 814 (9th Cir. 1999) (concluding that the Forest Service violated NEPA by considering but preliminarily dismissing several feasible alternatives such as imposing deed restrictions); *see Abbey*, 719 F.3d at 1053 (holding BLM did not consider in detail an alternative that would have reduced grazing levels in light of the Monument protected objects, rendering the EA deficient); *see also Klamath Siskiyou Wildlands Ctr.*, 2019 U.S. Dist. LEXIS 66314, at 16 (concluding that the BLM should have considered the Ecological Forestry Approach to satisfy its NEPA requirements).

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Moreover, the DEIS states that under the current conditions, “IPID estimates that it stores a cumulative total of approximately 1,464 to 2,228 acre-feet of water in the lake under a range of dry, wet, and average conditions (Aspect 2022a).” DEIS at 6-2. The DEIS also states that IPID has indicated that it needs 1,400 acre-feet of storage capacity at Eightmile Lake to meet its irrigation needs. *Id.* Thus, it appears that even in dry years, the current dam is sufficient to support the minimum amount of storage capacity required by IPID.

The DEIS does not examine a feasible alternative that would still meet the objectives of the project but that does not expand the capacity and release rates of the dam. Since a FEIS or final determination on significance has not been released, Ecology cannot limit the choice of reasonable alternatives based on an undetermined assumption that IPID’s water rights are 2,500 acre-feet. The DEIS should consider an additional alternative so long as the alternative creates less environmental degradation, provides additional instream flows for fish, or is less costly. An alternative that reconstructs the dam to the current size and with materials that create a similar aesthetic impact would likely meet the stated purpose and need of the project, especially if IPID’s water right is determined to be less than 2,500 acre-feet.

VI. Other Impacts not Adequately Considered

A. The DEIS does not adequately address the water quality and construction impacts resulting from trail reroute and road improvement.

The DEIS only provides general statements about addressing potential water quality impacts from upland work including road improvement and trail rerouting. The DEIS states that IPID “proposes to work with the Forest Service to repair and improve an approximately three-quarter mile section of currently closed road to allow vehicular traffic for administrative use associated with this project.” *Id.* at 2-22–2-23. Repairing and improving the road would involve some heavy equipment to remove fallen trees and vegetation rooted in the road way as well as minor road repairs. *Id.* at 2-23, 7-9. More specifically, approximately 10 feet of the existing 24-foot-wide road would be cleared for access with the full 24-foot width cleared for the last 100 feet to allow for parking. *Id.* at 2-23. The last 30 feet of the road will be widened to roughly 30 feet to allow for vehicle turnaround. *Id.* The DEIS also notes that construction of the staging area would require a temporary reroute of a 150- to 300-foot-long section of the Eightmile Lake trail to ensure hiker safety around the construction zone. *Id.* at 7-9.

The DEIS notes that trail rerouting and road improvement work could pose a risk for sediment remobilization. *Id.* at 4-22–4-23. However, the DEIS does not go into further detail about potential surface water and water quality impacts from these activities. The DEIS generally states that construction activities within and adjacent to Eightmile Lake and Eightmile Creek would be performed under the regulation of federal and state permits, including a Corps Section 404 permit, an Ecology 401 Water Quality Certification, a WDFW HPA, and an NPDES Construction Stormwater Permit. *Id.* at 4-23. Further, the relevant water quality BMPs will be implemented for all construction activities with the potential to create water quality impacts in Eightmile Lake and in Eightmile Creek, including activities associated with upland work such as road improvement, trail rerouting, and repeater station installation. *Id.* at 4-31. Given the potential impacts to water quality from both rerouting the trail and road improvements, the DEIS

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This comment has been addressed in the Final EIS through text additions to Section 4.4. The anticipated adverse effects to water quality from construction of the trail reroute and road segment improvements would be less than significant.

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		In addition, the DEIS does not mention whether machinery will be used to reroute the trail, but states that the trail <i>could</i> be restored to Forest Service standards, consistent with the Wilderness and Backcountry Site Restoration Guide after construction is complete. <i>Id.</i> at 10-17. Even further, the DEIS states that to minimize impacts, “the trail could be re-routed using the shortest route possible just outside the construction area and measures to fully block the trail reroute and facilitate revegetation to pre-existing conditions could be employed after construction.” <i>Id.</i> at 7-11–7-12. These measures should be required mitigation to ensure that the area is restored to its previous state and lasting impacts on the Wilderness area are minimized to the greatest extent possible. The DEIS states that following construction, the road will be closed and restored to existing conditions. <i>Id.</i> at 7-12. The Sierra Club supports the use of measures that minimize the impacts of the trail reroute and road improvements as well as restoration of both the trail and road to current conditions.	
		B. The DEIS does not adequately address the potential impacts to fish species, including species listed under the Endangered Species Act.	
		The DEIS provides incomplete and conflicting information regarding the potential impacts to fish species from the action alternatives. There are several issues which need clarification or attention in the FEIS.	
O-9-49		First, the DEIS at one point indicates that there are three species of ESA-listed salmonids that utilize fish habitat in Eightmile Creek. DEIS at 8-1 (“salmonids (including three species listed under the Endangered Species Act) utilize fish habitat in the lower reaches of Eightmile Creek and the mainstem of Icicle Creek.”). In another location, the DEIS shows that only one species of federally listed salmonids—bull trout—is present in Eightmile Creek. DEIS at 8-15, Table 8.5. However, elsewhere the DEIS only references rainbow trout and eastern brook trout as present in the mainstem of Eightmile Creek. <i>Id.</i> at 8-21. The FEIS should clarify and provide accurate information regarding which fish species use Eightmile Creek so that the reviewing agencies and the public can properly understand the potential impacts of the project.	
O-9-50		Second, the DEIS does not adequately consider the potential impacts to fish species that use Eightmile Creek and Icicle Creek. The DEIS states that “[u]nder existing conditions, extremely low summer streamflow conditions reduce the quantity of accessible fish habitat in Eightmile and Icicle creeks and can limit fish passage and increase water temperatures.” DEIS at 8-1. Under each action alternative the reconstructed dam will involve the use of more concrete for the dam structure, which will partially cut off the natural seepage from Eightmile Lake that currently occurs through the landslide embankment material that surrounds the dam. DEIS at 5-8–5-9. The DEIS estimates that during low-storage conditions, this will result in the loss of 5–6 percent of the streamflow in Eightmile Creek. <i>Id.</i> at 5-9. The DEIS does not adequately explain how the reduced flow from natural seepage under the action alternatives will impact conditions in Eightmile Creek during drought/low-storage conditions.	
		O-9-48 Comment noted.	
		O-9-49 Revisions have been made to Chapter 8 of the Final EIS to clarify the distribution of ESA-listed fish species (see revised Table 8-5).	
		O-9-50 Additional text has been added to Section 8.5 of the Final EIS to address this comment.	

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Sierra Club – WA Chapter Comments on Eightmile Dam DEIS
June 5, 2023

O-9-51

Moreover, the DEIS does not adequately analyze how each action alternative will improve streamflows throughout the year to benefit fish species and habitat. There is no comparison provided between the action alternatives to understand whether the increased storage capacity in Eightmile Lake will provide greater benefits for fish under one alternative than another. Instead, the DEIS makes a blanket conclusion that all action alternatives will benefit fish. DEIS at 8-1; 8-35–8-37. The FEIS should provide a comparison of the potential beneficial impacts of the three action alternatives to fish species and their habitat.

C. The DEIS does not adequately address the financial impact of the proposed project.

O-9-52

The DEIS provides only a brief reference to how the project will be financed. The DEIS states that IPID is responsible for paying for the proposed action and project construction and that it is applying to receive grants to defray some costs. *Id.* at 1-10. So far, IPID has applied for US Bureau of Reclamation WaterSMART federal grants, Federal Emergency Management Agency (FEMA) grants, and the Office of Columbia River grants. *Id.* IPID will also be contributing in-kind and financial resources to construct the project. *Id.*

The DEIS does not mention how much the project is going to cost or provide a detailed breakdown of the project finances. It's unclear how much funding will come from those grants and the different types of funding that will be used to support this project. Even more, there is no information on whether state and government agencies will be providing financial support or how much funding IPID must provide. The DEIS should provide more information on the project's finances, including an itemized list of funding amounts and sources that highlights public money amounts and sources, and a more detailed breakdown of the costs.

VII. Conclusion

O-9-53

As set forth above, the DEIS is deficient because it lacks necessary details and analysis regarding the scope of potential impacts and the extent of IPID's rights in relation to Eightmile Dam. The FEIS should provide clarity on the status of IPID's Eightmile Lake water right and include a tentative determination of the extent and validity of the water right. Additionally, Ecology must clearly define the extent of IPID's "existing private rights" under the Special Warranty Deed and the Wilderness Act in order to understand whether the proposed alternatives are legally viable options for the project. Finally, Ecology must fully evaluate the potential impacts from the proposed alternatives on the various resources and Wilderness values that exist in the vicinity of Eightmile Lake. Sierra Club appreciates the opportunity to provide these comments on the DEIS and looks forward to reviewing the FEIS.

Sincerely,



Maura Fahey
Managing Attorney
maura@crag.org
(503) 525-2722

s/ Kelly Chang

Kelly Chang
Legal Fellow
kelly@crag.org
(503) 237-0788

O-9-51

Information provided in Section 4.5 and Table 4-8 of the Draft and Final EISs describes the differences in streamflows between the alternatives. Section 8.5 describes the analysis of effects on fish.

O-9-52

Project financing is described in Section 1.9 of the Draft and Final EISs. Detailed descriptions of project financing are not a requirement under SEPA. As noted in WAC 197-11-448 (3) "Examples of information that are not required to be discussed in an EIS are: Methods of financing proposals, economic competition, profits and personal income and wages, and social policy analysis ..."

O-9-53

See the Global Response for the Tentative Determination of Extent and Validity for a discussion of IPID's water right. With regard to IPID's rights under their Special Warranty Deed, refer to Appendix E of the Final EIS for a copy of the deed. Wilderness character in the vicinity of Eightmile Lake is evaluated in Chapter 3 of the Draft and Final EISs.

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Table of Exhibits

Exhibit	Document
A	Icicle Irrigation District Application (No. 1825) and Permit to Appropriate the Public Waters of the State of Washington (Permit No. 828), January 22, 1927.
B	Notice of Construction for Permit No. 828, August 15, 1939.
C	Chelan County Superior Court, Icicle Creek Adjudication Decree, October 28, 1929.
D	Proof of Appropriation of Water for Permit No. 828, August 16, 1939.
E	Certificate of Record No. 3, Page No. 1228, State of Washington, County of Chelan, Certificate of Water Right for Permit No. 828, August 21, 1939.
F	Special Warranty Deed, May 17, 1990.
G	Aspect Consulting, Memorandum – Review of Eight Mile Lake Storage Authority, March 5, 2014.

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*Permit No. 8201

APPLICATION FOR A PERMIT
To appropriate the Public Waters of the State of Washington

I, Isicle Irrigation District
(Name of Applicant)
of Cashmere, Chelan
(Postoffice) County of
State of Washington, do hereby make application for a permit to appropriate
the following described public waters of the State of Washington subject to existing rights:
If the applicant is a corporation, give date and place of incorporation 1917
State of Washington

- The source of the proposed appropriation is Eight Mile Lake
(Name of stream)
tributary of Isicle River
- The amount of water which the applicant intends to apply to beneficial use is 25 cu. ft.
cubic feet per second, to extent of 2000 acre feet
- The use to which the water is to be applied is Irrigation
(Irrigation, power, milling, manufacturing, domestic supply, etc.)
- Time during which water will be required each year June 1st to October 1st
- The approximate point of diversion is located 6234 feet NW from SE corner of
(Give distance and bearing to section corner)
Section 33, Township 24 North, Range 16 E. T. 11.
being within the Isicle of Sec. 33, Tp. 24 N., R. 16 E.
(Give smallest legal subdivision) (No. N. or S.) (No. E. or W.)
W. M., in the county of Chelan
- The Main Canal to be 00 miles in length, terminating
(Main ditch, canal or pipe line)
in the Isicle of Sec. 33, Tp. 24 N., R. 16 E.
(Smallest legal subdivision) (No. N. or S.) (No. E. or W.)
W. M., the proposed location being shown throughout on the accompanying map.
- The name of the ditch, canal or other work is Isicle Project
- Estimated cost of development necessary to fully utilize the appropriation herein asked
for \$3,000.00

DESCRIPTION OF WORKS.

DEVIATION WORKS—

- (a) Height of diversion dam 0 feet; length on top 0 feet;
length at bottom 0 feet; material to be used and character of construction
(Face rock, concrete, masonry, rock and brush, timber crib, etc., wasteway over or around dam)
- (b) Description of headgate Channel cut at outlet of lake, 3 feet wide
(Timber, concrete, etc.; number and size of openings)
and control gate installed with wood structure

*When storage works are contemplated a storage permit must be filed in addition to the above. These forms can be obtained, together with instructions, by addressing the State Hydraulic Engineer, Olympia, Washington.

Exhibit A
Page 1 of 4

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CANAL SYSTEM—

10. (a) Give approximate dimensions at each point of canal where materially changed in size, stating miles from headgate. At headgate: Width on top (at water line).....feet; width on bottom.....feet; depth of water.....feet; grade.....feet fall per one thousand feet.

(b) At.....miles from headgate: Width on top (at water line).....feet; width on bottom.....feet; depth of water.....feet; grade.....feet; depth of water.....feet; grade.....feet fall per one thousand feet.

FILL IN THE FOLLOWING INFORMATION WHERE THE WATER IS USED FOR:

IRRIGATION—

11. The land to be irrigated has a total area of approximately 7500.....acres, described as follows: Total area embraced in the Icicle Irrigation District and the Vesilista Irrigation District, Chelan County, Washington
(Give land subdivided by section, township and range)

(If more space is required, attach separate sheet)

DUTY OF WATER—

12. Character of soil: Depth variable....., sandy....., volcanic ash....., loam....., clay....., Etc.....; Annual precipitation.....inches, precipitation during growing season 60 inches; Depth of irrigation water required 4 acre feet (Expressed in feet or inches)

POWER, MINING, MANUFACTURING, OR TRANSPORTATION PURPOSES—

13. (a) Total amount of power to be developed.....H. P. (Theoretical horsepower)

(b) Total fall to be utilized.....feet. (Head)

(c) The nature of the works by means of which the power is to be developed.....

(d) Such works to be located in.....of Sec..... (Legal subdivision)

Tp....., R....., W. M. (No. N. or S.) (No. E. or W.)

(e) To what stream is the water to be returned.....

(f) Locate point of return.....Sec.....

Tp....., R....., W. M. (No. N. or S.) (No. E. or W.)

(g) The use to which power is to be applied is.....

Exhibit A
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RESPONSE

828

MUNICIPAL SUPPLY—

14. To supply the city of _____
(Name)
County, having a present population of _____
and an estimated population of _____ in 19____.

15. Estimated present requirement _____

16. Estimated future requirement _____

17. Construction work will begin on or before _____

18. Construction work will be completed on or before _____

Duplicate maps of the proposed ditch or other works, prepared in accordance with the rules of the State Hydraulic Engineer, accompany this application.

Supervisor of Hydraulics _____
(Name of Applicant)
G. M. Sediker _____

Signed in the presence of us as witnesses:

(1) J. A. French _____ Cashmere, Wash.
(Name) (Address of Witness)

(2) Chas. Unker _____ Cashmere, Wash.
(Name) (Address of Witness)

Remarks: _____

STATE OF WASHINGTON, }
COUNTY OF THURSTON. } ss.

This is to certify that I have examined the foregoing application (Received _____)
(Date)
together with the accompanying maps and data, and return the same _____
(Date of return)
for correction or completion as follows: _____

In order to retain its priority, this application must be returned to the State Hydraulic Engineer, with corrections, on or before _____, 19____.

WITNESS my hand this _____ day of _____, 19____.

State Hydraulic Engineer.
Supervisor of Hydraulics

Exhibit A
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COMMENT

RESPONSE

STATE OF WASHINGTON, }
COUNTY OF THURSTON. } ss.

This is to certify that I have examined the foregoing application and do hereby grant the same, subject to the following limitations and conditions: If for irrigation, this appropriation shall be subject to such reasonable rotation system as may be ordered by the State Hydraulic Engineer

The amount of water appropriated shall be limited to the amount which can be applied to beneficial use and not to exceed 25.0 cubic feet per second, or its equivalent in case of rotation. The priority date of this permit is August 2, 1926

Actual construction work shall begin on or before January 23, 1928 and shall thereafter be prosecuted with reasonable diligence and be completed on or before January 23, 1930

Complete application of the water to the proposed use shall be made on or before October 22, 1930

WITNESS my hand this 22nd day of January, 1927.

R. K. TIFFANY
State Hydraulic Engineer,
Supervisor of Hydraulics

This form approved by the State Hydraulic Engineer, 1917.

Application No. 1525 Permit No. 828

PERMIT

To appropriate the Public Waters of the State of Washington

Filed by Leicle Irrigation District County of Ocean

This instrument was first received in the office of the State Hydraulic Engineer, Olympia, Washington, on the 2nd day of August, 1926, at 9:30 o'clock A. M.

Returned to applicant for correction

Corrected Application received January 23, 1927

R. K. TIFFANY
State Hydraulic Engineer,
Supervisor of Hydraulics

Before your certificate of water right is issued it will be necessary for you to fill out and file with the State Hydraulic Engineer a copy of the following reports:

- 1st. Notice of water right application.
- 2nd. Notice to begin construction.
- 3rd. Notice of prosecution of work with diligence.
- 4th. Notice of completion of construction.
- 5th. Notice of application of water to a beneficial use.

Upon a satisfactory showing that the appropriation has been perfected as provided by statute the State Hydraulic Engineer will issue a water right certificate.

(Remarks will be furnished by the office of State Hydraulic Engineer.)

Exhibit A
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COMMENT

RESPONSE

S. P. No. 376-1922. Approved as to Form by Dept. of Efficiency. 1255.

Notice of Beginning of Construction

I, ICICLE IRRIGATION DISTRICT, the holder of Permit No. 828, and Reservoir Permit No. _____, both issued by the Supervisor of Hydraulics of the State of Washington for the appropriation of (25) twenty-five second-feet and the storage of 2000 acre-feet of the unappropriated waters of Eight Mile Lake in accordance with the tenor of such permits and the limitations endorsed thereon by the Supervisor of Hydraulics, began the actual construction of the works described therein on the 22nd day of July, 19 27, being within the time limitation as fixed in said permit for the beginning of construction work.

The nature and the amount of the construction work already done is as follows: (This does not include preliminary investigation and reconnaissance.)

PER CENT COMPLETED:

Engineering _____%; Clearing 75%; Material in place _____%; Material on ground 30%;
Excavation 10%; Structure _____%.

Any additional information which may tend to show good faith in the prosecution of the work _____

IN WITNESS WHEREOF, I have hereunto set my hand this 26 day of July, 19 27.

Cashmere, Wn., Chelan County _____
(Present Address)

ICICLE IRRIGATION DISTRICT
(Signature of Applicant)
By _____ Secretary

Exhibit B
Page 1 of 2

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RESPONSE

S. F. No. 578-1922. Approved as to Form, Dept. of Efficiency, 16816.

Notice of Completion of Construction

I, Icicle Irrigation District, the holder of Permit No. 828
and Reservoir Permit No. _____, issued by the State Supervisor of Hydraulics of the State of
Washington for the appropriation of 25 second-feet, and storage of _____
acre-feet of the unappropriated waters of _____ in accordance with the
tenor of such permits and the limitations endorsed therein by the State Supervisor of Hydraulics, have
completed the construction of the works described therein the 10th day of October, 1929,
being within the time limitation as fixed in said permit or permits extended by the State Supervisor of
Hydraulics for the completion of construction work.

Remarks: work completed providing for gravity flow draw down of
Lake of 25 feet

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of August, 1939

Cashmere, Wash.
(Present Address)

[Signature]
(Signature of Applicant)

RECEIVED
AUG 16 1939
DIVISION OF
HYDRAULICS
STATE OF WASHINGTON

Exhibit B
Page 2 of 2

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COMMENT

RESPONSE

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR CHELAN COUNTY

IN THE MATTER OF THE DETERMINATION
OF THE RIGHTS TO THE USE OF THE
WATERS OF FISH CREEK AND ITS TRIBU-
TARIES IN CHELAN COUNTY, WASHINGTON,
IN ACCORDANCE WITH THE PROVISIONS OF
CHAPTER 117 OF THE SUPPLEMENTARY LAWS OF
1917 OF THE STATE OF WASHINGTON AND
AMENDMENTS THERETO.

THE STATE OF WASHINGTON Plaintiff,
vs.
EIGHT IRRIGATION DISTRICT,
a corporation, et al. Defendants.

No. 8252

D E C R E E

This cause having heretofore come on regularly before the
court for hearing on the 18th day of June, A. D. 1929, upon the
original report of the assistant Supervisor of Hydraulics, Referee
herein, dated 18th day of April, 1929, and filed the 25th day of April,
1929, and upon the Supplemental Report and Recommendations of said
referee, dated the 18th day of May, 1929, and filed herein on the 18th
day of May, 1929, and upon the several Exceptions to said reports as
herein filed by Snow Creek Water Company, a corporation, Cascade
Orchards Irrigation Company, a corporation, Cascade Orchards Irrigation
Company, a corporation, City of Leavenworth, a municipal corporation,
each appearing by Herman Howe, as attorney of record; Icicle Irrigation
District, a public corporation appearing by William A. Grimeshaw, as its
attorney of record; Teshastin Irrigation District, a public corporation,
appearing by Burt J. Williams, as its attorney of record; and J. F.
Lindley being substituted as attorney for City of Leavenworth, and duly
appearing for same on October 28, 1929, pursuant to notice duly given
as required by law, and none other appearing or filing objections to
said reports, the court having seen and considered the records and files
herein and the evidence adduced and heard and considered the arguments
of said attorneys for the respective parties so appearing, and having
made its Memorandum Opinion on said objections, dated September 12,

Exhibit C
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1929, and filed the 23 day of October, 1929, and being fully advised in the premises,

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

That the several exceptions to Report of Referee as filed by Snow Creek Company, a corporation, numbers 1 A-B-C-D-E-F-G-H and I, be and each of them is overruled and denied. That the several exceptions filed herein to the report of the Referee by the Cascade Orchards Irrigation Company, a corporation, consisting of three unnumbered paragraphs, be and each of them is overruled and denied. That the several exceptions to report of Referee as filed by the City of Leavenworth, a municipal corporation, numbers 1 A-B-C, be and each of them is overruled and denied. That the several exceptions to report of referee as filed by Icicle Irrigation District, a public corporation, numbers 1-3-4-5 and 6, be and each of them is sustained; that its exception to report of Referee, number 2 as filed herein, be and hereby is overruled and denied. That the several exceptions to Report of Referee as filed by Peshastin Irrigation District, a public corporation, numbers 1-3-4-5-6 and 7, be and each of them is sustained; that its exception to Report of Referee, number 2 as filed herein, be and hereby is overruled and denied.

II.

That the Findings and Conclusions of Law made by the Referee in his reports be and they are hereby adopted and confirmed as the Findings of Fact and Conclusions of Law of this court, except as in this decree specifically modified or changed.

III.

That the parties hereto and their successors in interest be and they hereby are entitled to divert from Icicle Creek and its tributaries, as hereinafter designated, the amount of water specified in the classifications hereinafter set forth for beneficial use upon the several lands described therein; that the rights and priorities of

2.

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COMMENT

RESPONSE

such parties and such described lands be and they hereby are as set forth in said classification hereto, and each and every party or parties to this action and their and its agents, servants, employees and privies respectively, and each and every person claiming by, thru, or under said respective party or parties be and they hereby are perpetually enjoined from interfering with the diversion and use of the amounts of water in said classification specified, in accordance with the decreed priorities or rights as therein shown.

IV.

That the classification of the respective lands involved in this adjudication and the rights of appropriation and use, together with the dates of priorities and area of irrigable land and legal subdivision in which same are located, together with the amount of water to which each is entitled, be and the same hereby are fixed and decreed as follows:

CLAIMANT	Number of Acres	AMOUNT OF WATER Cubic Feet Per Second	DESCRIPTION OF LAND IN WHICH TRACT IS LOCATED
<u>CLASS 1</u> 1905			
CASCADE ORCHARD IRRIGATION COMPANY			ICECIE CREEK
600	12.00	600.00	Cascade Orchards, according to the official plat thereof on file in the office of the County Auditor of Chelan County.
<u>CLASS 2</u> April 1910			
ICECIE IRRIGATION DISTRICT REYNOLDS IRRIGATION DISTRICT and ANTHONY G. BLACK			ICECIE CREEK AND SHOF CREEK
5000	82.35	4111.50	Lands within the boundaries of the Icecic Irrigation District and the Reynolds Irrigation District. Also the Jackson Tract, being Tax Lot No. 27, Sec. 20, Twp. 24 N., Rge. 18 E., W. M., and the Garry Tract, being the SE of SW of the SW of Sec. 36, Twp. 24 N., Rge. 18 E., W. M. and other lands irrigated or which may be irrigated from the Icecic Irrigation District Canal with the so-called Black Water rights. (Continued)

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CLAIMANT	NUMBER OF ACRES	AMOUNT OF WATER	DESCRIPTION OF LAND IN WHICH TRACT IS LOCATED
		Cubic Feet Per Second	4-inch Second Pressure
CLASS 2 (Continued)			
ICECREEK IRRIGATION DISTRICT PESHASTIN IRRIGATION DISTRICT and ARCTICUM C. TRACT (Continued)			
Note: The amount of water deficient in Snow Creek to give this right 83.33 cu. ft. per second may be diverted from Icecreek Creek.			
CLASS 3			
October 14, 1910			
SNOW CREEK WATER COMPANY			SNOW CREEK
20	4.00	200.00	All of Lots 4 and 9 and the north 10 acres of Lot 11; 15 acres or irrigable land in Lot 12, all of Lot 13 less about 2 acre in the NW corner heretofore sold to George Bauer, all in Springdale Orchards;
Also that part of Lot 12 of Peshastin Orchards, Chelan County, Washington, containing 2.38 acres, more or less, described by metes and bounds as follows: Commencing at the NW cor. of Lot 12, Peshastin Orchards, Chelan County, Washington, and running south 30° west 550.0 ft. to the south line of said Lot 12; thence easterly along the south line of Lot 12 to the SE cor. of Lot 12; thence north 0° 35' east along the east line of Lot 12 a distance of 542.2 ft. to the point of beginning. Also all that part of the NE 1/4 of Sec. 20 and the NW 1/4 of Sec. 21, Twp. 24 N., Rge 18 E. W. 11., described by metes and bounds as follows: Beginning at a point 104.2 ft. east of the NW cor. of the NW 1/4 of the NW 1/4 of Sec. 21, Twp. 24 N., Rge 18 E. W. 11.; thence south 45° 05' west 254.1 ft; thence turning an angle of 18° 21' to the right and running 70 ft; thence turning an angle of 9° 49' to the right and running 150.4 ft; thence turning an angle of 20° 13' to the right and running 425.0 ft; thence turning an angle of 95° 07' to the left and running 618.2 ft; thence turning an angle of 120° 56' to the left and running 933.3 ft; thence turning an angle of 23° 38' to the left and running 301.0 ft; thence turning an angle of 25° 04' to the right and running 350.5 ft; thence turning an angle of 95° 50' to the left and running 338.1 ft; thence turning an angle of 80° to the left and running 171.3 ft. to the place of beginning, containing 13 acres, more or less. Also the west 11 acres of the NW 1/4 of the NW 1/4 of Sec. 20 and the NW 1/4 of the NW 1/4 of Sec. 21, Twp. 24 N., Rge 18 E. W. 11., lying between the public road and the hill east of the road, all in Sec. 18, Twp. 24 N., Rge 18 E. W. 11.			
Note: this claimant has been allotted water at a rate somewhat in excess of others involved in this case on account of the difficulties in patrolling and keeping in repair its long conduits located on high, steep mountain slopes. That water allotted is the amount that has been diverted for many years for a beneficial purpose. The claimant being a public service corporation, may find it profitable to improve these conduits and thereby save water above the actual needs of the lands now irrigated, and contract for its use on other lands.			

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CLASS 3 (Continued)

SNOW CREEK WATER COMPANY (Continued)

This right will include all of the waters available from Mountain Home Creek, the balance to come from Snow Creek; the total being 4.00 cubic feet per second. The amount of water available in Section 4, Township 23 N., Range 17 E. N. to fill this right may not be diverted to Icicle Creek via Crystal Creek under a permit issued by the State Supervisor of Hydraulics, provided it is transferred under the supervision of the Okelma County Water Master or stream patrolman appointed for the purpose of regulating the waters of Icicle Creek and its tributaries, or at all, as against the prior rights of diversion and use of Class 2 hereinabove set forth.

CLAIMANT	Number of Acres	AMOUNT OF WATER Cubic Feet Per Second	DESCRIPTION OF LAND IN WHICH RIGHT IS LOCATED
<u>CLASS 4</u>			
CITY OF IRVINGTOWN, a municipal corporation	1.52	75.0	ICICLE CREEK Municipal water supply
SUSIE J. FROMM	0.20	0.10	5.0 MOUNTAIN HOME CREEK 3/4 of the NW 1/4 of Sec. 26, Twp. 24 N., Rge 17 E. W. N.
SUSIE J. FROMM	10.00	0.17	8.50 MOUNTAIN HOME CREEK and TURNER CREEK 3/4 of NW 1/4 of Sec. 26, Twp. 24 N., Rge 17 E. W. N.

Note: When the water supply in Turner Creek is insufficient to fill this right, the amount deficient may be taken from Mountain Home Creek.

CLASS 5

1919

CLAIMANT	Number of Acres	AMOUNT OF WATER Cubic Feet Per Second	DESCRIPTION OF LAND IN WHICH RIGHT IS LOCATED
PEKHAISTIN IRRIGATION DISTRICT	2063.0	1719.00	ICICLE CREEK Lands within the boundaries of the Pekhaistin Irrigation District.

Note: The water right of this claimant is inchoate but may become complete for a water supply for 2063 acres of land by filing reports and making proof of appropriation required under provisions of Permit No. 150, records of the Office of the State Supervisor of Hydraulics. The acreage shown above arrived at by deducting 5000 acres, the right reported in Class 2, from 7063 acres, which it is claimed can be served from the Icicle Irrigation District Canal.

Pekha. 34.38
7063.00
3.00

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That the claimant, Icicle Irrigation District, is the holder of the following permits to appropriate and store water from lakes tributary to Icicle Creek:

CLASS 5 (Continued)

Permit No.	Source of Supply	AMOUNT OF WATER		Priority Date
		Cubic Feet Per Second	Yearly Maximum in Acre Feet	
827	Klonsaque Lake	25.00	2500	August 2nd, 1926
828	Eight Mile Lake	25.00	2500	" " "
829	Cole Chuck Lake	50.00	2500	" " "

That such permits were issued under provisions of the Water Code of the State of Washington and that the water rights thereunder are inchoate but may be perfected by compliance with provisions under which the permits were issued; that these rights for the storage of water under said permits do not affect the water rights of any other claimant herein reported.

CLASS 6

CLAIMANT	NUMBER OF ACRES	AMOUNT OF WATER		DESCRIPTION OF LAND IN WHICH TRACT IS LOCATED
		Cubic Feet Per Second	Miner's 4-inch Second Flushing	
RAY E. SIMONS	10	0.17	8.50	ICICLE CREEK The S ¹ / ₂ of the S ¹ / ₂ of Sec. 12, Twp. 24 N., Rge 17 E. W. M.
OLIN BRISKEY	60	1.00	50.00	ICICLE CREEK N ¹ / ₂ of the S ¹ / ₂ ; S ¹ / ₂ of the N ¹ / ₂ of the S ¹ / ₂ of Sec. 13, Twp. 24 N., Rge 17 E. W. M.
SUSIE J. FROMM	5.0	0.08	4.00	ICICLE CREEK Lots 4, 5, 6 and 7 of Block 1, Cascade Orchards Second Addition, Chelan County.
SUSIE J. FROMM	60.00	1.00	50.00	ICICLE CREEK The S ¹ / ₂ of the N ¹ / ₂ ; N ¹ / ₂ of N ¹ / ₂ of S ¹ / ₂ of Sec. 13, Twp. 24 N., Rge 17 E. W. M.

W. H. HALE Water rights of claimant W. H. Hale are included in the right of the Snow Creek Water Company.

PEARL WILLSEY Water rights of claimant Pearl Willsey are included in the rights of the Cascade Orchards Irrigation Company.

6.

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V.

Subject to the total amount of water set forth in the appended schedule, all water of Icicle Creek and its tributaries, as same existed on August 10, 1928, being the date of the close of hearing before said Referee, and not hereinabove appropriated or decreed, belong to the public and were and are subject to appropriation.

VI.

That rights in the higher class in the foregoing schedule in Section IV of this Decree shall be fully satisfied before water is given to those of a subordinate class, and in case of failure of the supply of water to completely satisfy the total amount of water awarded to a given class, the amount remaining for said class shall be apportioned to the appropriators in said class in the proportion which the number of cubic feet per second awarded to each person bears to the total number of cubic feet per second awarded to such class.

VII.

That any person taking water from Icicle Creek and/or its tributaries shall provide and maintain at his or its own expense a proper diversion works and measuring device, as required by statute, Section 57 Chapter 117, Laws of 1917 and amendments thereto.

VIII.

That the Clerk of the above entitled court be and he hereby is directed to transmit forthwith to the State Supervisor of Hydraulics a certified copy of this decree.

IX.

That upon receipt of such certified copy the State Supervisor of Hydraulics shall prepare and file with the Clerk of the above entitled Court a statement of the expenses incurred by him in this determination showing the total expense of the determination and apportioning such expense to the various rights as determined by the court in this decree in proportion to the amount of such rights.

X.

That the State Supervisor of Hydraulics be and he hereby is directed to issue to the persons entitled thereto certificates of water right in accordance with the provisions of this decree, as provided in Section 36, Chapter 117 of the Session Laws of Washington for the year 1917 and subsequent amendments, provided said persons shall have first paid the amount of the expense apportioned against their lands as provided in section 9 of this decree.

XI.

That the appropriation and use rights as awarded to Class 2 hereinabove are for the period of each year from March 1st to December 1st.

XII.

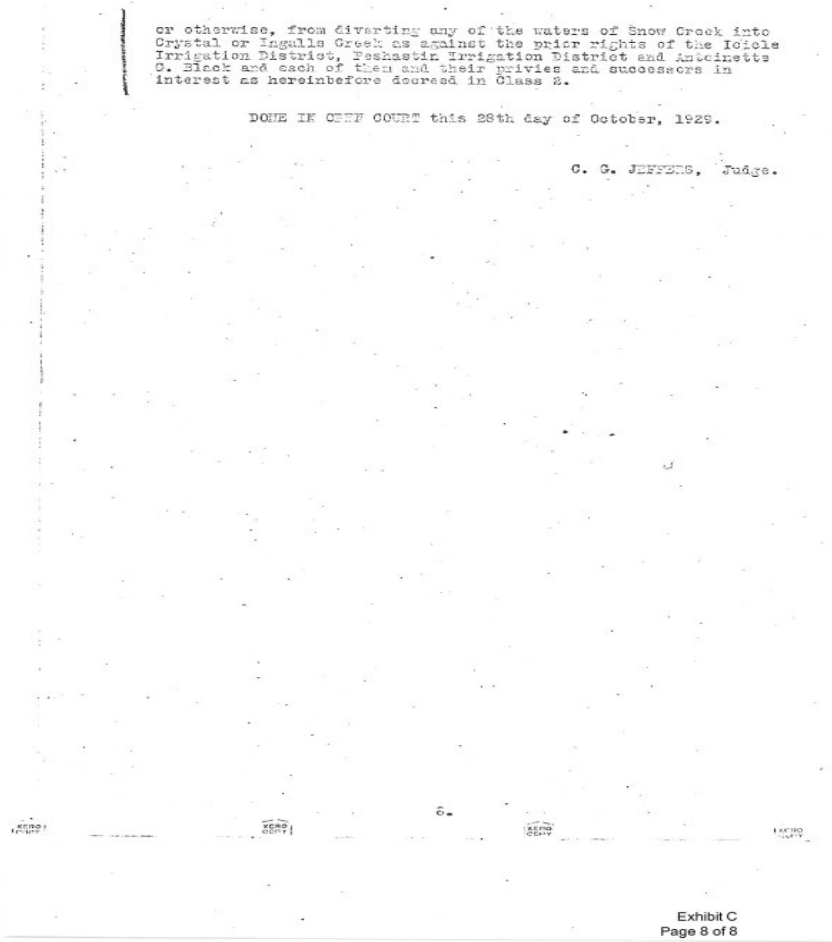
That the Snow Creek Water Company and its successors in interest and its and their agents, servants, employees, privies and all person or persons claiming by, thru or under and/or any of them are enjoined from diverting from Snow Creek and holding in storage in Twin Lakes Reservoir, Section 17, 18, 19 and 20, Township 23 North, Range 16 E.W.M.

7.

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S. P. No. 389—1919. Approved as to Form by DEPT. OF COMMERCE. 1919.

Proof of Appropriation of Water

Application No. 1825 Permit No. 828

- Name of applicant Iceicle Irrigation District,
- Postoffice address Cashmere, Washington
- Source of appropriation Eight Mile Lake tributary of Iceicle River
- For what purpose or purposes is water used? Irrigation
- Give date of beginning of construction summer of 1927
- Give date of completion of construction work October 10, 1929
- When was all the water completely applied to proposed use? summer of 1930
- Fill in the following carefully, according to use. If for irrigation, fill in the number of acres described in permit and the number of acres actually irrigated (Water should be applied to the full number of acres to be irrigated before certificate can issue). If for power, give location of power plant and the theoretical horse power described in permit. If for domestic supply, municipal, manufacturing or other uses, simply give the description of place of use.

PLACE OF USE			LEGAL SUBDIVISION	FOR IRRIGATION FILL IN FOLLOWING	
Section	Township	Range		No. Acres Described in Permit	No. Acres Actually Irrigated
With the Iceicle & Peshastin Irrigation Districts			<u>Chelan County</u>	7,000	7,000

LOCATION OF POWER PLANT			LEGAL SUBDIVISION	FOR POWER FILL IN FOLLOWING	
Section	Township	Range		H. P. Described in Permit	H. P. Actually Developed

FOR ALL OTHER USES				
Section	Township	Range	LEGAL SUBDIVISION	

9. During what months is water used? May 1st to October 1st

10. Does map filed with your permit show correctly the location of diverting work and area of land where water is used? Yes If not, state wherein such map is in error.

11. If the dimensions of your ditch or dam do not correspond to those described in your permit and the plans and specifications now on file in the office of the State Supervisor of Hydraulics, state what changes have been made, giving dimensions of ditch or other distributing works.

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REMARKS: Cut was made 25 feet deep in outlet channel, creosoted wood stave pipe 30 inches in diameter with standard reservoir cast iron gate installed. Gate thoroughly embedded in concrete and concrete cut-off wall placed in channel approximately 50 feet down the stream from control gate.

The lake has a natural outlet channel some 30 feet below normal high water and due to difficulty in securing water tightness in formation of slide responsible for the lake dam was not constructed to height first intended, the District preferring to use pumping equipment for securing full appropriation of water during period of extreme drought.

STATE OF WASHINGTON } ss.
County of Chelan

I, C.M. Zediker, being first duly sworn, depose and say that I have read the above and foregoing proof of appropriation of water; that I know the contents thereof; and that the facts therein stated are true.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of August, 1939.

Subscribed and sworn to before me this 15th day of August, 1939.

Notary Public.

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S. F. No. 319-1007. 10096.

Notice of Complete Application of Water to a Beneficial Use

I, Icicle Irrigation District, holder of Permit No. 328
issued by the State Supervisor of Hydraulics of Washington for the appropriation of 25 second-
feet of the waters of Eight Mile Lake, in accordance with the tenor of such
permit and the limitations endorsed thereon by the State Supervisor of Hydraulics, completely applied
the waters to a beneficial use on the Summer of 1930
day of , 19 , being within
the time limitation as fixed in said permit or extended by the State Supervisor of Hydraulics for the
complete application of water to a beneficial use.

(If all water granted in the permit has not been fully applied to beneficial use, give amount used in
percentage to the whole, so that subsequent appropriators may have notice. If permit is for irrigation
use, state per cent of lands not now watered.)

IN WITNESS WHEREOF, I have hereunto set my hand this 15 day of August, 1939

Cashmere, Wash.
(Present Address)

[Signature]
(Signature of Applicant)

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S. F. No. 369—1938—EM. 13906.

CERTIFICATE RECORD No. 3, PAGE No. 1228

STATE OF WASHINGTON, COUNTY OF Chelan

CERTIFICATE OF WATER RIGHT
(For rights perfected under original, enlargement or secondary permits.)
(In accordance with the provisions of Chapter 117, Laws of Washington for 1917, and the regulations of the State Supervisor of Hydraulics thereunder.)

This is to certify, that Icicle Irrigation District
of Cashmere, State of Washington, has made
proof to the satisfaction of the State Supervisor of Hydraulics of Washington, of a right to the use of
the waters of Eight Mile Lake, a tributary of Icicle River,
for the purposes of Irrigation
under Appropriation Permit No. 828 issued by the State Supervisor of Hydraulics, and
that said right to the use of said waters has been perfected in accordance with the laws of Washington,
and is hereby confirmed by the State Supervisor of Hydraulics of Washington and entered of record in
Volume 3, at Page 1228, on the 21st day of August, 1939; that
the right hereby confirmed dates from August 2, 1926; that the amount of water to
which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount
actually beneficially used for said purposes, and shall not exceed Twenty-five (25) cubic
feet per second.

A description of the lands under such right to which the water hereby confirmed is appurtenant,
and the place where such water is put to beneficial use, is as follows:

PLACE OF USE			LEGAL SUBDIVISION	FOR IRRIGATION	
Section	Township	Range		No. Acres Described in Permit	No. Acres Actually Irrigated
			<u>Within the Icicle and</u>	<u>7000</u>	<u>7000</u>
			<u>Peshastin Irrigation</u>		
			<u>Districts in Chelan</u>		
			<u>County.</u>		

LOCATION OF POWER PLANT			LEGAL SUBDIVISION	FOR POWER	
Section	Township	Range		H. P. Described in Permit	H. P. Actually Developed

Section	Township	Range	LEGAL SUBDIVISION	FOR OTHER USES

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of
use herein described, except as provided in Section 39, Chapter 117, Session Laws 1917.

WITNESS the seal and signature of the State Supervisor of Hydraulics affixed this 21st day
of August, 1939.

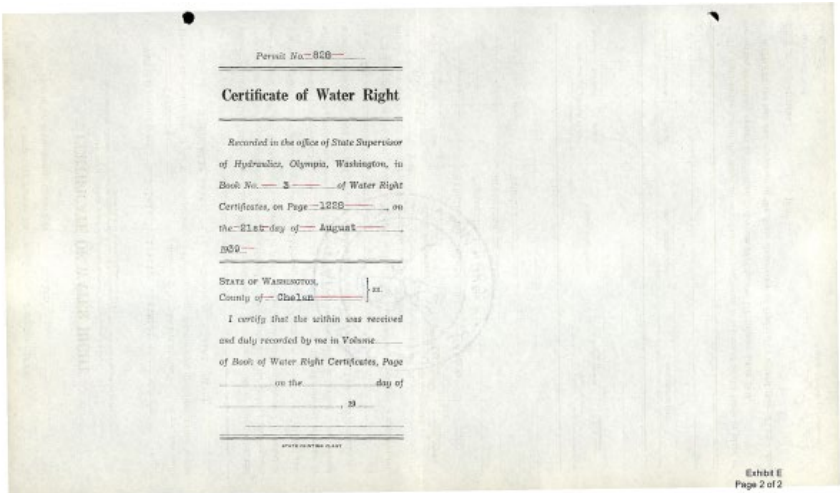
ENGINEERING DATA
O. J. JEN

Olaf J. Carchoer
State Supervisor of Hydraulics.
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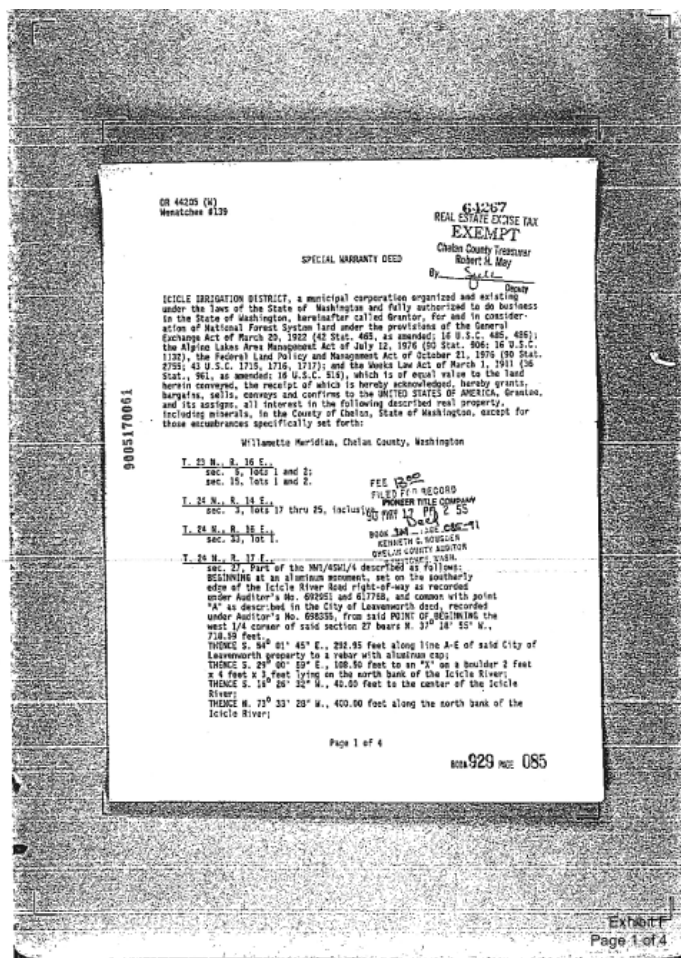
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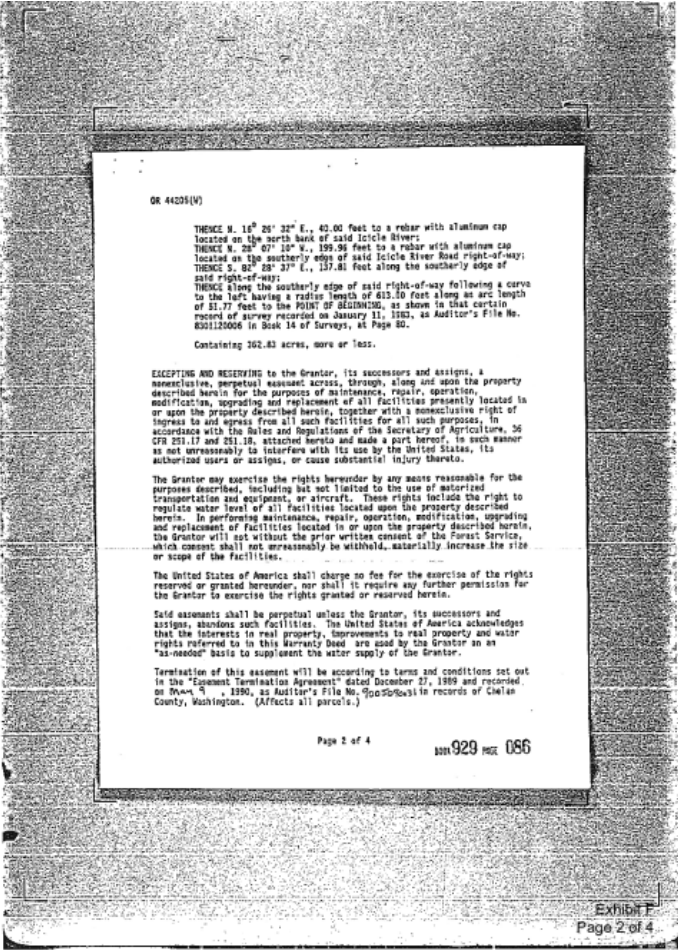
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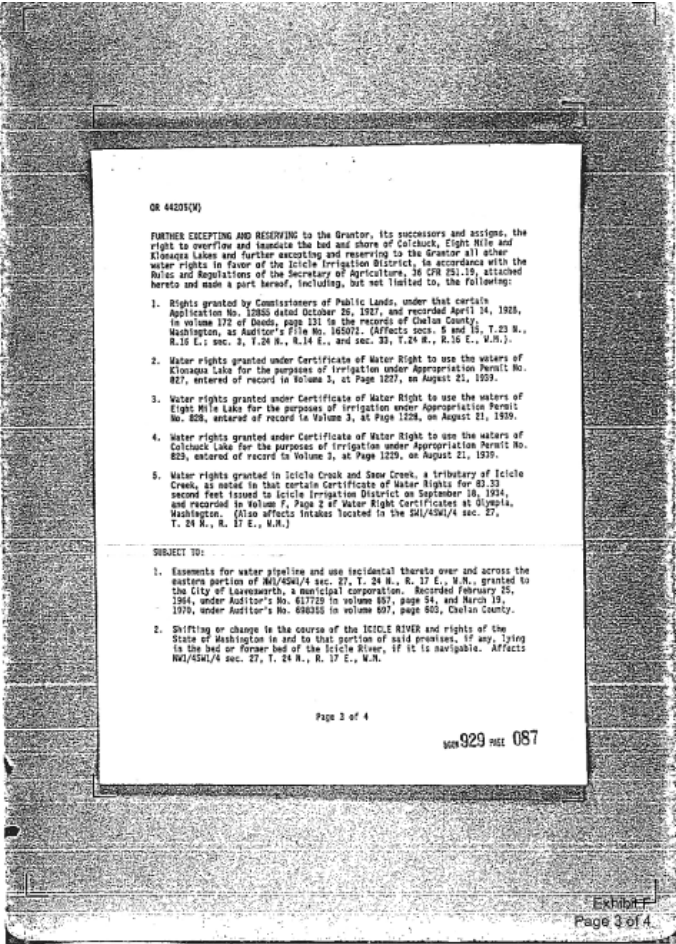
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ON 44205(M)

The acquiring agency is the Forest Service, U.S. Department of Agriculture.

The Grantor for itself and for its successors in interest does by these presents expressly limit the covenants of the deed to those herein expressed, and excludes all covenants arising or to arise by statutory or other implication, and does hereby covenant that against all persons whomsoever lawfully claiming or to claim by, through or under said Grantor and not otherwise, Grantor will forever warrant and defend the said described real estate.

Dated this 17th day of May, 1932.

ICICLE IRRIGATION DISTRICT

ATTEST:

By Lyman B. Bardin
Lyman B. Bardin
President, Board of Directors

By Ralph F. Kimerly
Ralph F. Kimerly, Director

By Norman Haisloure
Norman Haisloure
Secretary/Manager

ACKNOWLEDGMENT

STATE of Washington }
County of } ss

On this 17th day of May, 1932, before me the undersigned, a Notary Public in and for said State, personally appeared Lyman B. Bardin, Ralph F. Kimerly, and Norman Haisloure, known to me to be the Directors and Secretary/Manager, respectively, of the ICICLE IRRIGATION DISTRICT, the municipal corporation that executed the within and foregoing instrument, and acknowledged to me that said corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Thomas M. McElch
Notary Public for the State of Washington
Residing at Leavenworth
My Commission Expires May 1, 1937

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**MEMORANDUM**

Project No.: 120045

March 5, 2014

To: Larry Martin, Velikanje Halverson, PC

cc: Tony Jantzer, Icicle Peshastin Irrigation District

From: Joe Morrice, LIIG
Associate Hydrogeologist

Ryan Brownlee, PE
Senior Water Resources Engineer

Re: Review of Eight Mile Lake Storage Authority

This memo presents results of review of public records related to Icicle Peshastin Irrigation District's (IPID) water storage authority at its Eight Mile Lake facility in Chelan County, Washington. This work was completed by Aspect Consulting, LLC (Aspect) on behalf of the Chelan County Department of Natural Resources.

Methodology and File Requests

Information, including land ownership, permits, easements, agreements, decisions, or other documents related to Eight Mile Lake, was requested from the following public agencies. The types of information provided by these agencies are summarized in the following sections.

Chelan County Auditor. Auditor's files were searched for recorded documents pertaining to IPID, Icicle Irrigation District (IID), or Peshastin Irrigation District (PID). Auditor File Numbers or recording numbers noted in other reviewed documents were also retrieved for review. Relevant files include a recorded copy of the Order issued by the Decrement of Natural Resources' (DNR) predecessor agency granting the IID the right to overflow the shoreline of Eight Mile Lake, a deed transferring IPID's interests in land adjacent to the lake to the United States Forest Service (USFS) and spelling out access and maintenance rights to IPID's facilities at the lake, and an easement termination agreement for those rights.

Chelan County Superior Court. Court filings, transcripts of court testimony, the Report of Referee, Supplemental Report of Referee, and Court Decree from the 1927 Icicle Creek water right adjudication were obtained from the court for review. The adjudication focused on the conflict between Icicle and Peshastin Irrigation Districts and the Snow Creek Irrigation District, and provided little specific information on Eight Mile Lake. However, the Supplemental Report of Referee and Court Decree recognized IID's storage water rights to Eight Mile Lake issued by the Department of Ecology's (Ecology) predecessor agency.

United States Forest Service. A Freedom of Information Act (FOIA) request was filed with the Wenatchee District of the USFS requesting any USFS easements, special use permits, or other

earth+water

Aspect Consulting, LLC 4012 NW Avenue S., Suite 201 Seattle, WA 98104 206.328.7443

www.ExhibitGilligan.com

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agreements, decisions, or permits related to Eight Mile Lake and IPID. The USFS provided recorded copies of the deed transferring IPID's interests in land adjacent to the lake; this was the same deed as was obtained from the County Auditor. No other permits or authorizations were identified by USFS.

Bureau of Land Management. A FOIA request was filed with the Oregon State Office of the Bureau of Land Management (BLM) requesting any BLM easements, special use permits, or other agreements, decisions, or permits related to Eight Mile Lake and IPID. The BLM provided copies of the same deed conveying transferring IID's interests in land adjacent to the lake as was obtained from the County Auditor. The original land exchange agreement, terms of which are captured in the recorded deed, were also provided. No other permits or authorizations were identified by BLM.

Washington State Department of Ecology – Water Resources. A request for water right file information related to storage or diversion of water from Eight Mile Lake was filed with Ecology's Water Resources Program. Complete file information was received for Water Right Certificate 1228, including the application, public notice, water right permit, notices of construction, proof of appropriation, and the water right certificate. A set of oversized maps and drawings of dam construction were also provided; however, these were for IPID's Klonqua Lake (Certificate 1227) rather than Eight Mile Lake. As discussed below follow-up requests to locate drawings for Eight Mile Lake in Ecology's files were unsuccessful, but agency-approved drawings of the lake shoreline and dam were located in IPID's files.

Washington State Department of Ecology – Dam Safety Office. A request for files related to Eight Mile Lake, including permit authority and inspections or correspondence history was filed with Ecology's Dam Safety office. Partial copies of blueprints of the dam construction and survey of the lake meander line and a memorandum documenting a 1995 safety reconnaissance inspection of the dam at Eight Mile Lake were provided. The memorandum noted that the actual dam construction differed from the proposed construction (e.g., the existence of only one dam rather than two dams). The copies of the dam construction and survey drawings are of poor quality, but appear to be identical to the 1931 drawings found in IPID's files (see below). Follow-up file requests to retrieve the original drawings and any additional file information included with the drawings were submitted to Ecology's Dam Safety Office and the Water Resources Program in the Central Regional Office and at Headquarters. Ecology could not locate the drawings or additional file information in either paper files or archived microfiche.

Washington State Department of Natural Resources. An Order authorizing IID to inundate lands at Eight Mile Lake was issued by the Washington State Commissioner of Public Lands, predecessor agency to the DNR. A request for file information related to Eight Mile Lake and the Order were requested from DNR. Information received from DNR included the petition (application) from IID to the State Land commissioner requesting the right to inundate shore lands of Cole Chuck Lake, Eight Mile Lake, and Klonqua Lake; correspondence with IID; an engineer's report prepared by the state; and a copy of the Order.

IPID Files. IPID's files were reviewed for information related to Eight Mile Lake. Information identified included partial copies of the water right file, the Commissioner of Public Lands Order, and drawings of the dam structures and a 1930 survey map showing the lake meander line and a line 10 feet above normal high water, partial copies of which were also found in the Dam Safety

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Office files. The drawings and survey map are signed and stamped "Approved by Supervisor of Hydraulics" and dated January 14, 1931. This survey information has been overlaid on an aerial photograph of Eight Mile Lake and is provided in Figure 1.

Timeline of Eight Mile Lake Storage Authority

This section presents a timeline of IPID's development of and storage authority for Eight Mile Lake based on the documents review. The timeline is divided into the applications and permits authorizing storage at the lake, construction of storage facilities and perfection of the water rights, and later conveyance of lands adjacent to the lake to the USFS.

Applications and Permits

In August 1926, IID filed a water right application with the state Office of the Supervisor of Hydraulics, a predecessor agency to Ecology, requesting to divert water from Eight Mile Lake at a rate of 25 cfs, 2,000 acre-feet per year for seasonal (June 1st to October 1st) irrigation. The description of the diversion works on the application states "Channel cut at outlet of lake, 6 feet wide and control gate installed with wood structure." The public notice, published in October 1926, includes the Q of 25 cfs, but does not specify the annual quantity. Permit Number 828, authorizing diversion of 25 cfs from Eight Mile Lake, was issued in January 1927.

In October 1926, IID petitioned the Commissioner of Public Lands to procure the shore and overflow rights of Eight Mile Lake, Klonqua Lake, and Colechuck Lake in order to "raise the elevation of said lakes by five feet above their normal low water stage, and lower the lakes ten feet below their normal low water stage." The petition noted the need for the requested storage was due to inadequate flows in the Icicle River during summer months to meet PID's and IID's irrigation needs. The petition was assigned application number 12855.

A report from the state field engineer to the Commissioner of Public Lands noted that the overflow rights were requested so that lake levels could be "raised 5 feet above the normal low water stage and lowered 10 feet below said stage. The overflow rights include the right to raise water to necessary height and to cover state shore lands to the line of ordinary high water but the law makes no provision for this department to grant the right to lower a lake below its normal stage."

The State assessed a fee of \$207 to cover damages to state lands from overflow of the three lakes, which IID paid in October 1927. The Department of Public Lands then issued an Order dated October 26, 1927 which reads in part: "the right to overflow and perpetually inundate said lands [Eight Mile Lake, Klonqua Lake, and Colechuck Lake] may be duly exercised in accordance with the terms of this order¹, the lands included being more particularly described as follows: The bed and shores of ... Eight Mile Lake." The height to which the lake could be raised or maintained was not specified in the Order. The Order was recorded with Chelan County in 1928.

In 1927, water rights to Icicle Creek and its tributaries were adjudicated in Chelan County Superior Court. The adjudication focused primarily on Snow Creek, with no testimony provided regarding

¹ No specific terms were spelled out in the Order. The Order references Section 102, Chapter 255 of the Session Laws of 1927. This Chapter and Section authorized the Commissioner of Public Lands to grant the right to "back and hold water" and overflow and inundate state shore lands for the purpose of constructing and operating works for the impoundment of water for irrigation and other uses.

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March 5, 2014

water use or development at Eight Mile Lake; however, the 1929 Court Decree affirmed IID's water right Permit Number 828 (along with similar permits for Kionsqua and Colechuck Lakes) in the amount of 25 cfs, 2,500 afy. The decree also notes that the water rights represented by the permits are "inchoate but may be perfected by compliance with provisions under which the permits were issued; that these rights for storage of water under said permits do not affect the water rights of any other claimant herein reported."

Dam Construction and Perfection of Water Rights

Based on the Notices of construction contained in Ecology's water right files, IID began construction of the dam at Eight Mile Lake in July 1927 and completed construction in October 1929. The Notice of beginning of Construction, filed in 1927, indicated clearing and excavation work began in July 1927. This notice repeated that the requested water right was for 25 cfs, 2,000 afy, but pre-dates the Court Decree affirming 25 cfs, 2,500 afy.

The notice of Completion of Construction, filed in 1939, notes "work completed providing gravity draw-down of Lake of 25 feet." A Proof of Appropriation was filed by IID in 1939, stating all water was put to beneficial use in 1930. The Proof of Appropriation noted: ...

"Cut was made 25 feet deep in outlet channel, creosoted wood stave pipe 30 inches in diameter with standard reservoir cast iron gate installed. Gate thoroughly embedded in concrete and concrete cut-off wall placed in channel approximately 50 feet down the stream from control gate.

The lake has a natural outlet channel some 30 feet below normal high water and due to difficulty in securing water tightness in formation of slide responsible for the lake dam was not constructed to height first intended, the District preferring to use water pumping equipment for securing full appropriation of water during period of extreme drought."

A drawing of the dam structures was found in IID's files and also in Ecology's Dam Safety files. The drawing details differ from the description on the Proof of Appropriation and the current structure at Eight Mile Lake and it is unclear if the drawing is of the proposed dam, is an as-built, and/or the extent to which the dam has been modified since original construction. For example, the drawing shows two dams – the main impoundment dam and a second dam incorporating the spillway structure – however, at the time of the 1995 Ecology inspection there was no second dam and the spillway was incorporated into the main impoundment dam. Additionally, the drawing indicates 36-inch diameter reinforced concrete pipe or stone conduit discharge pipeline, rather than creosoted wood stave pipe listed in the Proof of Appropriation.

The undated drawing also shows water impounded to ten feet above high water line of the lake. This is consistent with the Supervisor of Hydraulics-approved survey map found in IID's files, which shows the lake meander line and a survey line ten feet above high water (see Figure 1). However, given the description in the Proof of Appropriation that the dam was not constructed to the height intended, it is possible that the actual impoundment level was something less than the ten feet above high water line shown on the drawings.

Water right Certificate 1228 was issued to IID in August 1939 authorizing use of 25 cfs from Eight Mile Lake; no annual quantity or storage volume was specified.

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March 5, 2014

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Conveyance of Lands to USFS and Retention of Rights to Operate Storage
Based on recorded deeds in the Auditor's files, and information provided by USFS and BLM, IPID and the USFS agreed to a land exchange, finalized in 1990; the USFS received title to IPID's interest in lands adjacent to Eight Mile Lake. Lands at Eight Mile Lake conveyed to USFS are described as Section 5, Lots 1 and 2 of Township 23 N, Range 16 EWM and Section 33, Lot 1 of Township 24 N, Range 16 EWM. These descriptions correspond to an approximately 40 acre square parcel at the lake outlet and dam structure and an approximately 80 acre rectangular parcel along the south shore of the lake. IPID retained several rights to the land, including:

"a nonexclusive, perpetual easement across, through, along, and upon the property described herein for the purposes of maintenance, repair, operation, modification, upgrading and replacement of all facilities presently located in or upon the property described herein, together with a nonexclusive right of ingress to and egress from all such facilities for all such purposes, in accordance with Rules and Regulations of the Secretary of Agriculture, 36 CFR 251.17 and 251.18, attached hereto and made a part hereof, in such manner as not unreasonably to interfere with its use by the United States, its authorized users or assigns, or cause substantial injury thereto.

The Grantor [IPID] may exercise the rights hereunder by any means reasonable for the purposes described, including but not limited to the use of motorized transportation and equipment, or aircraft. These rights include the right to regulate water level of all facilities located upon the property described herein. In performing maintenance, repair, operation, modification, upgrading and replacement of facilities located in or upon the property described herein, the Grantor will not without prior written consent of the Forest Service, which consent shall not unreasonably be withheld, materially increase the size or scope of the facilities."

The recorded deed further recognized that IPID's reserved their rights under water right certificate 1228 and the Order granted by the Commissioner of Public Lands.

Conclusions Regarding Water Storage Authority at Eight Mile Lake
Based on the above timeline and file review we draw the following conclusions regarding IPID's storage authority at Eight Mile Lake:

- Authority to inundate the shoreline of Eight Mile Lake for water storage was granted by a DNR predecessor agency. At a minimum the authority is to impound water and raise the water level to 5 feet above normal low lake level. This agency could not grant authority to draw down the lake to below normal low lake level.
- The original water right application and Notice of Beginning of Construction filed with Ecology's predecessor agency request instantaneous and annual quantities of 25 cfs, 2,000 afy. However, these pre-date the Court Decree resulting from the adjudication of water rights that affirmed a permit for Eight Mile Lake of 25 cfs, 2,500 afy. The adjudication Court Decree supersedes any prior filings or decisions and defines the limits of the water right permit, subject to subsequent proof of appropriation and certification of the right.

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MEMORANDUM

Project No.: 120045

March 5, 2014

- The water right certificate issued by Ecology authorizes use of 25 cfs from Eight Mile Lake, but is silent regarding annual quantity. Lacking any indication to the contrary, the 2,500 afy specific in the Court Decree should hold as the maximum authorized storage volume.
- Inherent in the Ecology-predecessor agency approvals is the right to drawdown the lake to provide the authorized 25 cfs, 2,500 afy. Construction notices filed with the Proof of Appropriation indicate the dam and diversion were constructed to allow 25 feet of gravity drawdown.
- The storage authority may be limited to the achievable storage of the dam as originally constructed and on which the water right was certificated, up to the court-affirmed annual quantity of 2,500 afy, unless there is a compelling argument that partial relinquishment or abandonment is raised. There are exceptions that may cover a period of less than peak use or storage, which are fact-based inquiries that we have not evaluated yet. In order to understand relinquishment risk, we suggest that there first be a marrying of the authority analysis completed herein with the bathymetric survey completed by Gravity Consultants, supplemented by IPID operating history to the extent it is known or can be retrieved from IPID records.
- Under terms of the land exchange with USFS, IPID retains easement rights to the property containing the dam structure for the purposes of maintenance, repair, operation, modification, upgrading and replacement of all facilities. As shown on Figure 1 the easement lands include the dam and part of the southern shoreline, but do not cover the entirety of the lake. IPID clearly retains rights to modify the dam structure, but the lack of easement rights to the rest of the lake raises uncertainty about the authority to increase lake storage. Plans to materially increase the size or scope of storage facilities would require the consent of USFS, as outlined in the land exchange agreement.

Limitations

Work for this project was performed for the Chelan County Department of Natural Resources (Client), and this memorandum was prepared in accordance with generally accepted professional practices for the nature and conditions of work completed in the same or similar localities, at the time the work was performed. This memorandum does not represent a legal opinion. No other warranty, expressed or implied, is made.

All reports prepared by Aspect Consulting for the Client apply only to the services described in the Agreement(s) with the Client. Any use or reuse by any party other than the Client is at the sole risk of that party, and without liability to Aspect Consulting. Aspect Consulting's original files/reports shall govern in the event of any dispute regarding the content of electronic documents furnished to others.

Attachments:

Figure 1 – Icicle Peshastin Irrigation District, Eight Mile Lake Storage Authorization Summary

V:\120045 Chelan County\Deliverables\Eight Mile Lake Review\Eight Mile Document Review (3-5-14).docx

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June 5, 2023

Tom Tebb
Director, Office of the Columbia River and
Icicle Work Group Co-lead
1250 West Alder Street
Union Gap, WA 98903

Submitted online at 8mile@ecv.wa.gov and via email to melissa.downes@ecv.wa.gov

RE: Eightmile Lake Dam Rebuild and Restoration project Draft EIS comments

Dear Director Tebb,

The Icicle Creek Watershed Council (ICWC) appreciates the opportunity to comment on the Eightmile Dam rebuild and restoration project Draft Environmental Impact Statement (DEIS).

ICWC is a local non-profit that has been working since 1997 to improve the health and ecology of Icicle Creek. ICWC is a sub-committee of the Icicle Canyon Coalition, a 501(c)(3), non-profit organization created in 1994 to address environmental issues associated with the Icicle Creek Watershed. As a member of the Icicle Work Group (IWG) since its inception, we have been deeply engaged in the development of the Icicle Strategy.

The ICWC understands the need to repair the infrastructure at Eightmile Lake to address the public safety risk, meet the Office of Dam Safety (ODS) requirements, and store water for irrigation purposes. We recognize and support the need for additional water in Icicle Creek. We also support dam automation in conjunction with the collaborative development of a decision support tool to optimize flow releases for irrigation and provide instream flow benefits. We respect and support efforts to protect tribal fishing rights.

In 2021, we submitted scoping comments on the Eightmile Dam replacement project and the DEIS comments below are consistent with the scoping letter topics and organized under the same heading topics as the scoping comments provided in 2021.

We offer the following comments on the DEIS:

1. **Water Rights Analysis.** We support an alternative that increases the water storage capacity at Eightmile Lake **if and only if** Ecology first resolves the acknowledged uncertainty surrounding the scope and status of IPID's Eightmile Lake water right, in order to ensure that IPID has sufficient water rights to donate the excess water to permanent instream flows. Determining the valid annual quantity of Eightmile Lake water that Icicle Peshastin Irrigation District (IPID) has used in the last five years is essential to address the possibility of relinquishment of storage water rights. This evaluation of water rights needs to be made

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O-10-1 Comment noted.

O-10-2 As explained in Chapter 6 of the Draft and Final EISs, actions triggering a tentative determination of validity and extent are outlined in Ecology Policy 1120. That policy specifically states that a tentative determination of extent and validity is not warranted for donation to the State Trust Rights Program. Additionally, under standard Ecology policies and practices, there was not sufficient cause for Ecology to conduct such a determination at the time of the preparation of the EIS. Refer to the Global Responses for Tentative Determination of Extent and Validity and Trust Donation, which also includes a discussion of public funding.

Concerning the comment about the Final EIS providing cost estimates for each alternative along with percentages being publicly funded, providing such cost estimates are not required under SEPA. WAC 197-11-448(3) states "Examples of information that are not required to be discussed in an EIS are: Methods of financing proposals, economic competition, ..."

WAC 197-11-448 describes the relationship of an EIS to other considerations. SEPA contemplates that the general welfare, social, economic, and other requirements and essential considerations of state policy will be taken into account in weighing and balancing alternatives and in making final decisions. However, the EIS is not required to evaluate and document all of the possible effects and considerations of a decision or to contain the balancing judgments that must ultimately be made by the decision-makers. SEPA does not require that an EIS be an agency's only decision-making document.

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O-10-2	<p>prior to the selection of an alternative to ensure that the infrastructure is appropriately sized to serve the district irrigation needs and to understand whether or not this project will provide instream flow benefits. To date, the perfected annual quantity of water use has not been determined by Ecology or by a court through an adjudication of water rights. This makes it unclear if IPID has sufficient water rights to permanently donate any water to the State Trust Water Rights Program.</p> <p>Public funds should be used towards projects that provide a public benefit, in this case, to increase instream flows. Therefore, the determination of the IPID annual water use should be made before an alternative is selected to ensure that public funds are used on a project that results in a donation of permanent instream flow to the State Trust Water Rights Program. The Final Environmental Impact Statement (FEIS) should provide cost estimates for each alternative and an estimate of the percentage of the project that will be publicly funded to provide transparency in the use of public funds.</p>	<p>O-10-3 Refer to the Global Responses for Tentative Determination of Extent and Validity, Relinquishment and Trust Donation.</p> <p>In addition, after the Draft EIS was issued, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes. Following issuance of the Final EIS, Ecology will conduct its review of the quantities available through the Trust donation as prescribed in RCW 90.42.080(4).</p>
O-10-3	<p>To date, Ecology has avoided making any tentative determination on the extent and validity of the water right because a change application has not been filed. The Sierra Club DEIS comment letter provides a detailed review of State code and Ecology policies to conclude that a change application is not required for Ecology to formally analyze IPID's water rights and usage. Rather, Ecology could issue IPID a show cause letter because it appears that some of the water right has or may have been relinquished or abandoned due to a period of nonuse resulting from erosion damage to the dam infrastructure in the early 90's and microspray irrigation efficiency improvements.</p> <p>The Ecology determination of a valid annual quantity of IPID water use is essential in order to appropriately size the infrastructure, ensure permanent instream flow donations result from this project, and responsibly use public funds towards projects that result in increased instream flows.</p>	<p>O-10-4 Comment noted. Project objectives are outlined in Section 1.4 of the Draft and Final EISs. With regard to IPID's water right, refer to the Global Response for Tentative Determination of Extent and Validity. Also refer to response to comment number O-9-46.</p>
O-10-4	<p>2. The current range of alternatives is not adequate. If the scope and status of IPID's Eightmile Lake water right and the annual flow quantity cannot be determined prior to selection of the preferred alternative, then we request that a new alternative be included in the FEIS: rebuild the current dam to meet ODS requirements, but not increase the capacity to withdraw more than the current amount of water being taken out of the Wilderness. Rebuilding the dam to the current maximum lake elevation of 4667 feet, and replacing the outlet pipe intake not lower than the current elevation of 4648.65 feet would:</p> <ol style="list-style-type: none"> Address safety concerns and flood risk for those downstream. Provide irrigation water through storage with reduced environmental impact due to the reduced footprint and a reduced cost to the public. Provide a fully evaluated alternative that provides, but does not exceed, water historically and currently used by IPID. Including this alternative is essential if Ecology cannot positively determine whether or not IPID has sufficient water rights to donate excess storage to permanent instream flows. 	<p>O-10-5 The wetland located at the west end of Eightmile Lake is shown in Figure 11-5 as noted, and is described in Section 8.3.1 of the Draft and Final EISs. A wetland delineation was not conducted of this wetland as part of this project, so the size of the wetland is unknown. Restoring the lake elevations to 4,671 feet as was the case prior to the 1990s will result in greater inundation (than current conditions) in this area, likely resulting in increasing the wetland size over time. Because the shoreline along the south shore of the lake is largely vertical rock and does not support wetland, wetland creation in this area would be relatively reduced within this elevation range. Impacts on the species of interest would, therefore, not be expected from a habitat type/quality-lost standpoint, as the area of wetland around the inlet would remain present. Increased surface water area would likely shift the wetland footprint to the west along the inlet expanding it in this area and providing additional habitat.</p>
O-10-5	<p>3. The FEIS should expand the analysis of the impacts of the proposed actions. The DEIS does not estimate the wetland acres that will be impacted as a result of raising the lake elevation 4' higher than it has been since the early nineties. A wetland delineation is not needed to make an estimate of wetland impact acres. Please estimate wetland impacts resulting from raising the lake 4' and inundating an additional 4.6 acres. Figure 11-5 on page 11-8 depicts wetland areas adjacent to the lake. How does conversion of wetlands to waters</p>	<p>Project implementation will require a number of permits from federal, state, and local agencies. Potential wetland impacts will be reviewed by the Corps, Forest Service, Ecology, and Chelan County through various permit and approval processes with each agency prior to construction.</p>

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O-10-5	impact species that rely upon wetland habitat such as western toad, harlequin duck, and possibly other species?	O-10-6	Rare plant surveys of the lake zone were not part of the baseline for this work, as no rare plants were known to occur in this area based on consultation with the Forest Service and state agencies. Refer also to the Global Response for Lake Level and Bathtub Ring.
O-10-6	In addition, rare plant surveys were not conducted in the lake fringe zone nor did they consider the lake fringe/wetland habitat type during the evaluation of impacts. Rare plant surveys should be conducted in the lake fringe zone and during the time of flowering for rare plants. The ecological impacts of lowering the lake 4' lower than the previous lowest observed level should also be evaluated.	O-10-7	See Section 8.4 of the Draft and Final EISs for discussion of noise impacts on wildlife due to construction activities. See Figures 9-1 through 9-8 in Chapter 9 of the EIS, which illustrate the extent of potential noise exposure in the Icicle Valley due to construction-related helicopter operations. See Section 9.7 for discussion of potential mitigation measures to reduce noise impacts due to construction activities. Noise impacts on recreational users during construction-related helicopter use are described in Section 10.4.1. Refer also to the Global Response for Recreation.
O-10-7	The DEIS evaluates the noise impacts to wilderness users, however, the FEIS should also include an analysis of noise impacts to wildlife and mitigation for any wildlife impacts. How far will noise extend from the helicopter pad up and down the Icicle Valley? Noise impacts to Icicle Valley residents and visitors as well as campers using campgrounds along Icicle Road should also be evaluated and appropriately timed and mitigated.	O-10-8	Comment noted. Refer to the response to comment O-9-32.
O-10-8	4. All Wilderness laws must be adhered to. The Forest Service will need to evaluate whether or not wilderness laws, the Alpine Lakes Area Management Plan, and the current deed allow IPID to expand water storage and expand the footprint of the current dam.	O-10-9	Quantification of IPID's water conservation efforts are beyond the scope of the EIS. Refer to the Global Response for Water Conservation for a summary of IPID's conservation efforts. IPID water conservation for its irrigation practices is considered as part of the 2019 Final Programmatic EIS (FPEIS), and projects addressing conservation are part of the larger Icicle Strategy described in the FPEIS as well as part of IPID's broader water management decisions. Chapter 6 of the Draft and Final EISs considers IPID's conservation practices and references IPID's 2018 Comprehensive Water Conservation Plan. Refer also to the Global Response for Water Conservation.
O-10-9	5. Water Conservation. The FEIS should evaluate ways to reduce the demands for water from Icicle Creek and Eightmile Lake by increasing efficiency and conservation of water. Water conservation efforts should be quantified and included in the determination of actual water use by IPID. Consumptive use of Icicle Creek water could be reduced by tightening up water delivery and consumption infrastructure of water users in the IPID service area. Improving demand management efforts, and recalculating future demand would reduce the use of Icicle Creek water and possibly leave more water instream.	O-10-10	Thank you for your comment. Refer to the Global Responses for Relinquishment, Tentative Determination of Extent and Validity, and Trust Donation.
O-10-10	In closing, ICWC supports expanding storage in Eightmile Lake IF the project also results in a permanent donation to the State Trust Water Rights program to support instream flows. Unfortunately the DEIS does not include the necessary analysis and details regarding the scope, extent, and annual use of IPID's Eightmile Lake water rights to determine whether excess water stored would result in additional instream flows with permanent donation to the State Trust Water Rights Program. Ecology must formally resolve the uncertainty surrounding the water rights to enable proper analysis of the alternatives. Without that, the sequencing of this project is fundamentally flawed and the DEIS is deficient. We do believe that significant progress has been made on this project due to the collaborative work of the Icicle Work Group members. We appreciate the opportunity to be a part of that working group and we sincerely believe that the comments listed above can be addressed such that the project moves forward to meet the goals of IPID and the Icicle Work Group Guiding Principles. Thank you for considering these comments. Sincerely,  Sharon Lunz, President Icicle Creek Watershed Council		

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June 5, 2023

Office of Columbia River
Washington Department of Ecology
1250 W Alder St
Union Gap, WA 98903

ATTN: Melissa Downes, OCR Financial and Project Manager

Re: Draft Environmental Impact Statement for the ongoing project at Eightmile Dam

O-11-1

The Center for Environmental Law and Policy (CELPL) recognizes that the Alternatives laid out in this Draft EIS raise significant issues related to impacts on the Alpine Lakes Wilderness Area. We understand that other organizations with expertise in those areas are addressing those concerns and we have signed in support of the letter from the Alpine Lakes Wilderness Society regarding those concerns. CELPL will focus its comments on the water use issues laid out in the Draft EIS.

O-11-2

CELPL's primary concern is that this project relies on the understanding that IPID's water right remains intact as described in the 1929 Superior Court adjudication. However, despite evidence of possible partial relinquishment, Ecology has neglected to investigate historic water use. Determining the extent to which IPID's water rights have been relinquished *before* producing this Draft EIS is necessary because IPID has no right to store and use water that it has relinquished. This finding should be made before any further work is done to move this project forward. It is impossible to assess which, if any, of the Alternatives listed are appropriate without a determination of the size of IPID's valid water right. During the scoping process for this project the Office of the Columbia River stated that they were working on such a determination.

The scale of this project is directly impacted by the amount of water that IPID has available and pushing forward without knowing that amount will likely result in circular determinations for water resources management in the future.

Overview of Relinquishment of Water Rights in Washington

Water is a public resource in Washington and all of the water in the state belongs to the people of Washington.¹ An individual can gain a use right to the water through a permit under the current system or by perfecting a right granted by certification under prior water management systems.² This right is a use right only, and the ownership of the water is retained by the people of Washington and managed by the Department of Ecology. To maintain the right to use water, a water right holder must put the water to beneficial use within a reasonable time, through the exercise of due diligence on the right holder's part.³

The right to use the water can be lost through abandonment or through relinquishment.⁴ Relinquishment is the unexcused non-use of water for a period of five or more years.⁵ Unless a

¹ RCW 90.03.010

² *Id.*

³ See *Cornelius*

⁴ *Id.*

⁵ RCW 90.14.160 for relinquishment purposes the period of non-use must be after July 1967

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O-11-1 Comment noted.

O-11-2 Refer to the Global Responses for Relinquishment and Tentative Determination of Extent and Validity.

The design alternatives considered in the EIS were determined to be of reasonable volumes based on the Multi-fill Analysis and other information in the record. Refer to the Global Response for Multi-fill Analysis. The quantity of water to be stored and released under the Eightmile Lake water right at the rebuilt dam for instream flow purposes under the Trust donation will be limited to the quantity of water that exceeds the amount retained for irrigation by IPID, based on review of the Trust donation application submitted by IPID in May 2024. The quantity will be determined according to the process prescribed in RCW 90.42.080(4), and, following the issuance of the Final EIS, Ecology will issue a decision accepting the available portion of the right into Trust to be managed and released for instream flows. The monitoring and reporting plan (referenced in Section 2.6 and 6.5 of the Final EIS) will ensure that the maximum active storage volume of the design alternatives considered (2,000 acre-feet) will not be exceeded in operating the rebuilt dam and that the Trust donation quantities are managed properly.

See also the Global Response for Relinquishment.

O-11-3 Refer to the Global Responses for Relinquishment and Tentative Determination of Extent and Validity. As explained in the Global Response for Relinquishment, it is not clear that there has been partial nonuse of the Eightmile Lake water right. While there could be partial nonuse of the storage right if the reservoir is only filled at one time each year in the dam's current configuration, there is evidence showing that it is being partially re-filled during the season (see Chapter 6 of the Draft and Final EISs) during most years. Thus, while the storage capacity of the lake has been reduced, IPID has still been able to exercise its storage right, either partially or fully, through multiple filling (refer to the Global Response for Multi-fill Analysis). For this and other reasons noted below and described in the Global Response for Relinquishment, Ecology has not deemed that the factual scenario for this water right warrants commencement of a relinquishment action. Further, it is possible the right qualifies for one or more of the legal exceptions to non-use.

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	<p>Additionally, as described in Chapter 6 of the Draft and Final EISs, Ecology has not completed a tentative determination of extent and validity of the right because there has been no water right action triggering a tentative determination. Similarly, as described in the Global Response for Relinquishment, Ecology has ascertained that issuance of an order for relinquishment is not warranted. See the Global Response for Tentative Determinations of Extent and Validity.</p> <p>However, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes in May 2024. Following issuance of the Final EIS, Ecology will conduct its review of the quantities available for the Trust donation under the right in accordance with the process prescribed in RCW 90.42.080(4). As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology-approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flow use as well as for IPID's irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered (2,000 acre-feet). The monitoring and reporting plan will also ensure that the Trust donation is managed in accordance with Trust approval conditions. If a future quantification of the IPID water right (through adjudication or future water right action) results in an annual quantity that is less than the 2,000 acre-feet considered in this EIS, the physical active storage volume in the lake can be reduce through shortening the intake pipe outlet as described in the Draft and Final EISs without necessitating any changes to the main design.</p> <p>The comment raises concern that the Proof of Appropriation does not support a storage volume of 2,000 or 2,500 acre-feet. However, considering the potential for partial refilling(s) in most years and that the water right was established prior to the filing of WAC 508-12-270 in 1960, multiple filling(s) of the active storage volume can be considered; see the Global Response for Multi-fill Analysis.</p>

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statutory exception applies, a water right remains valid only to the extent that it has continuously been beneficially used.⁶ If Ecology has sufficient evidence that a water right may have been relinquished, Ecology *shall* issue a “show cause letter.”⁷ That letter must state that Ecology tentatively believes that the water right has been relinquished and explain that the right will be declared relinquished unless the water right holder can show sufficiently why it should not be relinquished.⁸ If the water right holder does not respond or fails to show sufficient cause as to why the user failed to exercise its full water right, the amount of unused water is returned to the state.

Additionally, a water right may be relinquished during the process to change said water right in any manner requiring Ecology’s approval. Any time an application to change the place or type of water use is filed Ecology conducts a tentative determination of extent and validity during which Ecology determines how much, if any, of a water right is still valid.⁹ During this process, the water right holder must show how and where water has been put to beneficial use. In this case Ecology has sufficient evidence that part of IPID’s water right has not used their right or portion thereof.

(a) IPID’s water right at Eightmile Lake has been partly relinquished.

In this instance, the process of determining relinquishment is of utmost importance because the amount of water the dam needs to hold is directly related to how much water IPID has a right to use. If IPID has relinquished part of its water right it dramatically changes the appropriateness of Alternatives 1 and 2 because they involved drastically increasing the amount of storage behind the dam. It is unclear how much water IPID has put to beneficial use historically.

Eightmile Lake has been operated as a reservoir by IPID since the 1930s. IPID claims a right to 2500 acre-feet annually and a flow rate of 25 cfs, based on a 1929 Superior Court adjudication. A Proof of Appropriation filed in 1939 stated that since 1930 IPID used water, at a rate of 25 cfs and a total drawdown of 25 feet in lake level below the height of the dam. But this Proof of Appropriation cannot support IPID’s claim of 2000 acre-feet or more. The dam allowed retention of water to an elevation of 4671 feet, and according to the Proof of Appropriation, the outlet pipe was placed 25 feet below that at 4646 feet. That would allow release of approximately 1600 acre-feet of water.¹⁰ Even allowing for leakage (which lowers the lake level an additional 5 feet), this would only represent approximately 1800 acre-feet of withdrawal.¹¹ Furthermore, since the dam was damaged it is unable to hold more than 1,151 acre-feet of water for withdrawal.

The Eightmile Multi-Fill Analysis Report purports to show that IPID manages, via multi-fill, the area behind the dam throughout the irrigation season to make up for the lack of storage to hold IPID’s full water right at one time. However, the analysis is incredibly vague. It appears that Aspect Consulting created a full-breadth model and then in this analysis glossed over the details of that model including how they estimated the amount of leakage, the dates they used for precipitation data, and the connection between active release and reserve storage fill.¹² This report makes it appear as if multi-fill is occurring

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⁶ *Id.*

⁷ POL 1060 See RCW 90.14.130 applicable through RCW 90.14.160

⁸ *Id.*

⁹ POL 1120

¹⁰ Final Programmatic Environmental Impact Statement for the Icicle Creek Water Resource Management Strategy (“Final PEIS”), Appendix C at 40.

¹¹ *Id.*

¹² Eightmile Lake Multi-Fill Analysis Memorandum, Aspect Consulting, May 11, 2022. While the estimate of 912 acre-feet of leakage is conservative based on a leakage rate of 5 CFS there is no data or explanation about why the leakage was assumed to be 5 cfs. Table 4 lists the amount of precipitation in acre-feet per year and lists a higher quantity in 2015(drought year) than in 2014 (average year); while true for the entire water year it is not accurate for the irrigation season, and it is unclear what precipitation dates were used for the model as they are not shared anywhere in the analysis.

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Refer to the Global Responses for Multi-fill Analysis and Relinquishment.

In addition, while Ecology has not recreated the Multi-fill Analysis, it conducted a general review of the information and assumptions used, as well as the general methodology, and ascertained that the analysis is reasonable. The analysis was used in conjunction with other information to determine whether the range of active storage volumes for the alternatives were reasonable within the right. The analysis is described in the Global Response for Multi-fill Analysis and relies, in part, on the information presented in IPID’s multi-fill memo (Aspect 2022a) and Ecology’s review of that information and other records provided by IPID. As described in Chapter 2 of the Draft and Final EISs, although the eroded capacity of Eightmile Lake with stop boards installed is 1,151 acre-feet, lake releases allow for additional late season storage capacity and, coupled with late season precipitation events, can serve to refill some of the capacity and add to the annual volume of water actively stored at the lake. As described in the EIS, this multi-fill practice along with the existing initial active storage capacity reasonably supports the design volumes of 1,698 acre-feet (under Alternative 3) and 2,000 acre-feet (under Alternatives 1 and 2) for the alternatives considered.

Although IPID indicates they currently require storage of 1,400 acre-feet in Eightmile Lake, this does not necessarily reflect past storage uses. Additionally, IPID stating that they only need 1,400 acre-feet of storage from Eightmile Lake is not evidence of relinquishment; rather, an unexcused lack of use is evidence of relinquishment. RCW 90.14.140 lists numerous specific exceptions that are defined as sufficient causes that excuse nonuse of water and prevent relinquishment. Further, IPID’s statement that they only need 1,400 acre-feet also does not mean they have only used 1,400 acre-feet from the lake; they could have used larger amounts from Eightmile Lake and lesser amounts from their other storage rights, as an example. They also agreed to a reduced quantity of use from Eightmile Lake in order to support requests for future public funding opportunities (which could include funding from Ecology’s OCR) for construction of the dam pending the outcome of the Trust donation, and, as such, IPID did not present the proposed reductions to Ecology as being tied to a lesser historical beneficial and reduction of their water right. As described in the Global Response for Relinquishment, Ecology has not deemed that the factual scenario for this water right warrants commencement of a relinquishment action. Additionally, the EIS process is not the appropriate process to determine relinquishment nor the extent and

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validity of the water right (appropriately evaluated during a tentative determination of extent and validity), although Ecology’s evaluation indicate that IPID possesses sufficient rights to support the range of proposed alternatives in the EIS.

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O-11-4	<p>on a regular basis even midsummer in drought years without providing full details. It is unreasonable to rely on this analysis alone to show the amount of water that IPID has actively stored and put to beneficial use without further clarification.</p> <p>Based on the evidence publicly available, the limited data shared in the Multi-Fill Analysis Report regarding average water year usage, and IPID's own admission that they only need 1400 acre-feet to meet current needs¹³ it appears that the IPID has relinquished rights to any water in excess of 1400 acre-feet per year through non-use. This is sufficient enough evidence that Ecology needs to initiate the relinquishment procedure to determine how much of IPID's water right has been relinquished.</p> <p><i>(b) IPID and Ecology must determine the extent of the water right prior to moving forward with the SEPA process.</i></p> <p>As discussed above it appears probable that part of IPID's water was relinquished through non-use. Despite this, two of the three Alternatives described in the Draft EIS would increase dam storage and provide a drawdown capacity larger than what IPID has used or needed historically. The crucial difference between Alternatives 1 & 2 and Alternative 3 is the size of the dam and the resulting impacts on the wilderness outside of IPID's inholding. As IPID likely does not have its full water right then there are serious concerns about constructing facilities to store and divert water that cannot legally be used by IPID. A determination of relinquishment would change the conversation about which Alternatives would be appropriate.</p> <p>During the scoping process prior to this Draft EIS, Ecology's Office of the Columbia River (OCR) stated that Ecology was in the process of conducting a tentative determination of extent and validity process for IPID's water rights. We expected this determination prior to this Draft EIS. However, in the subsequent years we have not seen such a determination and there is no information regarding its progress. The Draft EIS even states "the perfected amount has not been determined by Ecology or by a court through an adjudication of water rights."¹⁴ In the public meetings regarding this Draft EIS it was shared that OCR is confident that IPID has not relinquished any of its water rights but OCR has not shown publicly through either a response to a show cause letter or through a tentative determination of extent and validity the basis for that determination. It is astonishing that the process to repair and/or enlarge the dam has continued without a "show cause letter" or a tentative determination showing that IPID still has right to the water that the dam will impound.</p> <p>Allowing this process to go forward without examining how much water IPID still has a right to store could seriously impact a tentative determination of extent and validity in the future if IPID chooses to sell/transfer/change its water rights as the irrevocable commitment of resources for the dam could be considered a validation of the right. Considering Alternatives 1 & 2 without ensuring that IPID's water right was not relinquished is detrimental to the public interest, wilderness, and future water resource management in Icicle Creek and beyond.</p> <p><i>(c) IPID's intended donation to the Trust Water Rights Program should be initiated or not be considered in the Draft EIS.</i></p> <p>One argument that the Draft EIS appears to make regarding the lack of relinquishment determination is that IPID only needs 1400 acre-feet of water to meet current needs¹⁵ and that IPID</p>	O-11-5 Refer to Global Responses for Relinquishment and Tentative Determination of Extent and Validity.
O-11-5	<p>As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology-approved monitoring plan will require IPID to monitor and report total annual storage and release volumes for instream flows as well as for IPID's irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered (2,000 acre-feet). The monitoring and reporting plan will also ensure that the Trust donation is managed properly in accordance with the Trust Approval. This monitoring plan will be in place prior to storage and release of water from a rebuilt dam. The focus of the water rights review in the EIS was to assess whether the range of active storage capacities for the proposed design alternatives were reasonable within IPID's water right. These maximum design volumes of 1,698 acre-feet and 2,000 acre-feet represent the maximum active storage water volumes that were considered for evaluating impacts in the EIS. Water use under the right that would exceed these total maximum volumes (including cumulatively stored through multi-fill) are not evaluated in the EIS and, as a result, would not be actively stored and released as part of a final design alternative for purposes and uses under right. Sections 2.6 and 6.5 of the Final EIS further describe the Ecology-approved monitoring plan that will be developed, ensuring that total active water use is limited by the maximum volume of the design alternatives considered (2,000 acre-feet) regardless of whether practices in a given year involve multiple fillings or a single fill. In this way, the maximum design volume considered in the evaluation of potential impacts of the project would not be exceeded. Additionally, the monitoring plan will ensure that the Trust donation quantities are managed in accordance with Trust approval conditions and that any excess water would be allowed to pass through the lake as natural flow without being actively managed and released.</p>	
O-11-6	<p>Figures 1-6 which summarize the multi-fill/release analysis state that the reserve storage is about 300 acre-feet but fail to acknowledge how filling the reserve storage interacts with the active & leakage release rate in the middle part of the figures.</p> <p>¹³ Draft EIS page 6-2, Key Findings</p> <p>¹⁴ Draft EIS page 6-1, footnote 2</p> <p>¹⁵ Draft EIS page 6-2, Key Findings</p>	O-11-6 Refer to water right Global Responses for Tentative Determination of Extent and Validity, Relinquishment, and Trust Donation.

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	<p>placed in Trust for instream flow purposes. The total quantity accepted into Trust for instream flow plus the quantity retained by IPID for irrigation cannot be used in excess of the maximum volume of 2,000 acre-feet that is considered in this EIS for potential impacts analysis, as described in the Global Responses for Tentative Determination of Extent and Validity. The monitoring and reporting plan to be executed as part of the Trust donation process will ensure that the 2,000 acre-feet limit of active storage is not exceeded on an annual basis and that the Trust donation and associated quantities are managed in accordance with Trust approval conditions. If a future quantification of the IPID water right (through adjudication or future water right action) results in an annual quantity that is less than the 2,000 acre-feet considered in this EIS, the physical active storage volume in the lake can be reduced through shortening the intake pipe outlet, as described in Section 6.2 of the Draft and Final EISs, without necessitating any changes to the main design.</p>

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intends to donate everything above that amount to the Trust Water Rights Program dedicated for instream flows.¹⁶ The Draft EIS seems to imply that a determination regarding any potential relinquishment of IPID's water right is moot as that determination will occur when IPID donates the portion of its right above 1400 acre-feet to the TWRP for instream flows.¹⁷

However, there is no guarantee that the donation will occur as the Draft EIS expects. If IPID intends to donate the portion of their right above 1400 acre-feet, why have they not started that process? One reason could be that the process necessary for a permanent donation to the TWRP¹⁸ could impact the ability to enlarge the dam's capacity.¹⁹ If during the donation process it is determined that part of IPID's right has been relinquished and therefore is not eligible for donation to the TWRP it would affect how much storage is needed which would affect the appropriateness of Alternatives 1 & 2. The water would be ineligible for the TWRP because IPID would no longer have the legal right to the water. Additionally, if this project is allowed to continue and then IPID fails to donate the amount of their right above 1400 acre-feet (for any one of a variety of reasons) IPID may claim that the new dam capacity shows that IPID is using its whole right and that right is valid for use, sale, or transfer. This would allow the enlargement of the dam to turn what are currently unused water rights that currently benefit the instream flow and junior users into wet water rights to the detriment of the instream flow and other junior water right holders along Icicle Creek and beyond. Even if IPID donates the water to the TWRP, there is no guarantee that it would remain instream.²⁰ IPID's intent to donate water to the TWRP without actively moving to do so should not be considered in the EIS and should not be a reason to avoid initiating the relinquishment process.

(d) The Office of the Columbia River is not a neutral party and cannot choose to not do the relinquishment procedures.

O-11-7

As mentioned above, OCR is the department within Ecology that was supposedly going through the process to determine the extent and validity of IPID's water right during the scoping process of this project. At the public meetings regarding this Draft EIS, OCR stated that it determined IPID has not relinquished water without any evidence to back up that determination from either the relinquishment process or a determination of extent and validity. However, it was made clear during the scoping process that OCR would take the opportunity to use any "available" part of IPID's water right it could find to mitigate out-of-stream uses further downstream. This would allow OCR to meet its mission to "aggressively" pursue new water sources along the Columbia River and its tributaries.

It does not serve the rest of Ecology, especially the Water Resources Program, to allow OCR to determine what water is available from IPID's water right when OCR will directly benefit from any excess water that IPID is found to have and not need without going through the legally required procedure. Ecology must undertake the relinquishment process because there is sufficient evidence that part of the right has been relinquished. OCR cannot be allowed to dismiss the potential relinquishment merely because it will benefit if no relinquishment has occurred.

¹⁶ Draft EIS page 1-10.

¹⁷ Id.

¹⁸ If the intended donation to the TWRP is not a permanent donation then it is even more vital that Ecology engage in the relinquishment process to determine IPID's water right before moving forward with this project, as IPID will be able to take a temporary donation back out of the TWRP and sell/transfer/change it farther down the road.

¹⁹ The permanent donation process will determine the actual annual quantity eligible for donation. It will consider if part of the right has been relinquished. See POL 1010.

²⁰ Even if IPID designated their donation as instream flow, the additional water could potentially allow for water that is now used to meet instream flows to be used for mitigation or to make senior right holders whole, similar to what has been happening along the Walla Walla in recent years.

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Refer to the Global Responses for Tentative Determination of Extent and Validity and Relinquishment and the response to comment O-11-3. The comment asserts that OCR is dismissing potential relinquishment because it will benefit if no relinquishment has occurred. Specifically, the comment points to potential benefits from the opportunity to use a portion of the right to mitigate out-of-stream uses. As described in the EIS and the Global Response for No Change to Municipal Use, water will not be made available for mitigation of new out-of-stream uses. Ecology's OCR coordinates with its Water Resources program and follows the same water code and policies, including those related to Relinquishment and Tentative Determinations of Extent and Validity. The quantity of water available for donation to Trust for instream flow use will be determined by following the process required under RCW 90.42.080(4) as part of Ecology's review of the Trust donation application submitted by IPID in May 2024.

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O-11-8	<p>Even if no water was relinquished Alternative 3 allows IPID to remain whole.</p> <p>Even if the above arguments regarding relinquishment are not considered, Alternative 3 will allow IPID to make use of more water than they are entitled to. The dam historically allowed for a drawdown of around 1,600 acre-feet prior to the damage and 1,151 acre-feet after the damage. If Multi-Fill Analysis is correct and IPID has not relinquished any of its water, then IPID has been using its full water right through a multi-fill process with only 1,600 acre-feet of draw down. Alternative 3 allows for the storage of 1,698 acre-feet. Alternative 3, while the smallest storage of all the alternatives, will still allow for more storage than the dam historically held. Through the multi-fill process laid out in the Multi-Fill Analysis, IPID will still be able to use their historic amount under Alternative 3. This is especially relevant as IPID stated they only need 1,400 acre-feet of water for current and future needs, which is less water than even Alternative 3 will hold.²¹ It is likely that there will be detriments to the wilderness in Alternatives 1 & 2 from the increased level of water held behind the dam.²² Alternative 3 allows IPID to use their full water right through a multi-fill process without the added detriments caused by increased water levels. It is clearly the superior Alternative.</p>	O-11-8 Refer to the Global Responses for Tentative Determination of Extent and Validity and Multi-fill Analysis.
O-11-9	<p>There should be an additional Alternative that looks at repairing the current dam rather than replacing it.</p> <p>While this Draft EIS does include Alternative 3 as a response to concerns brought up during the scoping process that the No Action Alternative was not legally feasible, it does not include any Alternatives where the dam is repaired rather than replaced. The Draft EIS states that IPID worked with the WDOE Dam Safety Office (DSO) to develop Alternatives 1&2.²³ However, there is no alternative which calls for the DSO to implement its own rules vis a vis Eightmile Dam which, by definition, is legally feasible. The Draft EIS asserts that it is impossible to determine the impacts of such an alternative because it doesn't know what the DSO might do.²⁴ However, this is not correct. The Draft EIS states that "[u]navoidable adverse impacts could occur under the No Action Alternative if regulatory enforcement requires that enforcement action occur in accordance with WAC 173-175-620(3).²⁵ Obviously, WDOE must be able to assess the impacts if it can make this statement. The DSO has limited the current dam operations "until the dam is repaired, and safety risks are addressed.²⁶ There must be an alternative that calls for repairing the dam and addressing the safety risks. Such an Alternative would limit the impacts on the wilderness and water resources while also addressing the risks posed by the damaged dam. To have a reasonable range of alternatives, there must be an Alternative that limits the project to repairing the dam to its pre-damaged operations without increasing dam storage or modifying dam operations.</p>	<p>The amount of water use under the Eightmile Lake water right is limited to the extent of the right and no more. As described on page 6-2 of the Draft EIS, IPID intends to donate any excess storage capacity above 1,400 acre-feet to instream flow. The design volumes of up to 1,698 acre-feet and 2,000 acre-feet represent the maximum active storage water volumes that were considered for impacts in the EIS. As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology-approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flow uses as well as for IPID's irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered (up to 2,000 acre-feet) regardless of whether practices in a given year involve multiple fillings or a single fill. The monitoring plan will also ensure that the Trust donation is managed in accordance with Trust approval and that any excess water would be allowed to pass through the lake as natural flow without being actively managed and released for beneficial use.</p>
O-11-10	<p>Conclusion</p> <p>Given the importance of knowing the quantity of IPID's water right, CELP urges that the Eightmile Dam process be placed on hold until the actual quantity of IPID's current water right can be determined through one of the processes set forth by state law and Ecology's policies. It makes no sense to consider enlarging the dam given the likelihood that IPID's water right is no longer large</p>	<p>As stated in Chapter 6 of the Draft and Final EISs, the focus of the water rights review in the EIS was to assess whether the range of active storage capacities for design alternatives being considered were reasonable within the water right. The EIS process is not a vehicle to determine relinquishment nor the extent and validity of the water right, although Ecology is confident that IPID possesses sufficient rights to support the range of alternatives in the EIS.</p>

²¹ Draft EIS page 6-2, Key Findings, and Draft EIS page 2-14.²² Please see the other letter that we signed onto and submitted.²³ Draft EIS page 2-1²⁴ DEIS Executive Summary at 3: "The DSO could eventually exercise enforcement actions in accordance with WAC 173-175-620 (3) to reduce the downstream risks. However, it is not possible to predict with certainty what that action or its effects would be."²⁵ Executive Summary at 13.²⁶ Executive Summary at 12, footnote 4.

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The comment concerning Alternative 3 and a reduced design capacity is noted. In terms of lake levels, as described in the Draft and Final EISs, Alternatives 1 and 2 restore the full lake elevation to its historic high level of 4,671 feet, while Alternative 3 would keep the full lake elevation at its current elevation of 4,667 feet. These levels are considered in the analysis of potential impacts for the different alternatives. It is also noted that alternatives with greater storage capacity could help improve resiliency to climate change by providing the capacity to maintain existing storage volumes should late season re-fill be reduced in the future as a result of climate change. Refer to Section 6.2 of the Draft and Final EISs for additional information. If a future quantification (through adjudication or future water right action) results in an annual quantity that is less than the 2,000 acre-feet considered in this EIS, the physical active storage volume in the lake can be reduced through shortening the intake pipe outlet as described in the Draft and Final EISs without necessitating any changes to the main design.

O-11-9 Project objectives are outlined in Section 1.4 of the Draft and Final EISs. The No Action Alternative is described in Section 2.2 of the Draft and Final EISs. The dam was repaired in 2018 to temporarily increase safety by widening and hardening the spillway and by replacing a segment of the low-level outlet pipe that had collapsed. While the repairs made it possible to lower the lake and provide additional spill capacity, the infrastructure does not currently meet DSO's requirements for dam safety or IPID's water supply needs. The current dam cannot be repaired to satisfy both DSO safety standards and meet the project objectives. Potential impacts associated with the No Action Alternative are evaluated for each element of the environment throughout the Draft and Final EISs. Refer also to the Global Responses for Tentative Determination of Extent and Validity and Trust Donation.

O-11-10 Refer to the Global Responses for Tentative Determination of Extent and Validity and Trust Donation. The timing of the project is important due to the pressing need to bring the dam into compliance with Dam Safety Office regulations for a High Hazard Dam and protect downstream lives and structures. As a result, it is not appropriate to wait for an application or other water right action that would trigger a Tentative Determination of Extent and Validity. Specifically, as described in the Draft and Final EISs, Eightmile Dam was damaged as a result of the 2017 Jack Creek Fire. In spring 2018, the dam was assessed as being in an unsatisfactory condition, leading to emergency repairs. Repairs made in 2018 are temporary and address the immediate

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	<p>threat of dam failure, but are not adequate under current dam safety requirements. In the meantime, IPID has undertaken preliminary analysis and planning toward bringing the dam into compliance. The dam needs to be rebuilt to current safety standards to protect human health and safety and downstream property, and maintain reliable irrigation water supplies for area farmers.</p> <p>The EIS and Ecology’s review of the water rights provide sufficient support for the reasonable range of active storage volumes for the design alternatives presented in the EIS with maximum capacities of up to 2,000 acre-feet. These are based in part on review of wet, dry, and average years and consider seasonal partial re-fill (multi-fill) of the lake’s active storage volume. The ranges of volumes considered up to the 2,000 acre-feet maximum allow for review of the range of potential impacts from the alternatives, documenting the worst-case analysis within the range of outcomes. As such, the analysis in the Draft EIS adequately examined a reasonable range of active storage volumes and associated impacts that could occur from the proposed dam rebuild. Refer to the Global Responses for Multi-fill Analysis and Tentative Determination of Extent and Validity.</p> <p>After the Draft EIS was issued, IPID submitted an application requesting to donate a portion of its storage right to Trust. Ecology will review this application and the quantities for donation for instream flow along with that retained for irrigation as prescribed in RCW 90.42.080(4). This analysis and the decision on the acceptance of quantities into Trust will inform lake operations at a rebuilt dam including releases for instream flow. The monitoring and reporting plan to be executed as part of the Trust donation process will ensure that the 2,000 acre-feet limit of actively stored water is not exceeded on an annual basis and that the Trust donation and associated quantities are managed properly. The scope of the water right review in the EIS is appropriate for assessing the range of potential impacts and informing the pending Trust donation application. Refer to Global Response for Tentative Determination of Extent and Validity for additional information.</p>

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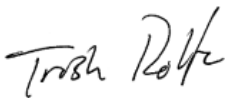
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O-11-10

enough to fill the storage area to the dam's pre-damage level. Delaying or avoiding entirely the need to determine IPID's water right precludes a rational informed decision about whether and how to repair, reconstruct, or remove Eightmile Dam and how to best protect instream flows and the interests of other water right holders.

Thank you for your consideration of this comment.



Trish Rolfe
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RESPONSE



Trout Unlimited: America's Leading Coldwater Fisheries Conservation Organization

Tom Tebb
Director, Office of the Columbia River and Icicle Work Group Co-Lead
Office of Columbia River
Washington Department of Ecology
Attn: Eightmile Draft EIS
1250 W Alder St.
Union Gap, WA 98903

RE: Trout Unlimited- Comments on Draft Environmental Impact Statement for Eightmile Dam Rebuild and Restoration Project

Director Tebb:

Thank you for the opportunity to provide comments on the SEPA Draft Environmental Impact Statement (EIS) for the **EIGHTMILE DAM REBUILD AND RESTORATION PROJECT**.

As a member of the Icicle Work Group (IWG), Trout Unlimited (TU) has participated for many years working with others in the IWG to find solutions for water supply for fisheries, people and agriculture in Icicle Creek. We appreciate the hard work and leadership by the Department of Ecology to transition from years of discussions to actual projects on the ground. The rebuilding of eightmile dam provides options to ensure a stable infrastructure for the Icicle Peshastin Irrigation District and water for instream flows in Icicle Creek if done right.

TU has several comments in regard to the EIS on Eightmile Dam.

1. TU supports the comment letter drafted by Washington Wild et.al. with the exception on page 5 of their letter:
 - a. TU does not have a preferred alternative for the rebuilding of Eightmile Dam except we want to ensure the alternative chosen has the smallest footprint as possible and provides for meaningful instream flows permanently for Icicle Creek and can be ground truthed in current water law.
 - b. We encourage the Department of Ecology to work closely with the Yakama Nation, Colville Tribe and Washington Department of Fish and Wildlife and Icicle Peshastin Irrigation District on assurances

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O-12-1 Comment noted.

O-12-2 Comment noted.

O-12-3 Comment noted. Ecology has been working closely with, and has solicited comment from, the Yakama Nation, the Confederated Tribes of the Colville Reservation, WDFW, and IPID for several years on the Eightmile Dam project. After the Draft EIS was issued, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes. Following issuance of the Final EIS, Ecology will conduct its review of the quantities available for the Trust donation in accordance with the process prescribed in RCW 90.42.080(4). Also refer to the Global Response for Trust Donation. If Ecology's review under RCW 90.42.080(4) and final decision on the Trust application results in less than 1,400 acre-feet (the quantity currently needed by IPID), then no water would be available for acceptance into the Trust water rights program. This would not preclude IPID from making annual donations in years where it has surplus water. However, in this scenario without the added annual benefit to instream flows as a result of the project under the pending May 2024 Trust donation application, Ecology's OCR may not fund the dam construction as it would not meet the water supply development directives of OCR's program. This does not preclude the use of emergency funds should there be a health and safety issue. IPID would still need to rebuild the dam to meet the requirements for the dam as required by Ecology's Dam Safety Office, but it would need to seek alternate sources of funding. However if Ecology's review under RCW 90.42.080(4) and final decision on the Trust application results in excess of 1,400 acre-feet of water (beyond the quantity currently needed for the district) for donation into Trust based on the extent to which the water right was exercised during the 5 years before the donation date, then the project would qualify for Ecology's OCR funding for meeting instream flow demands. Project financing is described in Section 1.9 of the Draft and Final EISs.

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Page 2

O-12-3

of quantified, permanent instream flow water as part of the project. There is significant public money that will be spent on this project and the public needs to see significant benefits in terms of flows for fish, habitat and tribal treaty rights.

O-12-4

2. TU is pretty disappointed in the lack of future climate change data pertinent to this project provided in the document. We would encourage Ecology to provide additional information that ground truths the anticipation of water supply in the future so the public can be assured of the capacity to fill the pool of the alternative chosen.

O-12-5

3. TU encourages Ecology to review closely the comments made by the organizations with expertise in wilderness laws and policies and work closely with the Forest Service on whether the project adheres to laws governing actions in a wilderness area. As TU has stated many times in previous letters on Eightmile, the Alpine Lakes Wilderness is a treasured area for many TU members, Washingtonians and people around the world.

Sincerely,

Lisa Pelly,
Eastern Washington Director

Pat Hesselgesser
Chair, President, Washington State Council

O-12-4

Climate change is evaluated in Chapter 4 of the Draft and Final EISs. Section 4.3.3 describes the available data and modeling that was used for the evaluation. Modeled 2050 flows from Eightmile Lake and Icicle Creek are shown in Figures 4-7 and 4-8, respectively. Impacts associated with operation of the alternatives are described in Section 4.5 of the EIS. The action alternatives provide increased ability to manage reservoir storage and outflow during both drought and non-drought years. Implementation would improve IPID's ability to adaptively operate the reservoir in response to changes in inflow timing and magnitude as a result of climate change. The ability to store flows during the wet season and release during dry periods becomes an increasingly valuable tool to sustain flows for aquatic life and manage downstream water uses in real time.

O-12-5

Comment noted.

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COMMENT

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June 5, 2023

Tom Tebb
Director, Office of the Columbia River and Icicle Work Group Co-lead
Washington State Department of Ecology
1250 Alder Street
Union Gap, WA 98903
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.

O-13-1 Comment noted.

O-13-2 Comment noted.

O-13-1

O-13-2

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	We appreciate that none of the four alternatives in the Draft Plan:	
O-13-2	<ul style="list-style-type: none"> • 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. 	O-13-3 Comment noted.
	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:	
O-13-3	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	O-13-4 Refer to Chapter 11 of the Draft and Final EISs for visual simulations of the dam alternatives. Refer also to the Global Response for Visual Resources for more information on visual-related mitigation measures.
	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:	O-13-5 As described in Section 2.7.2 of the Draft and Final EISs, dam construction is expected to take 4 to 5 months depending on alternative and weather conditions. Motorized equipment would be used periodically throughout the active construction period.
O-13-4	<ul style="list-style-type: none"> • <u>Wilderness Aesthetics of the Repaired Dam</u> - 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. 	O-13-6 Comment noted. See the Global Response for Helicopter Use in the Alpine Lakes Wilderness.
O-13-5	<ul style="list-style-type: none"> • <u>Motorized Use</u> - 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. 	O-13-7 In regard to the impacts on wilderness from telemetry equipment, see the Global Response for Telemetry Equipment. Chapter 3 of the Draft and Final EISs analyzes the potential impacts on wilderness character associated with the project.
O-13-6	<ul style="list-style-type: none"> • <u>Helicopter Flights</u> - 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. 	O-13-8 Ecology is evaluating the proposed dam rebuild alternatives through this SEPA EIS analysis. This process will allow the Forest Service to consider a well-developed proposed action to determine if the National Environmental Policy Act (NEPA) applies, what activities should be evaluated in an environmental analysis, and the level of review and documentation required.
O-13-7	<ul style="list-style-type: none"> • <u>Additional Repeater and Telemetry Sites</u> - 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. 	The Forest Service will determine if NEPA applies to a proposal based on the Council on Environmental Quality's (CEQ) revised regulations at 40 CFR 1501.1 and agency regulations at 36 CFR 220.4(a). Ecology and the Forest Service are jointly reviewing the proposed action to determine the responsibilities of each agency. As authorized by the CEQ regulations, the Forest Service can cooperate with the State of Washington on environmental analysis (40 CFR 1506.2) and may use elements of the environmental analysis prepared under the SEPA process if NEPA analysis is required (40 CFR 1506.2(b)). The Draft and Final EISs include a description of the required NEPA and Forest Service review in Chapter 1, Section 1.11.
O-13-8	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	

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

While the OOWNF will need to do its own NEPA analysis based on the action chosen by the WA Department of Ecology, the OOWNF 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.

O-13-9

"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 OOWNF 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

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O-13-10	<p><u>Compliance with the 1981 Alpine Lakes (Wilderness) Area Management Plan</u></p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> 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) 	<p>O-13-10 The Forest Service has been engaged throughout the SEPA EIS preparation, and has met regularly with Ecology during the process. As noted in Section 1.11, the Forest Service will incorporate applicable section of the SEPA EIS into their NEPA documentation as appropriate.</p> <p>The Draft and Final EISs considered other construction methods that were not carried forward, including primitive measures such the use of pack animals, as described in Sections 2.8.2 and 2.8.3.</p> <p>The expansion of water diversion is not proposed as part of this project. Refer to Sections 4.5 and 6.5 for a discussion of dam operation on surface waters and water rights. Refer also to the response to comment I-196-17.</p>
O-13-11	<p><u>Managing the Specialty Warranty Deed</u></p> <p>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.</p>	<p>Chapter 3 analyzes the alternatives in relation to wilderness character. Table 3-1 lists the applicable regulations and guidelines that were reviewed as part of that analysis, and the referenced documents were reviewed.</p>
O-13-12	<p>3. Evaluation and assurances of benefits of in stream flows for fish and tribal treaty rights</p> <p>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.</p>	<p>O-13-11 Comment noted. After the completion of project construction, all areas disturbed would be restored. Section 2.7.2 of the Draft and Final EISs describes the project closeout and restoration process. The rebuilt dam will use materials that blend into the landscape. Refer to the Global Response to comments for Visual Resources.</p> <p>O-13-12 Comment noted. Refer to the Global Response for Trust Donation for additional discussion.</p> <p>O-13-13 Comment noted.</p>
O-13-13	<p>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.</p>	<p>O-13-14 Refer to the Global Response for Trust Donation. As described above and in Chapter 6 of the Draft and Final EISs, quantities in excess of the 1,400 acre-feet required for use by IPID will be placed in Trust for instream flow purposes.</p>
O-13-14	<p>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.</p>	<p>After issuance of the Draft EIS, IPID submitted a request to donate a portion of its Eightmile Lake water right to the State Trust Water Rights Program for instream flow purposes in May 2024. Following issuance of the Final EIS, Ecology will conduct a review of the application in accordance with the process prescribed by RCW 90.42.080(4), and the results of this review will be part of a final decision on the requested Trust donation and will follow and be informed by the EIS process. As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology-approved</p>

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monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flow as well as for IPID's irrigation use such that the total uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered (2,000 acre-feet). The monitoring and reporting plan will also ensure that the Trust donation is managed properly. The donated portion of the water right will be released from storage in Eightmile Lake to augment flows in Icicle Creek in order to benefit fish, with releases scheduled based on coordination with Icicle Work Group members, co-conveners, and fishery co-managers. Coordination and decisions surrounding lake releases and flow management within the Icicle will be informed, in part, by a separate IWG process including a decision support tool being developed as part of the Icicle Strategy. See Section 2.6 of the Draft and Final EISs.

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O-13-14	<p>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:</p> <p>“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)</p> <p>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).</p>	O-13-15	Comment noted. Measures to minimize impacts on recreation are described in Section 10.6 of the Draft and Final EISs. Also refer to the Global Response for Recreation.
O-13-15	<p>4. Avoid potential long-lasting disruptions to recreation in the project area</p> <p>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.</p> <p>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.</p>	O-13-16	As described in Sections 10.4 and 10.5 of the Draft and Final EISs, impacts on trails and campsites are not expected as a result of any of the alternatives. Section 10.6 describes measures to reduce impacts on recreation from construction. As stated in Section 10.6, notice of disruption due to construction activities will include notice to people seeking reservations through the lottery and to those awarded reservations to the extent possible. Section 10.6 of the Final EIS has been edited to clarify that notification of construction activities will be provided to recreationists prior to the annual lottery and to those awarded reservations. Notification will also be provided to organizations once the construction schedule is known. Refer to Global Responses for Recreation and Lake Level.
O-13-16	<p>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.</p>	O-13-17	Throughout the EIS process, the Confederated Tribes and Bands of the Yakama Nation and the Confederated Tribes of the Colville Reservation have been consulted on potential impacts on both cultural resources (which include archaeological sites, built environment resources, and traditional cultural properties) and tribal resources (which include natural resources and treaty rights). The Forest Service has led tribal consultation on cultural resources impacts as part of the Section 106 process. Ecology has conducted formal consultation with these tribal governments on potential impacts on tribal resources. Consultation with the tribes will continue as the project moves through permitting and construction. Refer also to Chapters 13 and 14 of the Draft and Final EISs for a discussion of historic, cultural, and tribal resources.
O-13-17	<p>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.</p>	O-13-18	Comment noted. The Forest Service has been engaged throughout the SEPA EIS preparation and will conduct their own review and authorization under NEPA, as described in Section 1.11 of the Draft and Final EISs. Refer also to the Global Response for Trust Donation.
O-13-18	<p>Conclusion</p> <p>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 OOWNF 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.</p>	O-13-19	Comment noted. Refer to the response to comment O-13-14.
O-13-19	<p>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,</p>		

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O-13-19

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,

Tom Uniack Executive Director Washington Wild	Michael DeCramer Policy & Planning Manager Washington Trails Association
Dave McCoy Owner Emerald Water Anglers	Sarah Dyrdahl Northwest Region Director American Rivers
Gus Bekker President El Sendero Backcountry Ski & Snowshoe Club (Wenatchee)	Travis Merrigan Co-Founder GRAYL
Renée C Paradis Board Member Washington Kayak Club	Hilary Eisen Policy Director Winter Wildlands Alliance
Robert Kaye Chair, Conservation Committee North Cascade Audubon Society (Bellingham)	Matt Perkins President & Founder Washington Climbers Coalition
Kim McDonald Founder Fish Not Gold	Dave Werntz Science and Conservation Director Conservation Northwest
Paul Fish Founder Mountain Gear (Spokane)	J. Michelle Swope Washington Coordinator Native Fish Society
Betsy Robblee Conservation & Advocacy Director The Mountaineers	Larry Lober President Greater Bellingham Running Club (Bellingham)
John Bridge President Olympic Park Associates (Sequim)	Tim Coleman Executive Director Kettle Range Conservation Group (Republic)
Megan Birzell Washington State Director The Wilderness Society	Art Campbell President North Central Washington Audubon Society (Wenatchee)

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Steven D. Aguilo, MD President Wenatchee Valley Fly Fishers (Wenatchee)		Steve Loitz President Kittitas Audubon Society (Ellensburg)	
Gina Claeys Conservation Chair Spokane Mountaineers (Spokane)		John McGlenn President Washington Wildlife Federation	
Eddie Espinosa Director, Community Programs American Alpine Club		Thomas O'Keefe, PhD Pacific Northwest Stewardship Director American Whitewater	
Arthur (R.D.) Grunbaum President Friends of Grays Harbor (Westport)		Lance Relf Owner Wild Water River Guides (Leavenworth)	
Cc: Governor Jay Inslee U.S. Senator Patty Murray U.S. Senator Maria Cantwell U.S. Representative Kim Schrier USFS Region 6 Regional Forester Glenn Casamassa Okanogan-Wenatchee National Forest Supervisor Kristin Bail Wenatchee River District Ranger Jeff Rivera			

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Alpine Lakes Protection Society • Wilderness Watch
Alliance for the Wild Rockies • Aqua Permanente
Center for Environmental Law & Policy • Conservation Congress
East Kachess Homeowners Association
El Sendero Backcountry Ski & Snowshoe Club
Federation of Western Outdoor Clubs • Friends of the Bitterroot
Friends of Bumping Lake • Friends of Enchantments
Friends of Lake Kachess • Friends of Wild Sky • Great Old Broads for Wilderness
Issaquah Alps Trails Club • Kittitas Audubon Society • Living Rivers • Mazamas
Middle Fork Recreation Coalition (MidFORC) • North Cascades Conservation Council
North Central Washington Audubon Society • Olympic Forest Coalition
River Runners for Wilderness • Save Lake Kachess • Save Our Sky Blue Waters
Spokane Mountaineers • Spring Family Trust for Trails

O-14-1 Comment noted.

June 5, 2023

Via email to: 8mile@ecy.wa.gov
And submitted online at: <https://ecology.wa.gov/Events/OCR/EIS-Publication/Eightmile-Dam/Eightmile-Dam-Draft-EIS>

Office of Columbia River
Washington Department of Ecology
Attn: Melissa Downes
1250 West Alder Street
Union Gap, WA 98903

RE: **Eightmile Lake dam replacement project – DEIS comments**

Dear Ms. Downes:

Thank you for the opportunity to provide comments on the Eightmile Lake dam replacement project Draft Environmental Impact Statement (DEIS). As non-profit organizations focused on conservation and recreation with members who live, work and play in the project area, we have a strong interest in current and future management activities at Eightmile Lake, in the Icicle Creek watershed and the Alpine Lakes Wilderness.

Our organizations attended the informational and scoping meetings held in 2013-2016, and submitted comment letters in 2016-2019 regarding the defective Programmatic EIS process involving this proposal. We also submitted Eightmile dam SEPA scoping comments in February 2021, and participated in Icicle Work Group (IWG) meetings over the years.

O-14-1

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		<u>Tribal Treaty Rights</u>	
O-14-2		We recognize and respect the importance of the salmon in the Wenatchee River watershed to the Treaty Rights of the Yakama Nation and Colville Confederated Tribes. This applies to both the wild fish and the hatchery fish bred to mitigate for the construction of the Grand Coulee Dam and other mid-Columbia dams, which eliminated spawning habitat for huge numbers of wild salmon and other fish species.	O-14-2 Comment noted.
		<u>Valid Existing Water Rights</u>	
O-14-3		We also recognize valid, prior existing water rights in the Wenatchee River basin for agriculture, and the importance of that local source of food and the economic benefits to the region.	O-14-3 Comment noted.
		<u>The Dam Construction Project is Not a “Restoration” Project</u>	
O-14-4		The DEIS is entitled “Eightmile Dam Rebuild & Restoration.” We object to Ecology’s characterization of this dam construction project as a “restoration” project, because it is not restoring ecological or environmental conditions, which is what that term means in common usage when applied to projects on public wildlands. The DEIS Executive Summary refers (at page 1) to the Irrigation District’s proposal to “restore the dam” and (at page 2) to “Restore the storage capacity of Eightmile Lake.” While it may be literally true that by replacing the old dam with a new dam, the project would restore the Irrigation District’s human-built infrastructure, property and storage capacity, the public may be misled by the DEIS title’s implication that conditions around Eightmile Lake would be restored to their natural state, which is not true.	O-14-4 Comment noted.
		<u>The Irrigation District Relinquished Part of Its Water Rights</u>	
		We appreciate the irrigators’ need for water to irrigate their orchards and keep them productive. We do not object to the exercise of valid, existing water rights of the Icicle-Peshastin Irrigation District (IPID), but we question any assertion of water rights that have been relinquished or are otherwise invalid.	O-14-5 Refer to the Global Responses for Relinquishment and Tentative Determination of Extent and Validity.
O-14-5		In our prior SEPA scoping comments in 2021, and in prior comment letters on the defective Programmatic EIS in 2018 and 2019, we noted Ecology’s failure to address water rights issues, especially the question of whether IPID has relinquished any right to increase the amount of water extracted from Eightmile Lake. However, the DEIS still fails to substantively address relinquishment, compelling the conclusion that relinquishment has in fact occurred and Ecology cannot articulate any argument to the contrary.	The water rights analysis in the EIS is appropriate in scope, addressing the reasonable range of active storage volumes under the right and potential impacts based on these (see Section 6.2 of the Draft and Final EISs). After the Draft EIS was issued, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes. Following the Final EIS, Ecology will review the application for Trust donation. The instream flow water use under the right will be limited to the quantities determined for donation in accordance with RCW 90.42.080(4) and will be less than or equal to the 2,000 acre-foot maximum active storage volume for the design alternatives considered in the EIS. As described Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology-approved monitoring plan will be developed (concurrently with the Trust donation) in which IPID will monitor and report total annual storage and release volumes for instream flows as well as for IPID’s irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered (2,000 acre-feet) and that the Trust donation is managed properly. Also refer to Global Responses for Trust Donation and Lake Level.
		The DEIS Chapter on Water Rights states that “it does not make a tentative determination of the validity and extent of IPID’s water right because no application has been filed to trigger a formal review of the right.” DEIS p. 6-1. A similar disclaimer is made in DEIS Appendix B: Water Rights at p. B-2.	
		As we noted in 2019 and again in 2021, the fact that a permitting action has not yet begun is not a valid reason for Ecology to ignore the consequences of relinquishment here. SEPA requires	

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reasonable forecasting of the future, including forecasts of future government actions related to the proposal. In other words, after more than a decade as co-chair of the Icicle Work Group, Ecology has continued to avoid addressing the key issue, wasting everybody's time and money. We have provided evidence of relinquishment. Ecology's failure to address that evidence (and the issue in general) appears to be a tacit concession that relinquishment has occurred.

Because IPID relinquished its water rights, IPID cannot increase the quantity of water extracted from the lake, the lake cannot be enlarged, the lake elevation cannot be increased 4 feet above the current maximum, and the low pipe cannot be made any lower than it currently sits.

The DEIS Lacks a Full Range of Alternatives

Key to the effectiveness of an EIS is presenting a full range of alternatives. "The range of alternatives considered in an EIS must be sufficient to permit a reasoned choice."¹ The alternatives proposed in the DEIS do not present a sufficient range of alternatives.

The DEIS describes four alternatives as follows:

- Alternative 1: Narrow spillway with gates; maximum lake elevation 4671 feet; low-level outlet pipe elevation 4632 feet.
- Alternative 2: Wide spillway without gates; maximum lake elevation 4671 feet; low-level outlet pipe elevation 4632 feet.
- Alternative 3: Narrow spillway without gates; maximum lake elevation 4667 feet; low-level outlet pipe elevation 4632 feet
- No Action Alternative: Operating the current dam with no changes; maximum lake elevation 4667 feet; low-level outlet pipe elevation 4648.65 feet.

O-14-6

The proposed action alternatives are inadequate because they ignore the fact of water rights relinquishment. The DEIS states that under the action alternatives, "Useable storage will increase over 30 percent." DEIS p. 4-1. Alternatives 1 and 2 would raise the lake elevation to 4671 feet, which would be 4 feet above the current 4667 feet that has been the lake's maximum elevation for the past 33 years, since flooding in 1990 eroded portions of the dam.

By not repairing the dam for 33 years after the 1990 erosion, IPID has relinquished any right it may have previously had to store water above a maximum elevation of 4667 feet.

Alternative 3 is the only alternative that would build a new dam with a maximum lake elevation that is no greater than the lake elevation allowed by the water storage rights actually owned by IPID. However, Alternative 3 is still defective and needs to be modified so that it does not lower the low-level outlet pipe.

Alternatives 1, 2 and 3 each include a new low-level outlet pipe elevation ("Invert Elevation at Pipe Intake in Lake," DEIS p. 2-2, Table 2-1) of 4632 feet, which is 16.65 feet lower than that pipe elevation has ever been. Making the outlet pipe intake any lower would allow the dam

¹ *Solid Waste Alternative Proponents v. Okanogan County*, 66 Wn.App. 439, 444, 832 P.2d 503, 506 (1992).

O-14-6

Comment noted. See the Global Response for Relinquishment and Tentative Determination of Extent and Validity. The amount of water use under the Eightmile Lake water right is limited to the extent of the right and no more. Chapter 6 of the Draft and Final EISs and as described in the Global Responses for Water Rights, the Multi-fill Analysis was relied on (in part) along with other information for the water right evaluation to assess the reasonableness of the maximum active storage design volumes considered for each alternative. The total water use (including for both irrigation and instream flow under the Trust donation) must fall within the limits of IPID's existing water right. Following issuance of the Draft EIS, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes. After the Final EIS is issued, Ecology will conduct its review of the quantities available for the Trust donation under the right as prescribed by RCW 90.42.080(4)). As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology-approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flow use as well as for IPID's irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered (2,000 acre-feet). The monitoring and reporting plan will also ensure that the Trust donation is managed in accordance with the approved plan.

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operator to store and extract water beyond the amount to which it has a right. Alternative 3 should be modified so that the low-level pipe elevation is no lower than it currently sits.

The DEIS Fails to Provide Adequate Protection of Wilderness

DEIS Chapter 3 briefly addresses “Wilderness Character” including construction impacts, operational impacts and mitigation. The asserted “key findings” include:

“None of the action alternatives would significantly impact wilderness qualities due to the limited scale and duration of construction, and limited scale and severity of the operational impacts compared to existing conditions at Eightmile Lake.” DEIS p. 3-1.

This is a patently wrong conclusion given the scope and intensity of multiple prohibited, wilderness-degrading actions proposed and their clearly significant short and long-term impacts on wilderness character.

The Wilderness Act charges the Forest Service, as federal steward of the Alpine Lakes Wilderness, with a duty to preserve the area’s wilderness character. *Id.* § 1133(b). Authorization of the proposal as described in the DEIS would violate that duty for the following reasons.

O-14-7

The Shocking Amount of Helicopter Use Proposed Will Significantly Degrade Wilderness Character [See DEIS 3-13 through 3-15]

The amount and intensity of helicopter use proposed is shocking. The project would entail between 101-271 round-trip helicopter flights into the Wilderness averaging twenty flights per day during certain phases of the project. **In Wilderness Watch’s many decades of Wilderness advocacy work, this is – by far – the most significant helicopter intrusion on wilderness character we’ve ever seen proposed or authorized in the National Wilderness Preservation System.** Given the relatively small size of the dam and its relatively close proximity to the Wilderness boundary, the proposal is even more shocking.

Congress made the mandate to protect wilderness character paramount over other land-management considerations, *see* 16 U.S.C. § 1133(b), and expressly prohibited certain activities that it determined to be antithetical to wilderness character, including the landing of aircraft and the “use of motor vehicles, motorized equipment or motorboats.” *Id.* § 1133(c). The Act also prohibits structures and installations in Wilderness. *Id.* To the extent that exceptions exist to these prohibitions, the Forest Service has a duty to ensure they are narrowly construed and implemented to minimize harm.²

² *See Maracich v. Spears*, 570 U.S. 48, 60 (2013) (citing *Commissioner v. Clark*, 489 U.S. 726, 739 (1989) (exceptions to a rule must be construed narrowly to preserve the primary operation of the general rule); *see also High Sierra Hikers Ass’n v. Blackwell*, 390 F.3d 630 (9th Cir. 2004) (analyzing commercial packstock permitting in Wilderness under another special provision in Section 1133(d) of the Wilderness Act and finding the preservation of Wilderness paramount, even when authorizing uses under special provisions).

O-14-7

As described in Chapter 3 of the Draft and Final EISs, the Special Warranty Deed provides provisions that allow IPID to maintain the dam at Eightmile Lake. A copy of the deed is included in Appendix E of the Final EIS.

The Forest Service has been engaged throughout the SEPA EIS preparation and will conduct their own review and authorization under NEPA, as described in Section 1.11 of the Draft and Final EISs. Refer also to the response to comment O-9-32.

See the Global Response for Helicopter Use within Alpine Lakes Wilderness.

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While IPID is entitled to access and maintain its dams, that access is not without limits, and the Forest Service has a duty to ensure that dam projects are designed, from the beginning, in a way that minimizes harm to Wilderness. The special warranty deed's reference to reasonable access is not a blanket authorization for unrestricted wilderness degrading activities. It does not relieve the Forest Service of its legal duty to protect wilderness character and to ensure that any access and use authorized minimizes impacts to wilderness character. The Forest Service must rigorously analyze and ultimately authorize only those modes of conveyance and use that will allow IPID reasonable access, inspection, and maintenance opportunities while also mitigating, to the greatest extent possible, harm to Wilderness.

O-14-9

The DEIS contains no recognition of the severity, or the precedent setting nature, of the intrusion on wilderness character, nor does it contain *any* discussion of alternatives to minimize it. There is no discussion about packing in some of the materials and supplies. There is no discussion of project design considerations that would minimize or alleviate the use of helicopters and make packing more feasible. There is no mention of other similar dam projects in Wilderness that have been designed and implemented using little to no helicopter access and little to no heavy equipment. The only consideration in the DEIS is whether to rely primarily on a big helicopter or a small one.

O-14-10

The DEIS does note that a pack animal alternative was dismissed from detailed consideration because "[p]ack animals could not transport nor take an excavator or other heavy equipment to the site;" the amount of premixed concrete proposed would require too many trips; and pipe would have to be cut in shorter sections and fused on site. DEIS 2-30. It does not discuss what materials and equipment can be packed in to reduce helicopter access to ensure it is authorizing prohibited activities only to the minimum extent necessary. It also suggests that pack animals should not be used because pack teams would create trail congestion, erode the trail, and take more time than a helicopter. *Id.* But helicopters and motorized equipment are prohibited by the Wilderness Act, and pack animals are not—the Act has already weighed the impacts in favor of non-motorized means even if it means more time in the Wilderness and impacts to trails. Helicopter and motorized uses allow humans to inflict industrial-scale impacts that will persist long into the future. Congress determined those industrial and technologically-enhanced harms are greater than those that can be inflicted with non-motorized, human-scale actions.

O-14-11

Further, the DEIS does not discuss modifications to project design that would eliminate or result in less need for heavy materials and large equipment and thus make the project more easily implemented via non-motorized means and without helicopters. The dam was originally built without the extensive industrial access and tools proposed here, and it has persisted for nearly a century. While there are additional safety requirements to account for in design now, it is an extremely long leap to go from a relatively small earth, rock, and mortar dam built without helicopters and heavy equipment to the proposal at hand. The alternative dam configurations dismissed from further consideration completely ignore this leap and do not reflect any discussion or consideration of a dam design that would mimic the original dam structure while making only those additional accommodations necessary for safety requirements. See DEIS 2-27 to 2-30. Instead, the alternatives focus on various configurations for increasing storage capacity beyond the amount that has existed since 1990.

O-14-8

Comment noted. As noted in Section 1.11 of the Draft and Final EISs, the Forest Service will review the project under NEPA.

O-14-9

See the Global Response for Helicopter Use in Alpine Lakes Wilderness, which includes a discussion of other construction alternatives considered but not carried forward. Also refer to Section 2.8 of the Draft and Final EISs for additional information.

O-14-10

Chapter 3 of the Draft and Final EISs includes an excerpt from IPID's Special Warranty Deed, which includes the following description of the rights it reserves: "*... a nonexclusive, perpetual easement across, through, along, and upon the property described herein for the purposes of maintenance, repair, operation, modification, upgrading and replacement of all facilities presently located in or upon the property described herein, ... The Grantor [IPID] may exercise the rights hereunder by any means reasonable for the purposes described, including but not limited to the use of motorized transportation and equipment, or aircraft.*" A copy of the Special Warranty Deed is included in Appendix E to the Final EIS.

O-14-11

Comment noted. Section 2.7.1 of the Draft and Final EISs describes the proposed method of transportation of equipment and materials to the dam site. The three action alternatives have been designed to current dam safety standards for a High Hazard Dam and meet the project objectives outlined in Section 1.4 of the Draft and Final EISs. Potential impacts on wilderness character are described in Chapter 3.

Also refer to the Global Response for Visual Resources for more information on visual-related mitigation measures, and the Global Response for Relinquishment and response to comment O-14-6.

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O-14-12

Compounding the significant impacts to Wilderness from project-related helicopter intrusions, the "Forest Service has also allowed IPID to inspect its four dams using helicopter access, which has historically resulted in one trip annually. However, since the Jack Creek Fire in 2017, more than one trip per year has been required to inspect the Eightmile Lake Dam" DEIS 3-9 to 3-10.

O-14-13

The DEIS also discounts the direct and indirect impacts of helicopter-related and motorized-use-related noise and disturbance. Not all noise and disturbance impacts are of short duration. Dam construction would take approximately 4 to 5 months during the summer. See DEIS 2-24. Given the intensity and duration of disturbance impacts, and given the other disturbance impacts related to recreation overuse in the summer months and other authorized helicopter and motorized uses, the displacement and stressors on wildlife are likely to be significant with impacts extending beyond the project completion date.

O-14-14

Studies indicate that the impacts to wildlife from helicopters extend beyond the disturbance, and stress impacts—both direct and indirect—should be measured over the long-term. For example, the Bureau of Land Management found significant disturbance potential to bighorn sheep from low-level helicopter flights:

Helicopter surveys may adversely affect populations of mountain sheep... by altering the movement, habitat use, and foraging efficiency of sheep so that survivorship or reproduction is reduced" (Stockwell 1991 in Bleich et al. 1994). Bighorn can respond so dramatically to helicopter use that it may override other factors affecting sheep movement (Bleich et al. 1990, Bleich et al. 1994). Sheep do not habituate or become sensitized to repeated helicopter flights (Bleich et al. 1994). MacArthur et al. (1982) reported no heart rate responses in bighorn sheep to helicopters above 400 meters in altitude. Helicopter flights at 90-250 meters above the ground increased the heart rate in ewes 2.5 – 3 times above normal. Bleich et al. (1994) found that radio collared bighorn moved significantly farther following a helicopter survey than on the day prior to a survey. Helicopter overflights may also reduce foraging efficiency during winter (Harris 1992). Miller and Smith (1985) recommended that helicopter flights be kept at over 100 meters above ground level to minimize impacts to bighorn sheep.

See Bureau of Land Management, *Status of the Science on Questions that Relate to BLM Plan Amendment Decisions and Peninsular Ranges Bighorn Sheep*, at 7 (2001). Impacts to bighorn foraging behaviors may be particularly pronounced during winter months. See Craig A. Stockwell & Gary C. Bateman, *Conflicts in National Parks: A Case Study of Helicopters and Bighorn Sheep Time Budgets at the Grand Canyon*, 56 Biological Conservation 317 (1991). Similar studies on mountain goats have found similar impacts and recommends "reducing human activities in mountain goat habitats, particularly where mountain goat populations are static or declining, specifically by regulating the frequency of low-flying aircraft over mountain goat herds." Robin J. Innes, U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station, Fire Sciences Laboratory, *Oreamnos americanus*, Fire Effects Information System (2011) at 27 (emphasis added).

- O-14-12 As discussed in Section 3.3.1 of the Draft and Final EISs, IPID has been allowed more frequent trips to Eightmile Dam since 2017 to inspect the dam for safety reasons. After completion of the project, helicopter trips conducted by IPID would likely be reduced.
- O-14-13 See Section 8.4 of the Draft and Final EISs for discussion on potential noise impacts on wildlife due to construction activities. As noted, while construction could impact a few individuals near the dam and along the flight path, the impacts are expected to be less-than-significant. Once construction is complete and helicopter use is not needed, these impacts would become negligible.
- O-14-14 Bighorn sheep and mountain goats are game species listed in the WDFW Priority Habitats and Species database. No herds are known to exist in the project area. Lambing season for these species is in the spring, prior to the start of dam construction. Calves are very mobile as soon as they are born, and along with adults, can disperse from the area if needed. Elk are also mobile and can disperse from the area if needed. Helicopter noise may impact a few individuals, but because of the mobility of these species, impacts are expected to be less-than-significant. Refer also to the Global Response for Helicopter Use within the Alpine Lakes Wilderness.

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O-14-14	Other studies in the Cascades have found that disturbance impacts in the summer months can be especially detrimental. See Libby Halpin Nelson & David Bailey, Tulalip Tribes Natural Resources Department, The “Recreation Boom” on Public Lands in Western Washington: Impacts to Wildlife and Implications for Treaty Tribes: A Summary of Current Literature, at 15 (2021) (citing Stankowich 2008 and Cook et al. 2013). One author noted a need for greater emphasis on protection of elk summer habitat because displacement impacts summer nutrition, which in turn impacts reproductive performance and growth of female elk, lactation status, and growth and development of their offspring. <i>Id.</i>	O-14-15	See the Global Response for Helicopter Use within the Alpine Lakes Wilderness. Construction is expected to occur over a 4- to 5-month period. Following completion of construction, helicopter use to the dam would be minimal.
O-14-15	Beyond the obvious disturbance impacts, helicopters and other motorized equipment degrade wilderness character by enabling faster and easier access, use of bigger and more powerful tools, and resulting industrial-scale development and manipulation that are simply not possible with wilderness-compatible modes of access and non-industrial tools and materials. Congress prohibited aircraft and motorized uses because they are about domination—they allow humans to easily access and transform the landscape to meet our ends rather than transforming our own attitudes and desires in deference to the landscape. The impacts of industrial transformation persist long after the helicopters have landed and the excavators have been hauled away. They should not be discounted as “temporary” and they should be eliminated or minimized accordingly.	O-14-16	As noted in Section 2.7.2, construction of the dam is estimated to take 4 to 5 months depending on the alternative and weather conditions. Motorized equipment would be used intermittently throughout the construction period. Impacts and mitigation measures are described under each element of the environment through the Draft and Final EISs.
O-14-16	<i>Other Motorized Use Impacts</i> The DEIS mentions that “[e]xcavators and other equipment such as boulder busters would be used to move rock and earth to construct the dam,” DEIS 3-11, but the extent and duration of motorized uses is not disclosed. For the reasons discussed in the helicopter discussion above, the full scope and duration of motorized uses must be disclosed, impacts analyzed, and mitigation identified and discussed (including minimizing the authorizations).	O-14-17	A dam alternative that mimics the current dam would not meet the objectives of the project, which are stated in Section 1.4 of the Draft and Final EISs. See the Global Responses for Helicopter Use in Alpine Lakes Wilderness and Telemetry equipment. Telemetry equipment is not proposed in the wilderness. Telemetry equipment would be placed near the dam on the Special Warranty Deed parcel, and the repeater station would be placed adjacent to the Forest Service repeater station outside of the wilderness (see Figure 2-11). Refer also to the Global Response for Visual Resources.
O-14-17	<i>Structures and Installations</i> As discussed above, it is an extreme leap to go from a relatively small earth, rock, and mortar dam built without helicopters and heavy equipment to the proposal at hand. The DEIS options all result in a dam would be more visible and obviously developed than the current dam. For alternatives 1 and 3, “[t]he dam structure would be more conspicuous, with prominent wing walls and not made with native stone as portions of the current dam are.” Alternative 1 would also include conspicuous “inflatable gates on the dam [that] would require a motor.” And for alternative 2, “the dam would be more conspicuous due to the wider dam and cleared area for the spillways.” DEIS 3-17 to 3-19. The alternative dam configurations dismissed from further consideration do not reflect any discussion or consideration of a dam design alternative that would mimic the original dam structure while making only those additional accommodations necessary for safety. See DEIS 2-27 to 2-30. Compounding impacts from development, all alternatives in the DEIS call for the permanent installation of telemetry equipment at the lake. For nearly a century, administrators have hiked to the dam and released water manually. See DEIS 2-19. Yet the proposal here calls for telemetry towers, secured with guy wires, within the Wilderness to allow for remote operation of		

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release valves and gates. Installations are generally prohibited under the Wilderness Act. 16 U.S.C. 1133(c). Further compounding wilderness degradation, the telemetry equipment would be flown in via helicopter. DEIS 2-19. The DEIS does not disclose whether maintenance work will be helicopter assisted, but it does note that batteries would need replacement approximately every 5-10 years.

Again, the amount of helicopter and motorized use associated with this project is astounding and not—at all—compatible with the Forest Service's mandate to preserve wilderness character. Those harms are both precipitated and exacerbated by the overly developed dam design. The project appears to have been designed from the beginning with a large amount of helicopter and heavy equipment use assumed and without due regard for the mandates of the Wilderness Act.

O-14-18

The final EIS (or a supplemental DEIS discussing a new alternative before moving to the FEIS) must rigorously explore a dam design that is similar to the one that has existed for nearly a century and that only includes the minimum additional design features to comply with safety requirements. The design would include less reliance on industrial materials, instead relying more on those that can be packed into or sourced from the site, manual water release features that would alleviate the additional structures and installations in Wilderness, and dam sizing and design that would not increase the visual appearance of the structure, its footprint within the Wilderness, or its water storage capacity beyond the water right post-relinquishment.

Increased Access

O-14-19

Impacts to the Wilderness will further be compounded by construction of a road to bring vehicles closer to the Wilderness boundary. The DEIS proposes to “improve and reopen a portion of a currently closed road located outside of the Alpine Lakes Wilderness” along the existing Eightmile Lake Trail so workers hiking into the site will be able to park closer to the Wilderness boundary and have a shorter hike to the dam site. See DEIS 2-21. The need for this is unclear given the incredible amount of helicopter access proposed to fly in materials and equipment. The need is even more unclear given that only “4-6 construction personnel per week will likely use the upper portion of this trail for access to the site on foot, although some may choose to hike from the trailhead,” *id.*, and given that the hike to the dam from the trailhead is only 4 miles. *Id.* The construction of this road would increase the already easy access to the Wilderness and exacerbate overuse problems. These impacts must be thoroughly analyzed. Further, the road should only be considered if it will serve as a replacement for helicopter access and if it will be completely and *effectively* decommissioned at the termination of the project.

Incorporation of prior comment letters

O-14-20

We hereby incorporate by reference the following attached letters regarding the Programmatic EIS process conducted under SEPA in 2016-2019 for the “Icicle Creek Water Resource Management Strategy” which included this Eightmile Lake dam replacement project, as well as SEPA scoping specific to this project in 2021:

- May 11, 2016 scoping comments (signed by 38 parties) in response to the SEPA Checklist and Determination of Significance.

- O-14-18 The three action alternatives have been designed to current dam safety standards for a High Hazard Dam and meet the project objectives outlined in Section 1.4 of the Draft and Final EISs. Section 2.7.1 describes the proposed method of transportation of equipment and materials to the dam site. Potential impacts on wilderness character are described in Chapter 3. Refer also to the Global Responses for Visual Resources, Relinquishment and Tentative Determination of Extent and Validity. The amount of water use under the Eightmile Lake water right is limited to the extent of the right and no more.
- O-14-19 As stated in Section 2.7.1 of the Draft and Final EISs, the portion of FSR 7601-116 proposed for reopening would be used to bring personnel and additional supplies closer to the boundary of the wilderness. The reopening of the road is not expected to contribute to overuse of the wilderness because it would be for administrative use only. The road would be gated and locked at all times, preventing public use during and after construction.
- O-14-20 The referenced comment letters were submitted during prior SEPA review of the Icicle Creek Water Resource Management Strategy between 2016 and 2021, as noted. Comments within those letters were analyzed and incorporated into the corresponding SEPA documents and review.

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- July 30, 2018 comments (signed by 31 parties) on the Draft Programmatic EIS.
- Feb. 12, 2019 comments (signed by 34 parties) on defects in the Final Programmatic EIS.
- Feb. 1, 2021 comments (signed by 32 parties) on SEPA scoping for the Eightmile Lake “dam replacement project.”

Collectively, these comment letters were co-signed by about 40 organizations, including: Alpine Lakes Protection Society (ALPS); American Whitewater; Aqua Permanente; Center for Environmental Law & Policy (CELP); Conservation Congress; Doug Scott Wilderness Consulting; East Kachess Homeowners Association; Endangered Species Coalition; Federation of Western Outdoor Clubs; Friends of the Bitterroot; Friends of Bumping Lake; Friends of the Clearwater; Friends of Enchantments; Friends of Lake Kachess; Friends of Wild Sky; Great Old Broads for Wilderness; Icicle Creek Watershed Council; Issaquah Alps Trails Club; Kachess Community Association; Kachess Ridge Maintenance Association; Kittitas Audubon Society; The Mazamas; Middle Fork Recreation Coalition (MidFORC); Methow Valley Citizens Council; North Cascades Conservation Council; North Central Washington Audubon Society; Olympic Forest Coalition; River Runners For Wilderness; Save Lake Kachess; Save Our Sky Blue Waters; Seattle Audubon Society; Sierra Club; Spokane Mountaineers; Spring Family Trust for Trails; Washington Native Plant Society; Washington Wild; Western Lands Project; Wild Fish Conservancy; The Wilderness Society; and Wilderness Watch.

Thank you for considering these comments.

Sincerely,

Rick McGuire, President
Alpine Lakes Protection Society (ALPS)

George Nickas, Executive Director
Wilderness Watch

Trish Rolfe, Executive Director
Center for Environmental Law & Policy

Gus Bekker, President
El Sendero Backcountry Ski & Snowshoe Club

Art Campbell, President
North Central Washington Audubon Society

Judy Hallisey, President
Kittitas Audubon Society

Chris Maykut, President
Friends of Bumping Lake

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Mark Boyar, President
MidFORC

John Spring, Managing Trustee
Spring Family Trust for Trails

Anne Newcomb, President
Issaquah Alps Trails Club

Connie Gallant, President
Olympic Forest Coalition

John Reeves, President
Save Lake Kachess

Denise Boggs, Executive Director
Conservation Congress

Lori Andresen, President
Save Our Sky Blue Waters

Gina Claeys, Conservation Chair
Spokane Mountaineers

Greg Shannon, Steering Committee member
Friends of Enchantments

Tom Martin, Council Member
River Runners for Wilderness

Mike Town, President
Friends of Wild Sky

Genia Moncada
Polly Dyer Cascadia Chapter
Great Old Broads for Wilderness

Phil Fenner, President
North Cascades Conservation Council

Melissa Bates, President
Aqua Permanente

George Milne, President
Federation of Western Outdoor Clubs

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Larry Campbell, Conservation Director
Friends of the Bitterroot

Mike Garrity, Executive Director
Alliance for the Wild Rockies

Gordon Brandt, President
East Kachess Homeowners Association

Jeanne Sheldon, Member
Friends of Lake Kachess

Attachments: 2016, 2018, 2019 and 2021 comment letters

Cc: Governor Jay Inslee
U.S. Senator Patty Murray
U.S. Senator Maria Cantwell
U.S. Representative Kim Schrier
U.S. Interior Secretary Deb Haaland
U.S. Bureau of Reclamation Commissioner
U.S. Forest Service, Acting Regional Forester Liz Berger
Okanogan-Wenatchee National Forest Supervisor Kristin Bail
Wenatchee River District Ranger Erica Taecker
Chelan County Commissioners Kevin Overbay, Shon Smith, Tiffany Gering
Department of Ecology Director Laura Watson
Icicle Work Group members

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Alpine Lakes Protection Society • Wilderness Watch
 Alliance for the Wild Rockies • Aqua Permanente
 Center for Environmental Law & Policy • Conservation Congress
 Doug Scott Wilderness Training • East Kachess Homeowners Association
 El Sendero Backcountry Ski & Snowshoe Club
 Federation of Western Outdoor Clubs • Friends of the Bitterroot
 Friends of Bumping Lake • Friends of the Clearwater • Friends of Enchantments
 Friends of Lake Kachess • Friends of Wild Sky • Great Old Broads for Wilderness
 Icicle Creek Watershed Council • Issaquah Alps Trails Club
 Kachess Community Association • Kittitas Audubon Society
 Middle Fork Recreation Coalition (MidFORC) • North Cascades Conservation Council
 North Central Washington Audubon Society • Olympic Forest Coalition
 River Runners for Wilderness • Save Lake Kachess • Save Our Sky Blue Waters
 Seattle Audubon Society • Spokane Mountaineers
 Spring Family Trust for Trails • Wild Fish Conservancy

February 1, 2021

Via email to: melissa.downes@ecy.wa.gov

And submitted online at: <https://ecology.wa.gov/eightmile>

Department of Ecology
 Central Regional Office
 Attn: Melissa Downes
 1250 West Alder Street
 Union Gap, WA 98903

RE: Eightmile Lake dam replacement project – SEPA scoping comments

Dear Ms. Downes:

Thank you for the opportunity to provide scoping comments on the Eightmile Lake “dam replacement project” Environmental Impact Statement (EIS). As non-profit organizations focused on conservation and recreation with members who live, work and play in the project area, we have a strong interest in current and future management activities at Eightmile Lake, in the Icicle Creek watershed and the Alpine Lakes Wilderness. Many of our organizations attended the informational and scoping meetings held in 2013-2016 and submitted comment letters in 2016-2019 regarding the defective Programmatic EIS process involving this proposal, and some of us have participated in Icicle Work Group (IWG) meetings over the years.

Tribal Treaty Rights

We recognize and respect the importance of the salmon in the Wenatchee River watershed to the Treaty Rights of the Yakama Nation and Colville Confederated Tribes and both the wild fish and the hatchery fish bred to mitigate for the construction of the Grand Coulee Dam and other mid-Columbia dams, which eliminated spawning habitat for huge numbers of wild salmon and other fish species.

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Valid Existing Water Rights

We also recognize valid, prior existing water rights in the Wenatchee River basin for agriculture, and the importance of that local source of food and the economic benefits to the region.

Programmatic EIS is Defective and Largely Worthless

We hereby incorporate by reference the following attached letters regarding the Programmatic EIS process conducted under SEPA in 2016-2019 for the “Icicle Creek Water Resource Management Strategy” which included this Eightmile Lake dam replacement project:

- May 11, 2016 scoping comments (signed by 38 parties) in response to the SEPA Checklist and Determination of Significance.
- July 30, 2018 comments (signed by 31 parties) on the Draft Programmatic EIS.
- Feb 12, 2019 comments (signed by 34 parties) on defects in the Final Programmatic EIS.

Collectively, these comment letters were co-signed by about 40 organizations, including: Alpine Lakes Protection Society (ALPS); American Whitewater; Aqua Permanente; Center for Environmental Law & Policy (CELP); Conservation Congress; Doug Scott Wilderness Consulting; East Kachess Homeowners Association; Endangered Species Coalition; Federation of Western Outdoor Clubs; Friends of the Bitterroot; Friends of Bumping Lake; Friends of the Clearwater; Friends of Enchantments; Friends of Lake Kachess; Friends of Wild Sky; Great Old Broads for Wilderness; Icicle Creek Watershed Council; Issaquah Alps Trails Club; Kachess Community Association; Kachess Ridge Maintenance Association; Kittitas Audubon Society; The Mazamas; Middle Fork Recreation Coalition (MidFORC); Methow Valley Citizens Council; North Cascades Conservation Council; North Central Washington Audubon Society; Olympic Forest Coalition; River Runners For Wilderness; Save Lake Kachess; Save Our Sky Blue Waters; Seattle Audubon Society; Sierra Club; Spokane Mountaineers; Spring Family Trust for Trails; Washington Native Plant Society; Washington Wild; Western Lands Project; Wild Fish Conservancy; The Wilderness Society; Wilderness Watch.

In 2018, IWG received about 10,000 comments on the Draft Programmatic EIS. Many of the concerns highlighted in our prior comments still remain. In particular, we urged IWG to fix two huge defects in the Draft Programmatic EIS: (1) failure to analyze wilderness impacts, and (2) failure to address water rights issues, especially the question of whether the irrigation district has relinquished any right to increase the amount of water extracted from Eightmile Lake. Indeed, the U.S. Forest Service stated in an email¹ that the Draft Programmatic EIS “is silent on Wilderness effects.”

Incredibly, the IWG co-leads (State Dept. of Ecology and Chelan County) failed to make any significant edits in the Final Programmatic EIS they published on January 3, 2019. For any

¹ October 31, 2018 email from Erick Walker, Deputy Supervisor of Okanogan-Wenatchee National Forest (“The PEIS is silent on Wilderness effects, so there’s no opportunity to tier from or use their analysis”).

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projects located in wilderness, the Final Programmatic EIS is virtually worthless, except as evidence of IWG’s alarming failure and refusal to analyze the most directly relevant issues.

In the multi-year Programmatic EIS process, from scoping to Draft PEIS to Final PEIS, the Dept. of Ecology dismissed and ignored the comments it received from dozens of conservation organizations. We are very concerned that as we begin another multi-year Project-Level EIS process, from scoping to Draft EIS to Final PEIS, the same Dept. of Ecology will again dismiss and ignore our comments.

Because the 2019 Final Programmatic EIS was mostly unchanged from the draft version, and because the IWG co-leads failed to seek consensus within IWG before releasing it so abruptly that IWG members felt blindsided, the FPEIS immediately drew criticism from both inside and outside IWG. An IWG member, Icicle Creek Watershed Council, initiated an IWG dispute resolution process about the FPEIS in early 2019.

In response to the criticism, Chelan County hired two facilitators in 2019. The facilitators interviewed IWG members and proposed revision of IWG operating rules; they also persuaded Icicle Creek Watershed Council to table its dispute resolution process regarding IWG process fouls. In early 2020, the County’s hired facilitators began a series of facilitated “stakeholder” meetings with several conservation nonprofits regarding the Eightmile Lake dam. ALPS asked the lead facilitator to stop describing himself as “neutral” on the Icicle, because he is heavily invested in the Yakima Workgroup and its Yakima Plan, and the Yakima Workgroup and Icicle Work Group are related in many significant ways.

The Proposed Action Alternatives Are Inadequate Because They Ignore Relinquishment

The scoping materials include an “Alternatives Summary Table” entitled “Table 1. Eightmile Dam Alternative Considerations.” The table’s columns describe existing conditions, a “No Action” alternative, and two “Action Alternatives”: (1) “Narrow Spillway With Gates (formerly Alternative 1A);” and (2) “Wide Spillway Without Gates.” Alternative 1A was previously referenced in IPID’s proposed “Eight Mile Storage Agreement” in the facilitated “stakeholder” meetings in 2020 as described above; nobody agreed to that proposed “Agreement.”

We oppose the proposed “Action Alternatives,” because they both ignore the fact of water rights relinquishment.

Both of the “Action Alternatives” propose to raise the maximum lake elevation to 4671 feet, which is four feet higher than it has been since 1990.

Furthermore, both of the “Action Alternatives” propose to lower the outlet pipe intake elevation to be lower than it has ever been. The “Alternatives Summary Table” shows the current outlet pipe intake elevation as 4648.65 feet; both of the “Action Alternatives” proposes 4632 feet (16.65 feet lower than it has ever been).

The dam design that would most simply reflect the relinquishment of water rights would be a dam no higher than the current maximum lake elevation (4667 feet) and a low outlet pipe intake

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no lower than the current intake elevation (4648.65 feet). Making the dam any higher, or the outlet pipe intake any lower, would allow the dam operator to store and extract water beyond the amount to which it has a right. However, that baseline alternative design has been absent from IWG documentation thus far, including the current design drawings and the “Alternatives Summary Table.”

For years everyone has been notified of the fact of relinquishment at Eightmile Lake, and everyone knows that we have been preparing for years to litigate the relinquishment issue. The Icicle Work Group should address relinquishment and stop ignoring it.

Full Range of Alternatives

Key to the effectiveness of the EIS is presenting a full range of alternatives. “The range of alternatives considered in an EIS must be sufficient to permit a reasoned choice.”² The proposed action and a “No Action” alternative do not present a sufficient range of alternatives, especially given the large scope of the overall proposal. Furthermore, the EIS cannot be constrained solely by the set of principles agreed to by the Icicle Work Group, as that would be contrary to law. “[A]n agency violates SEPA by shaping the details of a project before completing an EIS, effectively turning administrative approval into a ‘yes or no’ vote on that project as detailed, rather than allowing for the development and consideration of alternatives after the EIS is completed.”³ The large amounts of money that the Work Group has expended on the proposed action cannot be used to justify foreclosure of other reasonable alternatives.⁴

We suggest several other reasonable alternatives below to fully evaluate the project opportunities, impacts and needed mitigation. We believe that the alternatives below are reasonable and can “feasibly attain or approximate a proposal’s objectives, but at a lower environmental cost or decreased level of environmental degradation.”⁵

Wilderness Protection

The Alpine Lakes Wilderness is a shared natural resource that many people use and care about; it must be respected and protected. It is the Wilderness area nearest to the millions of people who live in the Puget Sound metropolitan area, and is one of the most popular Wilderness areas in the United States. Alpine Lakes Wilderness has operated under a permit system for decades because of the popularity of this Wilderness with the people of Washington State. It has national importance as part of the National Wilderness Preservation System, and it is owned and visited by people from all over the country. It took many years of struggle and hard work by members of our non-profit organizations to establish the Wilderness.

The EIS list of relevant laws, rules and plans must include the Wilderness Act of 1964; the Alpine Lakes Area Management Act of 1976, the Alpine Lakes Area Land Management Plan (1981), and the Wenatchee NF Forest Plan (1990) as amended.

² *Solid Waste Alternative Proponents v. Okanogan County*, 66 Wn.App. 439, 444, 832 P.2d 503, 506 (1992).
³ *Columbia Riverkeeper v. Port of Vancouver USA*, 189 Wn.App. 800, 818-19, 357 P.3d 710 (2015).
⁴ *Id.* at 819.
⁵ WAC 197-11-440(5)(b).

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The EIS should provide details of how dam reconstruction must be done in compliance with the Wilderness Act. With narrow administrative exception, the Wilderness Act prohibits roads, motor vehicles, motorized equipment, mechanical transport, the landing of aircraft (including the dropping of persons, materials, and supplies from aircraft), and structures and installations within wilderness.⁶ And in the case of valid occupancies within the wilderness, maintenance activities, as well as modes of ingress and egress, are constrained by the Wilderness Act and its goal of wilderness preservation. Dam maintenance projects should be designed with these restrictions in mind, and alternatives that eliminate or significantly reduce prohibited activities within wilderness must be rigorously explored and fully disclosed. This means that roadbuilding, temporary or permanent, must be avoided. This means that alternatives eliminating the need for mechanized and motorized equipment, both with the current project and in anticipating future maintenance, must be seriously considered. Dams have been built and maintained for decades without reliance on motorized equipment. Alternatives maintaining or reducing the existing human footprint, including dam structures and associated installations, must be seriously considered. The EIS should avoid expansion of the human footprint in the Alpine Lakes Wilderness.

The EIS should identify all impacts on Wilderness resources from dam operation, including impacts on benthic macroinvertebrates and other fauna and flora. Mitigation measures should be identified.

For Wilderness protection, the EIS should evaluate public purchase (buy-back) of private water rights in the Alpine Lakes, which would allow removal of dams and other structures from the lakes to restore the Wilderness area to its true natural character.

The Icicle Work Group’s guiding principle on Wilderness should be stated as a separate principle, and not subsumed or merged or blended into the other principles. Most of the Icicle Creek watershed is within the Alpine Lakes Wilderness.

Water Right Relinquishment Analysis

We appreciate the irrigators’ need for water to irrigate their orchards and keep them productive. We do not object to the exercise of valid, existing water rights of the Icicle-Peshastin Irrigation District, but we question any assertion of water rights that have been relinquished or are otherwise invalid.

We previously urged IWG to include analysis of water rights in its Programmatic EIS, but IWG refused, asserting “At this point, there has been no water right permitting action that has triggered an extent and validity review.” As we noted in criticizing the Final Programmatic EIS in 2019, the fact that a permitting action has not yet begun is not a valid reason for the FPEIS to ignore the consequences of relinquishment here. SEPA requires reasonable forecasting of the future, including forecasts of future government actions related to the proposal. There is too much at stake here not to address the water rights issue before proceeding further. We reiterate

⁶ See 16 U.S.C. § 1133(c); 36 C.F.R. § 261.18(c).

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our requests for analysis and determination of whether IPID has relinquished any part of its water rights, and for a dam design alternative that reflects relinquishment.

The EIS should include a “Water Right Relinquishment” alternative. This alternative should analyze existing water rights to the Alpine Lakes and acknowledge those rights that have been relinquished or abandoned. Further, to the extent that relinquishment of water rights affects the basis of other alternatives, a relinquishment analysis should be part of each alternative considered. For example, has IPID relinquished through non-use any part of the Eightmile Lake water right on which the dam rebuilding scheme is predicated? If so, it would be improper to analyze an alternative that is based upon the invalid assumption that IPID has valid water rights that would be needed to pursue the project.

The EIS should include an alternative that recognizes Icicle Work Group members’ water rights are limited to the purposes for which they were initially granted (for example, agricultural irrigation) and cannot be redirected to other purposes (such as suburban development). Furthermore, all alternatives should be assessed for compliance with all applicable provisions of the Water Code, RCW 90.03.

Alternative for Dam Safety

The EIS should include an alternative that is focused on achieving dam safety objectives, without proposed changes in dam elevation, pipe elevation or volume of water extracted. How would the dam replacement project be different if only safety objectives were to be met?

Water Conservation Plan

In our July 30, 2018 comment letter, we provided extensive recommendations on ways to obtain new water supply while reducing demands on Icicle Creek by increasing conservation of water, such as by tightening up water delivery and consumption infrastructure in the Leavenworth area; demand management efforts; and recalculating future demand. However, most of our recommendations were ignored. A voluntary lawn buy-back proposal was added, but the FPEIS does not go far enough. More aggressive conservation efforts are needed.

Relationship Between NEPA & SEPA Review

The involvement of several federal agencies and the likelihood of significant environmental impacts justify a finding of significance under NEPA.⁷ Therefore, it is imperative that the Forest Service, as the federal land manager of the Wilderness, take a hard look at the Wilderness impacts associated with the proposed projects.⁸ The Okanogan-Wenatchee National Forest typically serves as the permitting agency for work in and around the Alpine Lakes Wilderness.

As we stated in 2016, if the proposed SEPA EIS contains no federal decisions, the SEPA EIS should say so explicitly and note that any project that requires a federal decision will require NEPA analysis and cannot rely solely on this SEPA EIS. It is unclear, from the documents

⁷ 42 U.S.C. § 4332.
⁸ *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989).

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produced thus far, how the SEPA and NEPA analyses will be related, if at all. Given the fact that the Wilderness Area is federally managed, the relationship between these two different review processes should be disclosed.

Beginning in 2018, the Forest Service wrote several letters regarding permitting requirements and NEPA compliance related to IPID’s construction activities at Eightmile Lake. For example, “The issuance of a FLPMA Special Use Permit for the removal of the excavator is not guaranteed by the [Special Warranty Deed] and would need to be reviewed under all applicable laws and regulations including, but not limited to, NEPA and the Wilderness Act” (August 21, 2018 letter from OWNF to IPID).

In a July 3, 2019 letter to IPID, the Forest Service wrote that it could issue a permit or easement for water management “up to” the level that was in use “in 1976” (when the Alpine Lakes Wilderness was created by Congress), which was a dam elevation of 4671 feet, and the “Forest Service would need additional authority to permit the project to exceed this level.” Regarding the IPID proposal for “a siphon that would remove water approximately 34 feet below the originally constructed low outlet pipe,” the letter said the “Forest Service would need additional authority to permit occupancy” of lands beneath the 1976 low outlet pipe elevation of 4648.65 feet.⁹ IPID proposes to make the new dam four feet higher than the current dam (it has been at 4667 feet since 1990), and make the low outlet pipe 16.65 feet lower than it has ever been.

Recently it has been asserted that the most recent dam designs stay within the “footprint” of IPID’s easement at Eightmile Lake, but this is not true, because the footprint is three-dimensional, and the most recent designs still call for an outlet pipe lower than it has ever been, and lower than IPID has a right to put it.

IPID has suggested that it might use portable pumps and generators in the wilderness to draw down Eightmile Lake lower than the low outlet pipe. If this project will not expressly prohibit pumping of Eightmile Lake, then the impact of the use of pumps and generators in the wilderness needs to be fully evaluated.

Climate Change Impacts Must Be Considered

The impact of each alternative on Icicle Creek’s resilience to climate change, particularly with regard to changes in amount or timing of precipitation and instream flow, should be evaluated.¹⁰ According to Ecology:

⁹ In 1976 the dam was four feet higher than it has been since 1990, and that 4-foot increment of storage has been relinquished, so we oppose raising the dam to the elevation it had in 1976.
¹⁰ RCW 43.21C.030(f) (SEPA is to be implemented in a fashion that “recognize[s] the worldwide and long-range character of environmental problems and, where consistent with state policy, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the world environment.”); WAC 197-11-444; *Rech v. San Juan Cnty*, SHB No. 07-035 (June 12, 2008) 2008 WL 5510438 at *12 n.8 (“We further note an emerging trend in the case law under the National Environmental Policy Act (“NEPA”) and state NEPA analogues in which courts are increasingly requiring agencies to analyze climate change impacts during environmental assessments.”).

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*Climate Change will increase the variability – widening the range – of future supply and demand of water. As climate change shifts the timing and volume of streamflow and reduces snowpack, lower flows during the summer will make it more difficult to maintain an adequate supply of water for communities, agriculture, and fish and wildlife. Lower summer flows and higher stream temperatures will continue to degrade our water quality and place stress on salmon.*¹¹

These impacts are foreseeable and must be assessed as part of the EIS.

Impacts of Water Withdrawal Must Be Analyzed

The EIS should discuss the hydrological and biological impacts of the current drawdowns of the lakes, and how the proposed changes will affect the current situation. The analysis should include a review of scientific literature on the impacts of water removals upon wildlife, vegetation, soil and wilderness values.

Operations, Maintenance & Environmental Monitoring Analysis

The EIS should provide a detailed operations, maintenance and environmental monitoring plan for the water infrastructure, and analysis of the wilderness impacts of specific maintenance actions, including helicopter use. The EIS should also provide a detailed accounting of budgets and funding sources for these items.

The Purpose & Need of the Project Should Be Identified

The EIS should fully explain the purpose and need for the water these projects would provide. We understand the need to increase instream flows in Icicle Creek, but what are the additional out-of-stream uses to be served by these projects? To what beneficial use will the additional water be put?

The irrigation district has said it does not need more water for irrigation – but other parties in the Icicle Work Group want to increase water extraction from Eightmile Lake with a new dam. IWG’s goal to provide domestic water in connection with suburban home construction is referenced repeatedly in the SEPA checklist, issued on February 9, 2016 by the IWG co-leads, Chelan County and the State Dept. of Ecology. For example, “Restore Eightmile Lake/Reservoir ... for both instream flows and domestic use” (p. 8); “Construction activities associated with project activities including ... new home construction that will result from improved domestic water supply...” (p. 9); “Vegetation removal ... may be associated with new home construction” (p. 12); “Improvements to the domestic water supply is one of the Guiding Principles. The PEIS will describe the number and proposed locations of new home construction ...” (p. 17); “Limited discharges associated with ... new home construction are anticipated” (p. 21).

¹¹ Ecology, Preparing for a Changing Climate: Washington State’s Integrated Climate Response Strategy (April 2012), available at: <https://apps.ecology.wa.gov/publications/documents/1201004.pdf>, at 101-102; *id.* at 103 (stating that climate change will lead to “increases in winter precipitation, posing additional challenges for managing reservoirs for flood control, fish, and hydropower.”).

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The 2018 City of Leavenworth Water Plan and subsequent discussions show that the City places a larger emphasis on increased water needs for commercial and tourism purposes. This should be addressed in the EIS.

The EIS should fully explain what human activities caused the degraded conditions (such as low instream flows in Icicle Creek) that the projects seek to improve. We should not be repeating the mistakes of the past and this information is highly relevant as to the purpose and need of the projects in the first place.

Direct, Indirect & Cumulative Impacts Must Be Assessed

The EIS should analyze each proposed action's site-specific impacts, past practices, and the restoration, mitigation, and funding that would be needed in the future. At each site, proposed construction activities and proposed water diversions need to be spelled out in detail.

The direct, indirect and cumulative impacts of all proposed projects must be assessed.¹² Cumulative impacts include “the impact from the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions.”¹³ “A cumulative impact analysis need only occur when there is some evidence that the project under review will facilitate future action that will result in additional impacts.”¹⁴ Here, all of the projects are being analyzed in one EIS, are not speculative, and thus must be assessed in a holistic fashion. In addition, if the projects are going to be implemented in phases, that must be described and done in a manner that does not improperly segment the environmental impacts of all proposed projects.

The Dam Safety Office within the Dept of Ecology recently classified the dams at Colchuck, Lower Klonaka and Square Lakes as “high-hazard.” The Icicle Work Group has been seeking additional water from these lakes, which are much further into the Alpine Lakes Wilderness and much harder to reach. Colchuck, Lower Klonaka and Square Lakes are included (along with Eightmile Lake) in the Icicle Work Group’s Automation/Optimization project; cumulative impacts must be analyzed.

Instream Flow Impacts on Fish and ESA Consultation

The EIS should analyze the adequacy of proposed instream flows to support spawning, rearing and migration of steelhead, salmon and bull trout. Each project’s impacts on instream flows and the species likely to be affected should be identified. Under the Endangered Species Act, the Upper Columbia River distinct population segment of steelhead is listed as a threatened species, and the Upper Columbia River spring-run Chinook salmon evolutionary significant unit is listed as endangered. Therefore, consultation under the Endangered Species Act must be required. Icicle Creek contains some of the last remaining nearly pristine habitat available to these fish. Icicle Creek is designated critical habitat for the Upper Columbia River steelhead and contains

¹² WAC 197-11-060(4)(e).

¹³ *Idaho Sporting Cong., Inc. v. Rittenhouse*, 305 F.3d 957, 973 (9th Cir. 2002)(internal quotation and citation omitted).

¹⁴ *Boehm v. City of Vancouver*, 111 Wn.App. 711, 720, 47 P.3d 137 (2002).

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spawning, rearing, and migration habitat for this species. Upper Columbia River spring-run Chinook salmon also spawn in Icicle Creek. However, human activities have lowered instream flows and devastated these fish in Icicle Creek.

Information on Existing Diversions Is Needed

The EIS should include maps, diagrams and photos to clearly show the current situation (including the place of diversion and amount of water diverted) at the lake and other project locations and how that would change under the proposed action(s) under each alternative.

Thank you for considering these comments.

Sincerely,

Rick McGuire, President
Alpine Lakes Protection Society (ALPS)

George Nickas, Executive Director
Wilderness Watch

Sharon Lunz, President
Icicle Creek Watershed Council

Trish Rolfe, Executive Director
Center for Environmental Law & Policy

Kurt Beardslee, Executive Director
Wild Fish Conservancy

Gus Bekker, President
El Sendero Backcountry Ski & Snowshoe Club

Art Campbell, President
North Central Washington Audubon Society

Judy Hallisey, President
Kititas Audubon Society

Chris Maykut, President
Friends of Bumping Lake

Mark Boyar, President
MidFORC

John Spring, Managing Trustee
Spring Family Trust for Trails

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Eightmile dam SEPA comments – February 1, 2021
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Doug Scott, Principal
Doug Scott Wilderness Training

David Dunphy, President
Issaquah Alps Trails Club

Connie Gallant, President
Olympic Forest Coalition

John Reeves, President
Save Lake Kachess

Denise Boggs, Executive Director
Conservation Congress

Lori Andresen, President
Save Our Sky Blue Waters

Matt Jeffries, President
Spokane Mountaineers

Kathi & Greg Shannon, Steering Committee members
Friends of Enchantments

Tom Martin, Council Member
River Runners for Wilderness

Christine Johnson, President
Kachess Community Association

Mike Town, President
Friends of Wild Sky

Annie Cubberly, Broadband Leader
Polly Dyer Cascadia Chapter
Great Old Broads for Wilderness

Phil Fenner, President
North Cascades Conservation Council

Melissa Bates, President
Aqua Permanente

George Milne, President
Federation of Western Outdoor Clubs

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Larry Campbell, Conservation Director
Friends of the Bitterroot

Gary Macfarlane, Ecosystem Defense Director
Friends of the Clearwater

Mike Garrity, Executive Director
Alliance for the Wild Rockies

Joshua Morris, Urban Conservation Manager
Seattle Audubon Society

Gordon Brandt, President
East Kachess Homeowners Association

Jay Schwartz, Member
Friends of Lake Kachess

Attachments (2016, 2018 and 2019 comment letters)

Cc: Governor Jay Inslee
U.S. Senator Patty Murray
U.S. Senator Maria Cantwell
U.S. Representative Kim Schrier
U.S. Interior Secretary
U.S. Bureau of Reclamation Commissioner
U.S. Forest Service, Regional Forester Glenn Casamassa
Okanogan-Wenatchee National Forest Supervisor Kristin Bail
OWNF Deputy Supervisor Erick Walker
Wenatchee River District Ranger Jeff Rivera
Chelan County Commissioners Bob Bugert, Doug England and Kevin Overbay
Department of Ecology Director Laura Watson
Icicle Work Group members

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Alpine Lakes Protection Society • Alpine Lakes Foundation
Alliance for the Wild Rockies • American Whitewater • Aqua Permanente
Center for Environmental Law & Policy • Conservation Congress
El Sendero • Endangered Species Coalition • Federation of Western Outdoor Clubs
Friends of the Bitterroot • Friends of Bumping Lake • Friends of the Clearwater
Friends of the Enchantments • Friends of Lake Kachess • Friends of Wild Sky
Great Old Broads for Wilderness • Issaquah Alps Trails Club
Kachess Homeowners Association • Kachess Ridge Maintenance Association
Kittitas Audubon Society • Kittitas County Fire District #8 • The Mazamas
Middle Fork Recreation Coalition • North Cascades Conservation Council
North Central Washington Audubon Society • Olympic Forest Coalition
River Runners For Wilderness • Save Our Sky Blue Waters • Seattle Audubon Society
Sierra Club • Spokane Mountaineers • Spring Family Trust for Trails
Washington Native Plant Society • Washington Wild • Western Lands Project
Wilderness Watch • Wild Fish Conservancy

May 11, 2016

Via email to: mike.kaputa@co.chelan.wa.us

Chelan County Natural Resources Department
Attention: Mike Kaputa, Director
411 Washington Street, Suite 201
Wenatchee, WA 98801

RE: **Icicle Creek Water Resource Management Strategy – SEPA scoping**

Dear Director Kaputa:

Thank you for the opportunity to provide scoping comments on the Icicle Creek Water Resource Management Strategy. As non-profit organizations focused on conservation and recreation with members who live, work and play in the project area, we have a strong interest in current and future management activities in the Icicle Creek watershed and the Alpine Lakes Wilderness. Many of our organizations attended the informational and scoping meetings held in 2013-2016 regarding this proposal, and some of us have participated in Icicle Work Group meetings and have submitted comment letters previously. We appreciate the difficult challenge to provide instream flows and supply water for historic agricultural uses. There are impacts inherent in this, and Chelan County should work to minimize such impacts by prioritizing water conservation measures that are not detrimental to wilderness values. We are willing to work towards a solution. We support the tribes’ insistence that any solution ensure adequate instream flows for fish. However, we are very concerned about the substantial impact of current and proposed water management activities on the lakes in the Wilderness, and the proposal to increase water diversions from seven lakes in the Alpine Lakes Wilderness that flow into Icicle Creek: Colchuck, Eightmile, Upper and Lower Snow, Nada, Lower Klonauqua and Square Lakes.

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Chelan County and the Washington State Department of Ecology jointly issued a SEPA Determination of Significance, determining that a Programmatic Environmental Impact Statement (PEIS) is required, due to the proposal’s probable significant environmental impacts. We agree with that determination, and we support the decision to prepare an EIS, given the scope and severity of the potential environmental impacts associated with the proposal.

After reading through the materials you published online, we offer the following comments:

Full range of alternatives

Key to the effectiveness of the EIS is presenting a full range of alternatives. “The range of alternatives considered in an EIS must be sufficient to permit a reasoned choice.”¹ The proposed action and a “No Action” alternative do not present a sufficient range of alternatives, especially given the large scope of the overall proposal. Furthermore, the EIS cannot be constrained solely by the set of principles agreed to by the Icicle Work Group, as that would be contrary to law. “[A]n agency violates SEPA by shaping the details of a project before completing an EIS, effectively turning administrative approval into a ‘yes or no’ vote on that project as detailed, rather than allowing for the development and consideration of alternatives after the EIS is completed.”² The large amounts of money that the Work Group has expended on the proposed action cannot be used to justify foreclosure of other reasonable alternatives.³

We suggest several other reasonable alternatives below to fully evaluate the project opportunities, impacts and needed mitigation. We believe that the alternatives below are reasonable and can “feasibly attain or approximate a proposal’s objectives, but at a lower environmental cost or decreased level of environmental degradation.”⁴

Wilderness Protection alternative

The Alpine Lakes Wilderness is a shared natural resource that many people use and care about; it must be respected and protected. It is the Wilderness area nearest to the millions of people who live in the Puget Sound metropolitan area, and is one of the most popular Wilderness areas in the United States. Alpine Lakes Wilderness has operated under a permit system for decades because of the popularity of this Wilderness with the people of Washington State. It has national importance as part of the National Wilderness Preservation System, and it is owned and visited by people from all over the country. It took many years of struggle and hard work by members of our non-profit organizations to establish the Wilderness.

The EIS should include a “Wilderness Protection” alternative. This alternative should promote Wilderness values in keeping with the Wilderness classification of the Alpine Lakes Wilderness area, while simultaneously meeting the objectives of the proposal. This alternative should not increase the amount of water removed from the Alpine Lakes Wilderness; not expand easements; not encroach on wilderness lands; not use mechanical transport; and not build any structure or

¹ *Solid Waste Alternative Proponents v. Okanogan County*, 66 Wn.App. 439, 445, 832 P.2d 503 (1992).
² *Columbia Riverkeeper v. Port of Vancouver USA*, 189 Wn.App. 800, 818-19, 357 P.3d 710 (2015).
³ *Id.*
⁴ WAC 197-11-440(5)(b).

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installation in the Wilderness. Rather, under the Wilderness Protection alternative, any new water supplies should be obtained from application of conservation measures and from sources outside the Wilderness, and use non-Wilderness options for improving instream flows (for example, the Icicle-Peshastin Irrigation District change in diversion point discussed below). The Wilderness Protection alternative should comply with all provisions in the Forest Service's administrative Alpine Lakes Area Land Management Plan, including: "Except as provided for in Section 4(d)(4) of the Wilderness Act, watersheds will not be altered or managed to provide increased water quantity, quality or timing of discharge."

The EIS list of relevant laws, rules and plans should include the Wilderness Act of 1964; the Alpine Lakes Area Management Act of 1976, the Alpine Lakes Area Land Management Plan (1981), and the Wenatchee NF Forest Plan (1990) as amended.

The Wilderness Protection alternative should evaluate public purchase (buy-back) of private water rights in the Alpine Lakes, which would allow removal of dams and other structures from the lakes to restore the Wilderness area to its true natural character.

The Icicle Work Group's guiding principle on Wilderness should be stated as a separate principle, and not subsumed or merged or blended into the other principles. Most of the Icicle Creek watershed is within the Alpine Lakes Wilderness.

Water Right Relinquishment alternative

We appreciate the irrigators' need for water to irrigate their orchards and keep them productive. We do not object to the exercise of valid, existing water rights of the Icicle-Peshastin Irrigation District, but we question any assertion of water rights that have been relinquished or are otherwise invalid.

The EIS should include a "Water Right Relinquishment" alternative. This alternative should analyze existing water rights to the Alpine Lakes and acknowledge those rights that have been relinquished or abandoned. Further, to the extent that relinquishment of water rights affects the basis of other alternatives, a relinquishment analysis should be part of each alternative considered. For example, has the Icicle-Peshastin Irrigation District (IPID) relinquished through non-use any part of the Eightmile Lake water right on which the dam rebuilding scheme is predicated? If so, it would be improper to analyze an alternative that is based upon the invalid assumption that IPID has valid water rights that would be needed to pursue the project.

The EIS should include an alternative that recognizes Icicle Work Group members' water rights are limited to the purposes for which they were initially granted (for example, agricultural irrigation) and cannot be redirected to other purposes (such as suburban development). Furthermore, all alternatives should be assessed for compliance with all applicable provisions of the Water Code, RCW 90.03.

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Water Conservation alternative

The EIS should include a “Water Conservation” alternative that emphasizes aggressive water conservation measures by the City of Leavenworth, Icicle-Peshastin Irrigation District, the Leavenworth Fish Hatchery and other water users as a means to achieve the proposal’s objectives. This alternative should consider the adoption of conservation measures (such as restrictions on watering lawns) that have been implemented in the Seattle area, where water consumption actually declined while the population increased. This alternative should also evaluate water markets that facilitate selling and trading of water rights.

The Water Conservation alternative should evaluate a transfer of water rights from IPID to Leavenworth for properties within the city limits that have now converted from orchards to residential properties. This alternative should analyze how appropriate reductions in water usage (that is, not using agricultural water quantities for lawn irrigation) would save water that would then be available for other Leavenworth needs.

The Water Conservation alternative should evaluate how IPID spills large quantities of water back into the Wenatchee River at the end of several of its canals. This alternative should evaluate how this 19th century irrigation practice (which was required to ensure water made it to the furthestmost customers) could be replaced with modern pumping and piping technologies constructed outside of the Wilderness Area. The EIS should consider the resulting reduction in water demand as an alternative water supply.

A strong water conservation program can and should be a part of all the action alternatives, and should be compared to current practices (the No Action alternative).

Water Right Change alternative

The EIS should include a “Water Right Change” alternative. This alternative would evaluate improving Icicle Creek flows by moving IPID’s point of diversion downstream (to the Wenatchee River). This measure, which would add 100 cfs of water to Icicle Creek every year, would convert the IPID diversion from gravity flow to pumping (requiring electrical power). This alternative should therefore analyze renewable energy options to supply that power, including solar, wind and in-canal hydroelectric. Options for changing the point of diversion have already been studied and information on their feasibility and costs is available.

Relationship Between NEPA & SEPA Review

The involvement of several federal agencies and the likelihood of significant environmental impacts justify a finding of significance under NEPA.⁵ Therefore, it is imperative that the Forest Service, as the federal land manager of the Wilderness, take a hard look at the Wilderness impacts associated with the proposed projects.⁶ If the proposed SEPA EIS is “programmatic” and contains no federal decisions, the SEPA EIS should say so explicitly and note that any project that requires a federal decision will require NEPA analysis and cannot rely solely on this

⁵ 42 U.S.C. § 4332.

⁶ *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989).

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SEPA EIS. It is unclear, from the documents produced thus far, how the SEPA and NEPA analyses will be related, if at all. Given the fact that the Wilderness Area is federally managed, the relationship between these two different review processes should be disclosed.

Climate Change Impacts Must Be Considered

The impact of each alternative on Icicle Creek’s resilience to climate change, particularly with regard to changes in amount or timing of precipitation and instream flow, should be evaluated.⁷ According to Ecology:

Climate Change will increase the variability – widening the range – of future supply and demand of water. As climate change shifts the timing and volume of streamflow and reduces snowpack, lower flows during the summer will make it more difficult to maintain an adequate supply of water for communities, agriculture, and fish and wildlife. Lower summer flows and higher stream temperatures will continue to degrade our water quality and place stress on salmon.⁸

These impacts are foreseeable and must be assessed as part of the EIS.

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Operations, Maintenance & Environmental Monitoring Analysis

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⁷ RCW 43.21C.030(f) (SEPA is to be implemented in a fashion that “recognize[s] the worldwide and long-range character of environmental problems and, where consistent with state policy, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the world environment.”); WAC 197-11-444; *Reich v. San Juan Cnty*, 2008 WL 5510438 (Wash. Shorelines Hearings Bd.) (June 12, 2008) at *12 n.8 (“We further note an emerging trend in the case law under the National Environmental Policy Act (“NEPA”) and state NEPA analogues in which courts are increasingly requiring agencies to analyze climate change impacts during environmental assessments.”).

⁸ Ecology, Preparing for a Changing Climate: Washington State’s Integrated Climate Response Strategy (April 2012) at 101-102; *id.* at 103 (stating that climate change will lead to “increases in winter precipitation, posing additional challenges for managing reservoirs for flood control, fish, and hydropower.”).

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out-of-stream uses to be served by these projects? To what beneficial use will the additional water be put?

The EIS should fully explain what human activities caused the degraded conditions (such as low instream flows in Icicle Creek) that the projects seek to improve. We should not be repeating the mistakes of the past and this information is highly relevant as to the purpose and need of the projects in the first place.

Direct, Indirect & Cumulative Impacts Must Be Assessed

The EIS should analyze each proposed action's site-specific impacts, past practices, and the restoration, mitigation, and funding that would be needed in the future. At each site, proposed construction activities and proposed water diversions need to be spelled out in detail.

The direct, indirect and cumulative impacts of all proposed projects must be assessed.⁹ Cumulative impacts include “the impact from the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions.”¹⁰ “A cumulative impact analysis need only occur when there is some evidence that the project under review will facilitate future action that will result in additional impacts.”¹¹ Here, all of the projects are being analyzed in one EIS, are not speculative, and thus must be assessed in a holistic fashion. In addition, if the projects are going to be implemented in phases, that must be described and done in a manner that does not improperly segment the environmental impacts of all proposed projects.

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Information on Existing Diversions Is Needed

The EIS should include maps, diagrams and photos to clearly show the current situation (including the place of diversion and amount of water diverted) at each of the lakes and other project locations and how that would change under the proposed action(s) under each alternative.

⁹ WAC 193-11-060(4).
¹⁰ 40 C.F.R. § 1508.7.
¹¹ *Boehm v. City of Vancouver*, 111 Wn.App. 711, 720, 47 P.3d 137 (2002).

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Thank you for considering these comments.		
Sincerely,		
Karl Forsgaard, President Alpine Lakes Protection Society (ALPS)	Rachael Osborn former member, Icicle Work Group	
Trish Rolfe, Executive Director Center for Environmental Law & Policy	Gus Bekker, President El Sendero Backcountry Ski and Snowshoe Club	
Harry Romberg, National Forests Chair Washington State Chapter Sierra Club	Mike Town, President Friends of Wild Sky	
Mark Boyar, President Middle Fork Recreation Coalition (MidFORC)	Tom Hammond, President North Cascades Conservation Council	
John Spring, Manager Spring Family Trust for Trails	Chris Maykut, President Friends of Bumping Lake	
Brock Evans, President Endangered Species Coalition	William Beyers, President Alpine Lakes Foundation	
Dave Kappler, President Issaquah Alps Trails Club	George Nickas, Executive Director Wilderness Watch	
Shelley Spalding, Climate Action Liaison Great Old Broads for Wilderness	George Milne, President Federation of Western Outdoor Clubs	
Kathi & Greg Shannon, Steering Comm members Friends of the Enchantments	Tom Martin, Council Member River Runners For Wilderness	
Mike Garrity, Executive Director Alliance for the Wild Rockies	Larry Campbell, Conservation Director Friends of the Bitterroot	
Denise Boggs, Executive Director Conservation Congress	Kurt Beardslee, Executive Director Wild Fish Conservancy	
Gary Macfarlane, Ecosystem Defense Director Friends of the Clearwater	Tom Gauron, President Kittitas Audubon Society	
Lee Davis, Executive Director The Mazamas	Janine Blaeloch, Executive Director Western Lands Project	
Tom Uniack, Executive Director Washington Wild	Doug Scott, Principal Doug Scott Wilderness Consulting	

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COMMENT		RESPONSE
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Lori Andresen, President Save Our Sky Blue Waters	Bill Campbell, President Friends of Lake Kachess	
Robert Angrisano, President Kachess Homeowners Association	Jerry Watts, Chair Board of Fire Commissioners Kittitas County Fire District #8	
Terry Montoya, President Kachess Ridge Maintenance Association	Brian Hoots, President Spokane Mountaineers	
Thomas O'Keefe, PhD Pacific Northwest Stewardship Director American Whitewater	Clay Antieau, President Washington Native Plant Society	
Melissa Bates, President Aqua Permanente	John Brosnan, Executive Director Seattle Audubon Society	
Art Campbell, President North Central Washington Audubon Society	Connie Gallant, President Olympic Forest Coalition	
Cc: Tom Tebb, Department of Ecology other Icicle Work Group members Governor Jay Inslee U.S. Senator Patty Murray U.S. Senator Maria Cantwell U.S. Representative Dave Reichert U.S. Interior Secretary Sally Jewell U.S. Bureau of Reclamation Commissioner Michael Connor U.S. Forest Service, Regional Forester Jim Pena Okanogan-Wenatchee National Forest Supervisor Mike Williams Wenatchee River District Ranger Jeff Rivera		

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Alpine Lakes Protection Society • The Wilderness Society
American Whitewater • Aqua Permanente • Center for Environmental Law & Policy
Conservation Congress • Doug Scott Wilderness Consulting
El Sendero Backcountry Ski & Snowshoe Club • Federation of Western Outdoor Clubs
Friends of Bumping Lake • Friends of the Clearwater • Friends of Enchantments
Friends of Lake Kachess • Friends of Wild Sky • Great Old Broads for Wilderness
Icicle Creek Watershed Council • Issaquah Alps Trails Club • Kittitas Audubon Society
The Mazamas • Middle Fork Recreation Coalition (MidFORC)
North Cascades Conservation Council • North Central Washington Audubon Society
River Runners For Wilderness • Save Our Sky Blue Waters • Seattle Audubon Society
Sierra Club • Spokane Mountaineers • Spring Family Trust for Trails
Washington Wild • Wild Fish Conservancy • Wilderness Watch

July 30, 2018

Submitted via email to: pr.iciclespa@co.chelan.wa.us

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Washington Department of Ecology
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RE: Comments on Draft Programmatic Environmental Impact Statement (DPEIS)
for the Icicle Creek Water Resource Management Strategy

Dear Directors Tebb and Kaputa:

Thank you for the opportunity to provide comments on the Draft Programmatic Environmental Impact Statement (DPEIS) for the Icicle Creek Water Resource Management Strategy. Many of the undersigned organizations provided comments in 2016 during the scoping period for the DPEIS. As you will see below, many of the concerns highlighted during the scoping period still remain despite the efforts of the Icicle Work Group (IWG) to scope and refine the range of alternatives presented in the DPEIS. **Because of the range of deficiencies in the DPEIS outlined below, the Washington State Department of Ecology (Ecology) and Chelan County should withdraw, revise, and re-release the DPEIS once the deficiencies are addressed.**

With multiple demands, and a changing climate, it will be challenging to meet instream flow targets, ensure agricultural reliability, enhance hydrologic function of the basin, and protect wilderness values. But that is the task taken on by this DPEIS. We believe there is a package

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based in strong conservation measures that can accomplish those goals, but the current alternatives in the DPEIS do not.

Wilderness Values

The undersigned organizations have come together out of our concern and respect for the Alpine Lakes Wilderness and its Enchantment basin. This area is one of the most iconic and treasured natural resources in the entire National Wilderness Preservation System. These are national interest lands, owned by everyone in the nation and protected by Congress to preserve their wilderness character. As detailed in the DPEIS, thousands of hikers explore and visit this area each year and a myriad of wildlife species depend on the critical habitat it provides. 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 protected into the future.

Tribal Treaty Rights

We recognize and respect the importance of the salmon in the Wenatchee River watershed to the Treaty Rights of the Yakama Nation and Colville Confederated Tribes and both the wild stocks and the hatchery stocks developed to mitigate for the construction of the Grand Coulee Dam, which eliminated spawning habitat for huge numbers of wild salmon and other fish species.

Valid Existing Water Rights

We also recognize valid, prior existing water rights in the Wenatchee River basin for agriculture, and the importance of that local source of food and the economic benefits to Chelan County and the region.

Positive Project Elements

There are some project elements presented in the DPEIS that the undersigned organizations could support as part of a comprehensive plan that meets the requirements for fish, agriculture and wilderness preservation while simultaneously reducing water diversions and making meaningful investments in domestic and agricultural water conservation. Favorable elements in the DPEIS include: piping and pumping systems, additional domestic conservation, critical upgrades (such as circular ponds) of outdated hatchery infrastructure, fish passage and habitat improvements, and telemetric control of valves at the existing dams. However, there are fundamental flaws in the DPEIS as discussed below that must be addressed before this process moves forward.

Improper Constraints of IWG Guiding Principles

IWG does not have broad-based support. Chelan County defines IWG as “made up of a diverse set of stakeholders representing local, state and federal agencies, tribes, irrigation and agricultural interests and environmental organizations.” While at IWG’s inception it included

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more nonprofit environmental organizations, today only three remain. Important environmental groups have departed IWG, including the Center for Environmental Law and Policy and Wild Fish Conservancy—groups that capture broad environmental values. The Icicle Creek Watershed Council also announced its departure last year, but the group has since rejoined IWG albeit on a provisional basis due to outstanding concerns related to the limited investment in water conservation and the degradation of the beauty and ecology of the Alpine Lakes Wilderness.

Furthermore, many groups who have been invited to the table have declined to join, including the Alpine Lakes Protection Society, The Wilderness Society, and Chelan-Douglas Land Trust, due to concerns about scope of the projects, IWG unwillingness to make adjustments to the proposal, IWG’s prohibition on public criticism, IWG refusal to treat westside owners of these public lands the same as eastside owners of these public lands, or for other reasons. While this “broad-based coalition” of IWG involves federal agencies, municipalities, tribes, and irrigation districts, it falls short in representation from the conservation and recreation community. Consequently, for this non-representative, self-selected group to create “guiding principles” that then become the purpose and need of the DPEIS is self-serving and problematic.

Deficiencies of DPEIS

At present, the range of alternatives currently presented in the DPEIS includes actions unprecedented in a federally designated wilderness area and threatens to exploit one resource (i.e., the wilderness and the water it provides) under the guise of protecting another (i.e., fish in Icicle Creek). Chelan County and Ecology can and should do better to meet instream flow targets, ensure agricultural reliability, enhance hydrologic function of the basin, and protect wilderness values. As proposed, the alternatives analyzed in the DPEIS fail to do so.

SEPA expressly requires an EIS to contain a detailed discussion of alternatives to the proposed action. RCW 43.21C.030. “The required discussion of alternatives to a proposed project is of major importance, because it provides a basis for a reasoned decision among alternatives having differing environmental impacts. Pursuant to WAC 197-11-440(5)(b), the reasonable alternatives which must be considered are those which could ‘feasibly attain or approximate a proposal’s objectives, but at a lower environmental cost or decreased level of environmental degradation.’” *Weyerhaeuser v. Pierce County*, 124 Wn.2d 26, 38, 873 P.2d 498 (1994). When, as in this case, the proposal is for public projects, “the EIS must contain a sufficient discussion of offsite alternative proposals.” *Id.* at 39. Also, “there must be a reasonably detailed analysis of a reasonable number and range of alternatives.” *Id.* at 41.

The DPEIS lacks a sufficient discussion of offsite (i.e. non-wilderness) alternative proposals and does not analyze a reasonable range of alternatives, as the *Weyerhaeuser* decision requires. Although the DPEIS does list five alternatives plus a no-action alternative, only one of these alternatives (Alternative 5) relies primarily on an off-site proposal (Full IPID Pump Station). Furthermore, all of the alternatives repeat the same Eightmile dam “Restoration” project (construction of a dam in a wilderness area), and thus the DPEIS cannot fulfill SEPA’s requirement for analysis of off-site projects. The alternatives are mere variations on the theme of

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building dams, pumps, and pipes inside a wilderness area. As discussed below, it is likely that such construction will be unlawful under the Wilderness Act, a problem the DPEIS does not even acknowledge. Because all of the alternatives involve construction in the wilderness, they do not represent “a reasonable range of alternatives,” as required by the *Weyerhaeuser* decision.

Our specific concerns and recommendations for moving forward with the DPEIS process include:

- 1. **The entirety of the DPEIS rests on a flawed assumption of “paper water,” not “real water” based on the actual water usage by the primary water rights holders in the Icicle basin. Ecology must perform an extent and validity determination for the three primary water rights holders in the basin before a new DPEIS and alternatives are developed and released for public comment.**

One thing is clear in the DPEIS: the Icicle Peshastin Irrigation District (IPID) has a paper right to an extraordinary amount of water relative to other water rights holders in the basin, and Chelan County, Ecology, and the City of Leavenworth all want a portion of it to meet their needs. It is also clear that under Western water law, water rights holders must use the water or risk to lose it, simply phrased as “use it or lose it.” See RCW 90.14.170-190 (water rights relinquished if not actually used for five consecutive years). See also *Dept. of Ecology v. Theodoratus*, 135 Wn.2d 582, 592–597, 957 P.2d 1241 (1998) (water rights are based on actual, beneficial water use, not installed capacity of water systems).

The condition of IPID’s water infrastructure in the Icicle basin shows that in its near 80 years of operation, IPID has not maintained its facilities to actually store and use its full water right. This was recently demonstrated in the 2018 Eightmile dam emergency, where the risk of heightened spring flows led to emergency stabilization efforts at the delapidated dam. At Eightmile Lake, a portion of the earthen dam washed away in a 1990 flood event, and IPID did not take steps to restore the dam at that time. Since then—for the last 28 years—IPID has annually released approximately 1,400 (and up to 1,600 acre-feet) at Eightmile Lake (DPEIS, 2-63). The DPEIS states that the condition of the existing facilities at Eightmile Lake has limited the active storage volume to 1,370 acre-feet with an operational range of 23 feet (DPEIS, 3-48).

It is clear, therefore, that IPID has relinquished at least part of its paper water rights. How much of its water rights have been relinquished is precisely the question that a proper PEIS must answer. Yet the DPEIS specifically fails to account for IPID’s potential relinquishment of part of its water rights at Eightmile Lake, despite consistent questions and concerns raised by many groups since the genesis of the Icicle Work Group efforts. The DPEIS and all of its alternatives—including the No Action Alternative—assume that IPID has a right to its full paper right at all of the wilderness lakes, including 3,500 acre-feet at Eightmile Lake (as described in Alternative 4, DPEIS, p. 2-103). IPID has never utilized this much water in the entire history of its operation. Water that IPID has not used now belongs to the federal government under the

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federal reserved water right doctrine.¹ If the Eightmile Lake dam is rebuilt, it should remain at its current elevation, where it has been since at least 1990, because that elevation is the largest necessary to support whatever remains of IPID’s relinquished water right. In addition, as discussed below, any dam rebuilding must be approved by the U.S. Forest Service and must comply with the National Environmental Policy Act (NEPA) and other federal and state laws. These points also apply to the U.S. Bureau of Reclamation and the U.S. Fish & Wildlife Service in connection with new storage proposed at Snow and Nada Lakes.

The most egregious misinterpretation of IPID’s water rights is represented in Alternative 4, where massive storage projects are analyzed that result in far more water storage than is needed, at the expense of wilderness values and natural hydrologic function of the basin. Alternative 4 also includes the false assumption that IPID has a right to water at Upper Klonauqua Lake, to which the IPID has no right.

Finally, Ecology has confirmed that it has not made an extent and validity determination of either IPID or the Leavenworth Fish Hatchery, as stated in a letter to The Wilderness Society on June 14, 2018:

“The IPID and the Leavenworth National Fish Hatchery both have storage water rights that originate within the Alpine Lakes Wilderness... At this time, Ecology has not made an extent and validity determination of either IPID or the Leavenworth National Fish Hatchery’s diversionary or storage water rights.”

In other words, the issue of how much water is legally available is not known and has not been addressed.

Failure to revise the DPEIS to account for IPID’s possible relinquishment of some of its water rights would constitute a violation of SEPA. SEPA requires an EIS to analyze reasonable project alternatives. “SEPA rules define ‘reasonable alternatives’ as less environmentally costly action that ‘could feasibly attain or approximate a proposal’s objectives.’” *King County v. Central Puget Sound Growth Management Bd.*, 138 Wn.2d 161, 183, 979 P.2d 374 (1999) (citing WAC 197–11–786). Here, a less environmentally costly action that still achieves the proposal’s objectives would be to limit the dam repair work to the minimum necessary to support IPID’s post-relinquishment water rights, not IPID’s paper water rights or its installed water system capacity. There is no justification to “overbuild” the dams to support a water right that no longer exists.

¹ See *U.S. v. New Mexico*, 438 U.S. 696, 698–700, 98 S.Ct. 3012, 57 L.Ed.2d 1052 (1978). The reserved federal water rights apply only if the federal land reservation pre-dates the state-law claim, and only to the extent necessary to accomplish the primary purpose of the federal reservation. In this case, the National Forest reservation occurred in 1897, according to USFS’s website, which pre-dates IPID’s 1927 water rights adjudication. The purposes of the National Forest reservation, per *U.S. v. New Mexico*, are to “improve and protect the forest within the boundaries, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber” (citing 16 U.S.C. § 475). Thus, the federal government in this case has reserved rights to any water from the Alpine Lakes Wilderness necessary to accomplish these purposes.

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Instead, the DPEIS should analyze how much of IPID’s water rights remain and should analyze the impact of building the dams to support that level of service. It is necessary to conduct this analysis because, if IPID has relinquished some of its rights, then *none* of the alternatives analyzed in detail in the DPEIS will be feasible anymore, since all rely on the assumption of un-relinquished rights.

It is alarming that Ecology, the co-convener of IWG and co-lead agency of the Icicle DPEIS, has allowed the IWG process to consume significant time and public funding since 2013 without determining such a fundamental question, especially since groups such as the Alpine Lakes Protection Society and The Wilderness Society have been bringing this specific issue to Ecology’s attention for years. Ecology must perform that determination now to inform a revised DPEIS before more public money is spent on the Icicle watershed management planning process. The public cannot comment upon the merits of Ecology’s determination until after Ecology makes it and discloses it. This is a fundamental reason why the preparation of a Final PEIS would be premature; the DPEIS should be revised to address its deficiencies, and a revised DPEIS should be released for public comment, before a final EIS is prepared.

- 2. The alternatives and range of projects identified in the DPEIS do not currently comply with the Guiding Principles of the Icicle Work Group, including compliance with federal laws such as the Wilderness Act. The perfunctory checklist in the DPEIS is clearly inadequate. A revised DPEIS needs to analyze limitations on the scope and validity of IPID’s water rights, which would limit several proposals; acknowledge areas of non-compliance; and identify the appropriate path forward to ensure complete compliance with federal law.**

One of the seven IWG guiding principles cited in the Icicle DPEIS is to “comply with State and Federal Law, and Wilderness Acts.” Several layers of law are relevant to the projects and actions described in the DPEIS, and the interpretation of those laws will determine the viability of the projects proposed, specifically the construction of new dams at Eightmile and Snow Lakes and a tunnel between the Upper and Lower Klonauqua lakes, as well as automation and optimization efforts throughout the wilderness lake system. At present, the DPEIS fails to meaningfully consider fundamental legal issues that will determine which projects can and cannot be built, including federal wilderness law and state water law.

The DPEIS is insufficient because the lead agencies have declined to consider what they are legally permitted to do in the first place, under the “minimum necessary” standard of the Wilderness Act. The time to make that determination is during SEPA review to daylight the government’s decision-making process and facilitate meaningful public comment (which are two of the main purposes of SEPA), not afterward. It is nonsensical to suggest that years of effort and significant taxpayer dollars should be expended to evaluate alternatives that are likely to be unlawful in the first instance. The agencies here appear to be procrastinating their resolution of issues that are difficult but necessary to resolve. Two glaring examples include: (1) the DPEIS erroneously assumes that IPID’s easements supersede federal wilderness law; and (2) the DPEIS fails to fully analyze limitations on the scope and validity of IPID’s water rights, which would limit several proposals (as discussed above).

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On March 30, 2018, the U.S. Forest Service wrote to IPID that its dam repair/replacement proposal “contains elements that are beyond the scope of the rights reserved by IPID in the Special Warranty Deed.” The Forest Service requested IPID to “submit a detailed proposal” for both the emergency abatement and any long-term actions to replace the dam, and stated:

“Any modification to the dam and ground disturbance (equipment operation, road construction, etc.) of the surrounding lands may require a Special Use Authorization from the Forest. The federal action of authorizing activities on National Forest Lands is subject to a wide variety of laws including (but not limited to): Wilderness Act, National Environmental Policy Act (NEPA), National Historic Preservation Act, and Endangered Species Act (ESA).”

As the DPEIS Purpose and Need section acknowledges, the U.S. Forest Service manages 87 percent of the land in the Icicle sub-basin, 74 percent of which is located within the Alpine Lakes Wilderness. All of the lakes discussed in the DPEIS are located within the Alpine Lakes Wilderness, which adds multiple layers of federal law 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 Wilderness Management Plan (ALWMP). Relevant direction from these laws is cited below and requires federal interpretation and development of guidance for federal actions in relation to the Icicle DPEIS, which has not been completed despite recommendations for such analyses during the 2016 scoping period for this DPEIS.

The DPEIS fails to address the Wilderness Act requirement of federal approval of facilities that are not compliant with wilderness regulations. Furthermore, Section 4(c) of the Wilderness Act relates to the concept of minimum tool requirements, applicable to activities such as access to inholdings and maintenance of water developments in wilderness:

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. [emphasis added]

This provision sets such a high bar for the utilization of these nonconforming uses that these uses are unlikely to be available for the wilderness projects described in the DPEIS.

Specific management guidance for water resources in the Alpine Lakes Wilderness is provided in the 1981 ALWMP:

Management Objective: to preserve water bodies and stream courses in a natural state with minimal modification or human-caused contaminants. . .

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Management Direction: (1) except as provided for in Section 4(d)(4) of the Wilderness Act, watershed will not be altered or managed to provide increased water quantity, quality or timing of discharge. . . [emphasis added]

Interpretation and guidance from the U.S. Forest Service regarding the myriad elements of the Icicle DPEIS relevant to the agency's land management authority is imperative and should happen as a part of the SEPA process. IPID currently maintains agreements and easements with the U.S. Forest Service for IPID facilities at Eightmile, Colchuck, Square and Klonauqua lakes, which require consultation with the Forest Service. At present, the DPEIS takes IPID's interpretation of its rights at face value, but the DPEIS needs to take a harder look. Ultimately the range of projects described in the Icicle DPEIS on National Forest lands will require Forest Service consultation and approval. Most of the projects proposed are unprecedented in the National Wilderness System and run afoul of wilderness law and, as noted above, state water law. Many of these projects would unreasonably cause significant harm to wilderness and its purposes, including recreation (by damaging trails, campsites, changing aesthetics, etc.) and scenic and conservation values.

Because the projects are in wilderness, non-motorized access and non-motorized equipment (i.e. hand tools) and traditional skills should be required whenever feasible. Since the dams were originally built that way, the exceptions should be rare. See *Wilderness Watch, Inc. v. USFWS*, 629 F.3d 1024 (9th Cir. 2010) (requiring site-specific, comparative analysis of options to determine if an action that violates the Wilderness Act's activity limitations is indeed the "minimum necessary").

Some of the most egregious projects are included in Alternative 4 of the DPEIS, including: (1) drilling a tunnel between two lakes (Upper and Lower Klonauqua); (2) building a higher dam at Upper Snow Lake (enlarging that lake and submerging designated wilderness lands); and (3) increasing the height of the Eightmile Lake dam (making that lake bigger than it has ever been and submerging designated wilderness lands). The DPEIS utterly fails to consider the issue of compliance with federal law. See, e.g., Tables 2-9 through 2-12, which state that each alternative "complies with federal law" — this claim is simply false, given the lack of analysis of IPID's water right and federal wilderness law. Furthermore, these projects were not part of the proposed action in the SEPA scoping conducted by the IWG in 2016, so the public was not asked to comment on them during scoping. It should also be noted that IPID has no right to enlarge Eightmile Lake and has no water rights or infrastructure at Upper Klonauqua Lake.

Finally, the DPEIS fails to account for the necessity of conducting project-level NEPA processes with the U.S. Forest Service as the lead agency regarding dams and tunnels in wilderness on National Forest lands. As one of many examples of this huge omission, DPEIS Table 5-2 of "Permits/Approvals and Relevant Triggers" (pages 5-8 through 5-13) repeatedly states, erroneously, that a U.S. Army Corps of Engineers National Permit and NEPA Categorical Exclusion "are the likely level of regulatory compliance for this project" — for Optimization/Automation, for Eightmile "Restoration," and for the "Enhancement" (expansion)

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projects at Eightmile, Upper Klonaqua, and Snow Lakes. The necessity of U.S. Forest Service NEPA analysis is conspicuous by its absence throughout the DPEIS.

Again, these huge gaps in the DPEIS mean that preparation of a Final PEIS would be premature; the DPEIS should be revised to address its deficiencies, and a Revised Draft PEIS should be released for public comment, before a Final EIS is prepared.

The failure to consider the restrictions imposed on the proposal by the Wilderness Act constitutes a violation of SEPA. As noted above, SEPA requires reasonable alternatives to be explored in an EIS. However, each of the alternatives, except alternative 5 (which the DPEIS gave only “a very cursory review,” DPEIS at 2-35), treats the wilderness lakes as if the lakes are subject to essentially unrestricted development of new infrastructure, including the installation of higher dams, additional dams, mechanical pumps, and underground pipes. The installation of any of this new infrastructure would constitute a violation of the Wilderness Act, so the alternatives analyzed in the DPEIS are not actually “reasonable.” While it is true that not every alternative analyzed in an EIS must be legally certain, the alternatives analyzed in the EIS must nonetheless be feasible. *King County*, 138 Wn.2d at 184.

Here, there has *only* been analysis of the proposal under the legally uncertain assumption that IPID may install all of the infrastructure. There has been *no* analysis of what the proposal might look like if some of the infrastructure cannot be installed. A proper DPEIS would have at least considered the possibility that IPID might have to make do with less infrastructure at the lakes due to the restrictions of the Wilderness Act, and state water law.

- 3. The DPEIS presents an inadequate range of alternatives, since every alternative would significantly impact and harm wilderness values. A revised DPEIS needs to include an alternative that minimizes wilderness impacts, respects wilderness values, and is informed by the extent and validity determination of water rights as discussed above.**

At present, every alternative in the DPEIS—including the No Action Alternative—includes actions that would significantly harm wilderness values. As discussed above, the DPEIS should be withdrawn, revised, and re-released with a new range of alternatives that are informed by the validity determination of the primary water rights holders in the Icicle basin as well as compliance with federal laws such as the Wilderness Act. The DPEIS currently includes the “Eightmile Restoration” project in every alternative, which would “restore usable storage to the historical and permitted high water storage elevation” (DPEIS, p. 2-15) requiring construction of a new dam approximately four feet higher than the current dam. If the dam cannot be raised due to water rights relinquishment and/or Wilderness Act constraints, then it is hardly “reasonable” to suggest a raised dam as a component of every one of the proposed alternatives. A revised DPEIS should include an alternative that includes restoration of the dam to its current height and not any higher. The failure to analyze that scenario means that the DPEIS fails to present an adequate range of alternatives. That is not allowed under NEPA and is an important consideration if the U.S. Forest Service were to adopt, in full or in part, this DPEIS.

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4. The DPEIS improperly phases (and therefore evades) environmental review of the project components of each alternative, which avoids meaningful analysis of the cumulative impacts of each alternative. A revised DPEIS should include a meaningful and appropriate cumulative impacts analysis that provides more substantive and detailed information for each alternative, such as the number of helicopter flights required for all project components in designated wilderness of each alternative.

“When a lead agency knows it is using phased review, it shall so state in its environmental document.” WAC 197-11-060(5)(e). Here, although the DPEIS calls itself a “programmatic” EIS, there is no discussion of what phases the project will proceed in, or what additional environmental reviews will be done during each phase. The level of detail in the DPEIS is not sufficient to conduct a site-specific review of each project (required by WAC 197-11-060(5)(c)), yet there is no indication that subsequent phases of review will address this deficiency. Thus, the DPEIS appears to be engaged in phased review without disclosing the phases as required under WAC 197-11-060(5)(e).

The DPEIS’s failure to disclose and discuss the project’s phases is not some picayune, technical violation of SEPA; it has real-world consequences. As Washington courts have noted, the failure to properly tier the phases of a project can lead to a failure to analyze cumulative impacts. See *East County Reclamation Co. v. Bjornsen*, 125 Wn App. 432, 441 105 P.3d 94 (2005). Indeed, this DPEIS suffers from exactly such a failure—for example, there is no analysis of the cumulative impact of the helicopter flights needed for each phase of the project, or the combined visual impacts of the various new pieces of infrastructure that will be installed by the end of the project.

Since this project appears to be operating under phased review, the DPEIS must disclose what the phases are and what additional review will be forthcoming. Failing to do so is both a technical violation of SEPA and leads to a failure to analyze cumulative impacts, which is another, separate violation of SEPA.

5. The DPEIS presents inadequate cost estimates for project proposals, skewing alternatives away from Alternative 5, which presents a pragmatic and thoughtful solution to these complex issues (e.g., the full IPID pump exchange). A revised DPEIS needs to accurately scope the potential cost of infrastructure proposals in federally designated wilderness, including consideration of the “minimum tool requirements” (as required by section 4(c) of the Wilderness Act) for federal actions in a wilderness area.

The cost estimates and timelines for projects proposed for construction within the Alpine Lakes Wilderness are questionable because the DPEIS fails to properly account for the protections of the Wilderness Act, the land management role and authority of the U.S. Forest Service, and the requirement for NEPA analysis and compliance. Cost estimates are an important facet of assessing the reasonableness of alternatives. Analyzing cost-prohibitive alternatives does not help address the mandate to analyze a range of reasonable alternatives; nor does omitting the

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additional costs of operating under the restrictive Wilderness Act limitations. While a cost-benefit analysis need not be included in an EIS, WAC 197-11-455, if the agency chooses to include cost information, it must do so in an unbiased and accurate manner.

The true costs of Alternatives 1, 2 and 4 are likely much higher than the DPEIS estimates, and closer to the cost of Alternative 5. Alternative 5 includes the “Full IPID Pump Station,” which would move IPID’s point of diversion downstream to the Wenatchee River, and greatly improve flows in Icicle Creek, especially in future decades when climate change will reduce flows in the Icicle watershed. As evidenced by the cost of the recent emergency dam repair at Eightmile Lake, which required an estimated \$100,000 to fly a piece of heavy construction equipment (an excavator) to the site—after IPID had expected to spend a mere \$2,000 to “walk” it on the ground through the Wilderness to the dam (i.e., a cost overrun of five thousand percent on that one item)—cost estimates such as \$1.6 million for “Restoration” of the Eightmile dam and \$3.9 million for the “Eightmile Dam Enhancement” seem woefully low.

6. The DPEIS repeatedly ignores the negative impacts on the riparian ecosystems in the Alpine Lakes Wilderness from the proposed unnaturally timed releases of water from the wilderness lakes, which will significantly alter stream hydrology. The DPEIS fails to recognize that altering the natural flow regime can degrade a stream’s physical and chemical properties, leading to loss of aquatic life and reduced aquatic biodiversity. A revised DPEIS requires proper documentation and analysis of the riparian ecosystem and the potential cumulative impacts of the suite of infrastructure projects on that ecosystem to ensure no harm to wilderness streams or lakes.

The current DPEIS proposes a range of projects that will alter the natural hydrologic function of wilderness lakes and streams in the Icicle basin. To date, the IWG has not adequately invested in monitoring activities across the basin to fully understand and evaluate the potential impacts to the health of wilderness streams and lakes. Usually, Ecology would be the lead agency to ensure no harm when discharging water from Square, Klonauqua, Eightmile, Colchuck and Snow lakes. Ecology developed an advanced multi-metric index model of biotic integrity in 2012 for the Cascades Region which allowed Ecology to determine the health of reaches along the Wenatchee River and the health of Icicle Creek up as far as Ida Creek Campground.

That same level of detailed analysis has not been applied in the DPEIS, either by Ecology or by any other agency. Appendix A of the DPEIS does identify the Washington State Department of Fish and Wildlife as gathering base-line data for the proposed projects. However, the results from 2016 and 2017 analyze only two wilderness streams (Leland Creek and French Creek) of the five streams of concern, and that analysis was not detailed enough to determine the health of either Leland Creek or French Creek. No analysis was completed at the wilderness lakes. We are concerned that IWG has not done adequate sampling and monitoring of impacts from past releases into these wilderness streams, including cumulative impacts, as it is required under WAC 197-11-080 (requiring agencies to obtain missing information regarding significant adverse impacts, if the cost of obtaining information will not be exorbitant). The cost and delay

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of obtaining the missing data would not be exorbitant, yet the absence of such data is leading IWG to make environmentally harmful decisions.

The DPEIS describes impacts on a stream resulting from the release of water from a wilderness lake (to improve the historic channel in lower Icicle Creek) as “insignificant” or they are found to be within the naturally occurring flow range of the stream. The DPEIS goes on to identify the release of water as a benefit for the affected riverine system. This simple analysis is faulty and ignores the natural flow regimes of each stream as having a characteristic pattern of flow magnitude, timing, duration, frequency, and rate of change. All of these patterns play a critical role in supporting the chemical, physical, and biological integrity of each receiving stream, which collectively form the foundation of a healthy Icicle system supporting robust fisheries.

Changes to stream chemical and physical conditions following flow alteration can lead to the reduction, elimination, or disconnection of optimal habitat for aquatic biota. The DPEIS fails to recognize that “human-induced alteration of the natural flow regime can degrade a stream’s physical and chemical properties, leading to loss of aquatic life and reduced aquatic biodiversity. Protecting aquatic life from the effects of flow alteration involves maintaining multiple components of the flow regime within their typical range of hydrologic variation.” See *Final EPA-USGS Technical Report: Protecting Aquatic Life from Effects of Hydrologic Alteration*.

Altered flows can fail to provide the cues needed for aquatic species to complete their life cycles. For example, Pale Morning Duns (Order *Ephemera Danica*) will not emerge until stream water temperatures reach 60 degrees Fahrenheit. Timing is also a factor, as they will also avoid emerging until the month of July has arrived. Alteration of the quantity and timing of river or stream flows can also significantly affect fisheries resources by introducing competing non-native fishes.

Furthermore, the ability of a stream to support aquatic life is linked to the maintenance of key flow-regime components. For example, altering the regime by increasing flows brought about by releasing relatively high water velocities from a lake during mid-summer causes stream surface water, rich in oxygen, to bypass the sub-surface environment. The typically low summer flows and corresponding low velocity allow oxygen to be pulled into the sub-surface environment, which needs oxygenated water this time of year to support invertebrates living in sub-surface environments. Invertebrates are a source of food for other aquatic life, including fish, and tend to live in a subsurface zone (hyporheic zone).

In addition to the impacts of unnaturally timed increases in discharge rates, the DPEIS also needs to examine the impacts of unnaturally reduced discharge during the period when storage is recovered, as well as lake shoreline (edge) effects.

Further complicating these challenges are the expected changes to historic hydrologic conditions resulting from climate change, which adds additional complexity to the task of estimating acceptable levels of hydrologic variation.

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If the projects described in the current DPEIS move forward, water will be discharged from wilderness lakes to improve the last four miles of Icicle Creek. The health of Prospect Creek, the last mile of Leland Creek, the last five miles of French Creek, all of Eightmile Creek, the last five miles of Mountaineer Creek and the upper 20 miles of Icicle Creek are all affected by the proposed projects and must be adequately analyzed. The DPEIS ignores lake ecology and how it might affect the streams below the lakes that are discharging water from the hypolimnetic zone, particularly Eightmile, Square and Upper Snow lakes. Since Ecology has developed a model to determine stream health, Ecology should take the lead and determine the health of both lakes and streams that are part of the proposed project.

With this summary of hydrological alteration in mind, and the importance of stream and lake health, it would be prudent to avoid implementing any of the DPEIS action alternatives until a team of scientists, educated in matters associated with stream and lake health, are ready to share their findings. Such a study would help assure that the Alpine Lakes Wilderness remains a healthy wilderness, and that none of the targeted wilderness streams and lakes are harmed.

7. Conservation components in the DPEIS are insufficient. A revised DPEIS must expand these conservation actions to significantly reduce demands on Icicle Creek's water, thereby allowing its watershed to function more naturally. This will better support our region's livability and economy over the long-term.

Water conservation methods have the potential to meet City of Leavenworth and IPID consumptive demand in the Icicle watershed. A fundamental premise of this approach is that water users are entitled only to the amount of water they need, and must exercise reasonable efficiency in their water use. From a pragmatic standpoint, reducing demand and obtaining new supply through water conservation and efficiency measures and practices is good policy and will be more palatable to the public than projects that manipulate and increase diversions from the Enchantment Lakes region of the Alpine Lakes Wilderness.

From review of documents and field sites, it is clear that significant water savings can be obtained through tightening up water delivery and consumption infrastructure in the Leavenworth area, and through demand management efforts. Further, with respect to the City of Leavenworth, re-calculation of future demand is appropriate.

It appears feasible that water conservation and efficiency measures, combined with a transfer of water and service duties from IPID to the City of Leavenworth, could meet the consumptive use needs of both entities.

Here are more specific comments on water efficiency and conservation:

(a) Incorrect Legal Assumptions. The DPEIS is incorrect and inadequate in its assumptions regarding necessary water efficiency and conservation. As is established by state statute and court decisions, reasonable efficiency in the use of water is not an option for water right holders. It is a requirement. The DPEIS offers various combinations of water efficiency and conservation projects on the assumption that achieving water efficiency is optional. However, achieving reasonable efficiency for Icicle Creek diverters, i.e., City

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of Leavenworth, the Leavenworth National Fish Hatchery, and IPID must be a baseline for all alternatives, and not a bargaining chip for achieving other objectives. This is how the Cascade Orchard Irrigation Company's efficiency upgrades are treated in the DPEIS, and this treatment should extend to all other Icicle Creek water users.

(b) Applied Conservation Analysis. The DPEIS should contain analysis of Washington State water conservation laws, policies and requirements as they apply to each of the Icicle Creek water users. This is particularly appropriate given that this is a "programmatic" EIS, and should be included as part of the extent and validity analysis of water rights as discussed above. To the extent these users do not meet state requirements, projects to improve efficiencies should be established as baseline projects that will be applicable across all of the DPEIS alternatives.

(c) Applied Water Waste Analysis. To the extent water users are wasting water, they are not entitled to maintain and use their rights. An evaluation of the extent of water waste committed by Icicle Creek water diverters, particularly IPID, should include review of conveyance loss and efficiencies from the point of release of water in the Alpine Lakes Wilderness, the canal system, operational spills and any other particulars of the water delivery system. This analysis is particularly important to understand the benefits and appropriate allocation of costs associated with the IPID Full Piping and IPID Pump Exchange alternatives. A water waste analysis is particularly appropriate given that this is a "programmatic" EIS, and should be included as part of the extent and validity analysis of water rights as discussed above.

(d) IPID Irrigation Efficiencies Project (Section 2.5.2). This DPEIS section contains no discussion of actual efficiencies of the system (i.e., consumed water vs. transportation loss and waste). It is rife with vague, unquantified, and anecdotal information about actual conservation activities (i.e., "some farmers have complained"; only "small portions" of canals remain unlined). It lacks discussion about wasteful water use on converted residential properties. For more information and photographs of IPID's inefficient water use, see R.P. Osborn, Center for Environmental Law & Policy, Memo re "Water conservation potential for consumptive demand reduction and supply for City of Leavenworth and Icicle-Peshastin Irrigation Districts" (July 9, 2015), incorporated herein by reference.

(e) Domestic Conservation (Section 2.5.4) – City of Leavenworth. The DPEIS confuses wants and needs. The City of Leavenworth and Ecology need to come to agreement regarding water rights for the City of Leavenworth, including to resolve an outstanding court case. The DPEIS does not provide resolution to this issue but instead proposes to provide additional water rights (i.e., wants) to the City of Leavenworth without requiring the City to implement anything other than an inadequate water conservation plan that provides for water conservation in name only. More specifically:

- a. The City of Leavenworth's future water use demand projections are overly aggressive. The City's Water System Plan states that population will grow by

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- 0.47% per year while its water use will grow by 2.2% per year. The projected growth in water use of 2.2% is not supported by the historic growth of water demands for the City of Leavenworth.
- b. Since 1990, water demands have varied from 850 to 1,165 acre-feet per year without a corresponding upward trend in water demand. At the same time, the City's population has increased from 1,692 to 1,990. Essentially, for 27 years water use has not grown while the City's population has increased. The City of Leavenworth's projections state that water use will begin to grow at a pace which is not supported by historical data.
 - c. If water use growth for the City of Leavenworth is estimated at 1% per year (rather than the 2.2% shown in the City's Water Plan) it will take until 2056 to exceed the temporary water right limitation of 1,465 acre-feet as imposed by the court ruling of Leavenworth vs. Ecology (Water System Plan, Figure B, p. 45).
 - d. The DPEIS states that the City of Leavenworth is considering reclaimed water to meet its demands. The City of Leavenworth's Water System Plan specifically states that it is not going to utilize reclaimed water. These statements are contradictory. Failure to plan for use of reclaimed water indicates the City's water plan is not aggressive.
 - e. The City of Leavenworth should not receive additional water supply until its water conservation plan in the City's Water System Plan aggressively promotes conservation as determined by the following factors:
 - i. The City of Leavenworth is currently allocating only \$1,000 per year for water conservation.
 - ii. The City of Leavenworth's unaccounted water (lost water) is 24%, grossly in excess of the statutory 10% mandate.
 - iii. The City of Leavenworth's water conservation plan does not include leak detection to determine where unaccounted for water is going.
 - iv. Approximately 70% of all water used is during the summer months. The City decided not to impose a conservation-based water rate due to the possible financial hardships imposed on its customers. While we understand this is politically difficult to do, the City could gradually impose a conservation-based rate over many years to minimize the shock of a sudden rate increase.
 - v. The City of Leavenworth water plan is designed to meet only the minimum Department of Health guidelines. This is very disappointing and should have been resolved prior to release of the DPEIS.
 - vi. With a more aggressive conservation program, the City of Leavenworth will not need as much additional water by 2050. The Water System Plan guideline of 1,750 acre-feet of additional domestic supply should be revised to a lower number and the associated project(s) that is required to reach this goal should not be funded.
 - (f) Domestic Conservation (Section 2.5.4) – Rural Water Use. The DPEIS allocates 74 acre-feet of domestic water for the growth of 199 additional households in the watershed in Chelan County.

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- a. Because Icicle Creek is over-appropriated, the basin should be closed for new growth. If new growth is to occur, new households should be required to purchase existing water rights via water right exchanges and water banks. This approach is similar to what is occurring in Kittitas and Yakima counties. Growth should pay for growth.
- b. Growth should occur in cities and towns according to the Growth Management Act. The guidelines in the DPEIS for water usage in Chelan County should be changed to reflect this.

(g) Leavenworth National Fish Hatchery Conservation and Water Quality Projects (Section 2.5.9). The LNFH projects provide a good example of the flawed foundation of the Icicle Strategy. Virtually all of the LNFH projects identified in the DPEIS are required to be completed by other laws and on the initiative of the federal agencies that own and operate the Hatchery in order to meet Endangered Species Act, Clean Water Act, and U.S. treaty obligations. Using LNFH upgrades as a bargaining chip to justify other elements of the DPEIS projects is inappropriate. It is evident from the DPEIS that many LNFH projects have been or will be implemented by the Hatchery, including water supply piping, effluent pumpback, fish screening, streamflow augmentation, circular tanks and fish passage.

(h) Water Markets (Section 2.5.12). The water market proposal artificially limits itself to discussion solely of providing water to interruptible water markets in the basin. If the City of Leavenworth or other municipalities do in fact require additional water supply for future growth, water markets could serve that purpose. One obvious example would involve transfer of water from IPID to Leavenworth for residences in the Ski Hill area. There appears to be substantial waste of water in that neighborhood (see RP Osborn, Conservation Memorandum, cited above, including photos), which largely converted from orchards at some time in the past. Bringing those properties into reasonably efficient water duties for residential properties could free up water to serve properties elsewhere in the City of Leavenworth water system. This is an example of how a water market might operate to serve new demand. The DPEIS should be amended to evaluate a larger range of options for this tool.

8. Miscellaneous comments.

(a) Inadequate Instream Flow Goals. The proposed non-drought year 100 cfs flow target does not meet basic needs of Icicle Creek wild fisheries. Further, the 60 cfs drought goal is inconsistent with scientific consensus that fish must have adequate cold water in drought periods to avoid significant impacts caused by high water temperatures. The appropriate flow goal is 250 cfs, which represents not an “every year” flow, but the high water year flow that is necessary to ensure survival and healthy populations of wild fish. For more information, see “Analysis of Icicle Creek Instream Flow Benefits of Three ‘Base Projects’ During Low Flow Months” prepared by Mark Hersh, Wild Fish Conservancy, and Dick Reiman, Icicle Creek Project (16 pp., July 2013), transmitted to

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the Icicle Work Group, and letter from Wild Fish Conservancy to Tom Tebb (14 pp., 12/19/13). These documents are incorporated herein by reference.

- (b) IPID Full Piping & Pump Exchange Project. As is evident in Figures 2-6, 2-7 and 2-8, the Alternative 1, 2, 3 and 4 “Base Package” projects are unable to meet even the inadequate 100/60 cfs flow goals. Only the IPID full piping and pump exchange scenario (in Alternative 5) is able to come close to achieving the pre-development natural flows in Icicle Creek that are necessary to support healthy fisheries.
- (c) Junior Water Users. The DPEIS sets forth as a “guiding principle” agricultural reliability, with a specific goal of providing full water rights to the 56 interruptible water rights holders in the basin. While this principle is compassionate, it fails to recognize that these water users took their rights with an understanding that they were interruptible, and indeed the prior appropriation doctrine operates on the principle that junior users will be curtailed during low water years. The predicament of these users was deliberately created by Ecology when it chose to issue more water rights than there is sufficient water to fulfill each year, and by the water users when they chose to accept such rights. Because Ecology has not closed the basin, what is to prevent this cycle from repeating itself? As specifically contemplated in the DPEIS alternatives, Ecology will continue to issue junior water rights, which are then curtailed, leading to future water projects to make these juniors “whole.” The DPEIS fails to discuss the implications of this open-ended water management.
- (d) Easement Map. The description of IPID’s easements in the Alpine Lakes Wilderness (DPEIS p. 2-44) should include maps, including the map that shows that IPID does not hold an easement for the entirety of Eightmile Lake.
- (e) Section 2.5.7 Habitat Protection. The discussion of land acquisitions through the Upper Wenatchee Community Land Plan appears to target lands outside the Icicle Creek basin. The DPEIS does not provide a basis for understanding how these land acquisitions benefit Icicle Creek. It appears the Icicle Work Group has evaded an issue by simply adopting the goals and priorities of another group. This approach does not support expansion of the Wenatchee basin instream flow reserve for the Icicle sub-basin.
- (f) Section 2.5.7 Instream Flow Amendment. As noted in discussion of City of Leavenworth water conservation above, the City has significantly overestimated future demand, and is underperforming on state mandated water conservation requirements. Expansion of the instream flow rule domestic reserve based on City demand and planning is not justified. The DPEIS fails to discuss this.
- (a) Section 2.5.9 LNFH Groundwater Augmentation. The DPEIS fails to identify or analyze the problem of utilizing groundwater collectors to pump groundwater in direct hydraulic continuity with Icicle Creek. This proposal appears to propose improving reliability of LNFH groundwater supply at the expense of depleting flows in Icicle Creek.

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(b) The Cost of Water. The DPEIS provides a misleading and inappropriate comparison for developing water. Chapter 2 states five times that the cost of water in the Columbia Basin is \$500/acre-foot for projects developed by the Office of the Columbia River (OCR). OCR projects such as the Lake Roosevelt Drawdown or Sullivan Lake transfer represent heavily subsidized projects that were developed as “low hanging fruit,” and are not appropriate for comparison in the DPEIS. One problem is that this number does not appear to include infrastructure costs, thus creating an apples-to-oranges comparison. In contrast, the costs associated with providing water to, for example, the Odessa Subarea have been astronomical, but covered by programs such as the ARRA and other grants. We suspect these numbers are not included in the \$500/acre-foot “baseline.” The DPEIS at page 2-57 does, however, identify the previously completed IPID Canal to Pipeline Conversion as costing \$2 million to obtain 360 acre-feet of water, i.e., a \$5,555/acre-foot cost. The DPEIS is deficient in failing to provide appropriate and realistic cost comparisons for Columbia Basin water development.

Conclusion

Thank you for the opportunity to provide comments on the Icicle DPEIS. Our organizations support collaborative efforts to develop innovative and sound approaches to water and natural resource management for Icicle Creek and the greater Wenatchee River basin, and we appreciate the commitment of organizations, tribes, agencies, and individuals to this important endeavor. As we face a certain future of increased demands on limited water resources, such collaborative efforts will be required to balance the range of competing needs. Broad-based community involvement and support as well as transparency and trust are critical ingredients for success.

For all reasons described above, we request the Icicle DPEIS be withdrawn, revised, and re-released as a Revised Draft PEIS for public comment once the deficiencies detailed here are addressed.

Sincerely,

Rick McGuire, President
Alpine Lakes Protection Society

Kitty Craig, Washington State Deputy Director
The Wilderness Society

Trish Rolfe, Executive Director
Center for Environmental Law & Policy

George Nickas, Executive Director
Wilderness Watch

Gary Macfarlane, Ecosystem Defense Director
Friends of the Clearwater

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Sharon Lunz, President
Icicle Creek Watershed Council

Kurt Beardslee, Executive Director
Wild Fish Conservancy

Art Campbell, President
North Central Washington Audubon Society

Gus Bekker, President
El Sendero Backcountry Ski & Snowshoe Club

John Spring, President
Spring Family Trust for Trails

Mark Boyar, President
MidFORC

Mike Town, President
Friends of Wild Sky

Tom Uniack, Executive Director
Washington Wild

Annie Cubberly, Broadband Leader
Polly Dyer Cascadia Chapter
Great Old Broads for Wilderness

Tom Hammond, President
North Cascades Conservation Council

George Milne, President
Federation of Western Outdoor Clubs

Doug Scott, Principal
Doug Scott Wilderness Consulting

Lee Davis, Executive Director
The Mazamas

William Campbell, President
Friends of Lake Kachess

Tom Martin, Council Member
River Runners For Wilderness

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John Brosnan, Executive Director
Seattle Audubon Society

Kathi & Greg Shannon, Steering Committee members
Friends of Enchantments

Lori Andresen, President
Save Our Sky Blue Waters

Melissa Bates, President
Aqua Permanente

Kirt Lenard, President
Issaquah Alps Trails Club

Brian Hoots, President
Spokane Mountaineers

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

Chris Maykut, President
Friends of Bumping Lake

Judy Hallisey, President
Kittitas Audubon Society

Thomas O’Keefe, PhD
Pacific Northwest Stewardship Director
American Whitewater

Denise Boggs, Executive Director
Conservation Congress

cc: Governor Jay Inslee
U.S. Senator Patty Murray
U.S. Senator Maria Cantwell
U.S. Representative Dave Reichert
Okanogan-Wenatchee National Forest Supervisor Mike Williams
Wenatchee River District Ranger Jeff Rivera

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Alpine Lakes Protection Society • The Wilderness Society
Aqua Permanente • Center for Environmental Law & Policy
Conservation Congress • Doug Scott Wilderness Consulting
East Kachess Homeowners Association • Endangered Species Coalition
Federation of Western Outdoor Clubs • Friends of the Bitterroot
Friends of Bumping Lake • Friends of the Clearwater • Friends of Enchantments
Friends of Lake Kachess • Friends of Wild Sky • Great Old Broads for Wilderness
Issaquah Alps Trails Club • Kachess Community Association
Kachess Ridge Maintenance Association • Kittitas Audubon Society
Middle Fork Recreation Coalition (MidFORC) • Methow Valley Citizens Council
North Cascades Conservation Council • North Central Washington Audubon Society
River Runners For Wilderness • Save Lake Kachess • Save Our Sky Blue Waters
Seattle Audubon Society • Sierra Club • Spokane Mountaineers
Spring Family Trust for Trails • Washington Wild
Wild Fish Conservancy • Wilderness Watch

February 12, 2019

Tom Tebb
Director, Office of Columbia River
Washington Department of Ecology
1250 Alder Street
Union Gap, WA 98903

Mike Kaputa
Director, Chelan County Natural Resources Department
411 Washington Street, Suite 201
Wenatchee, WA 98801

RE: Defects in Final Programmatic Environmental Impact Statement (FPEIS)
for the Icicle Creek Water Resource Management Strategy

Dear Directors Tebb and Kaputa:

This letter provides comments on outstanding gaps and deficiencies in the Final Programmatic Environmental Impact Statement (FPEIS) for the Icicle Creek Water Resource Management Strategy. The undersigned organizations provided comments in 2018 on the Draft Programmatic Environmental Impact Statement (DPEIS) and/or in 2016 during the scoping period. As you will see below, many of the concerns highlighted in our prior comments still remain.

The FPEIS fails to recognize that fundamental legal issues may not be resolved the way the FPEIS implicitly asserts they will be resolved – legal issues that will determine which projects can and cannot be built, including federal wilderness law and state water law. Failing to address these fundamental issues before any further public funding is spent on implementation is wasteful and irresponsible. Because the Icicle Work Group (IWG) relies on interrelated projects

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to accomplish common goals, later invalidation of an individual project may require IWG to revise all of the other projects in IWG's Preferred Alternative.

To avoid repetition, a copy of our July 30, 2018 letter (signed by 31 organizations) is attached and incorporated by reference. We reiterate our concern and respect for wilderness values, the Alpine Lakes Wilderness and its Enchantment Basin; the tribal treaty rights of the Yakama Nation and Colville Confederated Tribes; and valid, prior existing water rights in the Wenatchee River basin for agriculture. Our outstanding criticisms are detailed below.

1. The FPEIS Fails to Adequately Analyze Wilderness Impacts.

An EIS must address a proposal's "relationship to existing land use plans." WAC 197-11-444(b)(b)(i). Lands designated as wilderness under the Wilderness Act are subject to land use plans that are very restrictive in terms of allowed uses. An EIS must address the relationship between a proposal and those federally-established land use restrictions. Likewise, an EIS must consider impacts to "unique physical features," "habitat," "nonrenewable resources," and "conservation." WAC 197-11-444. All of these are components of the wilderness values sought to be protected by the Wilderness Act and the designation of wilderness areas under the act. An EIS must consider a proposal's impacts on all of these and other environmental elements sought to be protected in designated wilderness areas.

Like the draft version, the FPEIS fails to meaningfully consider environmental impacts flowing from fundamental land use restrictions imposed and values sought to be protected by federal wilderness law. This omission violates SEPA and renders the FPEIS useless for subsequent environmental review of projects on or near designated wilderness lands. Indeed, a U.S. Forest Service official wrote: "The [Draft] PEIS is silent on Wilderness effects, so there's no opportunity to tier from or use their analysis." (October 31, 2018 email by Okanogan-Wenatchee National Forest Deputy Supervisor Erick Walker). The same is true of the Final PEIS, since it changed so little¹ from the draft version. The FPEIS Fact Sheet states "the PEIS will serve as the basis for future project-level environmental review that may be required and NEPA review that would be required for projects that receive federal funding or permitting." This is wrong, because the FPEIS is fatally flawed in its failure to adequately analyze wilderness values and impacts.

The project as proposed and currently analyzed could violate the Wilderness Act, including federal agencies obligation to preserve wilderness character (16 USC 1133(b)) as well as the Act's prohibition on structures and motorized uses (16 USC 1133(c)).

All federal agencies enforce the Wilderness Act. Congress has designated wilderness on lands managed by other federal agencies besides the U.S. Forest Service, such as the National Park Service, the U.S. Fish & Wildlife Service, and the Bureau of Land Management. All of these agencies have personnel who are familiar with the Wilderness Act and who know how to

¹ Other than the addition of a new Appendix A (copies of public comments on the Draft PEIS followed by cursory responses), the Final PEIS is almost entirely unchanged from the Draft version. The few Wilderness-related revisions included: "To address potential increased costs of work in the wilderness area, an additional 25-percent contingency has been added to all projects proposed in the wilderness area in the FPEIS." App. A, response 12-32.

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recognize impacts on Wilderness lands they manage, as well as impacts on nearby designated wilderness lands managed by a sister agency. Icicle projects put forth by any agency must acknowledge the gaps, omissions, and absence of analysis of Wilderness Act values and impacts in the FPEIS.

Our July 30, 2018 comment letter said that because of the deficiencies in the DPEIS (including the lack of Wilderness impacts analysis), Ecology and the County should withdraw, revise, and re-release the DPEIS once the deficiencies are addressed. The IWG co-leads declined to revise it to correct the deficiencies, explaining as follows in the FPEIS (Appendix A, response 12-1):

“Per WAC 197-11-405 a supplemental draft EIS is required if there are substantial changes to the proposal so that the proposal is likely to have significant adverse environmental impacts; or there is significant new information indicating, or on, a proposal’s probable significant adverse environmental impacts. New information has not been found nor has the proposal changed in a way that new probable significant adverse environmental impacts are likely.” [emphasis added.]

The IWG co-leads’ purported “response” is nonresponsive. The issue here is not whether to prepare a supplemental EIS. That issue would arise only if there were a prior EIS that was arguably in need of supplementation. Here, the issue is whether the draft EIS adequately addressed wilderness impacts. Thus, the issue is not whether wilderness impacts are “new information,” but whether they were incorrectly omitted from the draft EIS. The reality, of course, is that the proposal’s impacts to wilderness plans and values have been known to federal agencies for a long time. As the Forest Service states, they are missing from the PEIS (e.g., OWNF statement that the PEIS is “silent” on wilderness impacts). The omission renders the EIS deficient and useless.

2. The FPEIS Fails to Adequately Analyze Water Rights of Icicle Peshastin Irrigation District (IPID) Which Are a Core Issue in the Preferred Alternative.

The FPEIS fails to account for IPID’s relinquishment of some of its water rights. The proposal’s impacts will vary depending on how this issue is resolved. This omission violates SEPA and renders the FPEIS useless for subsequent environmental review of projects involving relinquishment. The FPEIS fails to analyze how much of IPID’s water rights remain (i.e., how much water is legally available) and fails to analyze the impact of building the dams to support that level of service. If the Eightmile Lake dam is rebuilt, it should remain at its current elevation, where it has been since at least 1990, because that elevation is the largest necessary to support whatever remains of IPID’s relinquished water right.

Our July 30 comment letter said that because of the deficiencies in the DPEIS (including the lack of water rights relinquishment analysis), Ecology and the County should withdraw, revise, and re-release the DPEIS once the deficiencies are addressed. The IWG co-leads declined to revise it to correct the deficiencies, explaining as follows in the FPEIS (Appendix A, response 12-6):

“An extent and validity analysis, which is completed to determine if a water right or a portion of a water right has been relinquished by non-use or abandoned, is triggered by a

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water right permitting action. There are several exemptions to relinquishment, which would be reviewed during an extent and validity analysis. At this point, there has been no water right permitting action that has triggered an extent and validity review. The process and timing of an extent and validity analysis is provided in Water Resources POL-1120.”

The fact that a permitting action has not yet begun is not a valid reason for the FPEIS to ignore the consequences of relinquishment here. SEPA requires reasonable forecasting of the future, including forecasts of future government actions related to the proposal. *See, e.g., King County v. King County Boundary Review Board*, 122 Wn.2d 648, 860 P.2d (1993); *Alpine Lakes Protection Society v. Washington Dept of Natural Resources*, 102 Wn.App. 1, 15, 979 P.2d 929 (1999). *See also Save Our Ecosystems v. Clark*, 747 F.2d 1240, 1246 n. 9 (9th Cir.1984) (“Reasonable forecasting and speculation is ... implicit in NEPA, and we must reject any attempt by agencies to shirk their responsibilities under NEPA by labeling any and all discussion of future environmental effects as ‘crystal ball inquiry,’ ” quoting *Scientists’ Inst. for Pub. Info., Inc. v. Atomic Energy Comm’n*, 481 F.2d 1079, 1092 (D.C.Cir.1973)). Where two or more outcomes are reasonably foreseeable, the EIS must analyze each.

There is too much at stake here not to address the water rights issue before proceeding further. As a practical matter, all of the streamflow numbers in the FPEIS will change if it is determined that relinquishment occurred and the Eightmile dam will be repaired at its current elevation, not four feet higher. The FPEIS also added a two-page section on the “Regulatory Framework” of water rights (FPEIS section 3.6.1.1), but it similarly dodges the central question about whether relinquishment happened here and the differing environmental impacts associated with each outcome.

Environmental review is designed to address the wisdom of taking or not taking the action in question. Accordingly, complete and meaningful review must come before governmental inertia and incremental decision-making takes on its own momentum and drives the project forward. *See Boundary Review Bd.*, 122 Wn.2d at 664 (“Even a boundary change, like this one, may begin a process of government action which can ‘snowball’ and acquire virtually unstoppable administrative inertia.”). *See also* William H. Rodgers, *The Washington Environmental Policy Act*, 60 Wash. L. Rev. 33, 54 (1984)(postponing review risks “a dangerous incrementalism where the obligation to decide is postponed successively while project momentum builds.”).

That environmental review must come at the earliest time – when a range of options are still practically on the table – is also a hallmark requirement of SEPA’s federal counterpart, the National Environmental Policy Act (NEPA), 42 U.S. Code § 4321 *et seq.* *See Pit River Tribe v. U.S. Forest Service*, 469 F.3d 768 (9th Cir. 2006)(“Federal regulations explicitly, and repeatedly, require that environmental review be timely”); *Metcalf v. Daley*, 214 F.3d 1135, 1142 (9th Cir. 2000)(review “must be taken objectively and in good faith, not as an exercise in form over substance, and not as a subterfuge designed to rationalize a decision already made”); *Conner v. Burford*, 848 F.2d 1441, 1446 (9th Cir. 1988)(“The purpose of an EIS is to apprise decisionmakers of the disruptive environmental effects that may flow from their decisions at a time when they retain a maximum range of options.”); *Save the Yaak Committee v. Block*, 840 F.2d 714, 718 (9th Cir. 1988) (“Proper timing is one of NEPA’s central themes.”). Here,

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“complete and meaningful” environmental review includes an analysis of whether IPID’s remaining water rights would require any increase in Eightmile Dam’s height above its present level.

As we have consistently stated, the structure of the Icicle Work Group provides the opportunity to do things differently, which is at the heart of finding new solutions to long-standing problems. Addressing the water rights validity question up front and prior to a future “water right permitting action” is an example of doing things differently, within the safety of the IWG collaboration, and would respect the purpose and spirit of SEPA review. Instead, the IWG co-leads (Ecology and Chelan County) claim to be doing things differently, but instead hide behind the ways things are traditionally done, punting a fundamentally critical question down the road, thereby threatening the viability of actually accomplishing the ambitious goals of IWG and wasting millions of taxpayer dollars in the process.

3. The FPEIS Fails to Adequately Plan for Climate Change Impacts in the Icicle Watershed.

IWG made a significant investment in working with the University of Washington’s Climate Impacts Group, but incorporates very little of its analysis and long-term projections into the Icicle FPEIS’s forecast for future drought conditions. As stated by Aspect Consulting at a December 20, 2018 meeting with Ecology, Chelan County and other stakeholders, the graphs presenting future conditions “could underpredict drought years and overpredict non-drought performance,” which begs the question whether the analysis will truly meet future drought conditions. FPEIS Figure 2-6 (p. 2-22) shows that stream flows are predicted to fall short of the Icicle FPEIS’s goal of 60 cfs in the fall based on historic drought conditions. If these potential drought conditions are underpredicted (which they are since they are based on historic data and not modified to consider future flow conditions), the Preferred Alternative meets only the bare minimum needs, and certainly will not set the Icicle basin on the path to success for fishery goals in 2050 and beyond.

Furthermore, in the December 20, 2018 meeting referenced above, the IWG co-leads affirmed that the Icicle FPEIS focuses on addressing water needs only for the “short-term,” which the co-leads defined as a period of 20 years, which is simply not long enough given the proposed magnitude of public investment in this project. The January 27, 2019 *Seattle Times* article on the Icicle (“Crumbling dam foreshadows potential water-supply crisis”) quotes Dan Haller of Aspect Consulting stating that the plan indeed needs to account for and plan for climate change: “We’d hate to invest \$100 million in a suite of projects and then 20 or 50 years from now find they’re underperforming.” Ironically, the Preferred Alternative would do just that, as admitted during the December 20, 2018 meeting referenced above, and as indicated in data presented throughout the FPEIS. This means that at present the Preferred Alternative will not set the Icicle basin on the path to climate resiliency, as promoted by the IWG co-leads. At best, it helps agricultural interests and domestic users to have some level of reliability for the next 20 years, but does not go far enough for fish and wildlife and other out-of-stream interests and uses.

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4. The FPEIS Punts Substantive Analyses to Future Project-Level Review, Which Threatens to Overlook Cumulative Impacts and Shifts the Burden of Planning and Review to Other Agencies.

The IWG co-leads consider the FPEIS a foundational document for project-level review and did not include additional substantive information in the FPEIS despite a robust response during the public comment period.

A failure to include updated information such as the IPID Comprehensive Water Management Plan or the City of Leavenworth’s Water System Plan, both completed in 2018, or any updated information on emergency dam and outlet repairs completed at Eightmile Lake in 2018 show either a deliberate exclusion of pertinent information or a lack of effort in the final stages of drafting the PEIS.

The FPEIS states that for projects for which adequate environmental review is contained in the FPEIS, “the permitting agency may decide to adopt the PEIS analysis and proceed to permitting . . . projects that may have new or additional significant adverse impacts not analyzed in the PEIS would require additional project-level review.” (FPEIS, p. 1-39-40) The requirement for additional environmental review at the project level does not excuse the obligation to analyze the issues as fully as reasonably possible at this time. To the extent impacts can be reasonably forecast now, the EIS must do so (see caselaw cited above).

5. The FPEIS Fails to Present an Adequate Water Conservation Plan and Commits Public Funding Toward Subsidizing Inefficient Use of Water.

In our July 30 comment letter, we provided extensive recommendations on ways to obtain new water supply while reducing demands on Icicle Creek by increasing conservation of water, such as by tightening up water delivery and consumption infrastructure in the Leavenworth area; demand management efforts; and recalculating future demand. However, most of our recommendations were ignored. A voluntary lawn buy-back proposal was added, but the FPEIS does not go far enough. More aggressive conservation efforts are needed.

Conclusion

The Icicle FPEIS implies that it is a comprehensive review of all of the environmental issues, but it is not. The FPEIS cannot be said to comply with the Guiding Principles of the Icicle Work Group, including compliance with federal laws such as the Wilderness Act, when analysis of those laws has been skipped over and punted to subsequent project-level review. The outstanding gaps and deficiencies in the Icicle FPEIS are egregious, and too significant for it to serve as the “foundation” for environmental review of any project in the Alpine Lakes Wilderness. Government agencies responsible for project-level review need to be aware of these defects, and refrain from basing their decisions on the Icicle FPEIS. Instead, lead agencies should make threshold determinations of whether projects are lawful in the first place, before proceeding with further review.

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Sincerely,

Rick McGuire, President
Karl Forsgaard, Past President
Alpine Lakes Protection Society

Kitty Craig, Washington State Deputy Director
The Wilderness Society

Trish Rolfe, Executive Director
Center for Environmental Law & Policy

George Nickas, Executive Director
Wilderness Watch

Art Campbell, President
North Central Washington Audubon Society

Kurt Beardslee, Executive Director
Wild Fish Conservancy

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

Brock Evans, President
Endangered Species Coalition

George Milne, President
Federation of Western Outdoor Clubs

Jasmine Minbashian, Executive Director
Methow Valley Citizens Council

Tom Uniack, Executive Director
Washington Wild

Kathi & Greg Shannon, Steering Committee members
Friends of Enchantments

Gary Macfarlane, Ecosystem Defense Director
Friends of the Clearwater

John Spring, Managing Trustee
Spring Family Trust for Trails

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Judy Hallisey, President
Kittitas Audubon Society

Melissa Bates, President
Aqua Permanente

Chris Maykut, President
Friends of Bumping Lake

Mike Town, President
Friends of Wild Sky

Mark Boyar, President
MidFORC

Carolyn McConnell, Vice President
North Cascades Conservation Council

Tom Martin, Council Member
River Runners For Wilderness

Larry Campbell, Conservation Director
Friends of the Bitterroot

Denise Boggs, Executive Director
Conservation Congress

Lori Andresen, President
Save Our Sky Blue Waters

William Campbell, President
Friends of Lake Kachess

Terry Montoya, President
Kachess Ridge Maintenance Association

Christine Johnson, President
Kachess Community Association

John Reeves, President
Save Lake Kachess

Gordon Brandt, President
East Kachess Homeowners Association

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Annie Cubberly, Broadband Leader
Polly Dyer Cascadia Chapter
Great Old Broads for Wilderness

Doug Scott, Principal
Doug Scott Wilderness Consulting

Kirt Lenard, President
Issaquah Alps Trails Club

Brian Hoots, President
Spokane Mountaineers

John Brosnan, Executive Director
Seattle Audubon Society

Attachment: July 30, 2018 comment letter of 31 organizations

cc: Governor Jay Inslee
Washington State Dept. of Ecology Director Maia Bellon
U.S. Senator Patty Murray
U.S. Senator Maria Cantwell
U.S. Representative Kim Schrier
Chelan County Commissioners Bob Bugert, Doug England and Kevin Overbay
Okanogan-Wenatchee National Forest Supervisor Mike Williams
Wenatchee River District Ranger Jeff Rivera
Icicle Work Group members

F.2.3 Individuals

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I-1

COMMENT

RESPONSE

I-1-1	Based on the Dept. of Ecology's information I've read, I believe it's time for this dam to go. I oppose rebuilding it.	I-1-1	Comment noted.
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I-2

COMMENT

RESPONSE

I-2-1	After looking at the various solutions and reading some about this project, it seems that Alternative #1 would be the best manner in which to proceed. Thanks for your attention to this matter.	I-2-1	Comment noted.
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I-3

COMMENT

RESPONSE

I-3-1	This is a Wilderness Area and natural processes, like fire needs to be respected. No roads should be built to repair something that doesn't belong in a Wilderness Area. Let nature have her way and let the dam die.	I-3-1	Comment noted.
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I-4

COMMENT

RESPONSE

I-4-1	To whom it may concern,	I-4-1	Comment noted.
I-4-2	I am writing to support the "No Action Alternative" for the Eightmile Dam Rebuild and Restoration project. As everyone knows, Eightmile Lake lies within the Alpine Lakes Wilderness Area and thus this area should be allowed to revert, eventually, to its natural state, consistent with the language and philosophy of the Wilderness Act.	I-4-2	Comment noted.
I-4-3	If necessary, homeowners who may be affected by the future failure of this dam should be financially assisted to relocate.	I-4-3	The main focus of the action alternatives considered in the EIS is to replace the dam, in part for the specific purpose of reducing the existing risk to downstream property owners. As described in Chapter 2, the potential for dam failure is highest under the No Action Alternative, and the No Action Alternative is the only alternative that will not meet Dam Safety Office (DSO) regulations, DSO safety standards, and does not meet project objectives as outlined in Section 1.4 of the Draft and Final EISs.
I-4-4	If the "No Action Alternative" is not selected, then absolutely no mechanized equipment should be used to repair the dam, including helicopters. No machinery or electronic equipment should be left within the wilderness area. If the outlet valve needs to be adjusted, someone can hike in and do it.	I-4-4	Comment noted.
Thank you - Luke Bakken Spokane WA			

I-5

	COMMENT		RESPONSE
I-5-1	I like Alternative 1), narrow spillway with gates.	I-5-1	Comment noted.

I-6

	COMMENT		RESPONSE
I-6-1	In reviewing the dam mitigation and potential up/downsides of each althernative, I am in favor of Alternative 1. I am not an engineer nor do I live near Leavenworth, but the information presented leads me to think Alternative 1 would most directly address current problems associated with the dam.	I-6-1	Comment noted.

I-7

	COMMENT		RESPONSE
I-7-1	We need to take better care of what is left of our environment, for wildlife, marine life, plant life, and people.	I-7-1	Comment noted.

I-8

	COMMENT		RESPONSE
I-8-1	Please do the right thing for Eightmile Lake Dam. Thank you!	I-8-1	Comment noted.

I-9

	COMMENT		RESPONSE
I-9-1	After reviewing the scope, I highly recommend Alternative One.	I-9-1	Comment noted.

I-10

		COMMENT	RESPONSE
I-10-1	Very little disruption to the wilderness quality of the area is needed. Can the work be done with no heavy machinery? If minimal disruption will be needed, then Alternative 1 could work.	I-10-1	The project could not be completed without the use of heavy equipment. The use of pack animals to transport material to the site is discussed in Section 2.8.3 of the Draft and Final EISs. This construction method was considered but determined infeasible due to the amount of weight from equipment and materials, the elevation gain to the dam site, and the number of trips required. Section 2.7 of the Draft and Final EISs describes the expected construction methodology.
I-10-2		I-10-2	Comment noted.

I-11

		COMMENT	RESPONSE
I-11-1	I am one of the incorporators of The Alpine Lakes Protection society. I take with great concern the tampering with the wilderness. The law states that we will leave the wilderness alone, not take any machinery in it, etc. Please make sure that is accepted and understood in your decision making. Roy McMurtrey	I-11-1	Comment noted. The project will comply with all applicable federal, state, and local laws and regulations, including the Wilderness Act.

I-12

		COMMENT	RESPONSE
I-12-1	I would prefer alternative 1 to preserve the wilderness with the least amount of disturbance to the area. Thank you	I-12-1	Comment noted.

I-13

	COMMENT		RESPONSE
I-13-1	<p>This is a Critical Infrastructure Part for Our Leavenworth Valley & Community and Long Overdue.</p> <p>It must be done Now for the Future of Our Living & Protecting this Area for all that Live & Visit here, enjoying the produce of our Orchards & Farms, as well as our Environment.</p> <p>GET 'ER DONE NOW & ENJOY!</p> <p>Shawnee McCartor</p>	I-13-1	Comment noted.

I-14

	COMMENT		RESPONSE
I-14-1	<p>I'll bet the condition of the water is better now than how it's been since the dam was built.</p>	I-14-1	Comment noted.

I-15

	COMMENT		RESPONSE
I-15-1	<p>Narrow spillway with gates. This has a smaller footprint than Alternative 2 and has more potential water storage than Alternative 3. The gates would protect the dam from overtopping.</p> <p>Alternative 2: Wide spillway without gates. This has the largest footprint of the alternatives.</p> <p>Alternative 3: Narrow spillway without gates. This has the lowest potential water storage of the alternatives.</p> <p>No Action Alternative: Operating the current dam with no changes.</p>	I-15-1	Comment noted.

I-16

	COMMENT		RESPONSE
I-16-1	<p>Hi, I just wanted to say that I support alternative 1. This seems like the best solution as it will protect downstream residents while maintaining a reasonable footprint.</p>	I-16-1	Comment noted.

I-17

		COMMENT	RESPONSE
I-17-1	We need to save our salmon! The removal of the dam is a great step toward the goal of a healthy salmon population!	I-17-1	Comment noted.

I-18

		COMMENT	RESPONSE
I-18-1	I believe your analysis is flawed because you've failed to consider entirely removing this dam.	I-18-1	Comment noted. As described in Section 2.8 of the Draft and Final EISs, Alternatives Considered but Not Carried Forward, comments were received during scoping to evaluate the complete removal of the dam. Removal of the dam would require the use of heavy equipment and work similar in magnitude to replacing the existing dam. Additionally, the lake would likely no longer be useable as storage for IPID and would not meet IPID's operational and water delivery needs as described in Section 1.4.

I-19

	COMMENT	RESPONSE
	<p>The Eightmile Lake Dam is one of several small dams located in the Cascade Mountains west of Leavenworth, predating the establishment of the Alpine Lakes Wilderness by several decades. Eightmile Dam provides water for agricultural irrigation and instream flows during the dry summer months.</p> <p>After the Jack Creek Fire in 2017, flooding caused erosion damage to the dam. In 2018, the Eightmile Lake Dam was designated as a high hazard dam by Ecology’s Dam Safety Office, reflecting its potential threat to downstream residents and properties. Emergency repairs made in the summer of 2018 stabilized the dam. However, these repairs did not bring the dam up to current safety standards.</p> <p>As the dam’s owners, the Icicle and Peshastin Irrigation Districts (IPID) have developed several alternatives for rebuilding the dam, which balance the priorities of protecting the integrity of the Alpine Lakes Wilderness, ensuring public safety by meeting dam safety requirements, and providing durable solutions for water management and delivery. The alternatives also account for the likely impacts of climate change on severe weather events, irrigation needs, and fish habitat.</p>	
I-19-1	<p>IPID is considering three action alternatives for rebuilding the dam and a status quo, “no action” alternative:</p> <p>Alternative 1: Narrow spillway with gates. This has a smaller footprint than Alternative 2 and has more potential water storage than Alternative 3. The gates would protect the dam from overtopping.</p> <p>Alternative 2: Wide spillway without gates. This has the largest footprint of the alternatives.</p> <p>Alternative 3: Narrow spillway without gates. This has the lowest potential water storage of the alternatives.</p> <p>No Action Alternative: Operating the current dam with no changes.</p> <p>The Draft EIS examines the probable, significant, and adverse impacts resulting from each course of action It also analyzes how impacts can be reduced or eliminated through mitigation.</p> <p>An EIS is an impartial, comprehensive study used as a resource for decision-makers and the public. An actual repair plan, and the associated permit decisions for that work, will be made after completion of the EIS. The Final EIS is expected to be issued this fall.</p>	<p>Comment noted.</p>

I-20

		COMMENT		RESPONSE
I-20-1	I am voting for alternative number 1. We need to preserve the wilderness, but we also will always need as much water as possible for the farmers to feed the people. Thank you, Jan Ankerson	I-20-1	Comment noted.	
I-20-2		I-20-2	Comment noted.	

I-21

		COMMENT		RESPONSE
I-21-1	I support Alternatives 1 and 2. "We" the public need to support the rehabilitation of this dam (and future IPID dams) for safety reasons. We also need to allow IPID continue to use their infrastructure, which considerably predates the Wilderness Act that made this area off limits to . There is plenty of public benefit in both maintaining that storage for irrigation (everyone enjoys the fruit grown from it), for late season low flow augmentation, and there is benefit in allows IPID to continue to exercise it's rights and maintain it's equipment. To now, decades (century) after the fact, tell them no, is contrary to the public interest.	I-21-1	Comment noted.	
I-21-2		I-21-2	Comment noted.	
I-21-3		I-21-3	Comment noted.	

I-22

		COMMENT		RESPONSE
I-22-1	I live on the Icicle Creek on E Leavenworth Rd. I am concerned that if the dam is breached our home will be flooded. However, I am more concerned that conservation of water isn't addressed by the Icicle Work Group or the irrigation districts which use the Icicle Creek water. I can run my irrigation water 24/7 and the former owner did! If we are concerned about the amount of water in the Icicle, which I am, each owner who uses irrigation water should be monitored and pay for each amount used. The ditch which I walk on above E Leavenworth Rd has leaks and is open to evaporation as well as not having limits on water used. Water will get scarcer as climate change occurs and if we don't implement conservation measures now, it will only get worse. That said, I would like the dam to be shored up so that it doesn't fail, but not made higher. We have to live within our means. Thank you.	I-22-1	Comment noted. Refer to Figure 12-1 in the Draft and Final EISs, which shows where flooding is likely to occur in the event of dam failure.	
I-22-2		I-22-2	Comment noted. Refer also to the Global Response for Water Conservation.	
I-22-3		I-22-3	Comment noted.	

I-23

	COMMENT	RESPONSE
I-23-1	Thank you for this opportunity to comment on this issue.	I-23-1 Comment noted.
I-23-2	I am writing to say I am in favor of Alternative #1. It has the smaller footprint and allows for maximum water storage. I would also favor the least amount of intrusion into the wilderness area.	I-23-2 Comment noted.

I-24

	COMMENT	RESPONSE
I-24-1	Repairing a dam in a wilderness area raises many questions. The first question might be, do we even need this dam any more? It isn't a hydroelectric generating dam so that isn't in question. What about the irrigation needs that it supplies? Are we just subsidizing agriculture which could not exist without this handout?	I-24-1 Comment noted. The purpose and need for the Eightmile Dam Rebuild and Restoration Project is summarized in Chapter 1 of the Draft and Final EISs. Refer to Section 1.1, Introduction, Section 1.2, Project Background, and Section 1.4, Project Objectives for further discussion of the use of the dam.
I-24-2	Or are we maintaining this dam for residential properties along the lower waterways which benefit from the controlled releases? Once again this sounds like public dollars benefiting a special interests group.	I-24-2 Comment noted. Figures 11-16a and 11-16b of the Draft and Final EISs are photo simulations of what the lake would look like with the dam removed. Also refer to Section 2.8.1 for dam removal as an alternative considered but not carried forward. Project financing is described in Section 1.9 of the Draft EIS. Additionally, refer to the 2019 Final Programmatic EIS (FPEIS) for discussion of the overall Icicle Strategy, guiding principles, and how the project fits into that larger strategy and projects in the basin.
I-24-3	Eightmile Lake itself is a gorgeous place. By not replacing the dam, and allowing nature to take it's course we will surely loose the dam, and then have lake shore changes to contend with.	I-24-3 Comment noted.
I-24-4	My first choice for management of the dam would be to dismantle it safely with minimal impact on peoples/infrastructure down stream. Knowing that this isn't a likely scenario, I would vote for option number one, with intent on minimizing the footprint of this eyesore.	I-24-4 Comment noted.

I-25

	COMMENT	RESPONSE
I-25-1	We need to take better care of what is left of our environment, for wildlife, marine life, plant life, and people.	I-25-1 Comment noted.

I-26

		COMMENT	RESPONSE
I-26-1	We strongly urge the implementation of Alternative 2 to fix the dam. Given that the relative impacts from each Alternative are roughly similar, it makes the most sense to do the most comprehensive fix, requiring the least monitoring, upkeep, and human action. Alternative 2 would last the longest and require the least maintenance once completed. The other alternatives allow for mechanical failure that would require fixes, and operators to perform actions. The No Action Alternative is simply unacceptable--should a dam failure occur, the potential consequences for our community would be disastrous. For these reasons, we ask you to please fix this problem using Alternative 2. Thank you.	I-26-1	Comment noted.
I-26-2		I-26-2	Comment noted.
I-26-3		I-26-3	Comment noted.
I-26-3			

I-27

	COMMENT	RESPONSE
	I-27-1	Comment noted.
I-27-1	<p>Hello. My name is David Van Cleve. I am giving testimony as an individual. I am a retired Professional Civil Engineer and have some knowledge of water rights. I am also an advocate for the Wilderness.</p> <p>I am glad that the road into the wilderness area has been removed from all the alternatives. I do not want to see that added back in. I am glad that all transferred water will be for instream flows and not consumptive uses.</p>	
I-27-2	<p>Ecology in the water right chapter indicates that it will utilize a multi-fill analysis for determining the extent and validity of the storage water right at Eightmile lake and is not following the one-fill analysis as required by WAC 508-12-270. The explanation for doing this was covered in page 6-6, footnote 8. Not following the WAC should be included in the text and not in a footnote. A legal explanation or an attorney general opinion should be given as to why this is possible. I am concerned that Ecology is setting a precedent on storage water rights if they utilize the multi-fill analysis in this manner. Also, the very important multi-fill analysis memo should have been included as an appendix to the EIS. I received the multi-fill analysis memo as part of public records request.</p>	<p>The Multi-fill Analysis is described in the Global Responses for Water Rights and was relied on (in part) for the water right evaluation in the Draft and Final EISs to assess whether the range of storage volume designs for the alternatives being considered were reasonable. After the Draft EIS publication, IPID submitted a formal request to donate a portion of its Eightmile Lake water right to the Trust water rights program for instream flow purposes. Following issuance of the Final EIS, Ecology will conduct its review of the quantities that are available to be donated based on information available which, in part, includes supporting documentation provided by the applicant. Ecology's review will be in accordance with the process prescribed in RCW 90.42.080(4).</p>
I-27-3	<p>Many organizations during the scoping review requested that a tentative determination of water rights be part of the EIS. Once again Ecology is shooting themselves in the foot by not determining the validity of the water right. The EIS indicates that Ecology is going to utilize a multi-fill analysis to determine the water right when IPID puts in a request for a trust water transfer. The multi-fill analysis appears to be the determination of the validity of the water right for a trust water right transfer. The multi-fill analysis appears to say that IPID has utilized greater than 2,000 acre-feet to greater than 2,500 acre-feet in the last twenty years with the smaller damaged dam. The smaller existing damaged dam is the same size as Alternative 3 of the EIS. If you can get the full storage water right out of small dam then we should build the smallest dam possible which is Alternative 3. This will save money, have less impacts on the wilderness and appears to provide the full storage right to allow for instream flows. Without the determination of validity of the water right you cannot make this decision because you do not have the information necessary to make this decision.</p>	<p>The Global Response for Multi-fill Analysis describes IPID's asserted reliance on partial re-fill of active lake storage capacity in the annual cumulative storage volume under the right, following completion of the dam in 1929. It also explains how this multi-fill practice described by IPID in their memo does not conflict with WAC 508-12-270, filed in March 1960.</p>
I-27-4	<p>Please provide enough information to determine if alternate 3 meets all requirements.</p>	<p>Refer to Global Responses for Tentative Determination of Extent and Validity and Multi-fill Analysis. As described in the Global Responses, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes, and Ecology will conduct a review of the quantities that are available for donation as prescribed in RCW 90.42.080(4). This process is informed by the Final EIS but is separate from it. While the Multi-fill Analysis will likely be part of Ecology's considerations for the Trust donation quantities, the review will include other information available and in the record related to historical use.</p> <p>The comment concerning Alternative 3 is noted. As part of the Draft EIS, Ecology did review the water right at Eightmile Lake and determined that the range of design volumes (up to 2,000 acre-feet of active storage) for the alternatives considered are reasonable given the review of information available on water use and storage at Eightmile Lake under IPID's existing right at the time of Draft EIS preparation. Additionally, alternatives with greater</p>

I-27

COMMENT	RESPONSE
	active storage capacity could improve resiliency to climate change by providing the capacity to maintain existing storage volumes should late season re-fill be reduced in the future as a result of climate change. Refer to Section 6.2 of the Draft and Final EISs for additional information.
I-27-4	As noted in Table 2-1, Alternative Comparison, in the Draft and Final EISs, the active storage volume for Alternative 3 is 1,698 acre-feet. As described in Section 2.5, Alternative 3 would not meet all of IPID's objectives because there would be less potential water storage available for release to ensure against drought conditions. Because there would be less potential water available during drought conditions, this alternative may require pumping below the outlet works to access more than 1,698 acre-feet of water storage. The Multi-fill Analysis provides a range of stored volumes based on refill sufficient to support that 2,000 acre-feet of active storage and release is reasonable at the lake, but not necessarily every year. The Multi-fill Analysis also estimates lesser storage in, for example, a dry year. In water short years, particularly when late season (August/September) precipitation is low and irrigation demand is high, there is less potential for water to be available, and pumping below the outlet works may be required to access water needs for that year.

I-28

COMMENT

RESPONSE

I-28-1 Comment noted.

I-28-2 Comment noted.

I-28-3 Comment noted. Potential impacts on salmon from alternative water management scenarios are discussed in Chapter 8, Plants and Animals.

EIGHTMILE LAKE DAM REBUILD AND RESTORATION

PUBLIC COMMENT

**Eightmile Lake Dam Rebuild and Restoration Project Draft
Environmental Impact Statement (EIS)**

The Draft EIS describes the affected environment, potential impacts of the three action alternatives and the No Action alternative, and mitigation measures for the following topics: Alpine Lakes Wilderness, surface water resources, groundwater resources, water rights, geology, plants and animals, noise, recreation, visual resources, public safety, historic and cultural resources, tribal resources, agriculture and economics, environmental justice, and cumulative impacts. Ecology invites agencies, affected tribes, and members of the public to comment on the Draft EIS.



Ecology is accepting comments on the Draft EIS during the 45-day comment period, which ends on **Monday June 5, 2023**.

Please visit <https://ecology.wa.gov/eis8mile> to submit comments online.

If you wish to use this form please mail to:

Department of Ecology
Central Regional Office
Attn: Melissa Downes
1250 West Alder Street
Union Gap, WA 98903

First Name: MARY AUSTIN

Last Name: _____

Organization: _____

Email: mothamayo@gmail.com

Address: 10421 Ski Hill Dr

City: Leavenworth Zip: 98826

Comment: Thanks for meeting

I-28-1

① 1500' larger area for staging with option 2 is more than offset by the dramatically fewer trips by using large helicopter mainly

I-28-2

② I strongly favor providing largest water amounts available for for irrigation district, and thus also for water flow for salmon. I do not agree with reducing water removal to some members that are argued about being in place at time it was designated as wilderness as I think the harm to salmon + irrigation needs speak much louder + importantly

I-28-3

DRAFT ENVIRONMENTAL IMPACT STATEMENT

1

MAY 2023

I-29

	COMMENT	RESPONSE
I-29-1	Please choose the option with the least damage to the environment. The Alpine Lakes area is a major treasure and needs to be protected. Option 1, with the smallest "footprint" appears to be the best option, but I'm not seeing information about how machinery would be transported. That is a significant issue, since building roads to get machinery to the site would be a major disruption. Yes, it is more expensive to use a helicopter, but it is the only sensible approach.	I-29-1 Comment noted.
I-29-2		I-29-2 As discussed in Chapter 2, Project Alternatives, of the Draft and Final EISs, helicopters would be used to move all equipment and the majority of materials to and from the site on Special Warranty Deed parcels. As noted in Section 2.8.2 of the EIS, overland vehicle transport is no longer being considered because air transport is preferable to both wilderness users and IPID.

I-30

	COMMENT	RESPONSE
I-30-1	As a retired geotechnical engineer who has been involved in many dam designs it appears to me that the preferred alternative should not involve any more valves and mechanical gates that is absolutely necessary. Preferably the dam should be removed as it is within the wilderness area and a new site found that has the values needed both for the irrigators and for the health of the environment. Trespass of equipment into the wilderness area is not consistent with the wilderness act and thus even removal is a violation if motorized equipment is used. Dams are expensive to maintain and that is why this one is in such poor shape. Removal should be considered as an alternative, not dismissed. In the long term a new storage facility outside the Alpine Lakes Wilderness Area will be the most cost-effective solution that could be built partly with grants or low interest loans.	I-30-1 Comment noted. Chapter 3 of the Draft and Final EISs describes Eightmile Dam in relation to the wilderness character. Eightmile Dam is located on a Special Warranty Deed parcel. The Special Warranty Deed reserves IPID's rights to maintain and operate the dam and exercise their water rights. These "reservations" explicitly allow uses (such as motorized equipment and aircraft) otherwise prohibited by the Wilderness Act. See Section 2.8.1 for information on dam removal as an alternative considered but not carried forward.
I-30-2		I-30-2 Comment noted.
I-30-3		I-30-3 Comment noted.

I-31

	COMMENT	RESPONSE
I-31-1	Many of us definitely appreciate everything everyone involved has done up to this point in time!! Personally, I'd support the BEST OPTION as determined "by those that have studied and know more about the overall project and benefits by utilizing the best alternative available." Go big or go home ;-) I'm 59 years old, and have enjoyed the Alpine Lakes Wilderness Area my entire life... including a lot of time at or near Eightmile Lake. It would be great to complete this project as soon as possible for the obvious benefits. The time it's taken to get to this point is unfortunate.... although, hopefully it's been a necessary element. Best wishes for a successful project!! Thank you, Mike Snyder	I-31-1 Comment noted.

I-32

		COMMENT	RESPONSE
I-32-1	I favor that you chose the option which increases the lake volume to the maximum allowed so that any water unused by the water district can be used to supplement stream flows in Icicle Creek during low water periods in late summer and fall. Icicle Creek has been getting dangerously low in August and very warm which is a real threat to fish and other stream wildlife. The dam predated the Wilderness area and was grandfathered in. I also favor a very strong dam with no risk of rupture as I live on the edge of Icicle Creek. Build a modern dam that meets all high water requirements. Finally I favor a heavy lift helicopter program to limit the number of days I have choppers flying over my house.	I-32-1	Comment noted.
I-32-2		I-32-2	Comment noted.
I-32-3		I-32-3	Comment noted.
I-32-4		I-32-4	Comment noted.
I-32-5	Scot Brower	I-32-5	Comment noted.

I-33

		COMMENT	RESPONSE
I-33-1	The Eight Mile Lake Dam. The water users of the Icicle - Peshastin Irrigation Districts hold long standing water rights related to the Alpine Lakes Dams. IPID should be allowed and encouraged to bring their dams in the Alpine Lakes Wilderness Area up to current safety standards using currently available technology to get the maximum water into the related streams and to the irrigators.	I-33-1	Comment noted.
I-33-2	I would encourage the use of helicopters to transport men and materials as opposed to horses as were used for the original construction. Using helicopters will make the project a one summer deal without the trail damage and traffic congestion of horses. Paul K. Gray	I-33-2	Comment noted.

I-34

		COMMENT	RESPONSE
I-34-1	I prefer alternative #1. I feel all three alternatives have low impact, but Alternative one has a less visual impact, allows for sufficient irrigation needs and has the extra capacity for extra in-stream flows. It also would help mitigate during storms.	I-34-1	Comment noted.

I-35

	COMMENT	RESPONSE
	See Attached comment letter	
	I-35-1	Comment noted. Information on these four items remains unchanged in the Final EIS.
	I-35-2	Refer to the Global Responses for Tentative Determination of Extent and Validity, Relinquishment, and Multi-fill Analysis.
	I-35-3	Refer to the Global Responses for Tentative Determination of Extent and Validity, Relinquishment, and Multi-fill Analysis.
	May 21, 2023	
	Office of Columbia River Washington Department of Ecology 1250 W Alder St Union Gap, WA 98903	
	Subject: Eightmile Dam Rebuild & Restoration Draft EIS Comments	
	Dear Mr. Thomas Tebb	
I-35-1	<p>Thank you for allowing me to comment on the Eightmile Dam Rebuild & Restoration Draft Environmental Impact Statement (EIS). I am an advocate for wilderness, fish and wildlife. I have been involved with the project for several years by attending the Icicle Work Group meetings. These are my personal comments. I appreciate that the Icicle Creek workgroup formed a Wilderness Study group to get wilderness advocates involved in the process.</p> <p>The draft EIS has four items that I support and do not want changed in the final EIS:</p> <ol style="list-style-type: none"> 1. That no roads will be built in the wilderness area. 2. That water will be donated to the trust water program specifically for instream flows. 3. That all construction in the Alpine Lakes Wilderness stay within the area specified by IPID's special warranty deed. 4. That donated water will not be transferred for consumptive uses such as municipal water supply. 	<p>The term "usable storage volume" is defined in Table 4-2 of the Draft and Final EISs and was included there for consistency with the Eightmile Lake Storage Restoration Feasibility Study (Anchor QEA 2018), an appendix of the 2019 FPEIS. It refers to the physical volume of the lake between the invert of the low-level outlet pipe and the high water surface, and also includes estimated seepage below the invert. The Draft EIS included some inconsistencies of the use of this term in the text, and the Final EIS has been updated for clarity in use of terms, such that usable storage volume is only referenced in Table 4-2 as a comparison to active storage volume.</p>
I-35-2	<p>WATER RIGHTS ISSUES</p> <p>The draft EIS did not perform a tentative determination to determine the extent and validity of IPID's storage right at Eightmile Lake. The draft EIS should have performed a tentative determination of the storage water right in accordance with 90.14.130 and Policy 1120. Ecology can perform a tentative determination when Ecology knows that a water right has not been fully used or relinquished according to the RCW. WAC 508-12-270 states that a storage water right is for a one fill of the reservoir. Ecology clearly knows that one fill analysis of the water right is less than the 2,500 acre-feet of the storage water right. Ecology should perform the tentative determination.</p> <p>Instead of doing a one-fill analysis, Ecology used a multi-fill analysis to determine a reasonable basis of the storage water right. The multi-fill analysis was not included in the draft EIS and should be added to the final EIS as an appendix.</p>	<p>The term "active storage volume" is the active storage capacity of the lake between the low level invert and the high water surface and is also defined in Table 4-2. This is the physical volume of the lake where storage is actively managed by IPID by adjusting the gate. The "single-fill" or "one-fill" term was used in a few instances in the Draft EIS to clarify a reference to the physical lake volume as distinct from the total volume of water cumulatively and actively stored over the course of the season that may include late season partial refills (multi-fill) of the active storage portion of the lake above the invert. Refer to response to comment O-9-21 and the Global Response for Multi-fill Analysis for additional information.</p>
I-35-3	<p>The draft EIS provides a one-line explanation in footnote 8 page 6-6 as to why a multi-fill analysis is being used and the draft EIS does not provide any other legal reasoning why it can be used. It appears that this is the first time that Ecology has ever used a multi-fill analysis for a storage water right. I am concerned the precedent this will set for the analysis of other storage water rights in the state. The EIS should clearly state the legal basis for using a multi-fill analysis.</p> <p>The one-fill or multi-fill analysis uses the following terms that are not defined which makes it difficult to determine what the analysis actually means. These terms should be defined:</p>	<p>The terms "Multi-fill Active Storage" and "Multi-fill Reserve Pool Storage" are not used in the Draft or Final EIS.</p> <p>With regard to the Draft EIS's reference to "single-fill" active storage capacity in the comparison of alternatives, this approach is used because it allows for comparison of designs and associated physical volumes. The active storage design volumes of up to 1,698 acre-feet and 2,000 acre-feet represent the maximum active storage water volumes that were considered for impacts in the EIS. As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an</p>


I-35

COMMENT

RESPONSE

Ecology-approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flow uses as well as for IPID's irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered (2,000 acre-feet), regardless of whether practices in a given year involve multiple fillings or a single fill. The monitoring plan will also ensure that the Trust donation is managed properly. Refer to Global Responses for Trust Donation and Multi-fill Analysis for additional information.

I-35

	COMMENT	RESPONSE
I-35-3	<ul style="list-style-type: none"> • Usable Storage Volume • Active Storage Volume • Multi-fill Active Storage • Multi-fill Reserve Pool Storage <p>The draft EIS uses a multi-fill analysis to determine the reasonable existing amount of the annual quantity put to beneficial use. When discussing Alternatives 1, 2 and 3, the draft EIS reverts to a one-fill analysis to determine how the water will be stored in the future. For the Alternatives, the quantity of water stored is calculated from the highest lake level to the lowest lake level. It appears that if a multi-fill analysis is performed on any of the Alternatives, then the Alternatives will store a much greater amount of water than what the draft EIS states for the Alternatives.</p>	I-35-4 Refer to the Global Responses for Trust Donation and Tentative Determination of Extent and Validity. After the Draft EIS was issued, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes. Following issuance of the Final EIS, Ecology will conduct its review of the quantities available through the Trust donation in accordance with the process prescribed in RCW 90.42.080(4). Quantities in excess of 1,400 acre-feet will be placed in Trust for instream flow purposes.
I-35-4	<p>The draft EIS states in some places that the donated water to the trust water rights will be the amount of water over 1,400 acre-feet. However, in other places the draft EIS indicates that only 600 acre-feet will be donated. I strongly urge you to clarify this. The final EIS should clearly state that all water determined over 1,400 acre-feet will be permanently donated to the trust water program for instream flow.</p> <p>Any water placed into a Trust Water Right must be designated "permanently donated for instream flow" so that water in Eightmile Creek remains instream from Eightmile Lake to the ocean. Any water "permanently donated for instream flow" should go into the historical channel for Icicle Creek.</p> <p>WILDERNESS ISSUES</p> <p>The existing dam looks natural and a typical wilderness user does not realize the dam is there for irrigation purposes. Please construct the dam in such a way to blend in naturally with the environment and look as natural as possible. The draft EIS does not show where the automation equipment will be located near the dam. In the past, preliminary plans for the automation included a manhole in the lake for lake level measurement and a steel bridge from the dam to the manhole. If this is still the case, this should be called out in the final EIS and made to blend in as much as possible.</p>	In addition, as described in the Global Response for Trust Donation, Ecology intends to manage this donated water instream from the outlet of Eightmile Lake to the confluence of Icicle Creek with the Wenatchee River. The releases will be coordinated with Icicle Work Group (IWG) members, Icicle Strategy instream flow subcommittee, IWG co-conveners, and fishery co-managers. Coordination and decisions surrounding lake releases and flow management within the Icicle Creek watershed will be informed, in part, by a separate IWG process including a decision support tool being developed as part of the Icicle Strategy. Also refer to the Section 2.6 (Dam Operation) of the Draft and Final EISs.
I-35-5	<p>Alternative 3 is the smallest dam alternative, will have the least impact on the wilderness esthetic and should be least costly to construct. It a multi-fill analysis shows that this Alternative will provide sufficient storage for IPID and instream flows, then this should be the preferred alternative because it has the least impact on the Alpine Lakes Wilderness.</p>	I-35-5 The project does not include the installation of a steel bridge or manhole. Alternative 1 is the only alternative that includes automated gates. See Figures 2-4 and 2-5 in Chapter 2 of the Draft and Final EISs for the location of the gates associated with Alternative 1. For visual-related mitigation measures, see the Global Response for Visual Resources.
I-35-6	<p>Alternative 1 will have steel gates and will impact the wilderness esthetics the most. I do not support this Alternative.</p> <p>Thank you for the opportunity to comment.</p> <p></p> <p>David Van Cleve</p>	I-35-6 Comment noted.

I-36

		COMMENT	RESPONSE
I-36-1	I am a Life member of the Mountaineers Club. I am also a Life Member of Trout Unlimited (TU). TU is our nation's largest cold-water fisheries conservation organization. We protect, reconnect, restore and sustain quality cold-water fisheries. I am a member and Past President of the Washington Hi-Lakers, a volunteer organization that conducts alpine lake fish surveys in conjunction WDFW. My comments are personal and may not represent the position of The Mountaineers, TU or the Hi-Lakers. It is apparent that the Icicle-Peshastin Irrigation District (IPID) has a now-ancient water right and has special warranty deeds negotiated with the USFS that grants them the right to maintain/repair/rebuild the Eightmile Lake Dam, even though the lands have been within the Alpine Lakes Wilderness for forty-seven years. Regarding the fish within Eightmile Lake, everything should be done to avoid extreme changes in the lake water elevation. There are several species of Trout and Char that thrive in the lake. Fish stocking has occurred since the 1930's, and possibly earlier. This is a prime alpine lake fishing destination, and the utmost care should be taken to protect them, even though they are not Anadromous or protected under a Tribal Treaty or the Endangered Species Act. Alpine lake fishing is a highly valued recreational activity, and the health of these fish must be a priority. Below the lake, Eightmile Creek and other Tributaries contain native Cutthroat and native/ESA Listed Bull Trout. Further down in the Icicle drainage, there are ESA-listed Salmon. Some are wild and others return to the federal Icicle Hatchery. IPID is evidently not considering the effects of global warming and the resulting issues of stream temperatures and in-stream flow. Any plan must guarantee a Source-to-Ocean flow of instream water and water rights may need to be modified to make that guarantee absolute.	I-36-1 I-36-2	Comment noted. Your comments regarding fish are noted. Climate change is generally described in Chapter 4. Chapter 8 of the Final EIS describes potential impacts on fish from climate change. Refer also to the Global Response for Trust Donation.
I-36-2			

I-37

		COMMENT	RESPONSE
I-37-1 I-37-2	I am concerned about the impact on wildlife and the noise pollution created by the production. This is in our precious Enchantment area. Please keep that in mind.	I-37-1 I-37-2	Comment noted. Impacts on wildlife are described, along with proposed mitigation measures to reduce those impacts, in Chapter 8, Plants and Animals. Comment noted.

I-38

COMMENT

RESPONSE

I-38-1	I am pleased to see that land managers incorporated what they heard from The Mountaineers and other environmental groups and the public during the 2021 comment period and removed from consideration the building of new roads and overland vehicle transport during construction.	I-38-1	Comment noted.
I-38-2	I remain concerned because construction of a new dam would affect the wilderness character of the area by drawing down the lake level, clearing some vegetation, and creating construction-related noise. Although the use of helicopters to bring in materials is unprecedented in wilderness areas, I am in favor of it since it will reduce on the ground impacts but I hope that there can be closure times for no helicopter use (and its accompanying noise) when recreational use is at its peak. I am glad that the areas that will be disturbed will be replanted with native vegetation. It is important to maintain the special feel of wilderness in our wilderness designated areas.	I-38-2	Comment noted. These potential impacts are discussed in Chapters 3, 4, 8, and 9 of the Draft and Final EISs.
I-38-3	I remain concerned because construction of a new dam would affect the wilderness character of the area by drawing down the lake level, clearing some vegetation, and creating construction-related noise. Although the use of helicopters to bring in materials is unprecedented in wilderness areas, I am in favor of it since it will reduce on the ground impacts but I hope that there can be closure times for no helicopter use (and its accompanying noise) when recreational use is at its peak. I am glad that the areas that will be disturbed will be replanted with native vegetation. It is important to maintain the special feel of wilderness in our wilderness designated areas.	I-38-3	Comment noted.
I-38-4	My family of four specifically has hiked and backpacked in the Enchantments many times and believe retaining the remote feel of the area is key to its uniqueness in our growing urban area. I hope that the developed appearance of the dam area in the "action" alternatives can be minimized to retain the special wilderness character of the area. Operation of the rebuilt dam under Alternatives 1 and 2 would result in higher seasonal lake levels, reducing the shoreline area available for recreation by approximately four feet and affecting informal routes near the lake. I hope the Department can comment more on the impacts of construction alternatives to recreational opportunities.	I-38-4	Comment noted.
I-38-5	My family of four specifically has hiked and backpacked in the Enchantments many times and believe retaining the remote feel of the area is key to its uniqueness in our growing urban area. I hope that the developed appearance of the dam area in the "action" alternatives can be minimized to retain the special wilderness character of the area. Operation of the rebuilt dam under Alternatives 1 and 2 would result in higher seasonal lake levels, reducing the shoreline area available for recreation by approximately four feet and affecting informal routes near the lake. I hope the Department can comment more on the impacts of construction alternatives to recreational opportunities.	I-38-5	As described in Chapter 10 of the Draft and Final EISs recreationists at Eightmile Lake would experience visual changes due to fluctuating water levels, as described in Chapter 11, Visual Resources. Fluctuating water levels would also alter informal fishing opportunities around the lake, potentially making some areas less suitable for fishing and other areas more desirable, depending on the water level. While the operation of the dam would change recreational opportunities at Eightmile Lake, some of these changes could be experienced as improvements by some recreationists, and there would be no permanent closure of recreation.

I-39

	COMMENT	RESPONSE
I-39-1	First of all, your description of the situation is inaccurate. The emergency was called in March 2018 before spring run-off, and the erosion of the dam occurred in 1990 and other years previous to 2018 and was never repaired by IPID. Overflow of the dam during spring run-off was a common occurrence. Given that the "temporary" repairs from 2018 survived what was probably a record fast run-off this year (e.g. from 120% of normal SWE at Stevens Pass to 0% in three weeks), and given the environmental disruption the construction would cause in a wilderness area, I think the "no action" alternative is the most appropriate. It is especially galling that taxpayers are paying for the irrigation districts negligence, both in paying for the emergency repairs in 2018 and, given the grants the district will in all probability obtain, the majority of construction costs.	I-39-1 Comment noted. Section 1.2 of the Draft and Final EISs notes that the emergency was declared by IPID and Chelan County on March 13, 2018. Ecology's Dam Safety Office also determined the dam was in an unsatisfactory condition in 2018. Table 1-1 notes erosional events prior to 1995.
I-39-2	Another factor is that the irrigation district wastes a large portion of the water which it uses because of inefficient distribution and inefficient application at the user level.	I-39-2 The Department of Ecology OCR funding decisions are based on Icicle Work Group recommendations for projects that meet the elements and/or guiding principles of the Icicle Strategy, as described in the 2019 FPEIS. Project financing, including for 2018 emergency repairs, is described in Section 1.9 of the Draft and Final EISs. Additionally, if the pending May 2024 Trust donation request results in no additional water for an annual benefit to instream flows as a result of the project, Ecology's OCR may not fund the dam construction as it would not meet the water supply development directives of OCR's program. This does not preclude the use of emergency funds should there be a health and safety issue. IPID would still need to rebuild the dam to meet the requirements for the dam as required by Ecology's Dam Safety Office, but it would need to seek alternative sources of funding.
I-39-3		I-39-3 Comment noted. Conservation measures and irrigation management practices are discussed in Sections 2.5.2 and 2.5.3 of the 2019 FPEIS. Refer also to the Global Response for Water Conservation.

I-40

	COMMENT	RESPONSE
I-40-1	• WTA opposes alternatives one and two because the proposed designs would raise the lake level by four feet.	I-40-1 See the Global Response for Lake Level in regard to Alternatives 1 and 2.
I-40-2	• Construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure.	I-40-2 The rebuilt dam structure would be entirely contained within IPID's Special Warranty Deed parcels.
I-40-3	• The Icicle and Peshastin Irrigation Districts must plan their construction activities to minimize impacts to hiking and recreation.	I-40-3 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.
I-40-4	• Any area closures should be planned and publicized prior to issuing camping permits.	
	• Protecting the wilderness will help the local economy, local residents, and state-wide recreational users.	I-40-4 Comment noted.

I-41

COMMENT

RESPONSE

I-41-1 | Hi, I'd like to comment on the Eight Mile Dam project:
 1. Alternative 1 seems like the strongest, because it does not raise the lake level.
 I-41-2 | 2. I don't think the footprint of the existing structure should be expanded.
 3. I hope that construction activities can be planned to minimize impacts to
 I-41-3 | hiking and recreation.
 4. Any area closures should be planned and publicized prior to issuing camping permits.

Thank you,
 Laurie Wasson

I-41-1 | Comment noted.

I-41-2 | Comment noted. The rebuilt dam structure would be contained entirely within IPID's Special Warranty Deed parcels.

I-41-3 | See the Global Response for Recreation.

I-42

COMMENT

RESPONSE

I-42-1 | I support alternative 3 so the lake level is not raised. Rising the lake would not
 I-42-2 | be the sound environmental choice.

I-42-1 | Comment noted.

I-42-2 | In regard to the impacts from the higher lake level, see the Global Response for Lake Level and Bathtub Ring.

I-43

COMMENT

RESPONSE

I-43-1 | Protect our wilderness! This is an opportunity to be able to protect the lands we hold dear. I believe we can create with ingenuity and without destroying the peaceful woods in the nearby areas.

I-43-1 | Comment noted.

I-44

COMMENT

RESPONSE

I-44-1 | Hi,
 I am writing to oppose alternatives 1 & 2 which would raise the lake level. Or any future alternatives that would raise the level.

Thank you
 --arul

I-44-1 | Comment noted. See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2.

I-45

	COMMENT	RESPONSE
I-45-1	Choose the most ecologically friendly construction project for the Enchatments!	I-45-1 Comment noted.

I-46

	COMMENT	RESPONSE
I-46-1	SAVE THIS LAKE11111111111111	I-46-1 Comment noted.

I-47

	COMMENT	RESPONSE
I-47-1	The plan chosen is should be best both for hikers and for the Alpine Lakes Wilderness we seek to preserve. In addition to being a treasured destination, Eightmile Lake is an important source of water for people, farms and aquatic life.	I-47-1 Comment noted.
I-47-2	- WTA opposes alternatives one and two because the proposed designs would raise the lake level by four feet.	I-47-2 See the Global Response for Lake Leve and Bathtub Ringl in regard to Alternatives 1 and 2.
I-47-3	- Construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure.	I-47-3 Construction of the dam would be contained entirely within IPID's Special Warranty Deed parcels. Impacts on wilderness character are described in Chapter 3 of the Draft and Final EISs.
I-47-4	- The Icicle and Peshastin Irrigation Districts must plan their construction activities to minimize impacts to hiking and recreation.	
	- Any area closures should be planned and publicized prior to issuing camping permits.	I-47-4 See the Global Response for Recreation.

I-48

		COMMENT	RESPONSE
I-48-1	I am opposed to first and second alternatives. I would be opposed to any expansion of the footprint of the existing structures. As a hiker I would like to minimize the impact on those who recreate in this pristine area	I-48-1	Comment noted.
I-48-2		I-48-2	Comment noted. Any new structure for the rebuilt dam would be entirely located within IPID’s Special Warranty Deed parcels.
I-48-3		I-48-3	Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-49

		COMMENT	RESPONSE
I-49-1	Alternative 3 method is most preferred. It is least impact on Wilderness. It almost keeps the same conditions as current with least impact to wilderness.	I-49-1	Comment noted.

I-50

		COMMENT	RESPONSE
I-50-1	Construction should not create new impacts to the area’s wilderness character by expanding the footprint of the existing structure.	I-50-1	Construction activities, structures, and construction staging associated with the rebuilt dam will occur on IPID’s Special Warranty Deed parcels. Impacts on wilderness character are described in Chapter 3 of the Draft and Final EISs.

I-51

		COMMENT	RESPONSE
I-51-1	<p>To whom it may concern,</p> <p>I have hiked and camped at the Enchantments and can say first hand that it would be a tremendous loss to the hiking / camping community to have their access to this wonderful area diminished in any significant way.</p> <p>Please take the interests of the hiking and camping community into account when deciding on what to do about the dam.</p> <p>Thank you, Tony Cowan</p>	I-51-1	Comment noted.

I-52

		COMMENT	RESPONSE
I-52-1	I prefer alternative number 1.	I-52-1	Comment noted.

I-53

		COMMENT	RESPONSE
I-53-1	Please avoid any construction that would raise the level of the Alpine lakes in the Enchantment wilderness area. I have tried for a decade to get an overnight permit to this area and have not been successful thus far, which shows how precious this area is for backpacking.	I-53-1	Comment noted. In regard to the impacts from the higher lake level, see the Global Response for Lake Level and Bathtub Ring.
I-53-2		I-53-2	Comment noted.

I-54

		COMMENT	RESPONSE
I-54-1	We oppose alternatives 1&2 consistent with the position taken by WTA. We support minimizing impact.	I-54-1	Comment noted.

I-55

		COMMENT	RESPONSE
I-55-1	I believe you can do the project without changing the Wilderness character of the place. With some creative thinking, I bet you could avoid most conflict with campers and hikers.	I-55-1	Measures to avoid, minimize, and mitigate impacts on recreationists are described in Section 10.6 of the Draft and Final EISs.
I-55-2	Alternatives 1 and 2 raise the lake 4 feet. It is too much.	I-55-2	Commented noted. See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2.

I-56

	COMMENT	RESPONSE
I-56-1	Hi, Thank you for allowing us to share our opinion. I think Alternative #3 is the best option of the three alternatives. We want to minimize all impacts on this fragile area, and this includes raising the level of the lake. Any construction should not create new impacts on the area's wilderness character, and expanding the footprint of the existing lake would do this. All construction activities should minimize any impacts to hiking and recreation in the construction area, and any planned closures should be publicized prior to issuing camping permits. Sincerely, Jeff Martin	I-56-1 Comment noted.
I-56-2		I-56-2 Construction activities, structures, and construction staging associated with the rebuilt dam will occur on IPID's Special Warranty Deed parcels. Impacts on wilderness character are described in Chapter 3 of the Draft and Final EISs.
I-56-3		I-56-3 See the Global Response for Recreation.

I-57

	COMMENT	RESPONSE
I-57-1	I support the WTA position on this...	I-57-1 Comment noted.

I-58

	COMMENT	RESPONSE
I-58-1	Hello, I am writing to oppose the Eightmile Dam project. I oppose both dam construction alternatives because the proposed designs would raise the lake level by four feet.	I-58-1 Comment noted. See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2.
I-58-2	Additionally, construction will create new impacts to the area's wilderness character by expanding the footprint of the existing structure.	I-58-2 Construction activities, structures, and construction staging associated with the rebuilt dam will occur on IPID's Special Warranty Deed parcels. Impacts on wilderness character are described in Chapter 3 of the Draft and Final EISs.
I-58-3	The Eightmile Lake and Alpine Lakes Wilderness are beloved by Washington's trail community. In addition to being a treasured destination, Eightmile Lake is an important source of water for people, farms and aquatic life.	I-58-3 Comment noted.
I-58-4	Therefore, our natural ecology needs must be taken into consideration. Thank you for your consideration and I highly encourage you to reconsider this project in its entirety. Sincerely, Tonia Noland	I-58-4 Comment noted.

I-59

	COMMENT	RESPONSE
I-59-1 I-59-2 I-59-3	Eightmile Lake is a precious gem that should remain as it is. I am opposed to option 1 & 2 as they would raise the lake 4 ft. Recreation is such an important activity in the area that it must be considered in all decisions. Ideally no dam should exist but if it must the least impact on the area, wildlife, and recreation opportunities should be a top priority.	I-59-1 Comment noted. See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2. I-59-2 Comment noted. Refer to Chapter 10 of the Draft and Final EISs for a discussion of potential impacts on recreation. I-59-3 Comment noted.

I-60

	COMMENT	RESPONSE
I-60-1	Protect hiking and camping in the Enchantments!	I-60-1 Comment noted.

I-61

	COMMENT	RESPONSE
I-61-1 I-61-2 I-61-3 I-61-4	I join WTA in opposing alternatives one and two because the proposed designs would raise the lake level by four feet. Construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure. The Icicle and Peshastin Irrigation Districts must plan their construction activities to minimize impacts to hiking and recreation. Any area closures should be planned and publicized prior to issuing camping permits. I would like to ensure that tribes in the area are consulted as part of the design plan, as they have proven to be good stewards of the ecological thriving of the land for generations.	I-61-1 See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2. I-61-2 All construction activities and structures associated with the rebuilt dam will occur on IPID's Special Warranty Deed parcels. I-61-3 See the Global Response for Recreation. I-61-4 Throughout the EIS process, the Confederated Tribes and Bands of the Yakama Nation and the Confederated Tribes of the Colville Reservation have been consulted on potential impacts on both cultural resources (which include archaeological sites, built environment resources, and traditional cultural properties) and tribal resources (which include natural resources and treaty rights). The Forest Service has led tribal consultation on cultural resources impacts as part of the Section 106 process. Ecology has conducted formal consultation with these tribal governments on potential impacts on tribal resources. Consultation with the tribes will continue as the project moves through permitting and construction.

I-62

COMMENT

RESPONSE

I-62-1 | We strongly oppose alternatives one and two because the proposed designs would raise the lake level by four feet.

I-62-1 | Comment noted. See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2.

I-63

COMMENT

RESPONSE

I-63-1 | I support raising the lake level.
Water is a precious resource that needs to be managed. In addition, flood control is very important for environmental and property concerns.

I-63-1 | Comment noted.

I-64

COMMENT

RESPONSE

I-64-1 | No options that raise the lake!

I-64-1 | Comment noted. In regard to the impacts from the higher lake level, see the Global Response for Lake Level and Bathtub Ring.

I-65

COMMENT

RESPONSE

I-65-1 | Please don't raise the dam.

I-65-1 | Comment noted.

I-66

COMMENT

RESPONSE

I-66-1 | I strongly urge you to consider protecting the Alpine wilderness area I'm planning how to create a solution for 8 Mile lake and the new dam. Alpine wilderness area in Washington state is one of the most breathtaking and spectacular places on the planet. Please don't destroy it.

I-66-1 | Comment noted.

I-67

COMMENT

RESPONSE

I-67-1 | Please count my input as part of the Washington Trail Association's.

I-67-1 | Comment noted.

I-68

	COMMENT	RESPONSE
I-68-1	Get that dam outta here, remove it entirely, stop playing "god"	I-68-1 Comment noted.

I-69

	COMMENT	RESPONSE
I-69-1 I-69-2	I agree with WTA that the lake level should not be raised. I feel that the dam should not be repaired and that another dam should be constructed outside the wilderness area to service those with interest in the water reservoir resource. If the dam must be repaired, then alternative 3 is the only choice I approve of. I feel that inundating the land with the higher water level will do permanent damage to the headwaters of the lake where the outwash of the upper drainage has created a "marshy" area that is invaluable habitat. A gateway is a bad idea because it would create a "dead zone" between the high and low water levels that is inappropriate in a Wilderness Area, particularly with regard to aforementioned habitat.	I-69-1 Comment noted.
I-69-3 I-69-4		I-69-2 Comment noted.
		I-69-3 Comment noted.
		I-69-4 Impacts on wildlife associated with water level changes are discussed in Sections 8.4 and 8.5 of the Draft and Final EISs. Water level fluctuations will be managed to avoid long-term adverse impacts on habitat, as habitats recover from the alterations. The lake would have a broader change in surface water elevation - or water level fluctuations - and plants and animals that occupy the fluctuation zone are well adapted to such seasonal changes.

I-70

	COMMENT	RESPONSE
I-70-1 I-70-2	Alternatives 1 and 2 raise the water level and would have a negative impact on the recreational uses of the area. Please choose Alternative 1.	I-70-1 In regard to the impacts and mitigation for recreation from the higher lake level, see the Global Response for Lake Level and Bathtub Ring.
	This is one of the most scenic and popular backpacking and mountaineering areas in the country. It is imperative that the irrigation districts understand that they are not the only stakeholders and must also accommodate the needs of recreational users. This includes the need to plan construction in such a way as to minimally impact recreation.	I-70-2 Comment noted.
I-70-3	It is a wilderness area! It is important not to affect the wilderness value of the area. Thousands of people wait years to get a permit to backpacking this area. This includes me -- I apply for a permit every year and have so far only once had the privilege and pleasure of camping in the Alpine Lakes Wilderness. Please keep it available for me and other backpackers.	I-70-3 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-71

	COMMENT	RESPONSE
I-71-1	The enchantments and the eightmile lake area are not only pristine environments that draw hikers of all walks of life, they are homes to plants and animals already fighting human development. Leaving places like these untouched allow for humans to discover what the world truly is, while also allowing rare flora and fauna a truly natural and safe home. Any decision that would negatively impact the country and animals of eight-mile lake and the enchantments is the wrong one. Any damage done to the area is a direct attack on one of Americans most pristine, beautiful and life changing places.	I-71-1 Comment noted.

I-72

	COMMENT	RESPONSE
I-72-1	I have read the WTA stance and agree with it.	I-72-1 Comment noted.

I-73

	COMMENT	RESPONSE
I-73-1	Please do not build alternate dams or more infrastructure with the Eightmile Lake area. This is a beloved and treasures area with already enough impact. We need to find other solutions. Thank you for your time.	I-73-1 Comment noted. Construction activities, structures, and construction staging associated with the rebuilt dam will occur on IPID's Special Warranty Deed parcels. Impacts on wilderness character are described in Chapter 3 of the Draft and Final EISs.

I-74

	COMMENT	RESPONSE
I-74-1	As a general principle, we should strive not to have dams in wilderness areas and phase out the ones constructed before wilderness designation. Expanding footprints of existing dams should not be under consideration.	I-74-1 Comment noted. Construction activities, structures, and construction staging associated with the rebuilt dam will occur on IPID's Special Warranty Deed parcels.
I-74-2	Alternatives 1 and 2 are unacceptable, since they both expand the dam footprint and cause the lake area to expand, thus affecting the environment.	I-74-2 See the Global Response for Lake Level in regards to Alternatives 1 and 2.
I-74-3	All alternatives will cause significant disruption to flora and fauna. The assessment's assertion that impact to recreational opportunities will be less than significant is simply laughable. I love the Enchantments area and hike there often (including the trail to Eighmile Lake), but I will not hike there during construction and for a couple of seasons afterwards - construction noise and post-construction scars are not what I look for when I go into the wilderness.	I-74-3 Comment noted. Refer to Chapter 8 of the Draft and Final EISs for further discussion of potential impacts on Plants and Animals.
I-74-4		I-74-4 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-75

		COMMENT	RESPONSE
I-75-1	The plans for altering the dam at eightmile lake risk impacting a fragile wilderness area and a popular recreation area.	I-75-1	Comment noted.
I-75-2	Oppose alternatives one and two, because the proposed designs would raise the lake level by four feet.	I-75-2	Comment noted. Refer to the Global Response for Lake Level and Bathtub Ring.
I-75-3	Construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure.	I-75-3	Construction activities, structures, and construction staging associated with the rebuilt dam will occur on IPID's Special Warranty Deed parcels.
I-75-4	The Icicle and Peshastin Irrigation Districts must plan their construction activities to minimize impacts to hiking and recreation. Any area closures should be planned and publicized prior to issuing camping permits.	I-75-4	Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-76

		COMMENT	RESPONSE
I-76-1	I am against alternatives one and two and oppose any action that impinges on the area's wilderness character and expands the existing structure's footprint in this invaluable and unique area.	I-76-1	Comment noted.

I-77

		COMMENT	RESPONSE
I-77-1 I-77-2 I-77-3	I believe option 3 is the best choice. Please do not raise the lake level. Allow for recreational opportunities during and after the construction	I-77-1	Comment noted.
		I-77-2	Comment noted.
		I-77-3	Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-78

	COMMENT	RESPONSE
I-78-1	I have lived in Washington State my entire life. Although I live on the east side in Spokane, I have traveled many many times to the Cascades for the best hiking and climbing in our beautiful and diverse state (best state in our nation, hands down). Having had the opportunity to climb in the Enchantments, I know first hand that it is a fragile area that needs the highest level of protection by all users and the Dept of Ecology. We were just alerted to the Eight Mile Dam project and I agree with all points made by WTA regarding this project. They are as follows;	
I-78-2	--WTA opposes alternatives one and two because the proposed designs would raise the lake level by four feet.	I-78-1 Comment noted.
I-78-3	--Construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure.	I-78-2 Comment noted. See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2.
I-78-4	--The Icicle and Peshastin Irrigation Districts must plan their construction activities to minimize impacts to hiking and recreation.	I-78-3 Construction activities, structures, and construction staging associated with the rebuilt dam will occur on IPID's Special Warranty Deed parcels.
	--Any area closures should be planned and publicized prior to issuing camping permits.	I-78-4 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.
	Thank you in advance for your efforts in protecting this most beautiful area for both current and future generations. Sylvia Oliver	

I-79

	COMMENT	RESPONSE
I-79-1	The irrigation districts should avoid compromising hiking trails and recreation.	
I-79-2	Construction should not increase the footprint of the existing structure.	
I-79-3	Alternatives 1 and 2 are non-starters because they raise the lake level. Area	I-79-1 As discussed in Chapter 10 of the Draft and Final EISs, the project would not result in any campsite closures or limitations on overnight permits during construction. A portion of the trail may be temporarily relocated around the staging area during construction; however, it would be restored back to its original location following construction.
I-79-4	closures should be publicized prior to issuing camping permits.	While not anticipated, blasting with explosives could be necessary during construction. Should that occur, the Eightmile Lake Trail from its junction with the Caroline Lake Trail could be closed periodically over the course of 1 or 2 days. Blasting would be scheduled for mid-week between 11 am and 3 pm.
		I-79-2 Construction activities, structures, and construction staging associated with the rebuilt dam would occur on IPID's Special Warranty Deed parcels.
		I-79-3 Comment noted. See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2.
		I-79-4 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-80

	COMMENT	RESPONSE
I-80-1	Thank you for the opportunity to comment. I am a frequent user of the area in question, since 1968.	I-80-1 Comment noted.
I-80-2	My preference is option 3. I am opposed to raising the lake level as in options 1	I-80-2 Comment noted. See the Global Response for Lake Level and Bathtub Ring in
I-80-3	and 2. Construction must not interfere with the hiking season as the area is	regard to Alternatives 1 and 2.
I-80-4	very popular. Construction must not alter the wilderness character of the area. Sincerely, David Parent DVM	I-80-3 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.
		I-80-4 Comment noted.

I-81

	COMMENT	RESPONSE
I-81-1	Eightmile lake is very special place. I understand that work needs to be done to repair/replace the dam. I have reviewed the 3 options and although I have real concerns about raising the level of the lake by 4 feet, I also understand with unpredictable climate change, the additional water supply during summer drought season may become more essential. Whatever option is ultimately selected, the following points should be included in any project plan. *Construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure.	I-81-1 Construction activities, structures, and construction staging associated with the rebuilt dam would occur on IPID's Special Warranty Deed parcels.
I-81-2	*The Icicle and Peshastin Irrigation Districts must plan their construction activities to minimize impacts to hiking and recreation. *Any area closures should be planned and publicized prior to issuing camping permits. There are already so many trailheads that are not accessible due to fire and road damage, that closing this very popular area to hikers/backpackers would be hard to take	I-81-2 Section 10.6 of the Draft and Final EISs describes measures to reduce impacts on recreation from construction. As stated in Section 10.6, notice of disruption due to construction activities will include notice to people seeking reservations through the lottery and to those awarded reservations. Section 10.6 has been edited to clarify that notice of construction activities will be provided prior to the annual lottery and to those awarded reservations to the extent possible. Notifications will also be provided to groups and clubs.

I-82

	COMMENT	RESPONSE
I-82-1	I am an avid backpacker who has enjoyed hiking in the Alpine Lakes wilderness, and have brought friends from the east coast to experience this fabulous gem we have.	I-82-1 Comment noted.
I-82-2 I-82-3	I oppose Alternatives 1 and 2, and support Alternative 3. By proposing that the lake level be increased by as much as 4 feet, a sizeable area will be flooded, changing the character of the region.	I-82-2 Comment noted. I-82-3 In regard to the impacts from the higher lake level, see the Global Response for Lake Level and Bathtub Ring.
I-82-4	<p>I have been successful in the lottery to obtain permits to camp in the area, and any construction contracts MUST be awarded and publicized prior to the annual lottery since we hikers must plan as much as 6 months in advance for vacation days off, and plane tickets for visitors.</p> <p>Any construction that occurs should minimize the impact on users, best to schedule late in early Fall. For reference, over in the Olympics both access to Enchanted Valley, and access to all trailheads up by Hurricane Ridge, were blocked out this year with almost no advance notice just as the snows melted and hiking season was roaring into place in April until Memorial Day (separate from the tragic loss of the Hurricane Ridge lodge). Likewise the WSDOT fiasco of trying to close the Hood Canal Bridge on weekends during the peak summer months (finally changed to mid-week nighttime only closures.)</p> <p>To summarize: Yes to Alternative 3 Pre-permit lottery closure notification</p> <p>Thank you for your consideration!</p>	I-82-4 Section 10.6 of the Draft and Final EISs describes measures to reduce impacts on recreation from construction. As stated in Section 10.6, notice of disruption due to construction activities will include notice to people seeking reservations through the lottery and to those awarded reservations.

I-83

		COMMENT	RESPONSE
I-83-1	I support alternative #3 because it does not increase the maximum level of the lake which as part of perhaps the most important and popular wilderness area should be preserved as much as possible even to the extent of removing of the dam altogether. I did not see supporting documentation for the use of the water from the lake that justifies the dam in the first place. I recall witnessing a drawdown from snow lake late in the year that was overflowing the bank of the downstream creek causing unnecessary erosion and obviously beyond even spring levels of downstream flow.	I-83-1	Comment noted.
I-83-2		I-83-2	IPID has a water right on Eightmile Lake (see the Water Rights Global Responses). The IPID water right pre-dates the wilderness designation, and allowed for IPID to construct the dam for the purpose of water storage and releases under the right. Regarding the comment related to released water from Snow Lakes, releases from Snow Lakes do not fall under the Eightmile Lake water right. IPID has a separate water right for Snow Lakes (see Section 6.3.1 of the Draft and Final EISs). The U.S. Bureau of Reclamation also has a water right for Snow Lakes. Any particular release from Snow Lakes would need to fall within the limits of the respective water rights. The stream channels in Eightmile, Snow, and Icicle creeks are natural and in a constant state of geomorphic flux resulting from changing flow conditions. Erosion can occur even late in the season due to channel geometry changes that occurred earlier in the year and/or late season precipitation events that increase natural flow. Erosion late in the season may or may not be due to higher than normal flows and releases beyond seasonal norms. The amounts actively released from Snow Lakes are limited by water rights. Any respective releases from Snow Lakes would need to fall within the quantities of the respective water rights and be coordinated among the water right holders.

I-84

		COMMENT	RESPONSE
I-84-1	Any area closures should be planned and publicized prior to issuing camping permits.	I-84-1	Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.
I-84-2	Construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure.	I-84-2	Comment noted. Construction activities, structures, and construction staging associated with the rebuilt dam would be entirely located within IPID's Special Warranty Deed parcels.

I-85

	COMMENT	RESPONSE
I-85-1 I-85-2 I-85-3	Please ensure that the Eight Mile Dam project has a minimal impact on the wilderness in the area. I oppose options that would raise the level of the lake or expand the imprint of the existing structure. Please make sure the construction does not impact recreation and hiking in the area.	I-85-1 Refer to Section 3.6 of the Draft and Final EISs for a discussion of wilderness-related mitigation measures. I-85-2 Comment noted. I-85-3 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-86

	COMMENT	RESPONSE
I-86-1 I-86-2 I-86-3	I oppose Alternatives 1 & 2. Please use Alternative 3 to keep the lake level at it current level. Furthermore, construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure. The Icicle and Peshastin Irrigation Districts must be required to plan their construction activities to minimize impacts to hiking and recreation. Importantly, any area closures should be planned and publicized prior to issuing camping permits.	I-86-1 Comment noted. I-86-2 Comment noted. Construction activities, structures, and construction staging associated with a rebuilt dam would be entirely located within IPID's Special Warranty Deed parcels. I-86-3 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-87

	COMMENT	RESPONSE
I-87-1 I-87-2	I am opposed to alternatives 1 and 2 for the Eight Mile Dam rebuild. They would raise the water level 4 feet as I understand it. This would adversely impact the environment of the area. The solution must not further compromise this fragile and wild ecosystem. Thank you for your consideration. Janet Hamill	I-87-1 Comment noted. See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2. I-87-2 Comment noted.

I-88

	COMMENT	RESPONSE
I-88-1	Our group of older (some in their 80's) hikers in the past have enjoyed hiking up to Eightmile Lake, as well as many other places in the Icicle drainage. We still continue to enjoy the less strenuous hikes and want the beauty we have enjoyed to be preserved for the younger, more hearty folks who continue to hike in the area, including Eightmile Lake. We don't like the idea of raising the lake level, changing the shoreline, eliminating beaches and camping spots, The Alpine Wilderness area is unique and needs to be preserved as is. When construction begins we hope there would be minimal impacts on recreation and hiking and that folks would be informed well ahead of any temporary trail closures, etc. Thank you for your consideration.	I-88-1 Comment noted.
I-88-2		I-88-2 In regard to the impacts on recreation and the Alpine Lakes Wilderness from the higher lake level, see the Global Response for Lake Level.
I-88-3		I-88-3 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-89

	COMMENT	RESPONSE
I-89-1	I would approve of Alt 1 as the best course. Loren R Root.	I-89-1 Comment noted.

I-90

	COMMENT	RESPONSE
I-90-1	I am writing in opposition to alternatives one and two for the Eightmile Lake damn project. I have visited the Enchantments dozens of times and have spent days at Eightmile Lake. The area is rare in its pristine nature and given the size of the lake, it is difficult to understand how adding so much additional height of the damn would ever be warranted. Please support other options.	I-90-1 Comment noted.
I-90-2		I-90-2 Comment noted.

I-91

	COMMENT	RESPONSE
I-91-1	Please keep the enchantments and 8 mile lake as is. This area is one of the gems of Washington state. Stacey bean Stacey@wardden.com	I-91-1 Comment noted.

I-92

	COMMENT	RESPONSE
I-92-1	Having this wilderness area should be left as close to its current state as possible. Raising the lake would be to but an impact to the natural area as it has been for so long.	I-92-1 Comment noted. In regard to the impacts from the higher lake level, see the Global Response for Lake Level and Bathtub Ring.

I-93

	COMMENT	RESPONSE
I-93-1	Raising the lake level would create a larger lake and expand the footprint of the existing structure, and both would be undesirable due to their impacts on recreation. Please plan and publicize area closures before issuing camping permits.	I-93-1 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-94

	COMMENT	RESPONSE
I-94-1	Minimize impact on recreation and keep the water level of the lake at the same level as now.	I-94-1 Comment noted. Measures to minimize impacts on recreation are described in Section 10.6 of the Draft and Final EISs. In regard to lake levels, refer to the Global Response for Lake Level and Bathtub Ring.

I-95

	COMMENT	RESPONSE
I-95-1	Construction should not create new impacts to the area’s wilderness character by expanding the footprint of the existing structure.	I-95-1 Comment noted. Construction activities, structures, and construction staging associated with a rebuilt dam would be entirely located within IPID’s Special Warranty Deed parcels.

I-96

	COMMENT	RESPONSE
I-96-1	333333333 leave eightmile alone	I-96-1 Comment noted.

I-97

	COMMENT	RESPONSE
I-97-1	I enjoy hiking. An important part of hiking is having a healthy meal before-hand. Local agriculture is important. Please work with the local hiking community to keep them aware of construction progress and trail changes.	I-97-1 Comment noted.

I-98

	COMMENT	RESPONSE
I-98-1	Please do not raise the level of the lake due to the potential environmental impact it could have. Raising the lake level will impact the wildlife and recreation negatively.	I-98-1 In regards to the impacts from the higher lake level, see the Global Response for Lake Level and Bathtub Ring.

I-99

	COMMENT	RESPONSE
I-99-1	To the Washington Department of Ecology,	I-99-1 Comment noted.
	The Washington Trails Association have alerted me that they will be acting to oppose Alternative 1 and 2 for the Eightmile Dam Rebuild and Restoration Project because they feel that they threaten recreation in the area. As a member of the WTA, I feel like I must voice my support in favor of them.	I-99-2 Comment noted.
	I have spent many beautiful days and nights hiking and camping in the Enchantments. They hold an extra special place in my heart as my wife and I got engaged after a day hike to Colchuck Lake. While I currently do not reside in the area, I plan to move back one day and hope to spend a great deal more time among those wondrous jagged peaks and golden larch.	I-99-3 Comment noted.
	The WTA is concerned that raising the level of Eightmile Lake and increasing the footprint of the structures would do harm to the wilderness and the recreation opportunities it provides. It is with my love for the area that I say that it is okay for things to change. The IPID has made it clear that storing more water is necessary for the region's resilience to drought conditions. With drought risk rising due to climate change, this should take precedence over recreation. New hiking trails can be made. Camping spots can be moved. But climate resilience is a necessity.	
I-99-2		
I-99-3	I am thus opposed to Alternative 3.	
	Sincerely, Evan Van Cotthem	

I-100

	COMMENT		RESPONSE
I-100-1	I am in support of alternative three as it seems to impact the area, (which I have had the pleasure to enjoy) the least. Thank you	I-100-1	Comment noted.

I-101

	COMMENT		RESPONSE
I-101-1	strongly oppose this dam	I-101-1	Comment noted.

I-102

	COMMENT		RESPONSE
I-102-1	If it is not broke, don't fix it. I'm in favor of the do nothing alternative. My second favorite is alternative 3 which keeps the level of the lake the same as is it.	I-102-1	Comment noted.

I-103

	COMMENT		RESPONSE
I-103-1	Remove the damn dam!	I-103-1	Comment noted.

I-104

	COMMENT		RESPONSE
I-104-1	Please consider the preservation of this wonderful wild scenic area for hikers and backpackers	I-104-1	Comment noted.

I-105

	COMMENT		RESPONSE
I-105-1	Please do not construct facilities that further impact this rare jewel in nature. Raising the level of the lake four feet is too much impact!	I-105-1	Comment noted. See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2.

I-106

COMMENT

RESPONSE

I-106-1	Regarding the Eightmile Dam project,	I-106-1	Comment noted. See the Global Response for Lake Level and Bathtub Ring.
	I am against alternatives one and two because the proposed designs would raise the lake level by four feet.	I-106-2	Comment noted.
I-106-2	Please protect the Alpine Lakes Wilderness!		

I-107

COMMENT

RESPONSE

I-107-1	I understand how many interests must be kept in the balance with the Eightmile Dam replacement project. I want to see a solution that works for all WA residents and interests. To that end, I encourage moving forward with alternative #3 in the proposal.	I-107-1	Comment noted.
	As one who has camped in this area, I know how fragile the area is and how much crowds already threaten the area's ecology. I also know the Washing Trails Association opposes alternatives one and two because the proposed designs would raise the lake level by four feet. In my mind, that takes a lot of existing camp sites out of circulation.	I-107-2	Comment noted. In regard to the impacts associated with the lake level, see the Global Response for Lake Level and Bathtub Ring. As noted in Section 10.5 of the Draft and Final EISs, higher water levels would not inundate any designated trails or campsites. Construction activities, structures, and construction staging associated with the rebuilt dam will occur on IPID's Special Warranty Deed parcels.
I-107-2	I believe construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure, as well. I believe the downstream needs of Icicle Creek can be met without raising the lake level or footprint.	I-107-3	Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.
I-107-3	I also think it's very important that the Icicle and Peshastin Irrigation Districts plan their construction activities to minimize impacts to hiking and recreation. Access to trailheads is already difficult in Western and Central WA and we must recognize that. A critical part of this is keeping in mind that any area closures should be planned and publicized prior to issuing camping permits. With such competition for camping permits and sites, a lot of us plan well in advance.		
	I appreciate the thoughtfulness you are putting into this plan and believe you will find a path forward that satisfies the needs of all stakeholders.		

I-108

COMMENT		RESPONSE
I-108-1	Please consider the impact to the Enchantments in the Alpine Lakes Wilderness when planning the dam replacement on Eight Mile Lake. Please select a plan that will not raise the water level of the lake or expand the dam's impact to the area in any way.	I-108-1 Comment noted. Potential impacts on the Enchantments have been considered and are described in Sections 10.4 and 10.5 of the Draft and Final EISs.
	My hike to the enchantments almost 20 years ago was one of the most amazing experiences of my life. I can still picture the beauty in my mind's eye and hope future generations can have that same experience.	
	Thank you for protecting this national treasure.	
	Kelley Strange	

I-109

COMMENT		RESPONSE
I-109-1	I support alternative 1, I think it is a good idea to have the narrow spillway with gates. I believe it is better to be able to control the water volume with the gates especially if there was some quick runoff they would be able to prevent breaching the dam	I-109-1 Comment noted.

I-110

COMMENT		RESPONSE
I-110-1	Please implement option 3. Raising the height of the lake would be completely unacceptable. WILDERNESS.	I-110-1 Comment noted.
I-110-2		I-110-2 Comment noted. Refer to the Global Response for Lake Level and Bathtub Ring.

I-111

COMMENT		RESPONSE
I-111-1	I support plan 3. Thank you.	I-111-1 Comment noted.

I-112

		COMMENT	RESPONSE
I-112-1	I vote for plan 3	I-112-1	Comment noted.
I-112-2	Construction should not create new impacts to the area’s wilderness character by expanding the footprint of the existing structure.	I-112-2	Comment noted. Construction activities, structures, and construction staging associated with a rebuilt dam would be entirely located within IPID’s Special Warranty Deed parcels.
I-112-3	The Icicle and Peshastin Irrigation Districts must plan their construction activities to minimize impacts to hiking and recreation.		
	Any area closures should be planned and publicized prior to issuing camping permits.	I-112-3	As described in Chapter 10 of the Draft and Final EISs, construction activities have been planned to minimize the impacts on hikers and recreationists to the greatest extent possible. Some users may experience delays or choose to avoid the area during construction, as helicopter noise will be noticeable. Recreationists at Eightmile Lake would experience visual changes due to fluctuating water levels, as described in Chapter 11, Visual Resources. Fluctuating water levels would also alter informal fishing opportunities around the lake, potentially making some areas less suitable for fishing and other areas more desirable, depending on the water level. While the operation of the dam would change recreational opportunities at Eightmile Lake, some of these changes could be experienced as improvements by some recreationists, and there would be no permanent closure of recreation. Refer also to the Global Response for Recreation.

I-113

		COMMENT	RESPONSE
I-113-1	Pristine wilderness areas need to be saved For future generations and the health of the world. They should be left alone. There are so few of them left.	I-113-1	Comment noted.

I-114

		COMMENT	RESPONSE
I-114-1	Thanks for carefully vetting all the options with partners. Alternative 3 would have the least impact on the Wilderness and recreation. Please require minimal construction impact and narrowly timed closures to further minimize impacts.	I-114-1	Comment noted.

I-115

	COMMENT	RESPONSE
I-115-1	Regarding the Eightmile Dam Project:	I-115-1 Comment noted.
	I support Alternative 3 for the following reasons:	I-115-2 Comment noted.
	-Least overall impact, visually, noise-wise, and during construction	
	-Does not expand footprint of the existing structure	
I-115-1	-Provides for public safety and adequate irrigation shares to senior water rights holders	
	-Though in severe drought years alternative 3 may have the greatest impact on fish, there are possible mitigation measures for extreme drought years that do not have the same overall long-term impacts as an expanded dam footprint or large gates.	
I-115-2	Our family owns property in the Leavenworth area and we frequently recreate (summer and winter) in the Icicle Creek drainage, including Eight Mile Lake.	
	Thank you for taking my comments into consideration.	

I-116

	COMMENT	RESPONSE
I-116-1	As a strong supporter of Washington's many amazing trails and WTA member, I oppose alternatives one and two because the proposed designs would raise the lake level by four feet.	I-116-1 See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2.
I-116-2	Construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure.	I-116-2 Construction activities, structures, and construction staging associated with the rebuilt dam will occur on IPID's Special Warranty Deed parcels.
	The Icicle and Peshastin Irrigation Districts must plan their construction activities to minimize impacts to hiking and recreation.	Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.
	Any area closures should be planned and publicized prior to issuing camping permits.	

I-117

	COMMENT	RESPONSE
I-117-1	My comment is in support of Alternative 3 to the Eightmile Lake Dam project and completely against Alternatives 1 & 2. Do not raise this lake 4 feet,	I-117-1 Comment noted.
I-117-2	thereby flooding recreational areas and changing the nature of the Eightmile Lake wilderness area even further than the IPD has already done. Thank you.	I-117-2 In regard to the impacts and mitigation for recreation from the higher lake level, see the Global Response for Lake Level and Bathtub Ring.

I-118

COMMENT		RESPONSE
I-118-1	I am definitely opposed to Alternative 2, which would change the character of the area. Alternative 3 would be my first choice.	I-118-1 Comment noted.

I-119

COMMENT		RESPONSE
I-119-1	The Enchantments are a special place for recreation and conservation and they should be protected for use by future generations.	I-119-1 Comment noted.

I-120

COMMENT		RESPONSE
I-120-1	Dear Department of Ecology: I am writing to comment on the proposed dam reconstruction at Eightmile Lake. I have hiked in that area for many years, it is a highly popular area, and I have been discouraged by the increasing impact on lake levels associated with (mis?) management of water.	I-120-1 Comment noted.
	With respect to the proposed dam, the overarching challenge is to proactively resolve the competing needs between irrigation and recreation. WE want to minimize the impact of construction on the wilderness. This would include any solutions that significantly changes lake levels and the accompanying negative impact on the ecosystem.	I-120-2 In regard to the potential impacts from the higher lake level, see the Global Response for Lake Level and Bathtub Ring.
	Beyond this, I request that construction be planned and negotiated to minimize impact on recreation use, including planning for construction BEFORE permits are issued so hikers know what they are getting into.	I-120-3 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.
I-120-3	Thanks for your consideration as we all struggle to balance competing concerns and needs.	

I-121

COMMENT

RESPONSE

I-121-1	I am opposed to any of the options for the dam rebuild that raise the level of Eightmile Lake above its existing high water mark. Otherwise, I leave it to the Irrigation District and the engineers to design a rebuild that meets requirements for efficient water use, structural safety and minimal visual impact.	I-121-1	Comment noted.
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I-122

COMMENT

RESPONSE

I-122-1	The enchantment lakes are a treasure in this state. Though dam improvements are important, equally so is preserving the environment for wildlife and recreation of this beautiful and popular area. Please exercise extreme caution in the selection of solutions.	I-122-1	Comment noted.
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I-123

COMMENT

RESPONSE

I-123-1	I am a native of Wenatchee and have hiked many times into Eightmile Lake and other areas of the Alpine Lakes Wilderness.	I-123-1	No roads would be constructed within the Alpine Lakes Wilderness as a part of this project. Mitigation measures to reduce environmental impacts are described throughout the Draft and Final EISs.
I-123-1	If the Eightmile Dam must be repaired, there are several essential requirements to preserve the wilderness and natural landscape.	I-123-2	Refer to the Water Rights Global Response for Trust Donation.
I-123-2	1. No roads should be built in the wilderness. Effort must be taken to minimize any environmental impacts. 2. Any water placed into a Trust Water Right must be designated "permanently donated for instream flow". Water from Eightmile Creek must flow uninterrupted to the Wenatchee River, to the Columbia River, and to the ocean. 3. The water "permanently donated for instream flow" should go into the historical channel for Eightmile Creek. 4. Dam reconstruction should blend into the natural landscape of the Alpine Lakes Wilderness, as the existing dam does.		As described in the Global Response, Ecology intends to manage this donated water instream from the outlet of Eightmile Lake to the confluence of Icicle Creek with the Wenatchee River. The releases will be coordinated with Icicle Work Group (IWG) members, Icicle Strategy instream flow subcommittee, IWG co-conveners, and fishery co-managers. Coordination and decisions surrounding lake releases and flow management within the Icicle Creek Subbasin will be informed, in part, by a separate IWG process including a decision support tool being developed as part of the Icicle Strategy. Also refer to the Section 2.6 (Dam Operation) of the Draft and Final EISs.
I-123-3	The Alpine Lakes Wilderness and Central Cascades have gained popularity and are more traveled than when I spent countless hours hiking into the beautiful lakes and peaks as a young adult. My dad, an avid outdoorsman, spent his childhood hiking the same trails I later traversed. This area is sacred to many, and protecting its beauty and pristine wilderness is of vital importance.	I-123-3	Measures to reduce impacts on visual resources from operation of the dam are described in Section 11.6.2 of the Draft and Final EISs.

I-124

	COMMENT	RESPONSE
I-124-1	Hello,	I-124-1 Comment noted.
I-124-2	I oppose any option that raises the current water level in Eightmile Lake. All construction activities must be planned to minimize the impact on people recreating in this beautiful area. Additionally, detailed public notice of construction activities must be provided -- to help with this, I suggest that you establish an email distribution list for those who wish to be notified of any construction activity that might affect their use of the area.	I-124-2 Comment noted. Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.
	Thank you for your consideration of these comments.	
	Rob Gronewold	

I-125

	COMMENT	RESPONSE
I-125-1	My interest is to maintain hiking acces & not elevate the lake level.	I-125-1 Comment noted.
I-125-2	Thanks	I-125-2 Comment noted.

I-126

	COMMENT	RESPONSE
I-126-1	Please listen to and seek counsel with Washington Trail Association. Please do not make any permanent changes without consulting.	I-126-1 Comment noted.

I-127

	COMMENT	RESPONSE
I-127-1	The lake is great area for hikers to soak up their feet after a long day. Please keep the lake available to hikers	I-127-1 Comment noted. The project would not impact access to the lake. During construction, access to the area directly adjacent to the dam and the staging area would be restricted, and a small portion of the trail would be temporarily relocated to direct hikers safely around the construction area. However, recreational opportunities are not expected to be limited during construction. While not anticipated, blasting with explosives could be necessary during construction. Should that occur, the Eightmile Lake Trail from its junction with the Caroline Lake Trail, could be closed periodically over the course of 1 or 2 days. Blasting would be scheduled for mid-week between 11 am and 3 pm.

I-128

COMMENT

RESPONSE

- I-128-1 | I support the Washington Trails Association regarding action being proposed for the Enchantments. Raising the water level of Eight Mile Lake would affect the area for hikers, and the existing flora and fauna. Please do not select those options that would drastically change the landscape of this fragile area.
- I-128-2 |

- I-128-1 | Comment noted.
- I-128-2 | In regard to the impacts from the higher lake level, see the Global Response for Lake Level and Bathtub Ring.

I-129

COMMENT

RESPONSE

- I-129-1 | PLEASE do not accept a proposal that potentially raises the level of the lake by 4 feet. This is a FRAGILE ALPINE AREA and that kind of rise in level will permanently change the environment.
- I-129-2 | The alpine area produces significant economic benefit for the region because it attracts visitors from around the world who then spend their \$ in towns.
- I-129-3 | Alternatives 1 and 2 are not acceptable.
- I-129-4 | If we are worried about drought, our first measure should be water conservation - not raising dams.

- I-129-1 | In regard to the potential impacts from the higher lake level, see the Global Response for Lake Level and Bathtub Ring.
- I-129-2 | Comment noted.
- I-129-3 | Comment noted.
- I-129-4 | Comment noted. Several conservation programs were evaluated as part of the Icicle Strategy FPEIS in 2019. Chapter 4 of the Draft and Final EISs describe the potential impacts associated with climate change and surface water for each alternative. Refer also to the Global Response for Water Conservation.

I-130

COMMENT

RESPONSE

- I-130-1 | After reviewing the Department of Ecology's report I support Option 3. The construction should not impact the wilderness character and not increase the footprint of the lake. As the work site is localized to the dam and the lake the trails should remain open to other parts of the Enchantments.

- I-130-1 | Comment noted.

I-131

COMMENT

RESPONSE

I-131-1	It never ceases to amaze me how people who come into a part of the country think they know better than anybody else how to change and mess up the land. How many years did the Enchantments get along without a man made dam on it? If only we could leave the forests and the trails into the forest alone. Please do not go changing the trails, streams, and rivers. The Creation was just fine before the Euro Americans came in and decided to change and rearrange things. Please leave the enchantments they way they were. Many other streams and trails (Joan Lake Trail, Sunday Lake Trail, etc) have been changed and people's lives lost as well as the trails themselves by the orders of those who think they know better about the Creation.	I-131-1	Comment noted.
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I-132

COMMENT

RESPONSE

I-132-1	The Enchantments, part of the Okanogan-Wenatchee National Forest, are such a popular destination that overnight permits for May-October are reserved by lottery system. Therefore, it's vital for both land and people that hikers' and backpackers' needs are taken into consideration.	I-132-1	Comment noted.
I-132-2	Hiking season has already been negatively impacted by many closures for construction, rebuilding roads, and seasonal wildfires. Please be mindful of the impact this has on outdoors-people who rely on access to these wild places.	I-132-2	Comment noted. Construction activities, structures, and construction staging associated with the rebuilt dam would be entirely located within IPID's Special Warranty Deed parcels.
I-132-3	Construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure. Please plan construction activities to minimize impacts to hiking and recreation during our already short access season. Additionally, all area closures should be planned and publicized prior to issuing camping permits.	I-132-3	Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-133

COMMENT

RESPONSE

I-133-1	I don't have a real deep opinion on the project options. I will support the WTA option 3 support for wildlife, but if there is finding facts that help support beyond any measures for campers the need for the water level raise then I support the community needs. If any of these plans displace more wildlife then I support the earth.	I-133-1	Comment noted.
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I-134

	COMMENT	RESPONSE
I-134-1	I would like to thank you for considering all of the public comments on this project. My concern lies with ensuring the least environmental impact possible so as the natural world may continue with as little of human "progress" to denude it of it's intrinsic worth and beauty as possible. Therefore please consider proposal 3 as the least intrusive. Thank you again	I-134-1 Comment noted.

I-135

	COMMENT	RESPONSE
I-135-1	Please don't ruin the trail! This area is very precious to hikers. All of the Enchantments are treasures. Please don't use proposals 1 or 2, and please keep the impact on hikers to a minimum	I-135-1 Comment noted.

I-136

	COMMENT	RESPONSE
I-136-1	Please chose Alternative 3 and limit the environmental and esthetical impact to this beautiful area. With more and more orchards uprooted locally to make room for new developments and storage units, the need for extra water is coming down. Recreational and environmental value of this area on the other hand is increasing.	I-136-1 Comment noted.
I-136-2		I-136-2 Comment noted. As described in Chapter 6, Water Rights, of the Draft and Final EISs, water use is governed by existing water rights. Refer to Section 6.3 for further discussion of water rights.
I-136-3		I-136-3 The recreational opportunities and popularity of the area are described in Section 10.3 of the Draft and Final EISs.

I-137

	COMMENT	RESPONSE
I-137-1	I am an avid hiker and life-long resident of Washington State. Maintaining the existing semi-wilderness character of the lake area is important to me. The following comments reflect concern about negative impacts associated with construction and alternatives proposed:	I-137-1 Comment noted.
I-137-2	I opposes alternatives one and two because the proposed designs would raise the lake level by four feet.	I-137-2 Comment noted. See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2.
I-137-3	Construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure.	I-137-3 Comment noted. Construction activities, structures, and construction staging associated with a rebuilt dam would be entirely located within IPID's Special Warranty Deed parcels.
I-137-4	The Icicle and Peshastin Irrigation Districts must plan their construction activities to minimize impacts to hiking and recreation. Any area closures should be planned and publicized prior to issuing camping permits. Thank you	I-137-4 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-138

	COMMENT	RESPONSE
I-138-1	Construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure.	I-138-1 Comment noted. Construction activities, structures, and construction staging associated with a rebuilt dam would be entirely located within IPID's Special Warranty Deed parcels.
I-138-2	The Icicle and Peshastin Irrigation Districts must plan their construction activities to minimize impacts to hiking and recreation. Any area closures should be planned and publicized prior to issuing camping permits.	I-138-2 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-139

	COMMENT	RESPONSE
I-139-1	Speaking from the perspective of a hiker and backpacker who has enjoyed this area many times, I prefer Option 3 since it does not raise the lake level and as a result doesn't increase the footprint of the dam. And please, please take access to this beautiful area in consideration as you plan construction.	I-139-1 Comment noted.
I-139-2		I-139-2 Comment noted. Measures to minimize impacts on recreation are described in Section 10.6 of the Draft and Final EISs.

I-140

COMMENT			RESPONSE
I-140-1	Eight Mile Lake is a significant hiking destination for ours and many other families. Please ensure that any dam modifications or changes maintain the lake at its current level and preserve the recreational opportunities we currently enjoy.	I-140-1 Comment noted.	

I-141

COMMENT			RESPONSE
I-141-1	I am writing to express my opposition for Eightmile Dam construction or enhancements that would increase lake levels to Eightmile Lake or other lakes and alpine lakes within the immediate and surrounding wilderness areas. These precious lakes sit within wilderness that should be protected and is already in very popular, high demand areas requiring lotteries for permits. As citizens of Washington and stewards of our public lands, we should do our part to minimize impacts to nature and wilderness while also allowing public access to these beautiful lands, including Eightmile Lake and the surrounding area.	I-141-1 Comment noted.	

I-142

COMMENT			RESPONSE
I-142-1	I support a dam alternative that is minimally altering to the landscape and ecosystems, and that doesn't flood 8 mile trail!	I-142-1 Comment noted.	

I-143

COMMENT			RESPONSE
I-143-1	I oppose any changes to the Eightmile Lake dam that would raise the water level, harm recreational hiking in the Enchantments, and negatively impact wildlife. I oppose proposals 1 and 2.	I-143-1 Comment noted.	

I-144

	COMMENT	RESPONSE
I-144-1	<p>I agree with the conclusion of the Washington Trails Association that the lake level should NOT be raised 4 feet because that would permanently and seriously alter the area. Eightmile Lake is a critical part of an area of extraordinary natural beauty, enjoyed by hundreds of Washingtonians, from the casual hiker to the serious backpacker and rock-climber. This area is so valuable to the lives of so many folks in this state, that you must preserve it for the peoples' usage!!</p> <p>Thank you for your consideration.</p>	<p>I-144-1 Comment noted. Impacts on recreation from changes in the lake level are described in Section 10.5 of the Draft and Final EISs. Also refer to the Global Response for Lake Level and Bathtub Ring.</p>

I-145

	COMMENT	RESPONSE
I-145-1	<p>It pains me deeply to see that we still can't learn to revere our most highly valued and sensitive wilderness areas. We have no business, mucking around with heavy equipment in such a sanctuary. Certainly we can catch our water somewhere closer to the already-over-populated areas. I realize there was an existing dam, but we used to think horse-riding and golf were great ideas at Mt. Rainier, too. Just stop. Find less rapacious ways to exploit our resources, or let us do without.</p>	<p>I-145-1 Comment noted.</p>

I-146

	COMMENT	RESPONSE
I-146-1	<p>I am an avid hiker around Washington, and particularly around the Enchantments area and Eightmile Lake. I grew up hiking to Eightmile Lake, and being able to ensure continual access for outdoor enthusiasts to the lake is a very critical issue for me.</p> <p>Though I understand and support the efforts to upgrade the Eightmile Dam, I strongly oppose proposed alternatives 1 and 2 for the Eightmile Dam as they would certainly have major impacts for outdoor enthusiasts such as myself who believe that this lake is one of the most spectacular in the state of Washington. I also believe that, no matter what plan is implemented, it is important to minimize impacts to the wilderness area and notify anyone participating in outdoor recreation at the lake of any potential impacts in advance.</p>	<p>I-146-1 Comment noted. Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.</p>

I-147

		COMMENT	RESPONSE
		Dear Project Review Team,	
I-147-1	I am writing to express my concerns regarding the Draft Environmental Impact Statement (EIS) for the Eightmile Dam Rebuild and Restoration Project. As an individual who values the natural environment and outdoor recreational activities available in the area, I find it crucial to voice my perspective.	I-147-1	Comment noted.
	I strongly believe in the preservation of our natural environment. The unique natural state of this area is irreplaceable, and I feel it is our duty to ensure its protection for the future generations. Any changes to the environment should be undertaken with the utmost care and consideration for the long-term health of the ecosystem.	I-147-2	Comment noted.
I-147-2			
	Having reviewed the three options proposed in the Draft EIS, I wish to express my opposition to options 1 and 2. While I understand that there may be a need for dam restoration and that this project may have potential benefits, I believe that the environmental costs associated with these options are too high.	I-147-3	Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.
I-147-3	The area surrounding the Eightmile Dam is not just a habitat for a diverse range of flora and fauna; it is also a beloved destination for backpackers and hikers. Any construction or modification activities must ensure that these recreational activities are minimally impacted. The preservation of hiking trails and backpacking sites should be a priority in the project planning and execution.		
I-147-4	Any construction activities must be designed and implemented in a manner that is minimally impactful to the environment. This includes careful management of construction waste, noise control, and the minimization of habitat disruption. It is essential to balance human needs with environmental protection and to consider the full range of impacts on both the natural habitat and recreational activities.		
	While I understand the need for dam restoration, I urge the project team to consider options that prioritize environmental preservation and minimal impact on outdoor recreational activities. The natural beauty and recreational opportunities provided by the Eightmile Dam area are invaluable, and their preservation should be paramount in any project decisions.		
	Thank you for considering my comments.		
	Sincerely,		
	Devin Anderson		

I-148

	COMMENT	RESPONSE
I-148-1	<p>I am a Chelan county taxpayer, with a small home near Lake Wenatchee and oppose alternatives 1 and 2. Please do not increase Lake level by 4 feet. These options would significantly impact the beauty and usability of this area for hiking, and wildlife. My husband and I have owned our cabin for twenty years. Please protect this area in the Enchantments!</p> <p>Therese Campion</p>	<p>I-148-1 Comment noted. See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2.</p>

I-149

	COMMENT	RESPONSE
I-149-1	<p>Alternative 3 should be strongly considered as the preferred option for the sake of preserving the existing character & size for the lake and it's surroundings. This area is unique in it's natural wilderness beauty and as one of Washington's premier destinations for outdoor enthusiasts any work to address dam improvements should prioritize minimal impacts to that environment.</p>	<p>I-149-1 Comment noted.</p>

I-150

	COMMENT	RESPONSE
I-150-1	<p>As Washington's population increases it has become harder and harder to recreate in our amazing wildernesses. Fewer roads and trails are maintained, fire season becomes longer and requires increasing attention, permits for popular areas can be difficult to obtain--please don't make it even harder to enjoy a treasured area. I recognize that competing needs and uses have to be balanced -- agriculture and recreation for example, but don't forget near-by Leavenworth and other east side mountain towns owe a much larger portion of their growth to outdoor recreation than to agriculture. If the Eightmile Lake dam must be repaired, please do it in a way that does not devalue the recreation community's seat at the table.</p>	<p>I-150-1 Comment noted.</p>

I-151

	COMMENT	RESPONSE
I-151-1	As a lover of the wonders of Washington's wild areas, I urge you to choose a plan best both for hikers and for the Alpine Lakes Wilderness we all seek to preserve.	I-151-1 Comment noted.
I-151-2	• Construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure	I-151-2 Comment noted. Construction activities, structures, and construction staging associated with a rebuilt dam would be entirely located within IPID's Special Warranty Deed parcels.
I-151-3	• I oppose alternatives one and two because the proposed designs would raise the lake level by four feet	I-151-3 Comment noted. See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2.
I-151-4	• Any area closures should be planned and publicized prior to issuing camping permits • The Icicle and Peshastin Irrigation Districts must plan their construction activities to minimize impacts to hiking and recreation	I-151-4 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-152

	COMMENT	RESPONSE
I-152-1	This area is dear to hikers. Please take to heart the following: WTA opposes alternatives one and two because the proposed designs would raise the lake level by four feet. Which is unacceptable.	I-152-1 Comment noted. See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2.
I-152-2	Construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure. Please consider that what is best for nature is best for us in the long run.	I-152-2 Comment noted. Construction activities, structures, and construction staging associated with a rebuilt dam would be entirely located within IPID's Special Warranty Deed parcels.
I-152-3	The Icicle and Peshastin Irrigation Districts must plan their construction activities to minimize impacts to hiking and recreation. PLEASE. Any area closures should be planned and publicized prior to issuing camping permits.	I-152-3 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-153

	COMMENT	RESPONSE
I-153-1	I am impressed with the research work and care of the proposals and p[resentation and I think all for their work. I support Option 2. MNore sotrage is better and we're doing all the work anyway. I do prefer less machinery etc once it is built. Thank you Alan Stuard	I-153-1 Comment noted.

I-154

		COMMENT	RESPONSE
I-154-1	I oppose options 1 and 2 because of the possible change in the lake water level. Any new construction should not negatively impact the area for hiking and other forms of recreation. Closures should be well documented for the public.	I-154-1	Comment noted. Refer to the Global Response for Lake Level and Bathtub Ring.
I-154-2		I-154-2	Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-155

		COMMENT	RESPONSE
I-155-1	<p><u>Citizen comments regarding</u> Eightmile Dam Rebuild and Restoration Project Draft (EIS) May 27, 2023</p> <p>I visited the dam and Eightmile Lake a few years ago when the Icicle Working Group was underway and it became clear that work on the dam was going to be likely. I needed to see the situation and the current status of the dam and the lake myself.</p>	I-155-1	Comment noted.
I-155-2	<p>I also recognize that the water rights issue is very complex and may still not be completely settled without the courts weighing in. I do believe that while certain water rights and the dam height were grandfathered in with the creation of the Alpine Lakes Wilderness, I do not believe that there is any legal or water rights justification to raise the historical height of the dam and increase the size/storage capacity of the lake.</p>	I-155-2	The water right is limited to the quantity of water under IPID's water right, rather than the dam height. The volume of active storage available for use by IPID following the dam rebuild is limited to the extent of the right and no more. One focus of the water rights review in the EIS was to assess whether the range of active storage capacities for design alternatives being considered were reasonable. This review was accomplished by reviewing the information available, including the Multi-fill Analysis, and it was used to inform the maximum physical active storage capacities for each alternative. Refer to the Global Responses for Tentative Determination of Extent and Validity, Multi-Fill Analysis, and Relinquishment.
I-155-3	<p><u>Construction Alternatives</u> So, while I agree that work needs to be done on the dam, I strongly support Alternative 3. Alternative 3 provides the irrigators the water I believe most authorities believe they have legal rights to. Alternative 3 is also less intrusive from a visual aspect and does not change the more recent historical levels of the lake.</p>	I-155-3	Comment noted.
I-155-4	<p><u>Helicopter Options</u> While both helicoptering alternatives will generate excessive noise levels, in conflict with Wilderness values, using helicoptering is still preferable to significant road building in the Wilderness. In considering the two alternatives, I would prefer Helicopter Option 1. The cumulative and ongoing noise impacts for the 245 trips vs 20 trips during construction period seems to make Option 1 the better choice. There will be more impacts for a few days at the beginning and end but much less during the bulk of the construction period.</p>	I-155-4	Comment noted.
I-155-5	<p><u>Noise impacts to wildlife</u> Helicopter intrusions and blasting could negatively impact certain wildlife at certain times in their rearing of their young. I would hope that impacts to bird nesting and animal denning will be factored in when determining the times of maximum noise impacts.</p>	I-155-5	Comment noted. The EIS evaluates disturbance to all wildlife species, and specifically breeding individuals. Sections 8.4 and 8.5 of the Draft and Final EISs summarize these impacts.
I-155-6	<p><u>Impacts to recreation</u> Option 1 should produce overall less helicopter noise for most of the project duration. However, there must be significant communication ahead of time regarding helicopter and blasting operations. Posting signs at trailheads will not be adequate. Accurate and timely communication to major media and recreation groups will be essential to reduce the incidents of angry and upset citizens upon encountering unplanned construction impacts. People will need to be made aware of the general construction impacts and how it may impact their day hike or overnight backpack and camping experience.</p> <p>Paul Gould Burien, WA</p>	I-155-6	Section 10.6 of the Draft and Final EISs includes information about notification of construction activities, such as press releases to notify local organizations.

I-156

	COMMENT	RESPONSE
I-156-1	Please select Alternative 3. IPID has operated a derelict dam at Eightmile Lake for decades and has created a safety hazard for downstream residents. By not using these water rights for 30 years they have not perfected these rights and a court may rightly find that they have been relinquished. The analysis of impact to Wilderness is incorrect. By raising dam heights and lowering drawdown levels beyond historic use and proven water rights, the enlarged dam will create a large bathtub ring devoid of vegetation within the Wilderness. That would constitute a significant adverse impact.	I-156-1 Refer to the Global Responses for Tentative Determination of Extent and Validity and Relinquishment.
I-156-2		In addition, Chapter 6 and Section 6.3.1 of the Draft and Final EISs describe IPID's use of its storage right, including IPID's Comprehensive Water Conservation Plan indicating that IPID typically releases water provided by its several Alpine Lakes storage rights from a single lake in most normal to wet years, but from multiple lakes in dry years. The conservation plan further notes that typically Eightmile Lake is the first lake IPID releases water from each year. While the annual quantity was not included on the Eightmile Lake water right certificate when it was issued in 1939, it is clear that some, and potentially all, of the right was perfected based on available information in the record related to infrastructure and historical beneficial use. Refer to response to comment O-9-15 for additional information regarding perfection of the right along with the Global Response for the Tentative Determination of Extent and Validity.
	I-156-2	With regard to the bathtub ring, see the Global Response for Lake Level and Bathtub Ring.

I-157

	COMMENT	RESPONSE
I-157-1	I support Plan 3 for reconstruction of the Eight Mile Lake dam. Plans 1 and 2 increase the footprint of the current reservoir with potential changes to habitat around the lake. The solution for people in Leavenworth and Peshastin is to learn how to use less water rather than increasing storage. If expansion and new construction is desirable in these areas, developers should work within the existing parameters for water usage rather than demand more water. Water is a threatened resource. We should all learn to use less of it for long term survival, rather than be greedy for short term benefit.	I-157-1 Comment noted.
I-157-2		I-157-2 Comment noted. Refer to Section 15.5 in the Draft and Final EISs for a discussion of impacts of the alternatives on water usage in the City of Leavenworth. In addition, see the Global Responses for Water Conservation and No Change to Municipal Use.

I-158

	COMMENT	RESPONSE
I-158-1	Please do not choose a dam project that will raise the level of the lake.	I-158-1 Comment noted.

I-159

		COMMENT	RESPONSE
I-159-1	I support the rebuild of Eightmile Lake damn. However, I am opposed to the alternatives that plan to raise the level of the lake. The project should not include increases in damn height. This would negatively affect recreational uses on the shoreline and I assume it would also change the timing and volume of releases of water into the creek which at least theoretically could negatively affect the creeks existing ecosystem. The irrigation district is surely not entitled to an increase in its water right? Replacement in kind seems the fair approach for all concerned.	I-159-1	Comment noted. See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2.
I-159-2		I-159-2	Impacts on recreational use are described in Chapter 10 of the Draft and Final EISs. Impacts on the ecosystem are described throughout the Draft and Final EISs, including in Chapter 4 (Surface Water) and Chapter 8 (Plants and Animals).
I-159-3		I-159-3	IPID is not entitled to an increase in its water right. As described in Section 1.10.1 and in Chapter 6 of the Draft and Final EISs, the existing Eightmile Lake water right certificate was issued for an instantaneous quantity of 25 cfs, and the annual quantity was not listed on the certificate. The active storage available for use following the dam rebuild project is limited to the extent of the existing Eightmile Lake water right and no more. The amount of water use under the Eightmile Lake water right is limited to the extent of the right and no more. The design volumes of up to 1,698 acre-feet and 2,000 acre-feet represent the maximum active storage water volumes that were considered for impacts in the EIS. As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology -approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flow uses as well as for IPID's irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered (up to 2,000 acre-feet), and will also ensure that the Trust donation is managed properly. Any excess water would be allowed to pass through the lake as natural flow without being actively managed and released for beneficial use. Also refer to the Global Response for Tentative Determination of Extent and Validity.

I-160

		COMMENT	RESPONSE
I-160-1	I support option one beause it allows for active dynamic control of the water resource. I do not view raising the water level four feet as a significant issue.	I-160-1	Comment noted.

I-161

		COMMENT	RESPONSE
I-161-1	As a WTA member, I support the WTA's position on the construction alternatives. I'm opposed to the raising of the lake level and ask that the construction process not change the wilderness character of the lake. I also request that hikers and campers be considered in any of the plans.	I-161-1	Comment noted. Also see the Global Response for Lake Level and Bathtub Ring.
I-161-2		I-161-2	Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.
		Thank you for your attention and consideration.	

I-162

	COMMENT	RESPONSE
I-162-1	Association I am opposed to any plan (#1 and #2) which will increase the footprint of the dam and/or the surface level of the lake.	I-162-1 See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2.
I-162-2	I also feel that since this is a permitted recreation area that restrictions on use need to be announced before permitting begins. Thank you.	I-162-2 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-163

	COMMENT	RESPONSE
I-163-1	I feel fortunate to have hiked in the Enchantments. It is an iconic wilderness destination and needs to be protected.	I-163-1 Comment noted.
I-163-2	I oppose alternatives one and two because the proposed designs would raise the lake level by four feet.	I-163-2 Comment noted. See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2.
I-163-3	Construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure.	I-163-3 Comment noted. Construction activities, structures, and construction staging associated with a rebuilt dam would be entirely located within IPID's Special Warranty Deed parcels.
I-163-4	The Icicle and Peshastin Irrigation Districts must plan their construction activities to minimize impacts to hiking and recreation. Any area closures should be planned and publicized prior to issuing camping permits.	I-163-4 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-164

COMMENT		RESPONSE
I-164-1	Please do not raise the level of the dam above it's current level!!!	I-164-1 Comment noted. For impacts related to lake level, see the Global Response for Lake Level and Bathtub Ring.

I-165

COMMENT		RESPONSE
I-165-1	This planning should be done way in advance of permits being awarded for the summer backpacking season	I-165-1 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-166

COMMENT		RESPONSE
I-166-1	I support the option that doesn't raise the lake levels, which is Option 3 (narrow spillway without gates). I also would support an option that does not expand the footprint of the existing structure. Preserving this area as much as possible is important to me as someone who sees the Enchantments area as one of the most magical places in all of Washington. I can't wait to take my kids there in the future, and minimal impact is crucial to keeping it wild. Thank you.	I-166-1 Comment noted.
I-166-2		I-166-2 Comment noted.

I-167

COMMENT		RESPONSE
I-167-1	<p>Any disturbance to Eight-mile Lake and the Alpine Lake Wilderness would be incredibly determinantal to the diverse ecology of this area and mightily affect the year-round recreation uses this area provides. This absolutely can not happen. Please be smart and keep our wild places wild for both current generations and future generations to explore.</p> <p>All the best, Ben Nardi</p>	<p>I-167-1 As described in Chapter 8 of the Draft and Final EISs, impacts from project operations would have minimal effects on plants and animals due to the similarity with pre-construction conditions, as well as the proposed mitigation actions that would return areas impacted by construction to existing conditions. Refer to Section 8.6 of the Draft or Final EISs for mitigation measures related to plants, fish, and wildlife.</p> <p>As described in Chapter 10 of the Draft and Final EISs, construction activities have been planned to minimize the impacts on hikers and recreationists to the greatest extent possible. Refer to Section 10.6 of the Draft and Final EISs for mitigation measures related to recreation. Operation of the action alternatives would likely result in lower lake levels during drought years and higher lake levels during the summer months, but lake access routes, trails, and camping areas are not expected to be affected. No significant unavoidable impacts on plants, animals, or recreation are expected under the action alternatives.</p>

I-168

	COMMENT	RESPONSE
I-168-1	I support WTA's stance on this matter!	I-168-1 Comment noted.

I-169

	COMMENT	RESPONSE
I-169-1	<p>Good afternoon,</p> <p>I am an active recreationist throughout the Alpine Lakes Wilderness, having been born and still living in Wenatchee. I mainly enjoy hiking, trail running, along with birding and other naturalist studies. I have been making trips to Eightmile Lake for many years, as it's a great outing being a close drive, and a relatively short and mellow hike, to a beautiful backcountry lake. The decision that is made on how to proceed with the ageing Eightmile Dam, will not only affect my personal enjoyment and visitation to Eightmile Lake, this decision will also set a precedent for how other ageing dams in the Alpine Lakes Wilderness are managed.</p>	I-169-1 Comment noted.
I-169-2	<p>Having said that, I support Alternative 3, for a narrow spillway without gates. I support Alternative 3, because it will have less ground area impact than Alternative 2, and it has less man-made moving components than Alternative 1. I do not support taking no action, as I acknowledge that logistically the dam is a safety hazard, and would have to be replaced eventually (possibly with less public input under an emergency order). I also applaud the decision to fly in equipment with a rotary wing, vs. transporting equipment over land, as this will be much less impactful on the Wilderness.</p>	I-169-2 Comment noted.
I-169-3	<p>As you can probably tell, maintaining the intended character of the Alpine Lakes Wilderness (set fourth in the Wilderness Act) is vitally important to me. I support Alternative 3, because I believe it is the least intrusive option recreationally and ecologically speaking, yet will still adress the safety issues of the current dam.</p>	I-169-3 Comment noted.
I-169-4	<p>I realize that Alternative 3 has a lower potential water storage than Alternatives 1 & 2, and recognize for that reason, the Icicle and Peshastin Irrigation Districts (IPID), along with other commenters, may not support Alternative 3. To this point, I would like to suggest to the Department of Ecology, IPID, and other concerned organizations and governing bodies, that a plan should be developed to adress the real issue being faced. This issue is that we as a community and society are demanding too much water, from a dwindling water supply. Through many antropogenic causes including climate change (resulting in lower than average winter snowpack, and warmer spring temperatures resulting in stream flows rising earlier and higher), and human population growth along with overconsumption, our water issues will not be solved simply with more water storage in Eightmile Lake. Selecting Alternative 1 or 2 because it provides more water storage, does absolutley nothing to address the real water demand issue. All those alternatives will do is kick the metaphorical can down the road, leaving us in the same position we are now, in another 10 years..</p> <p>For the above reasons, I urge you to select Alternative 3, and in addition, start working on an interagency plan that will adress the rampant, uncontrolled population growth and over consumption, which is at the root of the water availability and stream flow issue.</p> <p>Thank you for this opportunity for the public to comment on the proposed alternatives for the Eightmile Dam.</p> <p>Sincerely,</p> <p>Austin Boese</p> <p>(509) 741-9192</p> <p>3100 Tamarack Pl Wenatchee, WA 98801</p>	I-169-4 Comment noted. Refer to the Global Response for Water Conservation.

I-170

	COMMENT	RESPONSE
I-170-1	Please do not raise the water level of eightmile lake! Drastically raising the water level of the lake will have devastating impacts to the fragile alpine ecosystem! Also please ensure the public has continued access to this beautiful area during and after construction. This wilderness area is spectacular and should remain as true to the word "wilderness" as possible. Please respect and honor these lands by not drastically altering this ecosystem.	I-170-1 In regard to the impacts and mitigation measures from the changes in lake level, see the Global Response for Lake Level and Bathtub Ring.
I-170-2		I-170-2 Refer to Chapter 10 of the Draft and Final EISs for a discussion of how construction activities have been planned to minimize the impacts on hikers and recreationists to the greatest extent possible. Measures to reduce impacts on recreation are described in Section 10.6. Refer to Chapter 3 Sections 3.4 and 3.5 for a discussion of potential impacts on wilderness character as a result of the project.

I-171

	COMMENT	RESPONSE
I-171-1	I am a hiker and a member of Washington Trails Association. I am writing to share my thoughts on preserving the beautiful Eightmile Lake trail.	I-171-1 Comment noted. See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2.
I-171-1	Proposed alternatives 1 and 2 would raise the lake level by 4 feet, submerging portions of the trail. These proposals should be discarded.	I-171-2 Comment noted. Construction activities, structures, and construction staging associated with a rebuilt dam would be entirely located within IPID's Special Warranty Deed parcels.
I-171-2	Construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure.	I-171-3 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.
I-171-3	The Icicle and Peshastin Irrigation Districts must plan their construction activities to minimize impacts to hiking and recreation.	I-171-4 Comment noted.
I-171-3	Any area closures should be planned and publicized prior to issuing camping permits.	
I-171-4	Please handle this development in a way that preserves the land and allows for low-impact outdoor recreation.	

I-172

COMMENT

RESPONSE

I-172-1 To whom it may concern in the matter of the dam reconstruction at Eightmile Lake.
Please take care in considering all involved especially the fragile alpine ecosystem. The environment has already been impacted in the first place with placement of the dam. Any alterations will again have an effect on the area. I would encourage repair/restore/replace the dam to equal/match its original size unless erosion requires increased width and depth. I would encourage the height remain the same. Keeping the shoreline area the same (as much as possible) would minimize loss of current habitat, minimize loss of animal resources, minimize the deterioration of the soil by reducing tread by both animals and humans. Thank you for your consideration of my thoughts.

David

I-172-1 Comment noted. Refer to the Global Response for Lake Level and Bathtub Ring.

I-173

COMMENT

RESPONSE

I-173-1 I prefer option 3 because because it minimizes the change of the footprint of the existing structure.

The Icicle and Peshastin Irrigation Districts must plan their construction activities to minimize impacts to hiking and recreation.

Any area closures should be planned and publicized prior to issuing camping permits.

I-173-1 Comment noted. Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-174

COMMENT

RESPONSE

I-174-1 Good Evening,

I-174-2 Does the dam replacement really require increasing the water line 4 feet? This region receives a ton of hikers and backpackers over the course of the season. It seems likely that such a change would displace either the trail or several campsites. Will the pit toilets still be amply far from the lake with this change or does the lakes foot print also change?

Thanks for all the work the executive summary was informative!

Ben

I-174-1 Refer to the Global Response for Lake Level and Bathtub Ring.

I-174-2 Section 10.5.2 of the Draft and Final EISs notes that, due to site topography, the higher water level would not inundate any recreational opportunities in the area, including the designated trail and camping areas. The location of the pit toilets would remain unchanged.

I-175

	COMMENT	RESPONSE
I-175-1	<p>Dear Department of Ecology,</p> <p>I was born here in Washington state, hiking all my life including in the beloved Alpine Wilderness.</p> <p>Please:</p> <p>No roads in the Wilderness!!!</p>	I-175-1 No roads would be constructed within the Alpine Lakes Wilderness as a part of this project. Construction access to the site is described in Chapter 2 of the Draft and Final EISs.
I-175-2	<p>Water in the IcicleCreek must remain in stream until reaching the ocean.</p> <p>Any water "permanently donated for instream flow" should go into the historical channel for Eightmile Creek.</p>	I-175-2 Comment noted. Impacts on the Icicle Creek system, including impacts on Eightmile Creek and Icicle Creek, are described in Section 4.5 of the Draft and Final EISs. Refer also to the Global Response for Trust Donation. As described in the Global Response, Ecology intends to manage this donated water instream, and the releases will be coordinated with Icicle Work Group (IWG) members, Icicle Strategy instream flow subcommittee, IWG co-conveners, and fishery co-managers. Coordination and decisions surrounding lake releases and flow management within the Icicle Creek Subbasin will be informed, in part, by a separate IWG process, including a decision support tool being developed as part of the Icicle Strategy. Also refer to Section 2.6 (Dam Operation) of the Draft and Final EISs.
I-175-3	<p>Any reconstruction of the dam should blend into the natural landscape of the Wilderness as much as the existing dam does.</p> <p>Respectfully yours,</p> <p>Clara N Hsu</p>	I-175-3 Refer to Section 11.6 of the Draft and Final EISs for more information on visual-related mitigation measures.

I-176

	COMMENT	RESPONSE
I-176-1	<p>The primary goal of a replacement to eightmile dam should be to do no more harm to the wilderness character of the Alpine Lakes Wilderness. The need for maintenance or replacement is not an excuse for expansion. Any replacement to the Eightmile dam should not raise the current water level or expand the footprint of the existing structure. The construction process and any associated closures should be planned with transparency and publicized during the construction period.</p> <p>Thank you,</p> <p>John Whitaker</p>	I-176-1 Comment noted. Construction activities, structures, and construction staging associated with a rebuilt dam would be entirely located within IPID's Special Warranty Deed parcels. Refer to the Global Response for Recreation and Section 10.6 of the Final EIS for a discussion of notification measures.

I-177

	COMMENT	RESPONSE
I-177-1	As a recreational user, I oppose any changes that would raise the lake level by 4 feet.	I-177-1 Comment noted. Refer to the Global Response for Lake Level and Bathtub Ring.
I-177-2	Construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure.	I-177-2 Comment noted. Construction activities, structures, and construction staging associated with a rebuilt dam would be entirely located within IPID's Special Warranty Deed parcels.
I-177-3	The Icicle and Peshastin Irrigation Districts must plan their construction activities to minimize impacts to hiking and recreation, ideally around the seasonal flow of hiking, partly so that recreational users don't trample the area further by attempting to get around closures or trail changes. Any area closures should be planned and publicized prior to issuing camping permits.	I-177-3 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures. I-177-4 Comment noted.
I-177-4	Overall, I advocate that any changes should be minimal to preserve this pristine and beautiful alpine environment.	

I-178

	COMMENT	RESPONSE
I-178-1	No roads in the Wilderness	I-178-1 As discussed in Chapter 2 of the Draft and Final EISs, no new roads would be constructed within the Alpine Lakes Wilderness as a part of this project.
I-178-2	Any water placed into a Trust Water Right must be designated "permanently donated for instream flow" so that water in IcicleCreek remains instream until reaching the ocean.	I-178-2 Comment noted. Refer to the Water Rights Global Response for Trust Donation.
I-178-3	Any water "permanently donated for instream flow" should go into the historical channel for Eightmile Creek. Any reconstruction of the dam should blend into the natural landscape of the Wilderness as much as the existing dam does.	As described in the Global Response, Ecology intends to manage this donated water instream from the outlet of Eightmile Lake to the confluence of Icicle Creek with the Wenatchee River. The releases will be coordinated with Icicle Work Group (IWG) members, Icicle Strategy instream flow subcommittee, IWG co-conveners, and fishery co-managers. Coordination and decisions surrounding lake releases and flow management within the Icicle Creek Subbasin will be informed, in part, by a separate IWG process including a decision support tool being developed as part of the Icicle Strategy. Also refer to the Section 2.6 (Dam Operation) of the Draft and Final EISs. I-178-3 Refer to Section 11.6 of the Draft and Final EISs for a discussion of mitigation measures for visual impacts.

I-179

COMMENT			RESPONSE
I-179-1	Thank you for the education and presentation materials for this project and the chance to make public comment. It is very clear work needs to be done and the potential for amazing and devastating impact if not done well or right.	I-179-1	Comment noted.
		I-179-2	Comment noted.
I-179-2	While not knowledgeable to really pick alternative #1, #2 or #3 - I do have concerns about wonky climate events and fire impacts. Automated gates pose a bit of concern with timber/log jams affecting them. Please make the dam repair with long term resilience in mind. Good luck!		

I-180

COMMENT			RESPONSE
I-180-1	There are a number of areas I would like to address in the proposed plans. First, the "no action" alternative is untenable not only because of the safety concerns for downstream areas and people but also because of the existing water rights of IPIG.	I-180-1	Comment noted.
		I-180-2	Comment noted.
I-180-2	Second, the development of a significant structure in plan 1 with the development of automated mechanical gates is concerning in an area that currently has no mechanical presence. The addition of these structures to the dam would be a significant injury to the Wilderness Area. The preservation of the intent of the Wilderness designation is essential. No roads should be created for this project and as few mechanical structures as possible should be part of the project.	I-180-3	No roads would be created within the Alpine Lakes Wilderness. Following construction, the area around the dam would be restored and no equipment or storage areas would be left on site. Additionally, Section 11.6 of the Draft and Final EISs describes measures to reduce impacts on visual resources from operation of the dam.
I-180-3	Three the addition of low-flow structures to allow Eight Mile Lake to support drought-year stream flow and water distribution are important. I see this as a key part of both Plan 1 and Plan 2. Third, it is essential that no additional road or vehicle or earth-moving equipment storage or use areas are created in the wilderness area. The scars from those uses will not heal in my lifetime or the lifetime of my grandchildren. Thank you for your consideration of my comments and thank you for your efforts to collect comments on this project. Sincerely, Scott Andrews		

I-181

COMMENT

RESPONSE

I-181-1	<p>I have taken a backpack trip to Alpine Lakes. It is a beautiful place worth taking care of. There some special places in the Alpine Lakes area such as the Enchantments. The Enchantments, housed in the Alpine Lakes Wilderness, is an extremely popular hiking destination that can be incredibly hard to score a camping permit. There were 24,614 applications in 2019, with the Forest Service awarding 2,060 permits, and these numbers don't include the 30,358 day hikers. Because of this heavy use, the Enchantments permit area was designated a "Leave No Trace" hotspot in 2018. However, despite these efforts to protect this special place, a recent suite of proposals from land managers may permit heavy machinery to drive up the trail to the lakes in order to rebuild dams and extract water. The dam at Eightmile Lake must be made safe. However, any reconstruction must be done in such a way that does not undermine the Wilderness Act. It must not be an excuse for extracting more water from the Wilderness, unless supported by a "tentative determination of water rights," and then, any additional water must be kept instream, for fish. Repairing the high-hazard dam at Eightmile Lake is one thing. Mining more water than ever before in the upper lakes of the Alpine Lakes Wilderness is another. Water is life. It is critical that we all work together to meet our obligation for more instream flow for fish, while ensuring farmers and communities are able to continue their usage - while not trampling our last wild places in the process.</p>	I-181-1	Comment noted. Heavy equipment will not be driven up any trails as part of this project. Refer to Chapter 3 for a discussion of wilderness character and potential impacts.
I-181-2	Respect the Wilderness Act. No mechanized travel within the Alpine Lakes Wilderness. All machinery needed to reconstruct the dam must be flown in via helicopter or carried in via pack animals.	I-181-2	The amount of water use under the Eightmile Lake water right is limited to the extent of the right and no more. A tentative determination of extent and validity is not a part of the EIS or Trust donation process, as described in the Global Response for Tentative Determination of Extent and Validity. Following issuance of the Draft EIS, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes. Ecology will conduct its review of the quantities available for the Trust donation under the right as prescribed by RCW 90.42.080(4)) after the Final EIS is issued. As described on in Section 2.6 and 6.5 of the Draft and Final EISs, an Ecology-approved monitoring plan will be developed in which IPID will monitor and report total annual active storage and release volumes for instream flow use as well as for IPID's irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the water right of the maximum active storage volume of the design alternatives considered (2,000 acre-feet). The monitoring and reporting plan will also ensure that the Trust donation is managed properly. For more information, see the Global Responses for Tentative Determination of Extent and Validity and Trust Donation.
I-181-3	Ask for a "Tentative Determination of the Eightmile Lake Storage Right." This means that the Department of Ecology must formally determine if IPID has not used any of their storage water right for a period of five years or more.	I-181-3	Comment noted. Refer to the Global Response for Helicopter Use for a discussion of construction materials transport.
I-181-4	No dam reconstruction at Lower Klonauqua, Square or Colchuck Lakes. A solution must be found that works for fish, farmers and the Wilderness. The work at Eightmile Lake Dam is 3.3 miles from the trailhead. The next sites are deep in the heart of the Alpine Lakes Wilderness: Colchuck, Square and Lower Klonauqua.	I-181-4	Refer to the Global Responses for Tentative Determination of Extent and Validity and for Relinquishment.
I-181-5	Please do your work in a manner that preserves this beautiful area that is appreciated and enjoyed by many of us. Thank you.	I-181-5	Comment noted. Analysis of dam reconstruction at Lower Klonauqua, Square and Colchuck Lakes is beyond the scope of the project.
I-181-6		I-181-6	Comment noted.

I-182

COMMENT

RESPONSE

I-182-1 | I stand with WTA. I also oppose damming of waters, as the long term impacts to our fish and wildlife are irreparable.

I-182-1 | Comment noted.

I-183

COMMENT

RESPONSE

I-183-1 | I am for protecting this fragile environment. Not for damming this area. Salmon habitat is ruined by dams. Thank you.

I-183-1 | Comment noted.

I-184

COMMENT

RESPONSE

I-184-1 | I do not support alternatives 1 and 2. I do not want to see the lake level increased by 4 feet, and I do not want to see trail or area closures during construction. I do not want the new dam or lake outflow maintenance to change how the Enchantments look and how we access and enjoy the wilderness.

I-184-1 | See the Global Response for Lake Level and Bathtub Ring in regard to lake level modifications resulting from Alternatives 1 and 2. Additionally, refer to Sections 10.4, 10.5, and 10.6 of the Draft and Final EISs for more information on potential recreation-related impacts and mitigation measures.

I-184-2 | Comment noted.

I-185

COMMENT

RESPONSE

I-185-1 | I urge you all to carefully review and approve a replacement dam that will be functional, safe and built using the best design and materials that will insure a long life of the dam and PROTECT THE ALPINE LAKES WILDERNESS.

I-185-1 | Comment noted.

Thank you.
James Doyle

I-186

COMMENT

RESPONSE

I-186-1 | Thanks for removing the possibility of new overland routes to this area. I appreciate the consideration that has gone into this process. I recognize the value of the dam and its very long historical presence. Thanks for balancing that with the need to preserve this wilderness area as much as possible, with as little disruption as possible to get us back to a place of stability.

I-186-1 | Comment noted.

I-187

		COMMENT	RESPONSE
I-187-1		Dear Dept. of Ecology,	I-187-1 Comment noted.
		I understand that your agency is in review to improve the Eightmile Dam and is taking comment. I also understand that this improvement will effect one of Washington State's most cherished tresures; The Enchanments.	I-187-2 Comment noted.
		While I'm not an expert on water management, I am an avid backpacker and my first backpacking experience was The Enchanements in 1977. It hooked me! What abeautiful area and if you ever wanted to convince your self on why you should protect ecosystems, then you need to do this hike.	
I-187-2		Now I also understand that of the (3) CONstruction Alternatives you're considering, the least obtrusive to the beauty and assiility of this area is Alternative 3; Narrowing the spillway without gates. I can only base my opinion by the opinion of other experts, but what is obvious to me is that the one that has the least impact on the area should be chosen. And from what I understand that is Coonstruction Alternate 3.	
		Please consider my letter in your determination, and for the love of Washington, please go with 3.	
		Thank you, Mark Osborne Bellingham, WA	

I-188

	COMMENT	RESPONSE
I-188-1	I am an avid hiker and I love being able to hike and explore nature in this area. Eightmile Lake is truly a gem in Washington State. I agree with WTA's points on why this should not be turned into a new dam.	I-188-1 Comment noted.
I-188-2	WTA opposes alternatives 1 and 2 because the proposed designs would raise the lake level by 4 feet.	I-188-2 See the Global Response for Lake Level in regard to Alternatives 1 and 2.
I-188-3	Construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure.	I-188-3 Comment noted. Construction activities, structures, and construction staging associated with a rebuilt dam would be entirely located within IPID's Special Warranty Deed parcels.
I-188-4	The Icicle and Peshastin Irrigation Districts must plan their construction activities to minimize impacts to hiking and recreation. Any area closures should be planned and publicized prior to issuing camping permits.	I-188-4 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-189

	COMMENT	RESPONSE
I-189-1	Hello. I oppose options 1 and 2. Please do not increase the lake levels, which would negatively impact hikers and other recreation in the area. Thanks.	I-189-1 Comment noted.
I-189-2		I-189-2 In regard to the impacts from lake level fluctuations, see the Global Response for Lake Level and Bathtub Ring.

I-190

	COMMENT	RESPONSE
I-190-1	Hello, I'm writing to comment on the proposed dam update on Eightmile Dam, the Enchantments. Please consider the option that creates the least footprint and minimizes access interruption to recreation while creating a safer dam structure. WTA is recommending option 3 as it is least likely to raise water levels at the lake. Construction damage and expansion of infrastructure must be kept as minimal as possible. Also, please consider advising the public before closures and restrictions of area commonly used. Thank you.	I-190-1 Comment noted.
I-190-2		I-190-2 Comment noted.
I-190-3		I-190-3 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

I-191

	COMMENT	RESPONSE
I-191-1	Being inside the Alpine Lakes Wilderness, one of the most popular and fragile ecosystems in the area, options 1 and 2 would cause significant harm to the character and wilderness due to the proposed designs raising the lake level by 4 feet and should not be approved.	I-191-1 See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2. Additionally, construction activities, structures, and construction staging associated with the rebuilt dam will occur on IPID's Special Warranty Deed parcels.
	Any construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure.	I-191-2 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.
I-191-2	The Icicle and Peshastin Irrigation Districts must plan their construction activities to minimize impacts to hiking and recreation.	
	Any area closures should be planned and publicized prior to issuing camping permits.	

I-192

	COMMENT	RESPONSE
I-192-1	I do not support building a dam that raises the water levels and diverts the trails or negatively impacts the nature of this pristine trail system!	I-192-1 Comment noted.

I-193

COMMENT

RESPONSE

I-193-1

Although there are other options for water storage and sourcing, the only option listed that is legal and deals with the degrading dam is "Alternative 3". There isn't even a dam removal option. It is disappointing that after consuming many millions of taxpayer funds, we are presented with a list containing only one valid option. Alternatives 1 and 2 should not be considered, given their failure to meet basic legal requirements and the numerous issues listed below:

I-193-2

- OCR needs its budget cut. They have too much weight to throw around and too much funds to spend if they are wasting millions in taxpayer resources on evaluating and promoting projects that don't comply with the Wilderness Act, the Endangered Species Act, the Growth Management Act, and others. Their work at budget appropriation time has been vastly overstated and the excess funds dishonestly acquired should be revoked.

I-193-3

- IWG members, such as the City of Leavenworth and Chelan County, have not met GMA requirements, allowing residential sprawl without review of the impact on existing water supplies and local governmental policies that don't limit water waste.

I-193-4

- The total allowable draw, from any type of construction, must be limited to less than the current usable capacity of 1,375 acre-feet of water.

I-193-5

- In addition, nothing beyond what was grandfathered in prior to the Alpine Lakes Wilderness being designated as wilderness in 1976 should be allowed to be withdrawn from the area. Any increase in resource withdrawal from any entity beyond 1976 levels is illegal.

I-193-6

- Further, Water rights are capped at actual usage rates. Any attempt to increase water withdrawal rates after the 1976 wilderness designation or after substantial time has passed with lower usage is illegal.

I-193-7

- IPID's easement for Eightmile Lake covers only a portion of the lake. Allowing them to impact the area beyond their easement is illegal.
- A wilderness designation is the highest form of protection for federal wildland. It is the last remnant of America's pristine wildlands that once stretched from coast-to-coast. Any development on wilderness is illegal. Increasing dam size is illegal.

I-193-1

As noted in Section 2.8.1, Dam Removal was initially considered, but was removed from further consideration as removal of the dam would not meet IPID's operational and water delivery needs. Removal of the dam would also not contribute to IWG Guiding Principle 1 related to streamflow improvements.

I-193-2

Comment noted. The goal of Ecology's Office of Columbia River (OCR) as a co-lead of the Icicle Work Group is to develop and implement the Icicle Strategy through a collaborative process that will achieve diverse benefits defined by adopted guiding principles for the subbasin, summarized in Section 1.5.2 of the 2019 FPEIS. These goals align with OCR's broader mission to develop water supplies for both instream and out-of-stream uses. IPID's Trust donation request, which was submitted in May 2024, is part of this dam rebuild and restoration project and is directly consistent with OCR's directive to develop instream water supplies. Refer to RCW 90.90 for the legislature's directives for OCR.

If Ecology's review under RCW 90.42.080(4) and final decision on the Trust application results in less than 1,400 acre-feet (the quantity currently needed by IPID), then no water would be available for acceptance into the Trust Water Rights Program. This would not preclude IPID from making annual donations in years where it has surplus water. However, in this scenario, without the added annual benefit to instream flows as a result of the project under the pending May 2024 Trust donation application, Ecology's OCR may not fund the dam construction as it would not meet the water supply directives of OCR's program. This does not preclude the use of emergency funds should there be a health and safety issue. IPID would still need to rebuild the dam to meet the requirements for the dam as required by Ecology's Dam Safety Office, but it would need to seek alternate sources of funding.

I-193-3

Comment noted. Compliance with GMA requirements by the City of Leavenworth and Chelan County are outside the scope of the project being reviewed in this EIS. Also refer to Global Response for Water Conservation.

I-193-4

Comment noted. As described in Section 1.4 of the Draft and Final EISs, the project objectives include restoring the dam's storage capacity to meet IPID's existing irrigation needs and to provide additional water to enhance instream flows, consistent with objectives stated in the Icicle Creek Water Resource

I-193

COMMENT	RESPONSE
	Management Strategy. This would result in capacity beyond 1,375 acre-feet of water. However, the amount of water use under the Eightmile Lake water right is limited to the extent of the right and no more. The design volumes of up to 1,698 acre-feet and 2,000 acre-feet of active storage represent the maximum storage water volumes that were considered for impacts in the EIS. As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology - approved monitoring plan will be developed in which IPID will monitor and report total annual active storage and release volumes for instream flow uses as well as for IPID's irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered (up to 2,000 acre-feet). The monitoring plan will also ensure that the Trust donation is managed properly and that any excess water would be allowed to pass through the lake as natural flow without being actively managed and released for beneficial use.
I-193-5	Comment noted. Refer to Chapter 6 for a general discussion of water rights. Refer to the Global Response for Tentative Determination of Extent and Validity for additional information on this issue as well as the response to comment I-193-4 above.
I-193-6	Refer to the Global Response for Relinquishment.
I-193-7	As noted in Section 1.2, Eightmile Dam was built in 1929, which predates the Alpine Lakes Wilderness designation in 1976. Construction activities, structures, and construction staging associated with the rebuilt dam will occur on IPID's Special Warranty Deed parcels. No development will occur in the Alpine Lakes Wilderness as a result of this project.

I-193

COMMENT

RESPONSE

I-193-8

- The IWG has proven themselves to be dishonest. Despite their spin of "Total Project Benefit = 77 cfs" and "substantive flow benefit" to Icicle Creek, their master proposal, "Icicle Work Group Integrated Base Package", only guarantees 22 cfs to Icicle Creek (at the cost of \$51M+), well below what is required to meet threatened spawning fish needs, and when they received objections on their board, they changed their rules so members must screen their opinions with the IWG before publicly airing them. Anything claimed by a purportedly neutral workgroup actively stifling dissent should be given far less weight than what would be expected from a balanced, neutral workgroup.

I-193-9

- Per a subcommittee of biologists appointed by the ICW, 250 cfs is necessary to maintain steelhead and bull trout habitat in icicle creek. The ICW didn't approve of this number and changed it to 60 cfs for drought years. Doing anything but reducing ICW member water draw from icicle creek to meet steelhead and bull trout habitat requirements is illegal.

I-193-10

- Ecology titled this project, "Eightmile Dam Rebuild & Restoration". The title claims "rebuild & restoration", not "expansion", yet it wasn't until after the EIS that an "alternative" to anything other than raising the dam was considered. This spin by Ecology puts their neutrality into question as well.

I-193-11

- ICW has the same spin on their verbiage which again should put their neutrality and objectivity further into question. From their "Icicle Working Group Integrated Base Package" they write, "Eight-Mile Lake Restoration Project" & "Restore Eight-Mile Lake from existing volume of 1,375 ac-ft to normal permitted pool volume of 2,500 ac-ft". They aren't restoring the lake and they aren't restoring the dam if they are increasing its footprint. There is no "normal permit pool volume of 2,500 ac-ft", this is nothing but being dishonest in an attempt to make this project look like something it isn't. They are attempting to draw from public resources they are not allowed to consume by dishonestly spinning it as restoring aging infrastructure (and environmental resources).

I-193-12

- The only option listed that won't result in costly lawsuits that Ecology will lose and cause more of a massive waste of taxpayer funds is an actual repair of the existing dam at existing levels, not an expansion.

I-193-13

- Alternatives for increasing supply, such as pumping water from lower down-stream to covering and lining supply channels, are not listed. While pumping would be more expensive, it would have been a non-issue for the public, it would

I-193-8

A review of the efficiency and efficacy of the IWG process is outside the scope of this EIS. The IWG has undertaken a multi-year water management process, incorporating public comment. The recommendations of the IWG have been evaluated in accordance with SEPA requirements, and are included in the FPEIS, published in January 2019. An overview of the Icicle Work Group is included in Section 1.4 of the 2019 FPEIS. Public outreach associated with the Eightmile Dam Rebuild project SEPA process is described in Sections 1.5 and 1.6 of the Draft and Final EISs.

The alternatives evaluated in this EIS include those that meet the project objectives as outlined by IPID and Ecology. The project's consistency with and/or impacts on the Wilderness Act, water conservation goals, and water rights are evaluated in the EIS. The Eightmile Dam project was identified as an early action project in the 2019 FPEIS. Evaluation in this manner is consistent with the SEPA codified in WAC 197-11-060 (5), which outlines the requirements for phased review. As described in WAC 197-11-060 (5) (b), phased review *"assists agencies and the public to focus on issues that are ready for decision and exclude from consideration issues that already decided or not yet ready. Broader environmental documents may be followed by narrower documents ..."*

I-193-9

Refer to the Global Response for Instream Flow Rule. Although the development of guiding principles for the Icicle Strategy is outside the scope of this project-level EIS, refer to Sections 1.5.1.1 and 1.5.2.1 of the 2019 FPEIS for additional information on the development and final Guiding Principle to Improve Instream Flow.

I-193-10

Comment noted. The rebuild and restoration project involves upgrading the Eightmile Dam, which is in a deteriorating and unsatisfactory condition, to meet Ecology's current dam safety standards. Section 1.4 of the Draft and Final EISs describes the project objectives, which include restoring the storage capacity of Eightmile Lake so that it meets IPID's irrigation and storage rights under its existing storage rights.

I-193-11

The project proponent is the IPID. Ecology's Office of Columbia River (OCR) is the SEPA lead agency for the project. Both IPID and OCR are participating members of the icicle Work Group. As lead agency under SEPA, it is Ecology's responsibility to ensure that the EIS adequately describes the impacts associated with the project and complies with SEPA requirements. The broader review including the "base package" and alternatives was described and reviewed as part of the 2019 FPEIS. The Eightmile Dam project was identified as an early action project in the

I-193

COMMENT

RESPONSE

FPEIS. Evaluation in this manner is consistent with the SEPA codified in WAC 197-11-060 (5), which outlines the requirements for phased review. As described in WAC 197-11-060 (5) (b), phased review *"assists agencies and the public to focus on issues that are ready for decision and exclude from consideration issues that already decided or not yet ready. Broader environmental documents may be followed by narrower documents ..."* The most up-to-date information on this project is in this project-level EIS.

Section 1.2 of the Draft and Final EISs describes when the dam was built and the history of the damage the dam has withstood over the years, most recently the Jack Creek Fire in 2017. Table 1-1 of the EIS provides a summary of the history. The dam has been damaged, and Ecology's Dam Safety Office has noted that the dam is currently in an unsatisfactory and unsafe condition.

Section 1.10.1 and Chapter 6 describe IPID's water right certificate, which does not list an annual quantity for the right. One focus of the water rights review in the project-level EIS was to assess whether the range of active storage capacities for the proposed design alternatives were reasonable. These maximum design volumes of 1,698 acre-feet (Alternative 3) and 2,000 acre-feet (Alternatives 1 and 2) represent the maximum active storage water volumes that were considered for impacts in the EIS. Water use under the right above these total maximum volumes (including cumulatively stored through multi-fill) are not evaluated in the EIS and as a result would not be actively stored and released as part of a final design alternative for purposes and uses under right. See the Global Response for Multi-fill Analysis and Section 6.2 of the Draft and Final EISs for additional information.

I-193-12 Comment noted.

I-193-13 Pumping water from lower downstream does not align with the Icicle Strategy Guiding Principles (see Section 1.2.1 of the Draft and Final EISs). The Guiding Principles strive for streamflow that provides passage, healthy habitat, and a sustainable hatchery, and protects tribal and federally protected fishing/harvest rights at all times, among other principles.

IPID has been working on conservation measures in their supply channels and lined sections of channel each year. Refer to the Global Response for Water Conservation.

I-193

COMMENT

RESPONSE

meet supply well into the future, and how much of taxpayer money was already spent on these last 11 years of study, review, and debate?

- The City of Leavenworth, and other applicable parties, are not taking sufficient measures to conserve water. None of these parties have yet to become serious about requiring, or even encouraging, residential developments, old or new, to adopt environmentally friendly plantings or water management practices. New developments still include large areas of manicured, heavily watered grass. While many farms have been replaced with residential sprawl, the farms that remain also aren't being required, or encouraged, to adopt 21st century farming conservation practices.

These are the City of Leavenworth's water rates, notice how price per ccf decreases as more is used, there is no incentive to reduce consumption.

0-2 ccf = free	3-10 ccf = \$4.21/ccf	11-50 ccf = \$3.86/ccf
51-1000 ccf = \$3.20/ccf	1001+ ccf = \$2.44/ccf	

By comparison, these are the water rates for the densest (population density increases utility efficiency) city in the much wetter half of the state, the City of Seattle. Not only do water prices start higher, but notice how price increases as consumption increases, to encourage residents to actively manage their water use.

Off-Peak Usage (Sept 16 – May 15)

0+ ccf = \$5.76/ccf	
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Peak Usage (May 16 – Sept 15)

0-10 ccf = \$5.92/ccf	11-36 ccf = \$7.32/ccf	37+ ccf = \$11.80/ccf
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- Given that applicable ICW members (i.e. the City of Leavenworth) have brought to the forefront their inability to effectively manage public resources (water) to meet legal requirements (ESA, GMA, etc.) by attempting to take more of what doesn't belong to them, appropriate agencies should be required to bring legal action against appropriate ICW members to enforce the Endangered Species and Growth Management Acts.

- It's not a matter of water vs environmentalism, you don't build a city in the desert then scream when others don't supply you with water. Public, designated

I-193-14 As described in Chapter 2, this EIS focuses on evaluating the effects of the alternatives and designs for the replacement of Eightmile Dam. The City of Leavenworth's decisions and projects regarding management of water usage are outside the scope of this EIS analysis. Refer to the 2019 FPEIS projects including Section 2.5.4 related to the City of Leavenworth regarding conservation and rate structure. Refer also to the Global Response for Water Conservation.

I-193-15 Comment noted.

I-193-16 Comment noted.

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		COMMENT	RESPONSE
I-193-16		wilderness is not available for local municipalities to consume. When water supply vs demand limits are reached given applicable laws and landscapes, new consumption in that given region should stop.	
I-193-17		<ul style="list-style-type: none"> While capping residential growth wouldn't benefit any City of Leavenworth officials who want a growth of their population base, it would benefit all current residents of Leavenworth - maintaining the remaining quaint feel of the area (which is probably why most new residents moved there) and increasing the value of all existing residents' land. 	I-193-17 As described in Chapter 1 of the Draft and Final EISs, this analysis is focused on evaluating alternatives for replacement of Eightmile Dam. Ecology does not have any authority over decisions and approaches for managing growth in Leavenworth. Land use decisions by the City of Leavenworth are outside the scope of this EIS.
I-193-18		<ul style="list-style-type: none"> The Alpine Lakes Wilderness isn't only a good state recreation spot, or a good national recreation spot, it ranks as a top destination on a world-sized scale. I have met many a foreigner who flew to, and spent money in, the US just to visit this wilderness. I have spoken with many a seasoned world traveler who have identified the Alpine Lakes Wilderness as the most beautiful place they have ever seen. This resource doesn't belong to the IWG, the OCR, or Ecology. It belongs to the current 331.9 million citizens of the United States of America and to every US citizen in the centuries to come. 	I-193-18 Comment noted.
I-193-19		<p>Quotes from the web that I used in my research and should be considered:</p> <p>"IWG appointed a technical subcommittee of biologists, which recommended that 250 cfs was needed in order to maintain 100% of habitat for steelhead and bull trout life stages. See Figure 5.</p> <p>Certain Work Group members however, found these quantities unacceptable. The 250 cfs number was "negotiated" down to 100 cfs in good years, and 60 cfs in drought years. This would make 80% or less of potential habitat available for ESA-listed fish, a problematic goal by state and federal standards. See "metrics" and Fig. 5. Some biologists have expressed doubt about the scientific foundations of this compromise, but when questions were raised, the IWG was informed that the decision could not be re-visited.</p> <p>This process raises fundamental questions about the propriety of agency participation in "collaborative" groups. With consensus, all parties have veto. But IWG rules now require participants to support the metrics and project list. Agency commitment to outcomes in advance of public and environmental review is troubling, especially for regulatory agencies</p>	<p>I-193-19 Your comments have been noted; however, your internet sources were not cited and could not be verified.</p> <p>A review of the efficiency and efficacy of the IWG process is outside the scope of this EIS. The IWG has undertaken a multi-year water management process, incorporating public comment. The recommendations of the IWG have been evaluated in accordance with SEPA requirements, and are included in the 2019 FPEIS.</p> <p>The alternatives evaluated in this EIS include those that meet the project objectives as outlined by IPID and Ecology. The project's consistency with and/or impacts on the Wilderness Act, water conservation goals, and water rights are evaluated in the EIS.</p>

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RESPONSE

I-193-19

such as Ecology, Washington Department of Fish & Wildlife, the U.S. Forest Service, and NOAA.

Also problematic is the approach to meeting these compromise flows. The [current project list](#) identifies only 22 cfs of "guaranteed" instream flow water – the rest would be interruptible. In a bad year, like the summer of 2015, Icicle Creek flows would plummet and temperatures skyrocket"

"Beyond the failure to address public concerns, neither Ecology nor IPID has easements to flood wilderness surrounding the lakes, nor can the U.S. Forest Service give away public lands. See Fig. 6. Yet expanded storage in the Alpine Lakes is the IWG's linchpin project"

"The most expedient way to put 100 cfs into Icicle Creek is to move IPID's diversion five miles downstream, from the Icicle-Snow Creek confluence to the Wenatchee River. However, [IPID's board voted](#) to prohibit the IWG from considering this option."

"An informal tour of the Leavenworth area in June 2015 produced a photo album of conservation opportunities, including IPID canal-side phreatophytes, orchard over-irrigation, and excessive residential lawn watering."

"First, as a matter of law and of biology, instream flows in Icicle Creek must be returned to more normative, historic levels. It is wrong to use legally required flows as a trading chit to obtain new out-of-stream water rights. This is particularly so given that the target sources are the Enchantment Lakes in the Alpine Lakes Wilderness.

Second, the IWG is not a collaborative process. The inability of the Work Group to contend with dissent – and its change in operating procedures to silence particular viewpoints – seriously undermines its legitimacy. Skepticism should be the response when the IWG extols the virtuosity of its group-think process.

Finally, public expenditures for the IWG and its projects should be re-evaluated. Ecology could purchase or condemn 800 acre feet of water for far less than the \$64 million dollar tab that the IWG is about to drop on the public.

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RESPONSE

I-193-19

It is the responsibility of the Bureau of Reclamation and USFWS to bring Leavenworth Hatchery into compliance with state and federal laws. It is the duty of the four Icicle Creek water right holders to ensure they do not harm endangered salmonids, and to employ 21st century water efficiency practices. It is the mandate of the regulatory agencies to secure this compliance, not negotiate it away.

Ultimately, if an accurate picture is presented, the public will not pay for the sins and omissions of Icicle Creek diverters. Why are we spending millions to get that picture?"

"However, a new, independent report by Power Consulting of Missoula concludes that the OCR is overstating its accomplishments, and suggests that the Washington Legislature should seek a performance audit of the program before it considers shelling out any more of the public's cash. Specifically, the Power Report concludes that OCR has:

- Misrepresented the amount of water that it has actually put to use in eastern Washington,
 - Failed to acknowledge the need for hundreds of millions more dollars to bring current projects to fruition, and
 - Wasted a lot of money investigating proposed new dams that it should have known could never be built."
- "The EIS must consider a **Wilderness Protection Alternative**. This alternative would promote wilderness values as set forth in the Wilderness Act of 1964, would not allow new water infrastructure or diversions inside the Alpine Lakes Wilderness, and would require all new water supply to be obtained outside the Alpine Lakes Wilderness.
 - The EIS must consider a **Water Conservation Alternative**. This alternative would assess using aggressive water conservation measures by Wenatchee Valley cities, including restrictions on lawn watering (as the citizens of Seattle have learned to do). This alternative should also assess transfer of water rights from irrigation districts to cities, where orchards have already been torn out and replaced with residential subdivisions. This alternative should also assess agricultural irrigation efficiency, such as replacing open gravity canals with pipes and pumps and other 21st century concepts. A proposed Conservation Alternative is [linked here](#).
 - The EIS must consider an **Irrigation District Water Right Change Alternative**, which would fix Icicle Creek's low flow problem. This alternative would evaluate moving the Icicle-Peshastin Irrigation District's water right diversion, which presently takes 100 cubic feet per second out of Icicle Creek, to the Wenatchee River downstream about 3 miles. This measure, which would permanently fix Icicle Creek's low flow problem, would convert the IPID diversion from gravity flow to pumping (requiring electrical power). The Icicle Work Group should therefore analyze renewable energy options to supply that power, including solar, wind and in-canal hydroelectric.
 - The EIS must consider a **Water Right Relinquishment Alternative**. Removal of water from the Alpine Lakes Wilderness is on the table only because IPID holds water rights that were grandfathered when the Wilderness was created. And – as IPID will tell anyone who will listen – every year they use what they need. When the dam at Eightmile Lake fell down decades ago they didn't fix it because they did not need more water. When a party doesn't use their rights, they lose them. "Use It Or Lose It" – the basic rule of western water law – is controlling. The EIS needs to analyze this."

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	COMMENT	RESPONSE
I-194-1	Please choose an option that does not raise the water level and one that has a little impact on the surrounding area as possible. Thank you.	I-194-1 Comment noted.

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	COMMENT	RESPONSE
I-195-1	Hello,	I-195-1 Comment noted.
I-195-2	I love the Alpine Lakes Wilderness and hike in it almost every week. I strongly support protecting the area and preserving it for hiking. I am a WTA member and would like to voice my agreement with their points below;	I-195-2 See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2.
I-195-3	WTA opposes alternatives one and two because the proposed designs would raise the lake level by four feet.	I-195-3 Construction activities, structures, and construction staging associated with the rebuilt dam will occur on IPID’s Special Warranty Deed parcels. Impacts on wilderness character are described in Chapter 3 of the Draft and Final EISs.
I-195-4	Construction should not create new impacts to the area’s wilderness character by expanding the footprint of the existing structure.	
	The Icicle and Peshastin Irrigation Districts must plan their construction activities to minimize impacts to hiking and recreation.	
	Any area closures should be planned and publicized prior to issuing camping permits.	I-195-4 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.
	Thank you for your consideration, Kit Swartz	

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COMMENT

RESPONSE

Please see the attached PDF document from David A. Ek (EightmileDamComments_Ek.pdf).

I-196-1

Comment noted.

I-196-2

The Forest Service will determine whether the actions included IPID’s proposal materially increase the size and scope of the facilities once IPID has identified a final proposal. Similarly, the Forest Service will assess whether the proposed actions are consistent with the rights that IPID reserved in the Special Warranty Deed.

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June 4, 2023

Washington Dept. of Ecology
Office of Columbia River
Attn.: Eightmile Draft EIS
1250 West Alder Street
Union Gap, WA 98903

[SENT VIA THE DEPT. OF ECOLOGY ON-LINE FORM]

Subject: Eightmile Dam Rebuild and Restoration Project Draft EIS Comments

I-196-1

I submit these thoughts and comments regarding the Draft EIS for the proposed Eightmile Dam Rebuild and Restoration Project. Before I begin, since I am currently living out-of-state, I offer a brief background that highlights a few of my significant local and Washington State credentials and standing, as well as familiarity with the issues.

I have a Master of Science degree in geoscience. Most of my 30-plus-year work experience has been in natural science management and environmental compliance for a public land management agency. I was born and raised in Washington State—and my parents, grandparents, aunts, uncles, brothers, and daughter are buried there. I received a B.S. degree from the University of Washington. I own commercial forestland in Washington State. I am a published author finalizing a book containing a chapter focused on Icicle Creek. I used to work near Leavenworth, and I have spent thousands of hours within the Icicle Creek watershed and the Alpine Lakes Wilderness. I have deep roots in the area and substantive knowledge and expertise in related matters. With these, I offer some thoughts and comments regarding the Eightmile Creek Draft EIS separated into eight subject headings:

Forest Service Responsibilities

I-196-2

The only reason that this intrusion into the Wilderness character of the Alpine Lakes Wilderness Area is being discussed and considered, is because the exception and arrangement made through the Special Warranty Deed. Without an exception, non-Wilderness elements are usually removed. However, most exceptions provide strict conditions to prevent an exception from expanding in scale and scope beyond when the grant was established. In this case, while the Special Warranty Deed does allow for the "...the repair, operation, modification, upgrading and replacement" of non-Wilderness facilities, it also provides limitations, such "*In performing maintenance, repair, operation, modification, upgrading and replacement of facilities, [the dam operators] will not without prior written consent of the Forest Service, which consent shall not unreasonably be withheld, materially increase the size or scope of the facilities.*"

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COMMENT

RESPONSE

I-196-2	<p>Given this fundamental restriction that applies to ANY and ALL elements of the action alternatives, has the Forest Service provided the project proponents with the required written consent to materially increase the size and scope of the facilities? If not, then any and all of the action alternatives appear to be in violation of the Special Warranty Deed.</p>		
I-196-3	<p>How can the Forest Service grant this consent without a full and thorough NEPA and hard-look analysis? If this specific SEPA environmental review is just one step in the process to obtain the necessary NEPA analysis and Forest Service consent, then the Draft EIS should clearly state this.</p> <p>Beyond the Special Warranty Deed, the Forest Service still maintains some management and control over these lands. Court cases have consistently held that certain privately property rights within federal agencies jurisdictions have the right to exercise their rights, but the federal agency is still obligated to provide legal oversight in "how" this right is exercised and the methodologies employed. Otherwise, the agency is adjudicating their other legal management responsibilities.</p> <p>Granted that none of the Action alternatives cannot be implemented without the Forest Service's concurrence and permission (a federal action), and that action is subject to NEPA analysis, then why are the project proponents conducting separate SEPA/NEPA reviews for the same proposal and the same impacts? This should be a combined and integrated NEPA/SEPA analysis.</p> <p><u>Faulty No Action Alternative</u></p> <p>When discussing the impact of the action alternatives, the Draft EIS consistently uses as a benchmark the illegal and or sub-standard nature of the existing status quo—and this condition is built into the No Action Alternative. I contend that this approach is biased, leading, legally suspect, and portrays an inaccurate and misleading baseline to discuss the action alternatives. Granted, this approach appears to be consistent with SEPA requirements, but it falls short of NEPA standards and the standards of a truly objective impact analysis.</p>		<p>I-196-3 The proposed dam rebuild alternatives are being evaluated through this SEPA EIS process. This process will allow the Forest Service to consider a well-developed proposed action to determine if the National Environmental Policy Act (NEPA) applies, what activities should be evaluated in an environmental analysis, and the level of review and documentation required. The Forest Service will determine if NEPA applies to a proposal based on the Council on Environmental Quality's (CEQ) revised regulations at 40 CFR 1501.1 and agency regulations at 36 CFR 220.4(a).</p> <p>The Department of Ecology and the Forest Service are jointly reviewing the proposed action to determine the responsibilities of each agency. As authorized by the CEQ regulations, the Forest Service can cooperate with the State of Washington on environmental analysis (40 CFR 1506.2) and may use elements of the environmental analysis prepared under the SEPA process if NEPA analysis is required (40 CFR 1506.2(b)). The Draft and Final EISs include a description of the required NEPA and Forest Service review in Chapter 1, Section 1.11.</p>
I-196-4	<p>Court cases in NEPA analysis have stated that all alternatives, including the no action alternative, must be legally valid. No public entity can plan for continued illegal actions. Therefore, if the proposed action alternatives are NOT implemented, the public entity would still be required to correct the illegal conditions by some other means. Therefore, comparing action alternatives against a "no-action" alternative that would never be allowed to continue in the real world does NOT represent a true baseline for comparison. However, in this situation, it is even worse. Not only does this Draft EIS use a non-valid (illegal condition) as the baseline, but the very nature of the illegal condition that currently exists is used to justify choosing one of the action alternatives. In this draft EIS, if none of the action alternatives are chosen, those same laws and standards that the document states that are not currently being met, would still need to be addressed in some other manner, since non-compliance with laws and standards is not allowed, so therefore, the continuation of the non-compliance is truly NOT the "No Action Alternative."</p> <p><u>Biased and Leading Goals</u></p> <p>I find it problematic that most of the six goals of this proposed action are either vague, leading, or biased. For example, Goal #1 states: "Improve instream flows." On the surface, who could</p>	I-196-4	<p>As discussed in Section 2.2 of the Draft and Final EISs, the No Action Alternative serves as the baseline condition against which the action alternatives are evaluated and compared and illustrates the most likely scenario if the project is not implemented. Analysis of the No Action Alternative is required under SEPA (WAC 197-11-440 (5)(b)(ii)).</p> <p>Operation of the dam under existing conditions is not consistent with DSO regulations and does not meet the DSO's safety requirements for a High Hazard Dam. If an action alternative is not carried forward, DSO would eventually exercise enforcement actions in accordance with WAC 173-175-620 (3). However, it is not possible to predict with certainty what that action or its effects would be, and it is unlikely it would meet the project objectives identified in Section 1.4 of the Draft and Final EISs.</p>
I-196-5		I-196-5	<p>As described in Section 1.11, a separate NEPA analysis will be conducted by the Forest Service.</p> <p>Comment noted. The three project objectives are listed in Section 1.4 of the Draft and Final EISs. As noted in WAC 197-11-060 (3)(ii) "A proposal by a lead agency or applicant may be put forward as an objective, as several alternative means of accomplishing a goal, or as a particular or preferred course of action." Project objectives are determined by the applicant or lead agency, and SEPA does not include a requirement for specificity.</p>

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I-196-5	possibly object to such a noble goal to “improve” something, anything, or everything? To the ecologist, this may mean to restore natural stream flows and conditions by the removal of the impeding dam and reservoir. To the dam engineer, this may mean to construct more dams and water controlling facilities. Each person and each perspective can equally claim ownership vision of what constitutes an “improvement.” Therefore, the goal should clearly state what the specific true intent of the goal without loading it with bias and vague platitude, such as whether it is good, bad, or an actual improvement, or not.	I-196-6	Comment noted. Enhancing habitat of Icicle Creek was a goal developed by the Icicle Strategy (refer to Section 1.1 of the Draft and Final EISs). The objectives specific to this project are listed in Section 1.4. As described in Chapter 8 of the Draft and Final EISs, fish and their habitat will experience minor impacts during construction, but the long-term effects from supplementation of summer flows are expected to be positive. Refer to Sections 8.4 and 8.5 for additional discussion of impacts on habitat.
I-196-6	Along the same lines, Goal #5: “Enhance habitat of Icicle Creek.” The benefits of this proposed project may or may not be worth the cost and impact; however, in no way should this proposal be couched as an improvement or enhancement of Icicle Creek’s natural habitat. A true improvement of Icicle Creek’s native habitat would be the total restoration of its natural hydrologic function, not by further degrading of this natural system by an expansion of artificial water control facilities.	I-196-7	As previously noted, the goals mentioned in the comment are those of the adopted Icicle Strategy (refer to Section 1.1 of the Draft and Final EISs). The Eightmile Dam Rebuild and Restoration Project is an early action item to implement the integrated water management strategy.
I-196-7	The last goal, “Comply with state and federal laws, including the wilderness act” is unnecessary. It is illegal for ANY plan to propose violating any state or federal law. Besides being unnecessary, its very inclusion also highlights the document’s biases—as I stated earlier, since it implies that it would be illegal to NOT approve the proposed action. While the document states many times the No Action Alternative is non-compliant to existing laws and safety standards, but those same laws and safety standards would still compel the managers to correct regardless of the alternatives selected—including the No Action Alternative. Simply stating the proposed action was not selected is not sufficient justification to remain non-compliant. Therefore, using biased statements and goals for the purpose of misleading and furthering the biased tone of the Draft EIS should be reduced or eliminated.		As stated in Section 2.2, operation of the dam under existing conditions is not consistent with DSO regulations and does not meet the DSO’s safety requirements for a High Hazard Dam. The DSO would eventually exercise enforcement actions in accordance with WAC 173-175-620 (3) if No Action Alternative is carried forward. However, it is not possible to predict with certainty what that action or what its effects would be and if it would meet the project objectives identified in Section 1.4.
I-196-8	There are other vague and misleading phrases and statements throughout the Draft EIS. For instance, “to the extent possible, time dam outflows to meet fish utilization needs.” On the surface, this sounds responsible and beneficial. However, without ANY stated standards, conditions, or thresholds, or who determines what constitutes “possible” (economically? physically? politically?) then this is nothing but a meaningless and biased platitude.		
I-196-9	The Draft EIS states: “None of the action alternatives would significantly impact wilderness qualities due to the limited scale and duration of construction, and limited scale and severity of the operational impacts compared to existing conditions at Eightmile Lake.” This is a biased and unsupported claim. NEPA requires, and supported by case law, supporting data, and not simply the unsupported claim of “limited.”	I-196-8	As described in Section 1.4 of the Draft and Final EISs, IPID would plan to time dam outflows to meet fish utilization needs to the extent possible. Because weather conditions and late season precipitation patterns vary in any given year, timing the outflows to match optimal releases for fish may not be possible every year, for example in some drought years. Outflow management will be closely coordinated with Ecology. Refer to Section 4.5 of the Draft and Final EISs for additional discussion of surface water quantity for each alternative.
I-196-10	The proposal appears to have a goal of establishing a consistent stream flow. An earlier variation of the proposal stated: “consistent stream flow would help endangered chinook salmon, steelhead and bull trout.” Many peer-reviewed studies have indicated that stable flows are detrimental to salmonid species and other aquatic organisms—as are chronic widely fluctuating systems. These same studies indicate the optimum flows for native aquatic species is one that restores native seasonal flows and variability. The Draft EIS analysis appears to insufficiently support the claims that the proposed new facility at Eightmile Lake will afford the flow regimes necessary for fundamental in-stream flow improvement regarding ecosystem health parameters. Therefore,		Donating a portion of the Eightmile Lake water right to Trust for instream flow purposes allows Ecology, in cooperation with its Icicle Work Group partners, to manage the releases to benefit fish. After the Draft EIS was issued, IPID filed an application for Trust donation requesting that a portion of its right be donated for instream flow. After the Final EIS is issued, Ecology will review the application for Trust donation, according to the process prescribed by RCW 90.42.080(4), and issue a final decision. A Trust agreement will document the monitoring and reporting requirements and terms of the donation.

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Upon project completion, the donated portion of the water right will be released from storage in Eightmile Lake to augment flows in Icicle Creek in order to benefit fish, with releases scheduled based on coordination with Icicle Work Group members, co-conveners, and fishery co-managers. Coordination and decisions surrounding lake releases and flow management within the Icicle Creek Subbasin will be informed, in part, by a separate IWG process including a decision support tool being developed as part of the Icicle Creek Strategy. The year-to-year variability of water supply conditions in the Icicle Creek Subbasin, IPID's deliveries to meet irrigation needs, variability in timing and amount of annual precipitation, and fish utilization needs all require a coordinated approach each year to managing releases within the limits of the alternatives considered (up to 2,000 acre-feet of active storage) and as required in the pending Trust donation decision. Also refer to Section 2.6 (Dam Operation) of the Final EIS and the Global Response for Trust Donation.

- I-196-9 The determination of impacts on wilderness character is discussed in Section 3.1.3 of the Draft and Final EISs. A significant impact would include any activity that would substantially increase trammeling in the Alpine Lakes Wilderness, reduce naturalness, increase development, or reduce opportunities for solitude and unconfined recreation.

It was determined that the project is unlikely to result in significant impacts because construction activities would take place only in areas directly adjacent to the existing dam, a previously disturbed area, within the Special Warranty Deed Area. Further, construction is expected to occur over one summer. Operation of the action alternatives would have adverse impacts on all four qualities of wilderness character; however, none of them would be significant because all of the operational effects are similar to the effects of current operations and do not substantially increase the degree of overall impact on the wilderness.

A separate NEPA analysis will be conducted by the Forest Service as discussed in Section 1.11 of the Draft and Final EISs.

- I-196-10 In all alternatives, outflows from the lake into downstream creeks will continue to reflect the natural flow magnitude and timing of the watershed. An exception to this will be in summer months when low flows are known to be especially stressful for fish and aquatic communities. As shown in Chapter 4 Figure 4-6 of the Draft and Final EISs, minimum instream flows established in

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COMMENT	RESPONSE
	<p>WAC 173-545 have often not been met in recent years. The summer low-flow rates are predicted to be reduced over time with climate change. The three action alternatives will potentially provide instream flows to supplement the natural flows in Eightmile and Icicle creeks. Instream flow supplementation is expected to improve fish habitat quality and quantity. Also refer to the Global Response for Trust Donation.</p> <p>As described in the Global Response, Ecology intends to manage this donated water instream from the outlet of Eightmile Lake to the confluence of Icicle Creek with the Wenatchee River. The releases will be coordinated with Icicle Work Group (IWG) members, Icicle Strategy instream flow subcommittee, IWG co-conveners, and fishery co-managers. Coordination and decisions surrounding lake releases and flow management within the Icicle Creek Subbasin will be informed, in part, by a separate IWG process, including a decision support tool being developed as part of the Icicle Strategy. Also refer to the Section 2.6 (Dam Operation) of the Draft and Final EISs.</p>

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RESPONSE

I-196-10	the existing goals appears to be supported hollow platitudes that do not meet the robust needs of a true project designed for ecosystem health.	I-196-11	Significance criteria have been developed for each element of the environment and are described at the beginning of each chapter. These criteria define the thresholds for significant impacts. Impacts that are not anticipated to meet this threshold are determined to be less-than-significant. Impacts related to construction activities are defined as short-term because they are expected to occur over one construction season (4 to 5 months).
I-196-11	Contained throughout the Draft EIS are vaguely defined impact conclusions, as “minor impact, that are not adequately supported by data or analysis other than the simple statement itself. Various court cases have concluded that proper, and legal, impact assessments must be supported through a “hard look” analysis, and non-supported generalized dismissive statements, such as “minor impact” or “short-term impact” are often insufficient—and should not be accepted. Mere conclusions, unsupported by evidence or analysis, that the proposed action will not have a significant effect on the environment will not suffice to comply with NEPA” [<i>Friends of Congaree Swamp v. Fed. Highway Admin.</i> , 786 F. Supp. 2d 1054, 1062-63 (D.S.C. 2011)].	I-196-12	Construction-related and long-term impacts are described for each of the environmental elements. Long-term operational impacts on wilderness character are described in Section 3.5 of the EIS. Operational impacts on aquatic habitat are described in Section 8.5, and operational impacts on hydrological conditions are described in Section 4.5 of the EIS.
I-196-12	Besides, the implication in various parts of the Draft EIS is that that impacts are often confined to short-term construction impacts, not the long-term impacts to Wilderness characteristics, aquatic habitats, and natural hydrological conditions.	I-196-13	The analysis focuses on an objective, technically based evaluation and comparison of alternatives. Under all action alternatives, the increase in physical 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. In all alternatives, outflows from the lake into downstream creeks will continue to reflect the natural flow magnitude and timing of the watershed. An exception to this will be in summer months when low flows are known to be especially stressful for fish and aquatic communities. As shown in Chapter 4 Figure 4-6, minimum instream flows established in WAC 173-545 have often not been met in recent years. The summer low flow rates are predicted to be reduced over time with climate change. The three action alternatives will potentially provide instream flows to supplement the natural flows in Eightmile and Icicle creeks. Instream flow supplementation is expected to improve fish habitat quality and quantity. The Leavenworth National Fish Hatchery (LNFH) is an important component of mid-Columbia River fisheries for spring Chinook salmon and coho salmon.
I-196-13	The Forest Service lost in <i>Ecology Center v. Austin</i> (No. 03- 35995, 35 ELR 20248 (9th Cir. Dec. 8, 2005)) because the court found the Forest Service’s attempt to allow commercial logging in an area designated for habitat treatment was in fact an arbitrary and capricious decision that lacked supportive data, a nexus to project goals, and suitable analysis of the additional resource impacts with only “untested and debated hypothesis.” In this Eightmile Lake proposal, this may apply to stated “improvements” to hatcheries, salmonids, consistent stream flows, stream health, and a myriad other baseless, untested, and debatable statements masquerading as fact.		
I-196-14	<u>Re-Opening a Previously Closed Road</u> The Draft EIS proposes to access and “open” the closed road FST 7601-116. However, nowhere do I see why this road was closed in the first place. There likely was a valid reason for the initial road closure; therefore, a proposed rescinding of that decision should be discussed and explained—and evaluated within the EIS, rather than a simple “we will open” statement.		
I-196-15	<u>Segmentation</u> Throughout the Draft EIS, the proposed Eightmile Dam rebuild project is stated as being one of several early actions to be implemented as a part of the overall Icicle Strategy. This is a significant red flag. Unless all the integrated components of the Icicle Strategy have already gone through a thorough NEPA analysis, and therefore, this proposed Eightmile Dam EIS is but one component nested to this broader project analysis, then this Draft EIS is insufficient. If this proposed Eightmile Dam retrofit and improvement project is but one step of the multi-step Icicle Strategy, complete with proposed work on other reservoirs within Wilderness boundaries, then limiting the analysis to only one part of the Icicle Strategy components would be segmentation and inappropriate. In order to provide additional clarity on the issue, the courts have developed a four-factor test to determine whether improper segmentation has occurred. These factors include whether the proposed segment: (1) has logical termini; (2) has substantial independent utility; (3) does not	I-196-14	Under the State Environmental Policy Act (SEPA), analysis of the project is required to evaluate and disclose the environmental impacts of the proposed action by contrasting the effects of continuing the current management of the resource into the future (No Action Alternative). The proposed action would result in use of the previously closed road. The road would remain closed under the No Action Alternative. Therefore, impacts from the road were assessed based on current and proposed future conditions. It is not the role of the EIS to discuss why the road closed or the rescinding of that decision.

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COMMENT	RESPONSE
I-196-15	<p>As noted in the first sentence of Section 1.1 of the Draft and Final EISs, Ecology and Chelan County issued 2019 FPEIS evaluating the Icicle Creek Water Resource Management Strategy (Icicle Strategy). The Icicle Strategy is intended to provide a program of integrated long-term water resource management and habitat restoration actions to achieve reliable water supplies and improve streamflows. The FPEIS evaluated the environmental impacts of five program alternatives, with the SEPA non-project action being the adoption of the program called the Icicle Strategy. The FPEIS looked at the Icicle Strategy program as a whole, and then as noted, further environmental review will be done as each project is implemented. The Eightmile Dam project was identified as an early action project in the FPEIS. Evaluation in this manner is not segmentation and is consistent with the SEPA codified in WAC 197-11-060 (5), which outlines the requirements for phased review. As described in WAC 197-11-060 (5) (b), phased review "assists agencies and the public to focus on issues that are ready for decision and exclude from consideration issues that already decided or not yet ready. Broader environmental documents may be followed by narrower documents ..." This is a SEPA document, not a NEPA document, and has been prepared in accordance with WAC 197-11.</p>

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COMMENT

RESPONSE

	foreclose the opportunity to consider alternatives; and (4) does not irretrievably commit federal funds for closely related projects.	I-196-16	As noted in the response to comment 1-196-15, the overall Icicle Creek Water Resource Management Strategy (Icicle Strategy) was evaluated in the 2019 FPEIS. The Eightmile Dam Rebuild and Restoration Project is one of several early actions to be implemented as part of the Icicle Strategy, and as such it is undergoing this project-level environmental review in this phased process under SEPA. Refer to Section 1.1 of the Draft and Final EISs for further detail.
I-196-15	Since the Draft EIS does not list the proposed actions for the other parts of the Icicle Strategy, it is impossible to assess how far it fails the first two "segmentation factor tests," however, since the Draft EIS states multiple times that this is but one proposed action amongst many of the Icicle Strategy, the document itself implies that there may not have sufficient independent utility. However, it clearly fails the opportunity to consider other reasonable alternatives. For instance, the Draft EIS states that Eightmile Lake is not the only lake that the water manager draws water from for irrigation and other uses. Therefore, what the combined and cumulative impact for all components of this interrelated Icicle Strategy can only be left to conjecture since the Draft EIS appears to have segmented these other components out of this analysis. In addition, such an approach fails to consider that the project goals may better be addressed at these other sites.		
I-196-16		I-196-17	The Eightmile Dam project is not a "water expansion project." There is no intention to expand the existing water right. The amount of water use under the Eightmile Lake water right is limited to the extent of the right and no more. As described in Section 1.4 of the Draft and Final EISs, the goal of the dam restoration project has three objectives:
I-196-17	<p>The first thought that comes to my mind in evaluating this proposed water expansion project, is what ability do the water managers have in obtaining an expanded water supply through one of their many other sources? This omission is clearly relevant to this analysis and proposal, and its omission is therefore substantive. There may be less impactful means of getting sufficient water capacity through other means—if so, then the omission of this information is a fatal flaw. In addition, if the same water managers will later propose other related projects in the future, then the scale and scope of related impacts of all the related proposed projects would clearly be different than what is articulated in this Draft EIS. Therefore, this appears to fail the segmentation test, as well as any good faith test.</p> <p>Elijah Veenendaal (Department of Commerce) in his 2012 capstone paper "Avoiding Improper Segmentation and Accounting for Cumulative Impacts During Deployment of a Broadband Infrastructure" states these tests are... <i>Intended to demonstrate that there is no clear nexus between the projects that would limit the federal government's ability to properly scope the project and evaluate other alternatives as required by NEPA and to protect federal funds against the waste, fraud, or abuse.</i></p> <p>In <i>Blue Ocean Preservation Society v. Watkins</i> (1991), the court rejected the project proponent's attempt to complete NEPA analysis on different phases of a broad geothermal strategy (not unlike the broader Icicle Strategy), finding that phases 3 and 4 were connected actions that must be considered in one EIS.</p> <p>Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. When actions "will have cumulative or synergistic environmental impact upon a region" and "are pending concurrently" before an agency, "their environmental consequences must be considered together." <i>Kleppe v. Sierra Club</i>, 427 U.S. 390, 410 (1976). Moreover, "significance cannot be avoided by terming an action temporary or by breaking it down into small component parts." To hold otherwise would undermine the purpose of this requirement—i.e., "to prevent agencies from dividing one project into multiple individual actions 'each of which individually has an insignificant environmental impact, but which collectively have a substantial impact.'" <i>Nat. Res. Def. Council v. Hodel</i>, 865 F.2d 288, 297 (D.C. Cir. 1988).</p>	<ul style="list-style-type: none">• Restore the storage capacity of Eightmile Lake so that it meets IPID's irrigation and storage needs under its existing water rights.• Comply with DSO regulations for a High Hazard Dam.• Provide additional water to enhance instream flow volumes in Icicle Creek and to the extent possible, time dam outflows to meet fish utilization needs.	
I-196-18			<p>The third objective references additional water to enhance instream flow volumes. However, this "additional water" is in reference to the requested Trust donation. The total water use (including for both irrigation and instream flow under the Trust donation) still must fall within the limits of IPID's existing water right. Following issuance of the Draft EIS, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes. After the Final EIS is issued, Ecology will conduct its review of the quantities available for the Trust donation under the right as prescribed by RCW 90.42.080(4)). As described in Sections 2.6 and 6.5 of the Final EIS, an Ecology-approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flow use as well as for IPID's irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered (2,000 acre-feet). The monitoring and reporting plan will also ensure that the Trust donation is managed properly.</p> <p>Refer to the Global Responses for Tentative Determination of Extent and Validity, Relinquishment, and Trust Donation for additional information.</p>

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COMMENT	RESPONSE
	<p>In addition, because the project is not a water expansion project, the question of whether IPID has examined how to obtain an expanded water supply through their other sources is not germane to the EIS. The water rights and proposals related to other reservoirs are outside the scope of this project-level EIS. Refer to the 2019 FPEIS for additional information for other projects that are part of the Icicle Strategy.</p>
	<p>Refer to the response to comment I-196-15 for discussion of segmentation of the environmental analysis.</p>
I-196-18	<p>As noted in the response to comment 1-196-15, the overall Icicle Strategy was evaluated in the FPEIS. This EIS looks at the detail now available surrounding the implementation of the Eightmile Dam Rebuild and Restoration Project.</p>

I-196

COMMENT

RESPONSE

I-196-19	<p>The segmentation issue also manifests itself in other parts of the Draft EIS. For instance, it is a given whenever there is a new or expanded reservoir that routine or cyclic dredging will be required to maintain that reservoir within operational parameters. However, the dredging frequency and subsequent new impacts is not discussed or evaluated. I contend that all intrinsic elements of the proposal shall be discussed at the same time. If not, then this violates the segmentation prohibition, since handling the analysis separately would likely prompt reviewers to accept a higher level of dredging impact on a fairly recently built reservoir than if all interrelated impacts were evaluated holistically.</p> <p><u>Rejected Considerations</u></p> <p>Alternatives considered but not carried forward: Dam removal. Cause the lake to be “unusable for IPID storage purposes and would not meet IPID’s operational and water delivery needs. [find alternative sources not in wilderness: true range of alternatives, other than this single one.]</p> <p>One option that appears obvious in need of analysis is the removal of the dams and the restoration of the wilderness habitat. Alternative water sources would be required, but in light of the many antiquated dam being removed throughout the nation, including the Pacific Northwest, the omission of such a consideration for these antiquated structures would be a serious omission. The authors of the Draft EIS summarily reject this otherwise viable option due to the generalized claim that dam removal would not meet all project goals. Not only is this an unsupported claim, but it also lacks awareness that in complex projects such as this, no alternative is likely to equally meet all stated goals, therefore, certain compromises must be made in order to choose the best alternative given the range of sometimes competing desires. However, to summarily reject one potential alternative simply because the authors choose otherwise smacks of not only not having sufficiently varied alternatives to choose from, but also of pre-decisional conclusions.</p> <p>Case law is filled with NEPA analysis that attempted to only consider and analyze a narrow range of options. Regarding this proposal, one document currently accessible on the internet states:</p> <p><i>Water conservation opportunities are substantial. Rather than looking to the Alpine Lakes as the first option, the City of Leavenworth should adopt an aggressive water conservation plan, as should other users in the valley. These actions, combined with promoting water markets that facilitate selling and trading water rights, could supply future water uses. However, these approaches have received minimal consideration to date.</i></p>	<p>I-196-19 Eightmile Lake has not been dredged in the past, and none of the EIS alternatives would result in the dredging of Eightmile Lake.</p>
I-196-20	<p>I-196-20 The project objectives are described in Section 1.4 of the Draft and Final EISs. As stated in Section 2.8 of the Draft and Final EISs, dam removal was not carried forward as a project alternative because it would result in the lake WSEL being permanently lowered to the elevation of the existing low-level outlet. This could result in the lake no longer being usable as storage for IPID and would not meet IPID’s operation and water delivery needs, as established in their water right. The Special Warranty Deed reserves IPID’s rights to maintain and operate the dam and exercise their water rights.</p>	<p>I-196-21 The Forest Service will determine if NEPA applies to a proposal based on the Council on Environmental Quality’s (CEQ) revised regulations at 40 CFR 1501.1 and agency regulations at 36 CFR 220.4(a).</p> <p>This EIS provides an environmental analysis that meets the requirements of SEPA as established in RCW 43.21C. No water from Eightmile Lake would be used in support of the domestic water supply for the City of Leavenworth (refer to Section 2.8.4 of the Draft and Final EISs and Global Response for No Change to Municipal Use). Analysis of the City of Leavenworth’s water right and source is beyond the scope of this EIS. A dam removal alternative was not developed as a part of the analysis because it would not meet the project objectives outlined in Chapter 1, Section 1.4 of the Draft and Final EISs.</p>
I-196-21	<p>NEPA analysis must take a “hard look” at all reasonable alternatives that would satisfy the majority of project needs and mitigate the hazards, including evaluating the removal of the dam. There are plentiful court cases in which reaffirmed this “hard look” requirement, including <i>Marble Mountain Audubon Society v. Rice</i> [914 F. 2d 179 (9th Cir. 1990)]. In this 1990 case, the court found while the Forest Service wanted to salvage timber following a fire, they had not taken a “hard look” at the impacts of the salvage operations; in addition, the court found the Forest Service failed to adequately consider the unique value of the affected area. The fact that this dam modification, enhancement, and even enlargement proposal is being proposed gives me reason to believe the project proponents are either unaware or indifferent to the potential impacts</p>	

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COMMENT

RESPONSE

I-196-21	to such as significant stream as Icicle Creek and the wildly popular and significant Alpine Lakes Wilderness Area—not unlike in <i>Marble Mountain Audubon Society v. Rice</i> where the court found the project proponent had not adequately consider the unique value of <i>that</i> affected area. The Icicle Creek and Alpine Lakes Wilderness Area appear to be more unique and publicly valued than those found in the 1990 ruling.	I-196-22	Throughout the EIS process, the Confederated Tribes and Bands of the Yakama Nation and the Confederated Tribes of the Colville Reservation have been consulted on potential impacts on both cultural resources (which include archaeological sites, built environment resources, and traditional cultural properties) and tribal resources (which include natural resources and treaty rights). The Forest Service has led tribal consultation on cultural resources impacts as part of the Section 106 process. Ecology has conducted formal consultation with these tribal governments on potential impacts on tribal resources. Consultation with the tribes will continue as the project moves through permitting and construction.
I-196-22	<u>Tribal Consultation</u> No where in the Draft EIS do I see that any Tribal consultation was conducted. If so, then what were the results. This appears to be a substantive deficiency.		
I-196-23	<u>Hatchery</u> Science is still unsettled regarding the type and degree of negative impacts that fish hatcheries have upon wild populations. Kurt Beardslee, Executive Director of the Wild Fish Conservancy, was once quoted: “There is no evidence that this type [referring to a similar hatchery located on Washington’s Skykomish River] of hatchery program has ever helped to save wild steelhead, but there is plenty of evidence to show the harm hatcheries have caused them.” I contend that if hatchery benefits are to be one of the stated goals, then any proposed benefit for the Icicle Creek Hatchery should be performed in concert and compliment of the various hatchery reforms occurring statewide (after finding many state hatcheries deficient and not fulfilling their stated purpose). I understand that there have been many concerns regarding this specific fish hatchery. In 2015, the Center for Environmental Law & Policy (CELP) and Wild Fish Conservancy filed a lawsuit over several Leavenworth Fish Hatchery Clean Water Act violations. CELP reported that this hatchery had not had a legal National Pollutant Discharge Elimination System (NPDES) permit since 1979. In addition, CELP reported in 2015 that: <i>Pollutants released from the Hatchery to Icicle Creek include but are not limited to: disease control chemicals, pathogens, nitrogen, phosphorus, antibiotics, chemicals used for disinfection and other fish culture purposes, residual chemical reagents and salt and chlorinated water. The wastewater discharged by the Hatchery contains excess phosphorus and violations of the applicable water quality criterion for pH have been recorded in lower Icicle Creek as a result. This phosphorus loading also contributes to violations of water quality standards in the Wenatchee River.</i>	I-196-23	The comment applies to hatchery operations, which are not a part of the proposed project. It is acknowledged that there are differing opinions about the long-term effects of fish hatcheries; however, the scope of this EIS does not include evaluating hatchery programs in the state. The Icicle Strategy Guiding Principles (as listed in Section 1.2.1 of the Draft and Final EISs) include objectives to address phosphorus loading from the Leavenworth National Fish Hatchery.
I-196-24	Along this line, it has come to my attention that Washington State fish hatcheries require an approved Hatchery Genetic Management Plan (GMP). If the Leavenworth hatchery has such a GMP, then its conclusions would be relevant to any NEPA analysis that proposes to increase Icicle Creek flows in order to improve hatchery conditions.	I-196-24	The Leavenworth National Fish Hatchery does not have a Hatchery Genetic Management Plan; therefore, there are no conclusions from such a plan to consider as part of this SEPA evaluation.
I-196-25	On the surface, it appears as if this hatchery had never been sufficiently sized and designed to accommodate the state’s 1930s needs, let alone 2023 needs. In addition, this hatchery has been polluting Icicle Creek, likely harming salmonids, including protected species, and has been operating for nearly 40-years without a permit. A 2015 CELP article stated: “The [Leavenworth] Hatchery has a long history of violations of federal environmental laws.” Dick Rieman in his January 12, 2014 <u>Icicle Creek and the Leavenworth National Fish Hatchery</u> article concluded “It is obvious that the Leavenworth National Fish Hatchery is too large for a small stream like Icicle Creek. It is too large for the small aquifer on which the LNFH depends.” Therefore, BEFORE using the Eightmile Dam upgrade project as a justification for improving hatchery conditions, sufficient assessment and long-term viability of this hatchery should be conducted. I contend that this hatchery assessment is out of scope of the Eightmile Dam upgrade proposal; therefore, hatchery improvements should NOT be used as a goal or justification for the Dam upgrade proposal—or to shoehorn these “improvements” into the Eightmile Dam Draft EIS. Thank you for providing an opportunity to comment and provide input into the Draft EIS.	I-196-25	This comment refers to the goals for the Icicle Creek Strategy, which was evaluated in the 2019 FPEIS. The Icicle Strategy Guiding Principles (identified in Section 1.2.1) include objectives for operating a sustainable hatchery. The objectives for the Eightmile Dam Rebuild and Restoration Project are listed in Section 1.4 of the Draft and Final EISs, and do not include specific goals for hatchery improvements.

I-197

	COMMENT	RESPONSE
I-197-1	I think a plan to increase water storage and supply in this area would be fantastic. Leavenworth is growing in size of community and in need to support that growth. It is in a dry land forest with many forest fires. If these fires were to ever encroach on housing I fear for most of Leavenworth. Increased infrastructure is vital to continue to safely provide for our population.	I-197-1 Comment noted. As described in Section 2.8.4 of the Draft and Final EISs, Ecology is not proposing to transfer water available from Eightmile Lake to the City of Leavenworth. No water will be used for municipal supply purposes. Refer also to the Global Responses for Water Conservation and No Change to Municipal Use.

I-198

	COMMENT	RESPONSE
I-198-1	<p>Dear Melissa Downes,</p> <p>Please accept my following comments on the "Eightmile Dam Rebuild & Restoration" project DEIS.</p> <p>It would appear that since this is WILDERNESS - possibly replacing this dam would be unnecessary - much less enlarging the dam & installing technology after the many many helicopter flights in and out.</p> <p>UNNECESSARY is an understatement. This certainly feels like these irrigation districts are putting a "toe in the water" and intend to harass & demolish this Wilderness Area. Up to 271 helicopter flights - TWENTY a day? This is overkill. The harm this kind of intrusion would do to the wildlife & the whole system is avoidable.</p> <p>Leave the DAM alone!</p> <p>Sincerely,</p> <p>Maggie Frazier</p> <p>134 Dunbar Rd</p> <p>Windsor, NY 13865</p>	I-198-1 In addition to the irrigation needs of IPID, the dam requires replacement due to the public safety implications. As described in Section 1.2 of the Draft and Final EISs, following the 2017 Jack Creek Fire, Ecology's Dam Safety Office determined that the dam was in a deteriorating and unsatisfactory condition with an estimated 150 downstream residences at risk if the existing dam were to fail. The project objectives are described in Section 1.4. Public safety implications are further described in Chapter 12.

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	COMMENT	RESPONSE
	<p>Name: Judith Fraser</p> <p>Email: jfraser@cybernet1.com</p> <p>Address: 338 Cooper Lane, Hamilton, MT 58840</p> <p>Dear Melissa Downes,</p> <p>Please accept my following comments on the "Eightmile Dam Rebuild & Restoration" project DEIS.</p> <p>I worked in Alpine Lakes Wilderness for 17 years. I also have a Master's in Environmental Studies. I'm very familiar with the Wilderness Act, over-use in Alpine Lakes, and options for rebuilding dams in Wilderness.</p> <p>This project was not properly analyzed. The Wilderness Act, as well as the large # of recreating visitors, were both basically ignored. You need to do an honest and thorough job of analysis that looks at short and long term impacts. Look at how other Wilderness dams have been reconstructed. This is a small dam close to the trailhead. Look at cost benefit. Look at what impacts the recreating people. This is a careless, inappropriate proposal. Take another look.</p> <p>Thank you for your consideration.</p> <p>Judith Fraser, Hamilton, MT.</p> <p>Former Wilderness Ranger, Wilderness Manager, Wilderness Coordinator and Wilderness Trails Forest Program Manager, USFS</p> <p>Alpine Lakes Wilderness, Anaconda Pintler Wilderness, Selway Bitterroot and Frank Church River of No Return Wilderness.</p> <p>The points made by Wilderness Watch are valid. I chose not to repeat them but I agree.</p> <p>Sincerely,</p> <p>Judith Fraser</p> <p>338 Cooper Lane</p> <p>Hamilton, MT 58840</p>	<p>I-199-1 Comment noted.</p> <p>I-199-2 Impacts on wilderness character from construction and operation of the project are analyzed in Chapter 3 of the Draft and Final EISs. Impacts on recreation from construction and operation of the project are discussed in Chapter 10 of the Draft and Final EISs.</p>

I-200

COMMENT

RESPONSE

From: Megan Dunstan (megandunstan@outlook.com) Sent: You a Personal Message
To: ICY RE Eight Mile Dam
Subject: Protect the Alpine Lakes Wilderness: Comment for Eightmile Creek Dam rebuild DEIS
Date: Wednesday, June 7, 2023 9:50:33 AM

Dear Director Tom Tebb,

We need to protect our natural resources! Please do all you can to minimize the impact on rebuilding the dam.

To whom it may concern,

Thank you for the opportunity to comment on the Draft Environmental Impact Statement for the Eightmile Dam Rebuild and Restoration Project (?DEIS?). While I support the maintenance of the Eightmile Lake dam to protect public health and safety downstream, the integrity of the Alpine Lakes Wilderness must be protected during this unprecedented process. To do this, the following conditions must be met in the alternative that is chosen:

? No roads in the Wilderness.

? Any water placed into a Trust Water Right must be designated "permanently donated for instream flow" so that water in Eightmile Creek remains instream until reaching the ocean.

? Any water "permanently donated for instream flow" should go into the historical channel for Icicle Creek.

? Any reconstruction of the dam should blend into the natural landscape of the Wilderness as much as the existing dam does.

The Alpine Lakes is one of the most iconic and beloved wilderness areas in our state, and the Eightmile Dam must be repaired in a way that continues to honor and protect this important and irreplaceable landscape.

Sincerely,

Megan Dunstan
 18028 25th Ave NE,m
 Lake Forest Park, WA 98155
 megandunstan@outlook.com
 (425) 361-6742

This message was sent by KnowWho, as a service provider, on behalf of an individual associated with Sierra Club Washington State. If you need more information, please contact Emilio Garza, Communications Associate at Sierra Club Washington State at emilio.garza@sierracub.org or (360) 217-9848.

I-200-1 Comment noted.

I-200-2 Comment noted.

I-200-3 Comment noted.

I-200-4 Thank you for your comment. Refer to the Water Rights Global Response for Trust Donation.

As described in the Global Response, Ecology intends to manage this donated water instream from the outlet of Eightmile Lake to the confluence of Icicle Creek with the Wenatchee River. The releases will be coordinated with Icicle Work Group (IWG) members, Icicle Strategy instream flow subcommittee, IWG co-conveners, and fishery co-managers. Coordination and decisions surrounding lake releases and flow management within the Icicle Creek Subbasin will be informed, in part, by a separate IWG process including a decision support tool being developed as part of the Icicle Strategy. Also refer to the Section 2.6 (Dam Operation) of the Draft and Final EISs.

I-200-5 Refer to the Global Response for Visual Resources for more information on visual-related mitigation measures.

I-200-6 Comment noted.

I-201

COMMENT

RESPONSE

Dear Melissa Downes,

Please accept my following comments on the "Eightmile Dam Rebuild & Restoration" project DEIS.

I-201-1

The dam was originally built without helicopters and heavy equipment, and it has persisted for nearly a century. The final EIS must explore a dam design that is similar to the current one and that only includes the minimum additional design features to comply with safety requirements. The design would include less reliance on industrial materials, instead relying more on those that can be packed into or sourced from the site, manual water release features that would alleviate the additional structures and installations in Wilderness, and dam sizing and design that would not increase the visual appearance of the structure, its footprint within the Wilderness, or its water storage capacity beyond the current water rights.

I-201-2

The DEIS is inadequate because all alternatives ignore water rights relinquishment and irreparably harm the Alpine Lakes Wilderness. A wilderness-compatible alternative for the Eightmile dam must be analyzed. The project cannot increase the water extracted from Eightmile Lake, the lake cannot be enlarged, the lake elevation cannot be increased four feet, and the low pipe cannot be made any lower than it currently sits.

I-201-3

No motorized vehicles can be used in wilderness! The shocking amount of helicopter use proposed—101 to 271 round-trip flights—will significantly degrade the Alpine Lakes Wilderness. No roads can be built in the wilderness to allow vehicles! The impacts of industrial transformation should not be discounted as "temporary" and they should be eliminated.

I-201-4

The DEIS discounts the impacts of motorized and aerial noise and disturbance on both wildlife and human visitors. Dam construction would take approximately four to five months during the summer and compound other disturbance impacts related to recreation overuse and other helicopter and motorized uses in the Wilderness. The stress on wildlife is likely to be significant with impacts extending beyond the project completion date.

I-201-5

I-201-6

DEIS alternatives all result in a dam would be more visible and obviously developed than the current dam.

I-201-7

DEIS alternatives all call for telemetry towers, secured with guy wires, within the Wilderness, to allow for remote operation of release valves and gates. For nearly a century, administrators have hiked to the dam and released water manually. There is no need for telemetry installations.

I-201-1

Chapter 2, Project Alternatives, of the Draft and Final EISs discusses the alternatives, the No Action Alternative, and options that were considered but not carried forward. Refer to Chapter 2 for further discussion of the alternatives development process.

I-201-2

IPID is not entitled to an increase in its water right. The amount of water use under the Eightmile Lake water right is limited to the extent of the right and no more. The design volumes of up to 1,698 acre-feet and 2,000 acre-feet represent the maximum active storage water volumes that were considered for impacts in the EIS. As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology-approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flow uses as well as for IPID's irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered (up to 2,000 acre-feet), and will also ensure that the Trust donation is managed properly. Any excess water would be allowed to pass through the lake as natural flow without being actively managed and released for beneficial use.

Refer to Section 1.10.1 and Chapter 6 of the Draft and Final EISs for further discussion of water rights. Also, refer to the Global Responses for Relinquishment and Tentative Determination of Extent and Validity.

I-201-3

Refer to Section 6.2 of the Final EIS for a discussion of Water Rights related to the Eightmile Dam project. Refer to the Global Response for Water Rights for additional discussion of water rights issues related to the project. Compatibility with the Wilderness Act is discussed in Chapter 3 of the Draft and Final EISs.

I-201-4

The project does not include the building of any roads within the wilderness area. As described in Chapter 2, the improvements to the abandoned road would stop outside of the Roadless Area and the Alpine Lakes Wilderness. Additionally, see the Global Response for Helicopter Use in the Alpine Lakes Wilderness.

I-201-5

Refer to Section 8.4 of the Draft and Final EISs for discussion on potential noise impacts on wildlife due to construction activities. As noted, while construction could impact a few individuals near the dam and along the flight path, the impacts are expected to be less-than-significant. Section 10.4

I-201

		COMMENT	RESPONSE
I-201-8	I-201-9		describes potential impacts on recreationists associated with construction noise. Construction is expected to be completed within one season, and once construction is complete and helicopter use is not needed, we expect these impacts to be negligible. Refer also to the Global Response for Recreation.
		I-201-6	Refer to Chapter 11 of the Draft and Final EISs for visual simulations for the project alternatives. Refer also to the Global Response for Visual Resources for more information on visual-related mitigation measures.
		I-201-7	In regard to the impacts on the wilderness from telemetry equipment, see the Global Response for Telemetry Equipment.
		I-201-8	As noted in Section 2.7.1 of the Draft and Final EISs, the project would re-open a previously closed Forest Service Road for construction of the dam. The road would be used exclusively by IPID to bring personnel and materials closer to the dam site. The gate would remain locked at all times, and no public access would be granted. Refer to Section 2.8.3 of the Draft and Final EISs for a discussion of why the use of pack animals to transport materials to the site is not practical.
		I-201-9	Without industrial equipment, construction of the project would depend solely on the transportation of materials to the site with pack animals and would rely on the excavator currently on-site as the only piece of construction equipment. As described in Section 2.8.3 of the Draft and Final EISs, using only the on-site excavator would likely extend the construction work to two seasons and closing trails for extended periods of time during peak recreational times. Use of pack animals is estimated to require 7,500-12,250 animal trips. Moving the concrete up to the dam site alone would take 208–340 days with two teams working (36 animal roundtrips per day), which would extend construction to multiple seasons. Increasing the number of teams would create congestion on the trail, and result in destruction and erosion to the trail.
		<p>DEIS alternatives all call for construction of a road to bring vehicles closer to the Wilderness boundary, increasing the already easy access and exacerbating overuse problems. No roads should be built! Trails for pack animals may be appropriate.</p> <p>The original dam was built without industrial equipment. It can be repaired/replaced without industrial equipment. If this doesn't make financial sense for the operator then the old dam can be decommissioned.</p> <p>Sincerely, Arne Johanson 600 Meadowlark Rd Jackson, WY 83001</p>	

I-202

	COMMENT	RESPONSE
	Dear Melissa Downes,	
	Regarding the "Eightmile Dam Rebuild & Restoration" project DEIS, my comments follow:	
I-202-1	1. The DEIS appears to be inadequate due to alternatives ignoring water rights relinquishment and the irreparable harm to the Alpine Lakes Wilderness. A wilderness-compatible alternative needs analysis.	I-202-1 Refer to the Global Response for Relinquishment.
I-202-2	2. The proposed heavy reliance on helicopters is incompatible with a wilderness designation, as the proposed 101 - 271 round-trip flights would degrade the Alpine Lakes Wilderness. Helicopters and motorized equipment enable industrial-scale development and are not compatible with a wilderness setting. The impacts of industrial transformation should not be discounted as "temporary." They need to be eliminated or minimized to the greatest extent possible.	I-202-2 See the Global Response for Helicopter Use within the Alpine Lakes Wilderness.
I-202-3	3. The DEIS does not adequately consider negative impacts of dam construction over four to five summer months and the aggregate/compound impact with other wilderness disturbances from recreation overuse and other helicopter and motorized uses in the Wilderness. The stress on wildlife is likely to be significant with impacts extending beyond the project completion date.	I-202-3 See Section 8.4 of the Draft and Final EISs for discussion on potential noise impacts on wildlife due to construction activities. As noted, while construction could impact a few individuals near the dam and along the flight path, the impacts are expected to be less-than-significant. Refer to Section 8.1 for a description of significance criteria for impacts on wildlife. Once construction is complete and helicopter use is not needed, these impacts are expected to become negligible.
I-202-4	4. The DEIS alternatives result in a more visible, developed structure as compared to the current dam.	
I-202-5	5. DEIS alternatives involving telemetry towers/guy wires installed to allow remote operation of release valves and gates fails to acknowledge that administrators have historically hiked to the dam and released water manually. There is no compelling need for telemetry installations.	I-202-4 Refer to Chapter 11 of the Draft and Final EISs for visual simulations for the project alternatives. Refer also to the Global Response for Visual Resources for more information on visual-related mitigation measures.
I-202-6	6. DEIS alternatives considering road access may be of value only if it will serve as a replacement for helicopter access and if it will be completely and effectively decommissioned upon project completion.	I-202-5 In regard to the impacts on the wilderness from telemetry equipment, see the Global Response for Telemetry Equipment.
	As a former Seattle resident who traveled this area, I appreciate your consideration of these comments.	
	Sincerely, Greg Ptucha 1319 Joliet Place Detroit, MI 48207	I-202-6 Comment noted.

I-203

	COMMENT	RESPONSE
	<p>3 June 2023</p> <p>Office of Columbia River Washington Department of Ecology 1250 W Alder St Union Gap, WA 98903</p> <p>The following are comments on the Eightmile Lake DEIS:</p> <p>I-203-1 I am a retired U.S. Department of Interior research ornithologist and a strong supporter of the national Wilderness System. I am concerned about proposed water projects in the Alpine Lakes Wilderness in Washington State. Wilderness areas are designated to be places untrammeled by humans, where we are to be only visitors. They are to be without permanent improvements or human habitation and preserved in a natural condition.</p> <p>I-203-2 I am concerned about proposals for new water projects within the Alpine Lakes Wilderness. The draft EIS on the Eightmile Dam should assure that Wilderness values are protected. In these times of warming and drying climate, the draft EIS should include more aggressive water conservation measures and a review of other proposals for dam modifications in the Alpine Lakes Wilderness. I wonder how this project prompts the values of the National Wilderness Act?</p> <p>I-203-3 Please ensure that the Alpine Lakes Wilderness is protected and that no roads are constructed within its boundaries.</p> <p>Sincerely,</p> <p>Janet Ruth janetmruth@comcast.net</p> <p>105 Mission Ridge Road Corrales, New Mexico</p>	<p>I-203-1 Comment noted.</p> <p>I-203-2 Refer to Chapter 3 of the Draft and Final EISs for a discussion of how the project will comply with wilderness character. Refer to the Global Response for Water Conservation for a discussion of conservation practices in the region. The FPEIS for the Icicle Strategy includes a comprehensive discussion of impacts associated with other storage projects within the Alpine Lakes Wilderness. Any additional dam modifications will be subject to applicable state and federal environmental review, if and when they are proposed.</p> <p>I-203-3 As described in Chapter 3 of the Draft and Final EISs, motorized equipment, motor vehicles, mechanical transport, temporary roads, permanent structures, or installations are not generally allowed in designated wilderness areas. Wilderness areas are to be primarily affected by the forces of nature, although the Wilderness Act does acknowledge the need to provide for human health and safety, protect private property, control insect infestations, and fight fires within the area. The Wilderness Act also contains provisions that allow pre-existing uses to remain under certain conditions. Eightmile Dam is located on a Special Warranty Deed parcel controlled by IPID for operation and maintenance of the dam.</p> <p>No roads would be constructed within the Alpine Lakes Wilderness as a part of this project.</p>

I-204

COMMENT

RESPONSE

Name: Wallace Elton

Email: wally.elton@earthlink.net

Address: 275 S Munger St, Middlebury, VT 05753

Dear Melissa Downes,

I-204-1

I write as one who has hiked in the Alpine Lakes Wilderness to comment on the "Eightmile Dam Rebuild & Restoration" project DEIS. I will start by saying that I oppose a double standard for activity within designated Wilderness in which "officials" are allowed to do things that others cannot just because it is convenient. Any project should adhere to provisions of the Wilderness Act to the maximum extent possible. The DEIS clearly is inadequate because all alternatives irreparably harm the Wilderness. At least one Wilderness-compatible alternative must be included and analyzed.

I-204-2

I-204-3

Most glaringly, the project should not rely on helicopters. The amount of helicopter use proposed, 101 to 271 round-trip flights, will in fact significantly degrade the Wilderness and disrupt wildlife and the experience of legal Wilderness visitors. But the DEIS does not even acknowledge that helicopter and other motorized equipment use are incompatible with the purposes of Wilderness designation. The impacts of such massive intrusion and disruption are discounted as "temporary." They should be eliminated or at least minimized as much as possible. Further, the disrupting work will last several months during high-use season, thus compounding impacts of recreation overuse and other agency activities in the Wilderness.

I-204-4

I-204-5

I also am concerned that DEIS alternatives all call for telemetry towers, even though permanent structures are prohibited within Wilderness, to allow for remote operation of release valves and gates. This further degrades the Wilderness. Yet, administrators have previously hiked to the dam and released water manually. The need for telemetry towers is questionable at best; they are a convenience for the people involved. Wilderness is not supposed to be convenient.

I-204-6

In addition, all DEIS alternatives call for construction of a road to bring vehicles closer yet to the Wilderness boundary, increasing the already easy access and worsening both overuse and illegal access challenges. The road should only be considered if it will be a replacement for helicopter access and if it will be completely decommissioned and restored after the project.

I-204-7

I note that the DEIS alternatives all would result in a dam that is more intrusively conspicuous than the current dam. I believe that the final EIS should consider a dam design that is similar to the current one and that only includes the minimum additional features needed to comply with safety requirements. The design should include less reliance on industrial materials and more on those that can be packed into or

I-204-1

Comment noted.

I-204-2

Comment noted. Impacts from construction and operation of the project on wilderness are discussed in Chapter 3 of the Draft and Final EISs. All construction will occur in IPID's Special Warranty Deed parcels.

I-204-3

Wilderness character is described in Chapter 3 of the Draft and Final EISs. Section 3.4 describes construction impacts and notes "The use of a Special Warranty Deed by IPID provides them retained rights that allow the use of motorized transportation, including aircraft and motorized equipment required to repair or maintain the dam, that would otherwise be prohibited by the Wilderness Act." Refer also to the Global Response on Helicopter Use within the Alpine Lakes Wilderness.

I-204-4

Section 10.4.2 of the Draft and Final EISs describes the duration of impacts. Section 10.6 describes measures to minimize impacts on recreation from construction. Refer also to the Global Response for Recreation.

I-204-5

In regard to the impacts on the wilderness from telemetry equipment, see the Global Response for Telemetry Equipment.

I-204-6

Comment noted.

I-204-7

Comment noted.

I-204-8

Comment noted.

I-204

	COMMENT	RESPONSE
I-204-7	sourced from the site, as well as manual water release features to avoid the additional structures within Wilderness, and dam size and design that would not increase the visual impact.	
I-204-8	<p>I urge you to recall this DEIS and develop one that looks at ways to lower Wilderness degradation. Thank you for the opportunity to comment.</p> <p>Sincerely, Wallace Elton 275 S Munger St Middlebury, VT 05753</p>	

I-205

	COMMENT	RESPONSE
I-205-1	<p>Dear Melissa Downes,</p> <p>Alpine Lakes is a designated Wilderness area. Helicopters are inappropriate and legally banned from Wilderness Areas.</p> <p>Keep out!</p> <p>Sincerely, David Stone 1975 16th St Springfield, OR 97477</p>	<p>I-205-1 See the Global Response for Helicopter Use within the Alpine Lakes Wilderness.</p>

I-206

	COMMENT	RESPONSE
I-206-1	<p>Dear Melissa Downes,</p> <p>Comment on DEIS for Eightmile Dam Rebuild & Restoration project.</p> <p>Sadly, this plan ignores water rights and would irreparably harm Alpine Lakes Wilderness. The number of helicopter flights planned is completely incompatible with Wilderness! The project should not rely on helicopters. This level of constant noise should not be allowed in Wilderness, where we supposedly care about stressors on wildlife. And then you'll put in telemetry towers! Also inappropriate for wilderness.</p> <p>The dam was originally built without helicopters and heavy equipment and did just fine for close to 100 years. Please design a dam whose size and materials and construction approach are appropriate for Wilderness.</p> <p>Sincerely,</p> <p>Rona Fried 231 W Pulaski Rd Huntington Station, NY 11746</p>	<p>I-206-1 See the Global Response for Helicopter Use within Alpine Lakes Wilderness and the Global Response for Telemetry Equipment. Water rights are addressed in Chapter 6 of the Draft and Final EISs and in the Global Responses for Water Rights.</p>

I-207

COMMENT

RESPONSE

Name: Michael Shurgot
Email: mwshurgot@earthlink.net

Dear Director Tom Tebb,

Director Tebb,

Thank you for the opportunity to provide comments on the Eightmile Dam Restoration and Replacement Project Draft Environmental Impact Statement. As one of the most visited Wilderness areas in the country, the Alpine Lakes Wilderness—and Enchantment Permit Zone contained within—are an alpine wonderland and bucket list destination for the thousands of backpackers who enter the permit lottery each year. As a Washingtonian, I am proud of my state for protecting this special place, and I want to ensure it remains that way.

I understand the need to repair and maintain the Eightmile Dam, recognizing the importance of taking action to protect public health and safety downstream. However, I also am deeply concerned about the project's environmental impacts. As proposed, all three draft plans would have significant impacts to the 'wilderness character' of the area as defined and protected by the 1964 Wilderness Act. The following concerns must be fully addressed and further mitigated in the final plan adopted by DOE and IPID:

- **Maintaining Wilderness Character** – the current dam is not conspicuous to recreationists, blending in with the surrounding Wilderness, and has a minimal footprint. More needs to be done in all three alternatives to protect the wilderness character. I appreciate there is no proposal to build a road into the designated Wilderness area, which would violate the 1964 Wilderness Act. The use of helicopters should be limited to dam construction and not extend to long-term maintenance within the Wilderness. Furthermore, the number of flights should be limited to as few as possible to mitigate impacts on wilderness character and recreation.

- **Recreation** – Located within the Enchantment Permit Zone, this area offers unique recreational opportunities that over 45,000 day and overnight users visited in 2018. There should be advanced notice of any potential impacts on recreational access and the final plan should take measures to avoid construction during peak season.

- **Instream Flow** – I strongly support designating additional water from the repaired dam to be permanently reserved for instream flows to be used to maintain water levels for fish and ensure tribal

- I-207-1 Comment noted. Impacts on wilderness character are described in Sections 3.4 and 3.5 of the Draft and Final EISs.
- I-207-2 See the Global Response for Helicopter Use within the Alpine Lakes Wilderness and the Global Response for Visual Resources for more information on visual-related mitigation measures.
- I-207-3 Refer to the Global Response for Recreation and Section 10.6 of the Final EIS for more information on recreation-related mitigation measures.
- I-207-4 As described in Section 6.2 of the Draft and Final EISs, because their Eightmile Lake water right authorizes the use of water for irrigation, IPID must gain authorization to also release water from storage in the lake for instream flow purposes. After issuance of the Draft EIS, IPID submitted a request to donate a portion of its Eightmile Lake water right to the State Trust Water Rights Program for instream flow purposes for the life of the dam and related infrastructure. Additionally, as described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology-approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flows as well as for IPID's irrigation use. The monitoring and reporting plan will be executed as part of the Trust donation process and will ensure that the Trust donation and associated quantities are managed properly. Refer to the Global Response for Trust Donation for further discussion.

I-207

	COMMENT	RESPONSE
I-207-4	<p>treaty rights. However, there are no assurances or mechanisms provided in any of the draft plans to ensure this will occur; the final plan must clarify this important matter.</p>	I-207-5 Comment noted.
I-207-5	<p>In summary—the proposed alternatives in the draft plans for the Eightmile Dam repair and replacement do not fully address all concerns. DOE and IPID must ensure the dam is repaired to protect public health and safety downstream while also fully protecting the wilderness, recreation, scenic, fish and wildlife habitat, and other natural resources of Eightmile Lake, Icicle Creek, the Alpine Lakes Wilderness, and Enchantment Permit Zone.</p> <p>Thank you for your time and consideration,</p> <p>The above is all technical, etc. We both know that. But, the Wilderness Act is specific about what can and what cannot be done within designated wilderness. I urge you to do everything possible—maybe even impossible—to honor the Wilderness Act.</p> <p>Sincerely,</p> <p>Michael Shurgot 6536 31st Ave. NE Seattle, WA 98115</p>	

I-208

	COMMENT	RESPONSE
I-208-1	<p>Name: Mark Langner Email: lynnimark@hotmail.com Address: 109939 hwy 395 coleville, CA 96107</p> <p>Dear Melissa Downes,</p> <p>I have the following comment on the "Eightmile Dam Rebuild & Restoration" project DEIS.</p> <p>The DEIS does not adequately address or protect Wilderness values. The use of helicopters in Wilderness areas is not acceptable.</p>	I-208-1 Refer to Chapter 3 of the Draft and Final EISs for a discussion of potential impacts on wilderness character. See the Global Response for Helicopter Use within the Alpine Lakes Wilderness for further discussion of proposed use of helicopters during construction.

I-209**Kim McDonald**

8855 Nahahum Canyon Road
Cashmere, Washington 98815

May 31, 2023

Mr. Tom Tebb
Office of Columbia River
1250 W. Alder Street
Union Gap, Washington 98903

Re: Eight Mile Dam Removal and Rebuild EIS

Dear Mr. Tebb:

I am a long time resident of Cashmere, Washington and an avid fly angler on the portions of Icicle Creek which are open to fishing.

My comments on the above reference EIS are in three categories: 1. Water rights and the multi-fill/single fill issues with Eight Mile Lake; 2. Wilderness issues with Icicle Peshastin Irrigation District (IPID) demolition of current dam and building new dam; 3. Overall lack of analysis regarding the impacts of climate change on the three alternatives.

1. Water Rights: It is my reading of the EIS that the water rights claimed by IPID could be adjudicated due to relinquishment. Ecology can and should perform a tentative determination of water storage right prior to issuing any permits (or funding for replacing the dam). Additionally, the EIS uses single fill and multi-fill analysis when determining the storage water right. The EIS should include Ecology's reasoning for using two different analysis. As an angler, I am of course concerned about the vague quantification of the trust water right. The EIS should clearly state the donor of the trust water right is IPID and it is for in stream purpose only (meaning from source to sea).

2. Wilderness issues: I commend IPID for agreeing that no roads will be built into designated Wilderness and that any construction remain in the Special Warranty Deed land. However, I am greatly concerned about the "bathtub" ring at the reservoir as the water is drawn down and the impacts to fish life in the reservoir.

COMMENT

RESPONSE

I-209-1 Comment noted.

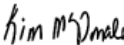
I-209-2 Refer to the Global Responses for Trust Donation, Multi-fill Analysis, Relinquishment, and Tentative Determination of Extent and Validity. The Multi-fill Analysis is described in the Global Responses for Water Rights and was relied on (in part) for the water right evaluation in the Draft EIS to assess whether the range of active storage capacities for design alternatives being considered were reasonable. The EIS process is not a vehicle to determine relinquishment nor the extent and validity of the water right, although Ecology is confident that IPID possesses sufficient rights to support the range of alternatives in the EIS.

Following the issuance of the Draft EIS, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes. Following issuance of the Final EIS, Ecology will conduct its review of the quantities available for the Trust donation under the right in accordance with the process prescribed in RCW 90.42.080(4). As described in Sections 2.6 and 6.5 of the EIS, an Ecology-approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flow uses as well as for IPID's irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered (up to 2,000 acre-feet) regardless of whether practices in a given year involve multiple fillings or a single fill. In addition, as described in the Global Response for Trust Donation, Ecology intends to manage this donated water instream from the outlet of Eightmile Lake to the confluence of Icicle Creek with the Wenatchee River.

I-209-3 Comment noted. No roads would be constructed within the Alpine Lakes Wilderness as a result of this project.

I-209-4 See the Global Response for Lake Level and Bathtub Ring. The potential impacts on fish populations associated with each alternative are discussed in Sections 8.4.2 and 8.5 of the Draft and Final EISs.

I-209

		COMMENT	RESPONSE
Page Two			
I-209-4	3. The visual impacts were not addressed and there is no mention of impacts to fish life throughout the Icicle basin much less at Eight Mile Lake.	I-209-5	The potential visual impacts are evaluated in Sections 11.4 and 11.5 of the Draft and Final EISs. The potential impacts on fish populations associated with each alternative are discussed in Sections 8.4 and 8.5.
I-209-5	4. Climate change: No where in the EIS are the impacts from climate change addressed or even acknowledged. Modeling suggests significant less snowpack in the Stuart Range, more precipitation in the form of rain, and impacts from volatile storms to run off in burn areas (such as Eight Mile Lake). Increased evaporation from increased average temperatures will also impact the water temperature as the lake is drawn down and the amount of water available in Icicle Creek. Significant state and federal funding have been dedicated to restoring historic salmon and steelhead runs on Icicle, and maintaining cold, clear water in stream water levels is critical for those runs to be restored. Addressing the impacts of climate change for this project is vital if we are to have an understanding of the actual environmental impacts of the proposed project.	I-209-6	Climate change and surface water are described in Section 4.3.3 (Climate Change and Surface Water) and throughout Section 4.5 (Operational Impacts) of the Draft and Final EISs. Within Icicle Creek, climate modeling predicts that the surface water will generally become flashier with lower baseflow and a higher peak flow. Table 4-7 provides the average monthly percent change in streamflow in Icicle Creek. Figures 4-7 and 4-8 depict 2050 flow modeling for Eightmile Lake and Icicle Creek, respectively, and the potential operational impacts associated with each alternative is described in Section 4.5 of the Draft and Final EISs.
I-209-6			Implementation of an action alternative would improve IPID's ability to adaptively operate the reservoir in response to changes in inflow timing and magnitude as a result of climate change. The ability to release water stored during dry periods becomes an increasingly valuable tool to sustain flows for aquatic life in Eightmile and Icicle creeks and to manage downstream uses in real-time.
Thank you for the opportunity to comment.			
Sincerely yours,  Kim McDonald			

I-210

COMMENT

RESPONSE

	Dear Melissa Downes,	I-210-1	Comment noted.
I-210-1	As a mother and grandmother, I believe it is our duty to protect and preserve wildlife as precious natural resources held in trust for all future generations. We also bare a deep responsibility as Stewards for all of Earth's Divine Creation. That responsibility will always be more important than politics or profit.	I-210-2	Refer to the Global Response for Relinquishment.
	So please consider the below comments on the "Eightmile Dam Rebuild & Restoration" project DEIS.	I-210-3	Comment noted. The design of Alternatives 1, 2, and 3 is described in Chapter 2 of the Draft and Final EISs. Section 2.6 further describes operation under each alternative. IPID is not entitled to an increase in its water right. The amount of water use under the Eightmile Lake water right is limited to the extent of the right and no more. The design volumes of up to 1,698 acre-feet and 2,000 acre-feet represent the maximum active storage water volumes that were considered for impacts in the EIS. As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology -approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flow uses as well as for IPID's irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum volume of the design alternatives considered (up to 2,000 acre- feet of active storage), and will also ensure that the Trust donation is managed properly. Any excess water would be allowed to pass through the lake as natural flow without being actively managed and released for beneficial use. Also refer to the Global Response for Tentative Determination of Extent and Validity.
I-210-2	The DEIS is inadequate because all alternatives ignore water rights relinquishment and irreparably harm the Alpine Lakes Wilderness. A wilderness-compatible alternative for the Eightmile dam must be analyzed.		
I-210-3	The project cannot increase the water extracted from Eightmile Lake, the lake cannot be enlarged, the lake elevation cannot be increased four feet, and the low pipe cannot be made any lower than it currently sits.		
I-210-4	The project should not rely on helicopters. The shocking amount of helicopter use proposed—101 to 271 round-trip flights—will significantly degrade the Alpine Lakes Wilderness.		
I-210-5	The DEIS does not recognize that helicopters and other motorized equipment enable industrial-scale development and manipulation that are not possible with wilderness-compatible modes of access and non-industrial tools and materials. The impacts of industrial transformation should not be discounted as "temporary" and they should be eliminated or minimized accordingly.		
I-210-6	The DEIS discounts the impacts of motorized and aerial noise and disturbance on both wildlife and human visitors. Dam construction would take approximately four to five months during the summer and compound other disturbance impacts related to recreation overuse and other helicopter and motorized uses in the Wilderness. The stress on wildlife is likely to be significant with impacts extending beyond the project completion date.	I-210-4	See the Global Response for Helicopter Use within the Alpine Lakes Wilderness.
		I-210-5	See the Global Response for Helicopter Use within the Alpine Lakes Wilderness.
I-210-7	DEIS alternatives all result in a dam would be more visible and obviously developed than the current dam.	I-210-6	Refer to Section 8.4 of the Draft and Final EISs for discussion on potential noise impacts on wildlife due to construction activities. As noted, while construction could impact a few individuals near the dam and along the flight path, the impacts are expected to be less-than-significant. Section 10.4 describes potential impacts on recreationists during construction. Once construction is complete and helicopter use is not needed, we expect these impacts to be negligible.
		I-210-7	Comment noted.

I-210

		COMMENT	RESPONSE
I-210-8	DEIS alternatives all call for telemetry towers, secured with guy wires, within the Wilderness, to allow for remote operation of release valves and gates. For nearly a century, administrators have hiked to the dam and released water manually. There is no need for telemetry installations.	I-210-8	In regard to the impacts on the wilderness from telemetry equipment, see the Global Response for Telemetry Equipment.
I-210-9	DEIS alternatives all call for construction of a road to bring vehicles closer to the Wilderness boundary, increasing the already easy access and exacerbating overuse problems. The road should only be considered if it will serve as a replacement for helicopter access and if it will be completely and effectively decommissioned.	I-210-9	Comment noted.
I-210-10	The final EIS must explore a dam design that is similar to the current one, that only includes minimum additional design features to comply with safety requirements. The design would include less reliance on industrial materials, instead relying more on what can be packed into or sourced from the site, manual water release features that would alleviate the additional structures and installations in Wilderness, & dam sizing and design that would not increase the visual appearance of the structure, its footprint within the Wilderness, or its water storage capacity beyond the water right post-relinquishment.	I-210-10	Alternative 3 is similar in size to the existing dam and does not include a mechanized gate. Alternative 3 does not store as much water as Alternatives 1 and 2. Alternative 2, while wider than the existing dam, would be the least visually intrusive dam. All of the alternatives will use concrete flown into the site, as well as rock and materials that are available on the Special Warranty Deed parcels.
	Sincerely, Juli Kring 12400 Brookglade Cir Houston, TX 77099		

I-211

		COMMENT	RESPONSE
I-211-1	3 June, 2023		I-211-1 Comment noted.
	Office of Columbia River Washington Department of Ecology 1250 W Alder St Union Gap, WA 98903		I-211-2 Comment noted. See the Global Response for Water Conservation, which includes a discussion of current water conservation and efficiency measures. The Draft and Final EISs are a project-specific analysis of the Eightmile Dam Rebuild and Restoration Project. The Icicle Strategy FPEIS (January 2019) examined storage enhancement at other lakes in the Alpine Lakes Wilderness.
	The following are my comments on the Eightmile Lake DEIS: As a strong supporter of the national Wilderness System, I am concerned about proposed water projects in the Alpine Lakes Wilderness in Washington State. I travel often to Washington State for recreational purposes and have enjoyed many of the wilderness areas within the state.		I-211-3 Impacts on recreational use of the Alpine Lakes Wilderness are described in Sections 10.4 and 10.5 of the Draft and Final EISs. Refer also to the Global Response for Recreation.
	As set out by Congress, a Wilderness is an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. Wilderness is also an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation and preserved in its natural condition.		I-211-4 No roads would be constructed within the Alpine Lakes Wilderness as a part of this project.
	I believe that we should preserve and expand our wilderness areas as much as possible.		I-211-5 Comment noted.
I-211-2	For this reason, I believe that the draft EIS on the Eightmile Dam rebuild project should include more aggressive water conservation measures and it should include a review of other proposals for dam modifications in the Alpine Lakes Wilderness.		
I-211-3	I believe it is imperative that we understand how this proposed project could disrupt recreational use of the Alpine Lakes Wilderness.		
I-211-4	I am requesting that you ensure that no roads are constructed within the Alpine Lakes Wilderness and that the Alpine Lakes Wilderness is protected.		
I-211-5	I support the no action alternative.		
Thank you for your consideration of this matter,			
Bruce R. Buhr buhrbr@gmail.com 10512 E Summerfield Circle Wichita, KS 67206			

I-212

COMMENT

RESPONSE

Dear Melissa Downes,

Please accept my following comments on the "Eightmile Dam Rebuild & Restoration" project DEIS.

I have spent my life exploring and photographing American designated wilderness and count myself fortunate to have done so in the Alpine Lakes Wilderness. It is one of the most beautiful places on Earth. Like Indian Peaks Wilderness in my home state of Colorado, it was unfortunately trammled early on by dam construction at some of the lakes. This modification is antithetical to the essence of the Wilderness Act. It is my hope that you will reconsider the future of this drainage by not only not using helicopters to explore future plans for modifying the dams, but to consider eradicating the dams themselves completely and restoring this extraordinary natural place to what the Wilderness Act intended in the first place: a place, in contrast with those areas where man and his own works dominate the landscape, where the earth and its community of life are untrammled by man, and where man himself is a visitor who does not remain.

John Fielder John Fielder.com

Sincerely,

John Fielder
PO Box 26890
Silverthorne, CO 80497

I-212-1 Comment noted.

I-212-2 Comment noted. With regard to helicopters, see the Global Response for Helicopter Use in Alpine Lakes Wilderness. Refer to Chapter 3 of the Draft and Final EISs for a discussion of wilderness character.

I-213

	COMMENT	RESPONSE
	Name: Michael Lipsky Email: michael.lipsky@icloud.com	
	Dear Melissa Downes,	
	Please accept my following comments on the "Eightmile Dam Rebuild & Restoration" project DEIS.	
I-213-1	The delicate Alpine Wilderness is a wonder in itself, but also because the Wilderness exists in companionship with the dam that predated wilderness designation. Washington State should be proud of this partnership and should do everything to ensure the balance between Wilderness and downstream communities.	I-213-1 Comment noted. See the Global Response for Helicopter use within Alpine Lakes Wilderness.
I-213-2	The DEIS would blow up this partnership by constructing new dam with greater capacity and attendant intrusiveness, and with helicopter access entirely inconsistent with Wilderness principles. Others will remind you of the many ways the DEIS ignores basic Wilderness principles. I'm writing to suggest that the State should not only reject the proposed details but embrace a Wilderness-compatible alternative because it would be a great example of Wilderness and non-Wilderness interests can be balanced.	I-213-2 Comment noted.
I-213-3	For your information I am a frequent visitor to Washington and a frequent backpacker with experience in Mt. Rainier, Olympics, and North Cascades national parks, as well as Mt. Baker, Pasayten wilderness, Glacier Peak and elsewhere.	I-213-3 Comment noted.
	Sincerely, Michael Lipsky 9627 Leesburg Pike Vienna, VA 22182	

I-214

COMMENT

RESPONSE

I-214-1	<p>Dear Director Tom Tebb,</p> <p>Moreover, I strongly advocate for conducting an investigation into the possibilities of integrating solar energy, considering the vast amount of open space available on a dam. Not to mention, there is great potential in utilizing floating solar panels in the vicinity of the dam. This initiative would serve to supplement and enhance the dam's existing power generation capabilities with renewable sources.</p> <p>To whom it may concern,</p>	I-214-1	The current Eightmile Dam is used to supply irrigation water and does not produce any power. Replacement of the dam will restore storage capacity in the lake to meet IPID's irrigation and storage needs and to provide additional water to enhance instream flows. The rebuilt dam will not generate any power. Solar power is proposed for the small telemetry equipment located at the dam, as well as the repeater station located on Icicle Ridge. Floating solar panels at the dam would be visually intrusive to recreationists in the area and would not be compatible with the wilderness character and are not proposed as part of this project.
I-214-2	<p>Thank you for the opportunity to comment on the Draft Environmental Impact Statement for the Eightmile Dam Rebuild and Restoration Project (?DEIS?). While I support the maintenance of the Eightmile Lake dam to protect public health and safety downstream, the integrity of the Alpine Lakes Wilderness must be protected during this unprecedented process. To do this, the following conditions must be met in the alternative that is chosen:</p>	I-214-2	Comment noted.
I-214-3	<p>? No roads in the Wilderness.</p>	I-214-3	Comment noted. No roads would be constructed within Alpine Lakes Wilderness as a part of this project.
I-214-4	<p>? Any water placed into a Trust Water Right must be designated "permanently donated for instream flow" so that water in Eightmile Creek remains instream until reaching the ocean.</p>	I-214-4	Comment noted. Refer to the Water Rights Global Response for Trust Donation. As described in the Global Response, Ecology intends to manage this donated water instream from the outlet of Eightmile Lake to the confluence of Icicle Creek with the Wenatchee River. The releases will be coordinated with Icicle Work Group (IWG) members, Icicle Strategy instream flow subcommittee, IWG co-conveners, and fishery co-managers. Coordination and decisions surrounding lake releases and flow management within the Icicle Creek Subbasin will be informed, in part, by a separate IWG process including a decision support tool being developed as part of the Icicle Strategy. Also refer to the Section 2.6 (Dam Operation) of the Draft and Final EISs.
I-214-5	<p>? Any water "permanently donated for instream flow" should go into the historical channel for Icicle Creek.</p>	I-214-5	Refer to the Global Response for Visual Resources for more information on visual-related mitigation measures.
I-214-6	<p>? Any reconstruction of the dam should blend into the natural landscape of the Wilderness as much as the existing dam does.</p>	I-214-6	Comment noted.

The Alpine Lakes is one of the most iconic and beloved wilderness areas in our state, and the Eightmile Dam must be repaired in a way that continues to honor and protect this important and irreplaceable landscape.

Sincerely,

J Lang

5711 24th Ave NW

Seattle, WA 98107

jaddisonlang@gmail.com

(503) 502-3825

This message was sent by KnowWho, as a service provider, on behalf of an individual associated with Sierra Club Washington State. If you need more information, please contact Emilio Garza, Communications Associate at Sierra Club Washington State at emilio.garza@sierraclub.org or (360) 217-9848.

I-215

COMMENT

RESPONSE

Dear Melissa Downes,

I-215-1 Comment noted.

I-215-1

I am writing as a physician and public health/environmental protection advocate who strongly supports full protection for Wilderness Areas throughout our country, including the Alpine Lake Wilderness. At this time, I urge you to please accept my following comments on the "Eightmile Dam Rebuild & Restoration" project DEIS.

I am aware that the Washington Department of Ecology is accepting public comments on its Draft Environmental Impact Statement (DEIS) for replacing the dam on Eightmile Lake in the Alpine Lakes Wilderness. The lake is part of the Icicle Creek watershed within the scenic Central Cascades of Washington.

Dams were built at the outlets of several lakes in the Alpine Lakes Wilderness decades ago, before the area was designated as Wilderness, and now the Icicle and Peshastin Irrigation Districts (IPID) are looking at rebuilding the low-level 90-year-old dam on Eightmile Lake. The DEIS is significantly flawed and would result in the degradation and destruction of the Alpine Lakes Wilderness.

I-215-2

I am very concerned because this proposed project would entail between 101 to 271 round-trip helicopter flights into the Wilderness, averaging 20 flights per day during certain phases of the project. Please understand that this proposed project requires the most significant helicopter intrusion use that has ever been proposed in Wilderness. It is very disturbing to imagine this level of needed helicopter use because of the relatively small size of the dam and its relatively close proximity to the Wilderness boundary.

It's not just the amount and intensity of helicopter use the DEIS proposes in the Alpine Lakes I am making you aware that all alternatives explored in the DEIS would result in a dam that would be more visible and obviously developed than the current dam, and also include the installation of permanent telemetry equipment. The alternatives will also increase the size of the dam and the amount of water diverted from the lake, even though the extent of IPID's water right is disputed.

I-215-3

The DEIS is inadequate because all alternatives ignore water rights relinquishment and irreparably harm the Alpine Lakes Wilderness. I strongly support a full analyze of a wilderness-compatible alternative for the Eightmile dam.

I-215-3 Refer to the Global Response for Relinquishment.

I-215-4

It is very important that this proposed project will not increase the water extracted from Eightmile Lake, that the lake cannot be enlarged, the lake elevation cannot be increased four feet, and the low pipe cannot be made any lower than it currently sits.

I-215-4 Comment noted. See the Global Response for Lake Leve and Bathtub Ring. Refer also to the response to I-215-2 above.

I-215-5

I am strongly disturbed and do not support the proposed use of helicopters for use in this project. Please understand that the significant level of proposed helicopter use, from 01 to 271 round-trip flights, will significantly damage and destroy the Alpine Lakes Wilderness.

I-215-5 Comment noted. See the Global Response for Helicopter Use within the Alpine Lakes Wilderness.

The DEIS does not recognize that helicopters and other motorized equipment enable industrial-scale development and manipulation that are not possible with wilderness-compatible modes of access and non-industrial tools and materials. The impacts of industrial transformation should not be discounted as "temporary" and they should be eliminated or minimized accordingly.

I-215

	COMMENT	RESPONSE
I-215-6	<p>The DEIS discounts the impacts of motorized and aerial noise and disturbance on both wildlife and human visitors. Dam construction would take approximately four to five months during the summer and compound other disturbance impacts related to recreation overuse and other helicopter and motorized uses in the Wilderness. The stress on wildlife is likely to be significant with impacts extending beyond the project completion date.</p>	I-215-6 Refer to Section 8.4 of the Draft and Final EISs for discussion of potential noise impacts on wildlife due to construction activities. As noted, while construction could impact a few individuals near the dam and along the flight path, the impacts are expected to be less-than-significant. Section 10.4 describes the potential impacts on recreationists during construction. Construction activities are expected to occur over one season, and once construction is complete and helicopter use is not needed, we expect these impacts to be negligible.
I-215-7	<p>DEIS alternatives all result in a dam would be more visible and obviously developed than the current dam and DEIS alternatives all call for telemetry towers, secured with guy wires, within the Wilderness, to allow for remote operation of release valves and gates. For nearly a century, administrators have hiked to the dam and released water manually. There is no need for telemetry installations.</p>	I-215-7 In regard to the impacts on the wilderness from telemetry equipment, refer to the Global Response for Telemetry Equipment.
I-215-8	<p>DEIS alternatives all call for construction of a road to bring vehicles closer to the Wilderness boundary, increasing the already easy access and exacerbating overuse problems. The road should only be considered if it will serve as a replacement for helicopter access and if it will be completely and effectively decommissioned.</p> <p>The dam was originally built without helicopters and heavy equipment, and it has persisted for nearly a century. The final EIS must explore a dam design that is similar to the current one and that only includes the minimum additional design features to comply with safety requirements. The design would include less reliance on industrial materials, instead relying more on those that can be packed into or sourced from the site, manual water release features that would alleviate the additional structures and installations in Wilderness, and dam sizing and design that would not increase the visual appearance of the structure, its footprint within the Wilderness, or its water storage capacity beyond the water right post-relinquishment.</p>	I-215-8 Comment noted. Section 2.7.1 describes the proposed method of transportation of equipment and materials to the dam site. The three action alternatives have been designed to current dam safety standards for a High Hazard Dam and meet the project objectives outlined in Section 1.4 of the Draft and Final EISs. Potential impacts on wilderness character are described in Chapter 3. Refer also to the Global Responses for Visual Resources and Relinquishment.
I-215-9	<p>After full consideration of the damage and destruction of the Alpine Lake Wilderness that will be observed if this project, with the use of helicopters is approved, I strongly urge the WA Department of Ecology to please analyze a wilderness-compatible alternative for the Eightmile dam project. I support this recommendation to ensure that the Alpine Lake Wilderness remains permanently protected as Wilderness.</p>	I-215-9 Comment noted.
	<p>Sincerely,</p> <p>Jean Marie Naples, MD-Ph.D.</p>	
	<p>Sincerely,</p> <p>Jean Naples</p> <p>26 Montebello Commons Dr</p> <p>Suffern, NY 10901</p>	

I-216

	COMMENT	RESPONSE
	Dear Melissa Downes,	I-216-1 Comment noted.
	Please accept my following comments on the "Eightmile Dam Rebuild & Restoration" project DEIS.	I-216-2 Refer to the Global Response for Relinquishment.
I-216-1	My home is surrounded by traffic noise. My local, county and state parks also have traffic noise. The only places I visit that are not full of noise pollution are our wilderness areas. Please understand the vital importance of preserving the sounds of nature for families that	I-216-3 Comment Noted. IPID is not entitled to an increase in its water right. The amount of water use under the Eightmile Lake water right is limited to the extent of the right and no more. The design volumes of up to 1,698 acre-feet and 2,000 acre-feet represent the maximum active storage water volumes that were considered for impacts in the EIS. As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology -approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flow uses as well as for IPID's irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum volume of the design alternatives considered (up to 2,000 acre- feet of active storage), and will also ensure that the Trust donation is managed properly. Any excess water would be allowed to pass through the lake as natural flow without being actively managed and released for beneficial use. Refer also to the Global Responses for Multi-fill Analysis, and Tentative Determination of Extent and Validity.
I-216-2	• The DEIS is inadequate because all alternatives ignore water rights relinquishment and irreparably harm the Alpine Lakes Wilderness. A wilderness-compatible alternative for the Eightmile dam must be analyzed.	
I-216-3	• The project cannot increase the water extracted from Eightmile Lake, the lake cannot be enlarged, the lake elevation cannot be increased four feet, and the low pipe cannot be made any lower than it currently sits.	
I-216-4	• The project should not rely on helicopters. The amount of helicopter use proposed—101 to 271 round-trip flights—is not acceptable.	
I-216-5	• The DEIS does not recognize that helicopters and other motorized equipment enable industrial-scale development and manipulation that are not possible with wilderness-compatible modes of access and non-industrial tools and materials. The impacts of industrial transformation should not be discounted as "temporary" and they should be eliminated or minimized accordingly.	
I-216-6	• The DEIS discounts the impacts of motorized and aerial noise and disturbance on both wildlife and human visitors. Dam construction would take approximately four to five months during the summer and compound other disturbance impacts related to recreation overuse and other helicopter and motorized uses in the Wilderness. The stress on wildlife is likely to be significant with impacts extending beyond the project completion date.	
I-216-7	• DEIS alternatives all result in a dam would be more visible and obviously developed than the current dam.	
		I-216-4 See the Global Response for Helicopter Use within the Alpine Lakes Wilderness.
		I-216-5 Comment noted. See the Global Response for Helicopter Use within the Alpine Lakes Wilderness.
		I-216-6 Refer to Section 8.4 of the Draft and Final EISs for discussion of potential noise impacts on wildlife due to construction activities. As noted, while construction could impact a few individuals near the dam and along the flight path, the impacts are expected to be less-than-significant. Section 10.4 describes the potential impacts that may occur on recreationists during construction. Construction is expected to last one season, and once construction is complete and helicopter use is not needed, we expect these impacts to be negligible.
		I-216-7 Refer to Chapter 11 of the Draft and Final EISs for visual simulations for all of the proposed alternatives. Refer also to the Global Response for Visual Resources for more information on visual-related mitigation measures.

I-216

	COMMENT	RESPONSE
I-216-8	<ul style="list-style-type: none">• DEIS alternatives all call for telemetry towers, secured with guy wires, within the Wilderness, to allow for remote operation of release valves and gates. For nearly a century, administrators have hiked to the dam and released water manually. There is no need for telemetry installations.	I-216-8 In regard to the impacts on the wilderness from telemetry equipment, see the Global Response for Telemetry Equipment.
I-216-9	<ul style="list-style-type: none">• DEIS alternatives all call for construction of a road to bring vehicles closer to the Wilderness boundary. The road should only be considered if it will serve as a replacement for helicopter access and if it will be completely and effectively decommissioned.	I-216-9 Comment noted.
I-216-10	<ul style="list-style-type: none">• The dam was originally built without helicopters and heavy equipment. The final EIS must explore a dam design that is similar to the current one and that includes minimum additional design features to comply with safety requirements. The design would include less reliance on industrial materials, instead relying on those packed into or sourced from the site, manual water release features that would alleviate the additional structures in Wilderness, and dam sizing and design that would not increase the structure, its footprint, or its water storage capacity <p>Sincerely, Laura Booth 109 W Summersby St Fort Mill, SC 29715</p>	I-216-10 Comment noted. Section 2.7.1 describes the proposed method of transportation of equipment and materials to the dam site. The three action alternatives have been designed to current dam safety standards for a High Hazard Dam and meet the project objectives outlined in Section 1.4 of the Draft and Final EISs. Potential impacts on wilderness character are described in Chapter 3. Refer also to the Global Responses for Visual Resources and Relinquishment.

I-217

	COMMENT	RESPONSE
I-217-1	<p>Dear Melissa Downes,</p> <p>This dam was built without the use of helicopters. Now it is designated wilderness. In case you missed that: WILDERNESS. Work on the dam should reflect that it is W i l d e r n e s s. The dam is close to the Wilderness boundary. Helicopters can only be characterized as an intrusion. Where are your values? Respecting the Alpine Lakes Wilderness does not appear to be one of them. Too bad.</p> <p>Sincerely, Marc Fleisher 2444 Blaine Rd Moscow, ID 83843</p>	I-217-1 See the Global Response for Helicopter Use in Alpine Lakes Wilderness for further discussion regarding the proposed use of helicopters during construction.

I-218

		COMMENT	RESPONSE
	<p>June 5, 2023</p> <p>TO:</p> <p>Office of Columbia River</p> <p>Washington Department of Ecology</p> <p>1240 W. Alder St.</p> <p>Union Gap, WA 98903</p>		
	Dear OCR/DOE:		
	I first discovered the wild and unique beauty of the splendid Alpine Lakes region when I was a resident of Seattle during the 1960s-1970s. So impressed was I that I wrote numerous articles about our "backyard wilderness"; and was also privileged to have the opportunity to draft the proposed legislation which finally protected the whole magnificent landscape altogether, as one unified 'Alpine Lakes Wilderness (APW)' including that already-existing Eightmile Dam.	I-218-1	Comment noted.
I-218-1	Yes, it was an existing dam then too, not normally found in protected Wildernesses in our country; but the country surrounding Eightmile Lake and valley was so beautiful and so spectacular, that we environmentalists/conservationists of those times most strongly believed that the 'Eightmile country' simply HAD to be protected as much as could be, so as to prevent any further environmental damage/degradation to occur there.	I-218-2	The Eightmile Dam Restoration and Rebuild Project does not include any work at other lakes within the Alpine Lakes Wilderness. Analysis of the potential replacement of dams or modification of flows from other lakes is beyond the scope of the EIS. The project alternatives were developed with input from Ecology's Dam Safety Office (DSO) and designed to meet the project objectives as defined in Section 1.4 of the Draft and Final EISs.
	And that is the way -- and the 'why' -- that this beautiful wild country has survived so well these past 50-60 years,	I-218-3	Comment noted.
I-218-2	And that is why it is so upsetting now to read the proposed 'Rebuild and Restoration' EIS -- which advocates not only the manipulation and modification of numerous lakes in the APW, including Square Lake, Upper Klonauqua Lake, Lower Klonauqua Lake, Colchuck Lake, Nada Lake, Upper and Lower Snow Lakes -- but also (Alternative 4) proposes rebuilding control facilities at Eightmile Lake Reservoir to increase storage capacity beyond its historical capacity, plus enhancing storage and releases from upper and Lower Snow Lakes and Klonauqua as well.	I-218-4	Comment noted. Refer to the Global Response for Water Conservation.
I-218-3	NO, NO -- PLEASE!! Do not advocate, much even less, DO, these terribly wilderness-destructive actions and activities!	I-218-5	Comment noted.
I-218-4	There are other ways to 'manage' water supplies -- e.g., by conserving and regulating conservation activities more completely.		
I-218-5	But whatever protected natural wilderness we now have is about all we are ever going to have in our rapidly growing country and state. We who fought for protection of the whole APW 50-60 years ago		

I-218

		COMMENT	RESPONSE
I-218-5	realized even then that whatever we could protect then was likely all there ever could be passed on to our children and grandchildren.	I-218-6	Comment noted.
I-218-6	That's why I support the no action alternative. Please ensure that WA DOE will continue the legislation's current protective mandate.	I-218-7	Comment noted.
I-218-7	<p>PLEASE LEAVE THE ALPINE LAKES ALONE, AND LET US ALL SAVOR THEIR WILD BEAUTY FOREVER!</p> <p>Sincerely, Brock Evans*</p> <p>1310 Alder Street</p> <p>La Grande, OR 97850</p> <p>Phone # 202-425-1517</p> <p>*Seattle attorney, 1962-73</p> <p>Northwest Conservation Representative;& D.C. Rep.,</p> <p>Federation of Western Outdoor Clubs, 1967-81</p> <p>A founder of Washington Environmental Council, 1967I</p>		

I-219

COMMENT

RESPONSE

From: [Ed Loosli \(e-loosli@outlook.com\) Sent You a Personal Message](#)
To: [ECY RE Eight Mile Dam](#)
Subject: Protect the Alpine Lakes Wilderness: Comment for Eightmile Creek Dam rebuild DEIS
Date: Wednesday, June 7, 2023 9:50:30 AM

Dear Director Tom Tebb,

This DEIS is not in conformance with the Wilderness Act and must be revised to comply with the Wilderness Act. Ideally the dam should be removed, but if that is not proposed, then no helicopter flight can be allowed and any repaired dam must blend into the natural environment. Expect law suits to block this proposal if you insist on going forward with the proposal as currently written.

To whom it may concern,

Thank you for the opportunity to comment on the Draft Environmental Impact Statement for the Eightmile Dam Rebuild and Restoration Project ("DEIS"). While I support the maintenance of the Eightmile Lake dam to protect public health and safety downstream, the integrity of the Alpine Lakes Wilderness must be protected during this unprecedented process. To do this, the following conditions must be met in the alternative that is chosen:

? No roads in the Wilderness.

? Any water placed into a Trust Water Right must be designated "permanently donated for instream flow" so that water in Eightmile Creek remains instream until reaching the ocean.

? Any water "permanently donated for instream flow" should go into the historical channel for Icicle Creek.

? Any reconstruction of the dam should blend into the natural landscape of the Wilderness as much as the existing dam does.

The Alpine Lakes is one of the most iconic and beloved wilderness areas in our state, and the Eightmile Dam must be repaired in a way that continues to honor and protect this important and irreplaceable landscape.

Sincerely,

Ed Loosli
 500 State Route 409
 Cathlamet, WA 98612
e-loosli@outlook.com
 (509) 437-3005

This message was sent by KnowWho, as a service provider, on behalf of an individual associated with Sierra Club Washington State. If you need more information, please contact Emilio Garza, Communications Associate at Sierra Club Washington State at emilio.garza@sierracub.org or (360) 217-9848.

- I-219-1 Comment noted. Refer to Chapter 3 of the Draft and Final EISs for a discussion of the potential impacts on wilderness character.
- I-219-2 Comment noted.
- I-219-3 Comment noted.
- I-219-4 Thank you for your comment. Refer to the Water Rights Global Response for Trust Donation.
- As described in the Global Response, Ecology intends to manage this donated water instream from the outlet of Eightmile Lake to the confluence of Icicle Creek with the Wenatchee River. The releases will be coordinated with Icicle Creek Work Group (IWG) members, Icicle Strategy instream flow subcommittee, IWG co-conveners, and fishery co-managers. Coordination and decisions surrounding lake releases and flow management within the Icicle Creek Subbasin will be informed, in part, by a separate IWG process including a decision support tool being developed as part of the Icicle Strategy. Also refer to Section 2.6 (Dam Operation) of the Draft and Final EISs.
- I-219-5 Refer to the Global Response for Visual Resources for more information on visual-related mitigation measures.
- I-219-6 Comment noted.

I-220

COMMENT

RESPONSE

Lisa Therrell
PO Box 632
Leavenworth, WA 98826

June 4, 2023

Washington Department of Ecology, Office of Columbia River
Attn: Eightmile Draft EIS
1250 W. Alder Street,
Union Gap, WA 98903

Dear Ms. Downes,

The following are my comments in response to the Eightmile Dam Rebuild and Restoration DEIS.

First, I will make some general comments.

I have visited Eightmile Lake many times in both a work capacity and for recreational enjoyment. From 1992–2007 I served as the Wilderness Manager on the Wenatchee River Ranger District, where I was directly responsible for management of Eightmile Lake as part of the Alpine Lakes Wilderness. As part of my job, I interfaced with the Icicle Irrigation District, and I also supervised historical research into the background of the wilderness dams on the district. I am now retired. For me, the Alpine Lakes Wilderness, including Eightmile Lake, is a place of deep and profound connection to wild landscapes and spiritual sustenance. Granted, the dam detracts from the wilderness setting, but it is still a beautiful and peaceful place.

My first visit to Eightmile Lake was in 1992, the year I started as a Wilderness Manager on the Leavenworth Ranger District. The breach of the dam, described as having an unknown date, had already occurred by that point and didn't look particularly new. I'm guessing that would have happened in the 1980s or earlier. During my tenure on the district, the pool of the lake was not drawn down more than a few feet and the bathtub ring was always fairly narrow, not that dissimilar from a seasonal fluctuation. Logs were never cleared and burned. The log boom had been abandoned years before. In the district files there were inspection photos showing the log boom from when inspections were done by USFS engineers, but those photos were from the 60s. Once the USFS was no longer responsible for inspections, overall maintenance went downhill.

I want to voice frustration that despite writing a letter in 2021 in response to scoping (attached to this letter), I was not added to your distribution list, nor was my husband, Rich Haydon who also wrote a letter. I only learned that this DEIS was released just a few days ago, and have spent two solid days trying to plow through all 464 pages in order to respond with substantive input. ***Please add my name to your distribution list.***

I am in agreement with the comment made by others that prior to making an informed decision on dam replacement, the status of the actual water right afforded to the IPID needs to be resolved. Please refer

- I-220-1
- Comment noted. Your name has been added to the distribution list and you are a party of record.
- I-220-2
- The Eightmile Lake water right is certificated and has an active status. Its authorized quantities are no more unresolved than thousands of other water rights in the state that have not had actions that would trigger a tentative determination of extent and validity. The Draft and Final EISs acknowledge that the annual quantity under IPID's Eightmile Lake water right (see Section 1.10) has not been determined and such a determination is outside the scope of an EIS. While the commenter asserts that IPID generally uses less than 50% of their allocated water (from all their storage rights combined), available information including the Multi-fill Analysis and other records provided by IPID support the reasonable range of design volumes considered for impacts under the EIS (1,698 acre-feet of active storage for Alternative 3 and 2,000 acre-feet of active storage for Alternatives 1 and 2). In addition, in general less than full usage of a right does not necessarily diminish the right, as described in the Global Response for Relinquishment. See the Global Responses for Relinquishment, Tentative Determination of Extent and Validity, and Multi-Fill Analysis.

I-220

COMMENT

RESPONSE

I-220-2	to my scoping letter. Historically, the IPID has only used two reservoirs per year, and generally did not use all of the water available to them from each reservoir, meaning that they generally use less than 50% of their allotted water. In more recent years, they have made a more concerted effort to spill water in order to demonstrate they are using their water right. This is also true of the Cascade Orchards Irrigation District. The Icicle used to have numerous properties with irrigated crops. Now there are only a couple agricultural operations that require irrigation water, but the irrigation district still exists. Landowners have been encouraged to use as much water as possible. Some landowners run sprinklers on their lawns all day. This is not responsible stewardship of the finite resource of water.	I-220-3	Comment noted. Refer to Chapter 6 for a discussion of water rights associated with the Eightmile Dam project. Although a comprehensive review of irrigated acreage was not conducted and is outside the scope of the EIS, the information available does not necessarily point to a widespread reduction in irrigated acres for IPID as noted in the comment. Section 6.1 of the August 2018 IPID Comprehensive Water Conservation Plan describes trends in land use within the district, and additional information reported by IPID's Eightmile Lake Multi-fill Analysis (Aspect 2022a) does not self-report a substantial change in irrigated acres between the 1950s and the present. See also Global Response for Tentative Determination of Extent and Validity. Chapter 15 of the Draft and Final EISs describes the agricultural land irrigated by IPID and the Cascade Orchards Irrigation Company (COIC). In addition, the recent 2023 water right change decision for COIC's water right describes historical irrigation use by COIC. While conservation is a goal supported by the Icicle Strategy, Ecology is not able to regulate against a beneficial use of water that falls under the limits of the water right even though it may not meet the highest standards of water use efficiency. Also refer to the Global Response for Water Conservation.
I-220-3			
I-220-4	I would like to put forth the argument that the Alpine Lakes Wilderness has the right to unused or unallocated water in order to protect wilderness character. The United States Forest Service needs to assert this right. In the case of Eightmile Lake, a number of factors adversely affect wilderness character. The presence of the dam and its operations in general diminishes wilderness character. But there are shades of gray. The more obvious the profile and construction of the dam, the more the impact on wilderness character. The more the lake is drawn down, exposing an ugly and unnatural bathtub ring, the more the impact on wilderness character. The more the use of motorized equipment, the more the effect on wilderness character. If the Icicle and Peshastin Irrigation District is not entitled to their full water right due to lack of use, that would change the elevational profiles of water storage to both impound and draw down less water, which would leave more water in Eightmile Lake, better protecting wilderness character. See the following link for more background on this concept. https://wilderness.net/practitioners/toolboxes/water-rights/default.php	I-220-4	Comment noted. Wilderness character is described in Chapter 3 of the Draft and Final EISs. With regard to the bathtub ring, refer to the Global Response for Lake Levels and Bathtub Ring. With regard to the use of motorized equipment, refer to the Global Response for Helicopter Use within Alpine Lakes Wilderness. Also refer to the Global Response for Tentative Determination of Extent and Validity for a discussion of IPID's existing water right.
I-220-5	While the DEIS does barely touch on other foreseeable actions (page 17-3), it does not incorporate a water conservation plan. Since ultimately, other foreseeable actions also include work on the three remaining wilderness dams, having a robust and comprehensive water conservation plan should be the foundation for the rest of the proposed actions. For starters, the water could be contained inside a sealed pipe to prevent leakage into the ground and evaporation. The IPID operators need to modernize their water delivery systems to prevent wasting water. The City of Leavenworth needs to replace its leaky and antiquated water system. Likewise, the Cascade Orchards Irrigation District needs to employ water conservation measures rather than expending as much water as possible to hang onto an antiquated water right now that there is very little agriculture in the Icicle drainage. A consultant that is an expert in this field should be hired to design a state-of-the-art water conservation plan.	I-220-5	Comment noted. Additional information about water conservation efforts within the Icicle Creek Basin is discussed in the Global Response for Water Conservation. IPID developed a Comprehensive Water Conservation Plan in August 2018 as noted in Chapter 6, and it is currently in the process of finalizing an updated plan.
I-220-6	While in general, the analysis in the DEIS was amazingly comprehensive, there were numerous holes. I am aghast at how the rubric was to define "significant adverse impacts" as only those things that would exceed the scope of the project, for example more than two seasons of construction disturbance, or those impacts caused by a potential catastrophic breach of the existing dam. These findings were amazingly simplistic, self-serving, and illustrate a lack of understanding of the wilderness resource. Make no mistake. A dam in wilderness is a significant adverse impact to wilderness character. Regardless.	I-220-6	Comment noted. The rubric to define "significant adverse impacts" was determined with input from the SEPA responsible official, the Forest Service, and subject matter experts to establish the significance criteria. The dam was built in 1929 and predates the establishment of the Alpine Lakes Wilderness in 1976. Potential impacts on wilderness character are described in Chapter 3 of the Draft and Final EISs.
I-220-7	As a provisional use of wilderness and to facilitate IPID's water right to Eightmile Lake, a dam is a necessary evil at Eightmile Lake (or some combination of the four wilderness dams, but perhaps not all are necessary as per my comment about unused water rights.) So the question then becomes, how can a dam be designed, constructed, and maintained to cause the least harm to wilderness character. It is		

I-220

COMMENT	RESPONSE
I-220-7	<p>The dam alternatives have been designed to minimize impacts on the wilderness to the greatest extent possible, while still fulfilling the project objectives (as identified in Section 1.4 of the Draft and Final EISs). Throughout the EIS preparation, regional experts at the Forest Service reviewed and provided feedback on the potential impacts from the alternatives, including impacts on wilderness character and recreation. For a discussion of potential impacts and mitigation measures for wilderness character and recreation, refer to Chapters 3 and 10, respectively, of the Draft and Final EISs. Chapter 11 provides visual simulations of the alternatives.</p>

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I-220-7

glaringly obvious that your team did not include a person with wilderness expertise, wildland recreation expertise, or landscape architectural expertise. Had these specialties been represented on your team, the alternatives would have been nuanced to better protect wilderness values.

Here are some mitigations I suggest as common to all action alternatives—

- Concrete work could be dyed to match the parent soil and rock material near the dam, which is a orangish brown color.
- Concrete work could be textured to break up straight angular lines, in order to better blend with surroundings.
- Rocks used for stabilization could be in a variety of sizes and arrangements to be more natural appearing.
- The trail relocation needed to accommodate construction could be designed as a permanent relocation, so that hikers arriving at the lake aren't arriving directly at the dam. If the trail came in just up the lake, with a spur trail accessing the dam, many hikers would miss the dam altogether.
- Pressure wash all equipment and rock material prior to mobilizing to national forest in order to prevent the spread of invasive species.
- If off-site rock is used, it should be of the same type of serpentine formation rock as found at the dam site on Eightmile Lake in order to match the natural appearance of the area.
- Minimize the number of helicopter flights by using pack stock for all items possible to move with stock. Reserve helicopter flights only for moving large items. While the use of pack stock needed sounds huge, the trail can be maintained to sustain this level of use. This much stock use is not unusual in other wildernesses.
- Helicopters should not be used to transport personnel. At all. Workers, inspectors, engineers etc... can be hired with the expectation that they can hike in.
- Workers camped on site will be briefed in and expected to employ a list of Leave No Trace practices including following the regulations that apply to Eightmile Lake. This is super important. In my past experience with the IPID, their workers tend to be high impact, leaving trash, human waste, soiling water, damaging rocks and trees, leaving equipment behind, having parties, playing boom boxes, building structures without authorization, illegal campfires, and generally being wilderness inconsiderate and inappropriate.
- There should be a plan in place for human waste from workers. Perhaps having a five gallon bucket that gets packed out could be an option. Or providing blue bags that get packed out.
- Felling and bucking of trees can be accomplished with a crosscut saw. The IPID can hire a feller with the expertise to do this.
- Work should be done with manual labor rather than machinery unless there is no other way to accomplish the work.

I-220-8

I-220-9

While Action Alternative 3 was added to accommodate a maximum pool 5 feet lower than Alternatives 1 and 2, this really is not a better alternative for protecting wilderness character, since the pipe will be installed at a greater depth, resulting in a larger and more ugly bathtub ring if the lake is drawn down to the designed capacity. A more wilderness appropriate alternative would design a low profile dam that is as unnoticeable as possible, and minimize the bathtub ring. This is why it is important to determine

I-220-8

Comment noted. These mitigation measures will be reviewed and incorporated into the construction activities to the greatest extent practicable. Dam construction is described in Section 2.7 of the Draft and Final EISs. Refer also to Section 11.6 of the Draft and Final EISs for mitigation measures for visual resources.

I-220-9

As noted in Table 2-1 of the Draft and Final EISs, the Low Water Surface Elevation (WSEL) without Pumping and the Invert Elevation at Pipe Intake in the Lake are identical for all three action alternatives. Refer to the Global Response for Visual Resources for more information on visual-related mitigation measures, and the Global Response for Lake Levels and Bathtub Ring for more information on lake level fluctuations. As described in the Global Response for Tentative Determination of Extent and Validity, if a future quantification (through adjudication or future water right action) results in an annual quantity that is less than the physical volumes considered for the design alternatives (up to 2,000 acre-feet of active storage) considered in this EIS, the physical active storage volume in the lake can be reduced through shortening the intake pipe outlet without necessitating any changes to the main design.

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I-220-9	whether Icicle Irrigation is still entitled to their full water right on Eightmile Lake, and if not, excess water should protect wilderness character.	I-220-10	Comment noted.
I-220-10	The appearance of the dam in Alternative 2 has the least visual impact for a wilderness setting, and if the rocks on the spillway were a variety of sizes (but not so large as to entrap logs) the overall effect would be more natural looking. The depth of the drainpipe should reflect a renegotiated water right. The alternatives discuss how WIDE the dam is, but not how LONG the dam is. The photo simulations starting on page 11-20 are very helpful and should be in the very beginning of the document as alternatives are introduced. This will help readers / constituents understand the scale of each alternative. This is especially important since the average reader is looking at the document online where it is harder to flip through pages to look at illustrations.	I-220-11	The High Hazard Dam classification is a result of the number of residences located downstream of the dam. Following the Jack Creek Fire in 2017, Ecology's DSO determined the dam was in a deteriorating and unsatisfactory condition. As described in Section 12.3.2 of the Draft and Final EISs, a worst-case scenario dam break analysis was performed in 2019 by Anchor QEA. Figure 12-1 illustrates the modeled flood scenario of such a worst-case dam failure at Eightmile Dam. Refer to Section 12.3.2 for further discussion.
I-220-11	Page 1-2: Dam reclassified from low hazard to high hazard. The EIS does not adequately explain the abrupt change from low hazard to high hazard. The hazard classification is based on a scenario of dam failure. In my attached scoping letter, I explain a field trip that I had with DOE dam safety inspector many years ago. He said that even if the dam breached, that by the time the water reached the Icicle, it would have diffused and would not pose a danger to any of the homes in the Icicle, which included the existing low lying homes on the alluvial fan of Mountaineer Creek and at Icicle Island. That situation should not have changed, though there might be a higher likelihood of a breach. Was the mapping or modeling of effects of a dam failure done based on the current situation? With the current reshaping of the dam, it doesn't seem as if a massive wall of water would drain the lake all at once because the water would not have a chance to build up. I feel as if the DOE and Irrigation District are just trying to cause a general sense of alarm with downstream residents.	I-220-12	Comment noted. Impacts from actions proposed outside the Special Warranty Deed Area, including staging areas, road construction, and repeaters, are evaluated throughout the EIS. As noted in Section 1.3 of the EIS, a number of regulations and approvals are applicable to the project, including federal, state, and Chelan County approvals. Actions occurring within the Okanogan-Wenatchee National Forest will be reviewed and approved by the Forest Service.
I-220-12	Page 1-7: Actions outside the Special Warrantee Deed area are not being considered. The Special Warrantee Deed does afford perpetual rights to the irrigation district, but these rights are not without limit or the need for further authorization. The narrow focus on claiming activities stay within the deeded area seems superficial. Plus there will be impacts at a staging area outside wilderness, re-establishing the road, installing a repeater on Icicle Ridge, etc.	I-220-13	Comment noted. The Forest Service manages the wilderness area to protect the qualities of wilderness character in compliance with application federal regulations, including the Wilderness Act of 1964. The Forest Service is also a member of the Icicle Work Group.
I-220-13	The Icicle Strategy Process is flawed. This process was self-serving for the organizations involved. Participants were expected to uphold a gag order, causing groups to leave that were in opposition to the proposals. This resulted in no one at the table to represent wilderness.	I-220-14	Figure 3-1 has been revised in response to your comment.
I-220-14	Page 3-4 The DEIS uses the term "Wilderness Study Area". This is confusing since this is official terminology that does not apply to Congressionally designated wilderness. I would suggest using the term "Wilderness Analysis Area". The analysis area should go to the wilderness boundary where the trail enters wilderness. For some reason, this portion of the trail was left out.	I-220-15	Comment noted.
I-220-15	3-6 Scenery is a feature of value at Eightmile Lake. People come to Eightmile Lake by the thousands because of the scenery. It was a forested valley bottom with no views, there would be far less visitors. Likewise, recreation is an outstanding resource value. Eightmile Lake is one of the most popular destinations in the Alpine Lakes Wilderness and is especially suited for those needing an easier trail.	I-220-16	Comment noted.

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I-220-17	3-6 The Alpine Lakes Area Act has nothing to say about wilderness dams, although they are a provisional use of wilderness as described in the Wilderness Act of 1964. Verbiage about economic uses would be in reference to the management unit surrounding the wilderness. In general, wilderness is not managed with economic considerations as a driver.	I-220-17	Comment noted.
I-220-18	3-7 First paragraph is odd in mentioning other lakes and streams in Icicle, but only those with dams. This pattern repeats throughout the document.	I-220-18	Comment noted. This EIS is focused on Eightmile Lake and Dam, and the paragraph provides a general description of the area near the lake and dam.
I-220-19	3-12 Glad to see that stumps would be removed. Good mitigation. However the lake should not be raised enough to create more stumps.	I-220-19	The difference in lake levels would not result in any additional stumps on the lakeshore. As noted in Section 2.7.2, trees will be removed at the staging area next to the dam. Felled trees will be used to support and level the staging area, and excess limbs and branches would be burned on-site in accordance with Forest Service protocols, as is currently done with logs and debris that collect at the dam each year.
I-220-20	3-16 Lowered stream flows in summer would be more natural. I wish I could cite the article, but there is research showing that changing the timing of water releases changes the suite of invertebrates present downstream.		
I-220-21	3-18 and 3-19. Not the place of this EIS to determine that impacts to wilderness character are "not significant". That would be done in a decision document. I would posit that most wilderness impacts described in the DEIS are significant.	I-220-20	Comment noted.
I-220-22	I like it that the riprap in Alt 2 would obscure the visual effect of the dam. Could that also be done in Alt 3?	I-220-21	Impact determinations are appropriate and a requirement for a SEPA EIS (WAC 197-11-440) and have been included for each element of the environment in the document. As noted in Section 1.11 of the Draft and Final EISs, the Forest Service will review the proposed action to determine its responsibilities under NEPA.
I-220-23	3-21 Be more specific about how design could match the environment.		
I-220-24	3-22 Construction activities, including all of the motorized use involved, are a significant wilderness impact. The amount of helicopter flights is unprecedented and as such is a HUGE significant impact.	I-220-22	Alternative 3 would be the same as Alternative 1, without a mechanical gate. Alternative 3 would construct a 65-foot wide dam with an earthen embankment and reinforced concrete structure. Figure 11-24 in the Draft and Final EISs is a simulated view of Alternative 3 at maximum water level (4,667 feet). Additional design modifications may be considered during final design.
I-220-25	8-9 Invasives on road 7601-116. Add sulphur cinquefoil and St. Johnswort (both located a short distance up the road, behind the gate), and Canada thistle (located where there are wet areas along the road). There is a plant along this road that is of interest to me, a blue-flowered lactuca (Lactuca tatarica var. pulchella) which I haven't seen growing anywhere else. It is a native plant, but I am thinking it may have been introduced in this location as a result of logging activities because it is growing in a disturbed area that was probably once a logging landing. I don't think this is of importance, but just interesting and worth noting botanically.		
I-220-26	8-14 Reference to repeater. Is this repeater the one on Icicle Ridge? Or is it located on a ridge above Eightmile Lake in the Wilderness? If in the wilderness, this would be a permanent installation and would require further analysis as such.		Riprap armoring is proposed with all action alternatives. Refer to Figures 2-4, 2-6, and 2-8 for locations. Also refer to Figures 11-17a to 11-24 for visual simulations of the proposed dam alternatives.
I-220-27	8-16 Wildlife analysis doesn't look at a number of species which I would expect to see analyzed if this was a Forest Service analysis, including grizzly bear and wolverine. The grizzly bear recovery area would normally be the scale for analysis. The Icicle also has nesting peregrine falcons, which, although not listed, have been protected by the district during the nesting period in cooperation with other agencies. Likewise, golden eagles are known to nest up the Icicle. Unless something has changed, unless an area	I-220-23	Refer to the Global Response for Visual Resources for more information on visual-related mitigation measures.
		I-220-24	Comment noted.
		I-220-25	Comment noted. Table 8-2 in the Draft and Final EISs includes a list of undesirable plants observed during a vegetation survey in September 2021. Section 8.3.1 notes that Canada thistle has been observed and treated by the Forest Service.

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I-220-26	<p>The repeater station site is not located within the Alpine Lakes Wilderness. As described in Section 2.6.1, the repeater station would be located next to the Forest Service's existing repeater station on Icicle Ridge. See Figure 8-1 in the Draft and Final EISs for the location of the repeater station.</p>
I-220-27	<p>Table 8-4 of the Draft and Final EISs provides a list of the protected species that are likely to occur in the study area. Grizzly bear and wolverine are both federally threatened species and have been included in Table 8-4 in the Final EIS.</p> <p>Peregrine falcons (which were removed from the federal endangered species list in 1999) nest on cliffs near water typically below 3,000 feet elevation and hunt in open cover areas including waterbodies, estuaries, beaches, or agricultural fields. The elevation at Eightmile Lake is roughly 4,640 feet. The species is known to occur in the Cascade foothills, but at lower elevations than the study area. Nesting habitat is not typical within the study area, but lakes and wetlands may provide hunting habitat.</p> <p>As noted in the Fact Sheet, the Forest Service will be conducting NEPA review and the project will require permitting under Section 404 of the Clean Water Act, which triggers compliance with Section 7 of the Endangered Species Act. Additional review will be conducted of federally listed species as part of these processes.</p>

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I-220-27	has undergone rigorous surveys to determine that spotted owls are not present, timing restrictions for motorized use are put into place. I believe August 1 is the first date that motorized uses can begin in spotted owl habitat, unless they are determined to not be present. This would affect helicopter flights and other motorized uses.	I-220-28	The text in the Final EIS has been updated to state Bridge Creek Campground in response to your comment.
I-220-28	8-29 Perhaps meant to say "Bridge Creek Campground" instead of "Icicle Creek Campground."	I-220-29	Comment noted. Table 8-4 of the Draft and Final EISs notes the protected species that are likely to occur within the study area. Section 8.4 evaluates disturbance and specifically breeding individuals. The types of wildlife that may be impacted by various construction activities is described in Section 8.4.
I-220-29	The helicopter analysis fails to be species specific and address timing restrictions. See previous comment.		
I-220-30	8-33 Discussion on dam removal causing significant adverse impacts to fish and habitat appears to be speculative and is not quantified. Because there are multiple reservoirs, and not all are drawn down annually, there is redundancy in this system.	I-220-30	As described in Section 3.6.2.1 of the 2019 FPEIS, IPID manages four lakes for water storage to meet their water needs each year. During a typical year, only one of the IPID-managed lakes is actively managed to increase late summer releases to Icicle Creek. Eightmile Lake is relatively easy to access, and typically refills water storage within one season to meet IPID's water needs. The other lakes are smaller, more remote, and refilling is more likely to require multiple years. The insufficiency of the other lakes in providing enough water would be exacerbated in consecutive drought years during which the active water storage is not replenished as quickly as in Eightmile Lake. In addition, the timing of water availability in Eightmile Lake is earlier than the other lakes and better aligns with the timing of IPID's water needs.
I-220-31	8-34 The assertion that a dam breach would impact such a large area in the Icicle does not match up with what I was told by a DOE dam safety expert, who said flood waters would have diffused by the time they reach the Icicle.		
I-220-32	8-37 Best Management Practices should be identified and listed.		
I-220-33	9-3 Noise standards appear to be made up here for the purposes of analysis and do not correspond the standards in the Alpine Lakes Plan. See Table 9-5 on page 9-6. If noise is in excess of the standard described in the Alpine Lakes Plan, then it is a significant adverse impact.		
	9-11 Findings of No Significant Impact for noise are not supported.		
I-220-34	10-4 Impact thresholds were deliberately chosen to exceed the project activities. Example, recreation impacts are significant only if exceeding 2 full seasons. This is shockingly manipulative towards the outcome that both DOE and the irrigation district wish to see.		
I-220-35	10-4 Typo. "Future" instead of "feature"	I-220-31	Refer to the response to comment 1-220-11.
I-220-36	10-14 A portion of the Eightmile Trail is co-located on Road 7601-116. It isn't clear to me if the reopening of this road would stop where it rejoins the trail (which would be a logical place for a turnaround). If the road continues to the end, this portion of the trail would need to be relocated for this analysis to read correctly. It would also mean building a significant road bridge across Pioneer Creek.	I-220-32	Best Management Practices (BMPs) applicable to all action alternatives are described in Section 8.6 of the Draft and Final EISs.
I-220-37	10-4 This is another example of the analysis deliberately defining "significant adverse impact" at a threshold that lies beyond the scope of the project, i.e. permanently closing the area to recreational use. The project will have a significant adverse impact on recreational use of the area as hikers experience the sights and sounds of heavy machinery, possible blasting, earthwork, the presence of a dam, and the drawdown of the lake. Some of these effects are limited to the construction period, and some are long-term effects.	I-220-33	Significance criteria for noise impacts are described in Section 9.2 of the Draft and Final EISs. While noise-related to construction activities may temporarily exceed noise exposure standards set forth in the Alpine Lakes Area Land Management Plan in the area near the dam, along the helicopter flight path, and near FSR 7601, construction activity is expected to be short-term in nature (lasting an estimated 4 to 5 months), conducted only during daytime hours, and advertised to potential users of the Alpine Lakes area (see Section 9.7 of the Draft and Final EISs for a list of mitigation measures). Therefore, noise impacts from dam construction are expected to be less-than-significant. Furthermore, as noted in Section 9.5, noise-generating construction activity is permitted under the dam's Special Warranty Deed that preserves IPID's right to maintain and repair the dam.
		I-220-34	Impact thresholds were developed based on professional expertise and judgment and in coordination with the Forest Service. Construction impacts

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that are temporary and limited to the construction period are typically not considered significant unless all three of the following conditions are met: (1) the recreational opportunity is foreclosed during construction, (2) the duration of the impact is particularly long, and (3) other similar recreational opportunities are not available. The impact threshold was set at two full seasons to avoid overstating the impacts of some recreationists potentially choosing to change their plans for one season. Significance determinations were based on the fact that trails would not be closed to recreation during the construction season, other trails are available in the Enchantment Permit Area, and construction is not expected to continue past one season. While not expected, blasting with explosives could be necessary during construction. Should that occur, the Eightmile Lake Trail from its junction with the Caroline Lake Trail could be closed periodically over the course of 1 or 2 days. Blasting would be scheduled for mid-week between 11 am and 3 pm. This unexpected temporary short-term closure, should it occur, would be considered less than significant.

I-220-35 The typo has been corrected.

I-220-36 The repair and improvement of Road 7601-116 would stop before it connects to the trail, with a buffer of 5 to 10 feet to ensure it would not impact the trail. See Section 2.7.1 (Transportation of Equipment and Materials) of the Draft and Final EISs. Figure 2-11 depicts the location of the road segment to be improved.

I-220-37 Impact thresholds were developed based on professional expertise and judgment and in coordination with the Forest Service. Construction impacts that are temporary and limited to the construction period are typically not considered significant unless all three of the following conditions are met: (1) the recreational opportunity is foreclosed during construction, (2) the duration of the impact is particularly long, and (3) other similar recreational opportunities are not available. The impact threshold was set at two full seasons to avoid overstating the impacts of some recreationists potentially choosing to change their plans for one season. Significance determinations were based on the fact that trails would not be closed to recreation during the construction season, other trails are available in the Enchantment Permit Area, and construction is not expected to continue past one season.

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As described in Section 10.5.2 of the Draft and Final EISs, changes of lake drawdown could be experienced as improvements by some recreationists, and there would be no permanent closure of recreation. Recreational opportunities would remain substantively the same, because the drawdown levels are very similar to what currently occurs during drought years, and there would be no net loss of recreational access or facilities.

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I-220-38	11-1 The finding of no significant adverse impact to visual resources is inappropriate. The dam, construction footprint, and bathtub ring are all significant adverse impacts to what would otherwise be a relatively pristine wilderness setting.	I-220-38	Comment noted. With regard to the bathtub ring, refer to the Global Response for Lake Level and Bathtub Ring.
I-220-39	11-2 Use of a drone for analysis is an illegal activity in wilderness because it is motorized.	I-220-39	Comment noted. Environmental Science Associates (ESA, a contractor working with Ecology on the EIS) requested and received permission from the Okanogan-Wenatchee National Forest to conduct the drone flight for IPID and Ecology. The flight plan was reviewed and deemed consistent with IPID's responsibilities for operation and maintenance of the dam, and was consistent with retained rights in the Special Warranty Deed. Flights were launched from outside the Alpine Lakes Wilderness, and a single flight was launched and landed on the Special Warranty Deed parcel.
I-220-40	11-18 If the dam is removed, lowering the lake to the level of the outlet pipe would be a major eye-sore and loss of naturalness. Is this temporary or permanent? If permanent, please explain the need for this. If the dam is removed, the lake should be restored to an approximation of the pre-dam pool level as a part of restoration activities. The lack of stumps along shoreline would suggest that lake level was higher than 4640.		
I-220-41	11-22 Alternative 2, Wide spillway without gates looks the least contrived of the three alternative designs. Rock could be a variety of sizes to be more natural appearing.		
I-220-42	12-5 Inundation map. I question the validity of this map. What parameters was this analysis based on? Please provide a link to the full analysis. See previous comments.		
I-220-43	13-2 There used to be an intact trappers cabin near the Eightmile Trail, about one mile below Eightmile Lake. This cabin is documented in the cultural files at the Wenatchee River Ranger District. Unfortunately the cabin burned completely in the 1994 fires, but there may still be some artifacts remaining in the area. FYI- The loss of this cabin was really sad because it was like a time capsule. The door was partially open, but wouldn't open enough to allow people to walk in because it was sinking into the earth. Furnishings were still intact inside the cabin. I see this is described on page 3-17 as an A-frame cabin. It wasn't an A-frame. It was a classic trapper's cabin with a gabled roof. There was an illegal cabin on the Stuart Lake Trail that was an A-frame that might be causing this confusion.	I-220-40	Dam removal would result in the lake level being restored to pre-dam levels. Figures 11-16a and 11-16b in the Draft and Final EISs show visual simulations of what the lake would look like without the dam. This impact would be permanent.
I-220-44	Chapter 17 Cumulative Effects analysis. This section is incredibly skimpy and under developed. A cumulative effects analysis should be much more robust.	I-220-41	Comment noted.
I-220-45	Concluding Thoughts – While replacement of the Eightmile Lake dam is necessary in order to continue drawing irrigation water from Eightmile Lake, all of the action alternatives fail to fully integrate design parameters and mitigations that would protect the wilderness resource. In addition, the DEIS fails to recognize that building and maintaining a dam in wilderness, while legal, is a significant adverse impact. You can't get much more adverse than having a dam in wilderness! It is right up there with mining, road building, any other helicopter related activity etc. This shows a total lack of awareness, expertise, and humility on the part of the DOE.	I-220-42	A worst-case scenario dam break analysis of an overtopping failure was conducted in 2019 by Anchor QEA in a Hydrologic and Hydraulic Analyses Report prepared following the publication of the Icicle Strategy FPEIS. This dam break scenario was computed using procedures contained in <i>Dam Safety Guidelines Technical Note 1: Dam Break Inundation Analysis and Downstream Hazard Classification</i> .
I-220-46	A Forest Service NEPA analysis will require the use of the Minimum Requirement Decision Guide. If done in a multi-disciplinary fashion, more design criteria that protect or at least mitigate for the wilderness setting will be identified. And once again, please add my name to your distribution list. I am also inserting the scoping letter that I sent in 2021, because I explain some details more fully in that letter. Sincerely, /s/ Lisa D. Therrell Lisa Therrell Enc: Scoping letter written January 31, 2021		The flood inundation area was modeled for overtopping breach based on a "full-pool" breach scenario, with an overtopping pool elevation of 4,676.5 feet and a breach base elevation of 4,645.5 feet. It assumed 10% exceedance flows (high flow) in June for Icicle Creek and Wenatchee River flow conditions and a 100-year return interval inflow to Eightmile Lake. Refer to Section 12.3.2 of the Draft and Final EISs for further discussion, and Figure 12-1 for an illustration of the extent of the modeled inundation. This report is listed in Chapter 18 (References) of the Draft and Final EISs.
		I-220-43	Thank you for your comment. The text about the cabin in Section 13.3 has been corrected in the Final EIS in response to your comment.

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I-220-44	Comment noted. The purpose of the cumulative impacts analysis is to ensure that decision-makers consider the full range of consequences for the proposed project, including the project's incremental contribution to cumulative impacts on the environment. The Draft and Final EISs provide a cumulative impacts analysis of the proposed project and other reasonably foreseeable future projects within the Icicle Creek corridor in Chapter 17.
I-220-45	Comment noted.
I-220-46	Ecology is evaluating the proposed dam rebuild alternatives through this SEPA EIS process. The SEPA process will allow the Forest Service to consider a well-developed proposed action and determine what actions require the agency's authorization and whether a minimum requirements analysis is necessary.

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COMMENT

RESPONSE

Lisa Therrell
PO Box 632
Leavenworth, WA 98826

I-220-47 This is a 2021 submission that was received during the Draft EIS scoping period. These comments were reviewed and incorporated into the Draft EIS.

January 31, 2021

Department of Ecology
Central Regional Office
Attn: Melissa Downes
1250 West Alder Street
Union Gap, WA 98903

Dear Ms. Downes,

I am writing in response to SEPA scoping for the Eightmile Lake dam replacement project.

I have visited Eightmile Lake many times in both a work capacity and for recreational enjoyment. From 1992–2007 I served as the Wilderness Manager on the Wenatchee River Ranger District, where I was directly responsible for management of Eightmile Lake as part of the Alpine Lakes Wilderness. As part of my job, I interfaced with the Icicle Irrigation District, and I also supervised historical research into the background of the wilderness dams on the district. I am now retired. For me, the Alpine Lakes Wilderness, including Eightmile Lake, is a place of deep and profound connection to wild landscapes.

Protecting Wilderness Character

Eightmile Lake is not on state land. Eightmile Lake is located on the Okanogan-Wenatchee National Forest, which is federal land. Thus, while there are certainly state laws which govern the allocation of water and construction of dams, crafting alternatives that conform to federal laws also frames the sideboards for this project. Perhaps the most significant of these laws is the 1964 Wilderness Act.

The opening statement of the 1964 Wilderness Act (Public Law 88-577) reads as follows—

“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 and its possessions, leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness. For this purpose there is hereby established a National Wilderness Preservation System to be composed of federally owned areas designated by Congress as “wilderness areas”, and these shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character...”

The Act goes on to prohibit certain uses in Section 4 (c).

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"4.(c) 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, 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, not landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area."

The Act then provides a long section of Special Provisions, which the federal land managing agencies refer to as "provisional uses." Dams fall into this category. Here is what Section 4 (d)(4) says about water resources.

"(4) Within wilderness areas in the national forests designated by this Act, (1) the President may, within a specific area and in accordance with such regulations as he may deem desirable, authorize prospecting for water resources, the establishment and maintenance of reservoirs, water conservation works, power projects, transmission lines, and other facilities needed in the public interest, including the road construction and maintenance essential to development and use thereof, upon his determination that such use or uses in the specific area will better serve the interests of the United States and the people thereof than will its denial..."

Please note that the approval for such a decision rests with the President of the United States. Not the district ranger, forest supervisor, regional forester, or even the chief of the Forest Service. And certainly not the Washington State Department of Ecology!

Interestingly, the Alpine Lakes Area Management Act of 1976 is completely silent regarding the dams.

The Special Warranty Deed under which the Icicle Irrigation District conveyed the land at Eightmile Lake to the United States Forest Service allows for the continued operation and maintenance of the dam, but does not explicitly provide for enlarging water storage capacity, raising the level of the dam, building roads, adding a secondary spillway, adding a pipe outlet etc.

I am not a legal expert on how this project interfaces with upholding the provisions of the Wilderness Act. However, I do know that the United States Forest Service has sought out the advice of its attorneys (Office of General Counsel) regarding the legal complexities of this situation. I would posit that the Forest Service, in good faith, should provide this legal advice to inform this project, and that all alternatives considered would stay within all legal parameters.

One of the key issues for analysis needs to be the effects of alternatives on wilderness character. Concern for wilderness character should shape the proposed alternatives, and factor into the eventual decision to be made.

The Icicle Irrigation District has used water from Eightmile Lake and three additional wilderness dams for almost 100 years. When I first met with the Irrigation District in the early 1990s, they explained to me

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that in a given year, they used about half their water allocation in the combined four lakes. Having the cushion of extra water available allowed them the flexibility to work on a dam in a given year, or served as a hedge against low snow years when the lakes didn't fully recharge over the winter. I bring this up to make the point that the Irrigation District only needed about 50% of the water it was allotted. Since then, there have been many pressures for more water. The Cascade Irrigation District (land in the lower Icicle Valley which has junior water rights) has been making a concerted effort to "use" their water rights, encouraging land owners to irrigate in excess just to assert their "right" to the water. The City of Leavenworth wants more water to enable additional development. And the multiple agencies want more water for instream flows to accommodate anadromous fish. Everyone wants water! This takes me back to that first paragraph of the 1964 Wilderness Act, that wilderness, including the Alpine Lakes Wilderness, is established to ensure that some lands are protected in a natural condition as a protection from growing settlement. Protection from these pressures are exactly why we have National Wilderness Preservation System. To propose alternatives that expand the potential for water storage are not appropriate in Congressionally designated wilderness. And any action alternatives need to analyze both the short-term and long-term effects on wilderness character.

I agree with the point made by others, that the Washington State Department of Ecology needs to determine whether the Icicle and Peshastin Irrigation Districts still have their full water right, since the irrigation district has never in 100 years used its full allotment of water, and, in fact, has historically used about 50% of the water. I believe that the DOE is putting off this determination because of its own vested interest in salmon recovery, a worthy goal, but shouldn't be the driver for this project. To build the dam, then make this call, is to make an irreversible decision.

I would also posit that the Washington State Department of Ecology is not capable of doing an impartial environmental analysis. The irony is that the very same agency that regulates dams, also regulates water rights, and works to provide habitat for salmon. The DOE has NO experience with the management of Congressionally designated wilderness, and thus no clue how to bring forward wilderness appropriate alternatives, which reflects in all work done on this project up to this point. I am just going to say it. Having the DOE as the lead agency for this project is like having the fox in the chicken house.

I would also like to point out that state SEPA is not a replacement for NEPA. Because the proposed project is on federal land, a NEPA analysis is required. NEPA calls for a full range of alternatives. Amongst a full range of alternatives, one option should be removal of the dam and restoring the Eightmile Lake area to a wilderness condition, based on the premise that the water isn't actually needed to provide for the needs of irrigation. Another alternative should analyze repairing the existing dam to meet current safety standards without increasing water storage or water withdrawal, and making every effort to protect wilderness character while doing so. Neither of these alternatives would tip decision-making to requiring Presidential approval.

I would like to explain one more concept of the wilderness act that shapes how the wilderness issue is analyzed. Agencies with wilderness management responsibilities refer to "the composite resource of wilderness." This means that wilderness is managed for the whole of its separate parts, including the aspects of wilderness named in the Definition of Wilderness in the wilderness act. Once again, I quote

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the act, but have added bold text to highlight wilderness characteristics that shape both alternatives and analysis.

“Section 4. (c) A wilderness, on contrast with those areas where man and his own works dominate the landscape is hereby recognized as **an area where the earth and its community of life are untrammeled by man**, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in the Act an area of undeveloped Federal land **retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man’s work substantially unnoticeable;** (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) **may also contain ecological, geological, or other features of scientific, education, scenic, or historical value.**

When managing wilderness and making decisions that affect wilderness, the goal is to look at all the relevant values of wilderness as a whole. While in this case, the Eightmile dam is a provisional use, the first question should be to determine whether the water is actually needed for meeting the needs of historical irrigation uses. If the answer is yes, the next question should be how to repair or replace the Eightmile Dam in a way that causes the least harm to the values of Congressionally designated wilderness, both looking at the short-term effects and the long-term effects. The composite wilderness resource includes many factors including wilderness recreation, scenery, ecological values, appearance of naturalness, etc. Analysis needs to look at these factors in the context of wilderness.

Moderate Hazard or High Hazard?

During my tenure as wilderness manager, one of the other dams, in this case on Colchuck Lake, sprang a leak. I heard about the leak through the local grapevine, and wasn’t sure what responsibility the Forest Service had to report this to the DOE. One of our engineers contacted the DOE, who responded by sending a dam engineer over for a site visit. In his records, the DOE engineer showed both the Colchuck dam and Eightmile dams as being moderate hazard. He was very emphatic that they were not high hazard dams. We went up the Icicle, and visited the properties in the flood plain, including the homes built on the alluvial fan at the base of Mountaineer Creek, and the homes in Icicle Island. He concluded that even if the dams failed, there was no hazard to the homes downstream. Now the state has changed its tune, and is calling the dam high hazard. What has changed?

Geomorphology

But perhaps there is something to this. My understanding is that Eightmile Lake was formed by a landslide. The earthen dam is constructed on top of landslide material. So perhaps it is possible that the dam is not well sited. I posit that another issue is having an impartial geomorphologist determine whether Eightmile Lake is a suitable long-term location for a dam.

Water Conservation

The Icicle and Peshastin Water District and other water users have not engaged in a robust water conservation strategy. All alternatives except for the No Action Alternative should have a robust water

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	<p>conservation component. In addition, a Water Conservation Only alternative should be developed and analyzed. If the water simply wasn't available, what efforts might people go to in order to conserve it? My understanding is that the Icicle Water Working Group gives a wink-wink cursory nod to water conservation. For example, the City of Leavenworth has a 100-year-old leaky water system that needs to be replaced. Given the many millions spent on this project, perhaps bringing in a real water conservation expert to help design alternatives and provide analysis would be the best possible long-term investment for all parties and interests concerned.</p> <p>In conclusion, I will share that Eightmile Lake is one of the most popular hikes on the Wenatchee River Ranger District. It is easily accessed from Leavenworth, and compared to many lakes is a relatively easy hike, making it suitable for families or those with limitations. Dam construction at Eightmile Lake will have a profound effect on the wilderness setting.</p> <p>Please keep me informed as this project progresses.</p> <p>Sincerely,</p> <p>/s/ Lisa D. Therrell</p> <p>Lisa D. Therrell</p> <p>Cc: Governor Jay Inslee U.S. Senator Patty Murray U.S. Senator Maria Cantwell U.S. Representative Kim Schrier Forest Service Chief Vicki Christensen Regional Forester Glenn Casamassa Forest Supervisor Kristin Bail Department of Ecology Director Laura Watson Chelan County Commissioner Bob Bugert Leavenworth Mayor Carl Florea Wilderness Watch Alpine Lakes Protection Society Friends of Enchantments</p>	

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I-221-1

	COMMENT	RESPONSE
	<p>Dear Melissa Downes,</p> <p>Keep the wild in wilderness by not unleashing torrents of helicopter flights in Alpine Lake Wilderness. The new dam would also make the area less wild. Increased intrusion is not why the region was originally protected. The land was set aside to remain a peaceful haven for wildlife and visitors.</p> <p>Sincerely,</p> <p>Loretta Lehman</p> <p>54 Glutzshole Rd</p> <p>Duncannon, PA 17020</p>	<p>I-221-1 Comment noted.</p>

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		COMMENT	RESPONSE
I-222-1	I support the alternative 3 plan as it appears to possibly reduce the negative impacts on the proposed changes to this area.	I-222-1	Comment noted.

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	COMMENT	RESPONSE
	<p>Harry Romberg 11538 17th Ave. NE Seattle, WA 98125 206-365-9302 HBRomb@aol.com</p> <p>June 4, 2023</p> <p>Eightmile Dam rebuild and restoration DEIS</p>	
I-223-1	<p>Thank-you for allowing public comment on the draft. I am a lifelong resident of the state of Washington and have spent countless days hiking and climbing in the Alpine Lakes and other Wilderness areas throughout the state. Although I generally support safety improvements to the dam on Eightmile Lake, I have several concerns, some of which at least appear to be addressed in the DEIS and some which seem to either not be addressed or are inadequate. As it seems likely that several of the same issues might be carried forward in future dam improvement projects in the Icicle drainage, these should be addressed now rather than eventually carried forward into future projects.</p>	I-223-1 Comment noted.
I-223-2	<p>Roads: I appreciate that road construction in the Alpine Lakes Wilderness appears to have been removed as an option, although it is being planned for the previously construction road spur bordering the Wilderness. I cannot stress how important this is that no road intrusion into designated Wilderness be allowed and there should be no exception made or decision altered to allow it.</p>	I-223-2 As noted in Section 2.8.2, overland vehicle transport is no longer being considered for the project. No roads would be constructed within the Alpine Lakes Wilderness as a part of this project.
I-223-3	<p>Construction Activities: Ground disturbing construction activities should remain within the footprint of the Specialty Warranty Deed and not be allowed to stray outside those boundaries into the surrounding Wilderness.</p> <p>Any construction should blend into the natural environment and surrounding disturbance should be restored to a natural landscape to the extent possible.</p> <p>I do not object to limited helicopter use during the construction phase of the project but once the construction is completed, such use should be restricted as it would be in other Wilderness areas and should not be used for general</p>	<p>I-223-3 Comment noted.</p> <p>I-223-4 Thank you for your comment. Refer to the Water Rights Global Response for Trust Donation. As described in the Global Response, Ecology intends to manage this donated water instream from the outlet of Eightmile Lake to the confluence of Icicle Creek with the Wenatchee River. The releases will be coordinated with Icicle Work Group (IWG) members, Icicle Strategy instream flow subcommittee, IWG co-conveners, and fishery co-managers. Coordination and decisions surrounding lake releases and flow management within the Icicle Creek Subbasin will be informed, in part, by a separate IWG process including a decision support tool being developed as part of the Icicle Strategy. Also refer to Section 2.6 (Dam Operation) of the Draft and Final EISs.</p> <p>I-223-5 Refer to the Global Responses for Tentative Determination of Extent and Validity, Trust Donation, and No Change to Municipal Use.</p> <p>The amount of water use under the Eightmile Lake water right is limited to the extent of the right and no more. Following issuance of the Draft EIS, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes. After the Final EIS is issued, Ecology will conduct its review of the quantities available for the Trust donation under the right as prescribed by RCW 90.42.080(4)). As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology-approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flows as well as for IPID's irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered (2,000 acre-feet). The monitoring and reporting plan will also ensure that the Trust donation is managed properly.</p> <p>As described in the Global Responses and the Draft and EISs, water will not be made available for instream flow purposes for the mitigation of new out-of-stream uses, including municipal water supply use. Use of the stored water at</p>

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	maintenance.	Eightmile Lake will be limited to irrigation use and instream flow for fish benefit under the pending application for Trust donation.
I-223-4	Water: Any water places into a Trust Water Right should be designated “permanently donated to instream flow” meaning that water in the creek remains in the creek downstream to the Wenatchee River, the Columbia River and all the way to the Pacific Ocean and not be removed from the system as shortly after it leaves the Icicle Creek channel. Water permanently designated to instream flow should go into the historical creek channel and not be diverted to other purposes.	I-223-6 Comment noted.
I-223-5	No more water should be withdrawn from 8-mile Lake (or any other lake in the system) than has been withdrawn historically no matter how it is measured (either directly from existing volume or as the water in lake recharges). Water volume that has never been used since the dam was first constructed and the original water right reserved should not now be allowed to be withdrawn. Water should be used for its original purpose (irrigation) and withdrawn when maximum conservation has been achieved. Municipal use (i.e. watering lawns in Leavenworth or other communities) was not a purpose for dam construction in the first place so should not be a current purpose either and despite my objections, if such use is allowed, only those uses where conservation goals have been achieved should be allowed. This does not seem possible if metering is inadequate.	
I-223-6	Thank-you for the opportunity to comment. I hope the dam might be repaired for safety purposes while also achieving adequate irrigation within the capabilities of the system while not exceeding reasonable environmental outcomes. Harry Romberg	

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June 4, 2023

Office of Columbia River
Washington Department of Ecology
1250 W Alder St
Union Gap, WA 98903

TO: 8mile@ecy.wa.gov

RE: Comments on Eightmile Dam Rebuild and Restoration SEPA DEIS (April 2023)

GENERAL COMMENTS

Ken Burns was wrong. The National Parks were not America's "Best Idea." America's "Best Idea" was our Nation's Wilderness System.

I attended the Field Hearing in Seattle, WA, prior to the 1976 Congressional passage of the Alpine Lakes Wilderness Act, and I have hiked within the Alpine Lakes Wilderness. It is profoundly disturbing when Ecology's Office of Columbia River new dam building mission to aggressively pursue the development of new water supplies (RCW 90.90.005) extends to areas designated by Congress for the highest protection, "an area where the earth and its community of life are untrammelled by man," that "generally appears to have been affected primarily by the forces of nature" and "retains its primeval character and influence." *1964 Wilderness Act, 16 U.S.C. Sec. 1131(c)*.

The State of Washington should be ashamed for assuming that all parts of our state, even our National Wilderness areas, are open to water grabs. Ecology's Office of Columbia River's irresponsible decade long efforts in the Icicle Creek Subbasin began with the City of Leavenworth's (City) 2012 appeal of a summary judgment order in favor of an Ecology determination of a lower City water right. Rather than defending its favorable court order, Ecology caved and agreed to suspend the City's appeal to allow the City to seek additional water through the Icicle Creek Integrated Water Resource Management Strategy. The City has communicated that it will withdraw its case in the Court of Appeals if that effort is successful. *Eightmile Dam, Draft Environmental Impact Statement (DEIS), page 6-16*. Thus, Ecology gave away a legal win in order to meet the City's demands for additional water. As part of this "Icicle Strategy," developed with Chelan County and a small group of collaborators, Ecology and Chelan County issued an Icicle Strategy Final Programmatic Environmental Impact Statement (FPEIS, January 3, 2019).

Ecology has proposed for manipulation and modification lakes in the Alpine Lakes Wilderness, including Square Lake, Upper Klonauqua Lake, Lower Klonauqua Lake, Eightmile Lake, Colchuck Lake, Nada Lake, Upper Snow Lake, and Lower Snow Lake, and their receiving streams. *FPEIS, page 3-29*. The FPEIS also included Alternative 4, proposing rebuilding control facilities at Eightmile Lake Reservoir to increase

I-224-1 The court case between Ecology and the City of Leavenworth concerning the City's 1960 surface water right on Icicle Creek is mentioned in Chapter 6 and Appendix B of the Draft and Final EISs in order to describe the surface water rights on Icicle Creek. The City of Leavenworth and Ecology entered into a settlement agreement on November 7, 2023. Ecology's legal strategy concerning this case is not pertinent to this EIS. Regardless, as is stated in the Draft and Final EISs, any Trust donation made from the Eightmile Lake water right will not enable any additional water use by the City of Leavenworth. The goal of Ecology's Office of Columbia River (OCR) as a co-lead of the Icicle Work Group is to develop and implement the Icicle Strategy through a collaborative process that will achieve diverse benefits defined by adopted Guiding Principles for the subbasin, summarized in Section 1.5.2 of the 2019 FPEIS. These goals align with OCR's broader mission to develop water supplies for both instream and out-of-stream uses. IPID's Trust donation request that was submitted in May 2024 is part of this dam rebuild and restoration project and is directly consistent with OCR's directive to develop instream water supplies. Refer to RCW 90.90 for the legislature's directives for OCR.

I-224-2 Comment noted. The 2019 FPEIS was a non-project level review of the Icicle Creek Water Resource Management Strategy that included review of the overall Icicle Creek Subbasin, which includes the other lakes in the Alpine Lakes Wilderness. This analysis only includes impacts associated with the Eightmile Dam Rebuild and Restoration Project.

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storage beyond its historical capacity, enhancing storage and releases from Upper Klonauqua, and rebuilding control facilities at Upper and Lower Snow Lakes to increase storage available from those lakes. *FPEIS, page 2-112*. In summary, this is a breathtaking assault of projects that would adversely impact the Alpine Lakes Wilderness. The DEIS states, "Ecology has determined that water will not be made available for instream flow purposes for the mitigation of new out-of-stream uses, including municipal water supply use." *DEIS Sec. 2.8.4, pages 2-30 to 2-31*. This implies that Ecology, despite a favorable summary judgement order ruling on the City's water right lawsuit, intends to satisfy the City's demands from other projects in the Alpine Lakes Wilderness.

I-224-3

Therefore, Ecology cannot piecemeal its review of the Eightmile dam project. A Final EIS must include a cumulative impact analysis that looks at what other proposed Alpine Lakes Wilderness projects will be pushed forward to "aggressively pursue" new water storage projects, as a result of any Eightmile dam project.

More specific comments are as follows:

I-224-4

Page FS-3 contains a table "Permits, Licenses, and Approvals Likely Required for Proposal" which simply lists "Endangered Species Act (ESA) Section 7 Concurrence" as something to be done in the future. In addition, the DEIS contained no discussion of any Biological Opinions, other than a reference on page 18-14 to:

NMFS (National Marine Fisheries Service). 2017. Endangered Species Act (ESA) Section 7(a)(2) Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat (EFH) Consultation - Leavenworth National Fish Hatchery Spring Chinook Salmon Program (Reinitiation 2016). NMFS Consultation Number: WCR-2017-7345. September 2017.

- Has there been a Biological Opinion issued for the existing (grandfathered) dam projects within the Alpine Lakes Wilderness in order to establish a baseline? If not, why not?

Sec. 1.2, page 1-1, mentions the Special Warranty Deed Area.

I-224-5

- The Special Warranty Deed text could not be located in the DEIS. Please include a copy of the Special Warranty Deed in a Final EIS.

Sec. 1.2.1, page 1-6, states, "the Chelan County Natural Resource Department (Chelan County, County) and Ecology OCR co-convened the Icicle Work Group (IWG, Work Group) in December 2012." This is significantly less information than provided in the FPEIS and provides no authority for the Work Group. The FPEIS attempted to link OCR's authority to establish a "work group" to Chapter 90.82 RCW and Chapter 90.90 RCW. *FPEIS, Sec. 1.4.1., page 1-10*. However, Chapter 90.82 RCW pertains to WRIA plans and RCW 90.82.060(1) provides:

I-224-6

Planning conducted under this chapter must provide for a process to allow the local citizens within a WRIA or multi-WRIA area to join together in an effort to: (a) Assess the status of the water resources of their WRIA or multi-WRIA area; and (b) determine how best to manage the water resources of the WRIA or multi-WRIA area to balance the competing resource demands for that area within the parameters under RCW 90.82.120.

I-224-3

Refer to the Global Response for No Change to Municipal Use. As noted in Section 2.8.4, no water from the Eightmile Dam Rebuild and Restoration Project would be used in support of the municipal water supply for the City of Leavenworth. Analysis of the City of Leavenworth's water right and source is beyond the scope of this EIS, as are other potential water storage projects as part of the Icicle Strategy. Refer to the 2019 FPEIS for discussion of other Icicle Strategy projects. It is also noted that following the 2019 FPEIS, other new water storage projects would similarly follow the phased review process with specific project-level environmental review as appropriate.

I-224-4

A Biological Opinion has currently not been issued by the NMFS. The dams were completed nearly 100 years ago, prior to the requirement for compliance with the Endangered Species Act. The decision to conduct a Biological Assessment and resulting Biological Opinion is under the jurisdiction of NMFS and USFWS, and is not required as part of a SEPA EIS.

IPID's environmental team will verify that all applicable biological opinions are identified and considered as part of their federal permit applications.

I-224-5

Language from the Special Warranty Deed relevant to the project is included in Chapter 3 of the Draft and Final EISs. A copy of the Special Warranty Deed is included in Appendix E of the Final EIS.

I-224-6

The formation and role of the Icicle Work Group is described in the 2019 FPEIS, which was issued in January 2019 and evaluated the Icicle Creek Water Resource Management Strategy (Icicle Strategy). The FPEIS describes Ecology OCR's role as co-convenor of the Icicle Work Group (IWG), and its role in implementing the Icicle Strategy. The history, formation, and authority of the Icicle Work Group and Ecology's role are described in Sections 1.4 and 1.4.1 of the 2019 FPEIS. The Eightmile Dam Rebuild and Restoration EIS is part of a phased review and represents a project-level EIS that builds on the FPEIS. For the Eightmile project-level EIS, Ecology is the SEPA Lead Agency, and the director of OCR is the SEPA Responsible Official as described in the Draft and Final EISs. Specifically, WAC 197-11-938(8) requires that *"For proposals that will result in an impoundment of water with a water surface in excess of forty acres, the lead agency shall be the department of ecology."*

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I-224-6	<p>Instead of allowing local citizens within a Water Resource Inventory Area (WRIA) to join together, Ecology and Chelan County self-selected a small group of collaborators. Ecology has failed to provide any justification for how the Icicle Work Group complies with Chapter 90.82 RCW, or how the "Icicle Strategy," borne out of lawsuit brought by the City of Leavenworth is tied in any way to a WRIA. Ecology has also failed to provide any information as to the authority of Ecology's Office of Columbia River (OCR). The OCR was never authorized by the Legislature under Chapter 90.90 RCW. In addition, Ecology has never promulgated any rules or regulations for the establishment of "work groups" by OCR. On its face, the Icicle Strategy and its proposals, such as the Eightmile Dam project, would appear to be <i>ultra vires</i>.</p> <ul style="list-style-type: none"> Ecology should clarify that the only jurisdiction and authority for the proposed project is as a response to the Dam Safety Office. 	I-224-7	As described in Section 1.10.1 and in Chapter 6 of the Draft and Final EISs, the existing Eightmile Lake water right certificate was issued for an instantaneous quantity of 25 cfs, and the annual quantity was not listed on the certificate. The active storage available for use following the dam rebuild project is limited to the extent of the existing Eightmile Lake water right and no more. The Multi-fill Analysis was relied on (in part) for the water right evaluation in the Draft and Final EISs to assess whether the range of active storage capacities for design alternatives being considered were reasonable under IPID's existing water right. Refer to the Global Responses for Tentative Determination of Extent and Validity, Multi-fill Analysis, and Relinquishment for more details.
I-224-7	<p>Sec. 1.4, page 1-7, states that one project object is to "Restore the storage capacity of Eightmile Lake so that it meets IPID's irrigation and storage needs under its existing water rights. The DEIS fails to establish or clarify the IPID's "existing water rights." Without such clarification, this objective cannot be met.</p> <ul style="list-style-type: none"> What are the IPID's "existing water rights"? 	I-224-8	Beyond natural forest regeneration, no reforestation efforts within the Eightmile Lake watershed have occurred since the Jack Creek Fire.
I-224-8	<p>Sec. 2.1, page 1-12, states: "The August 2017 Jack Creek Fire created additional concern for the dam related to increased peak runoff into Eightmile Lake."</p> <p>Sec. 2.2, page 2-1, states: "The DSO considers the dam vulnerable in the event of a large storm due to changed conditions in the watershed both upstream and downstream of the dam, as well as to the condition of the dam itself. The Jack Creek Fire in 2017 burned a significant forested area in the watershed, creating conditions that generate higher peak runoff rates to the lake. Operation of the dam under existing conditions is not consistent with DSO regulations and does not meet the DSO's safety requirements for a High Hazard Dam. . . . An estimated 150 downstream residences are at risk if the existing dam were to fail."</p> <ul style="list-style-type: none"> This is an incomplete description of the DSO and the Jack Creek Fire. How much reforestation has been carried out in the Eightmile lake watershed? How many new residences have been constructed on Icicle Creek below Eightmile Lake since 2012? Since 2017? How many other dams in the State of Washington are classified as a "high hazard dam"? 	I-224-9	The information requested regarding new residences constructed on Icicle Creek below Eightmile Dam is not readily available. However, development within the Icicle Creek Subbasin continues to increase over time. Additionally, because of the number of people residing downstream of the dam, it is considered a High Hazard Dam.
I-224-9	<p>Sec. 2.8.2, page 2-30, states, "Should overland transport be needed, additional environmental review and approval from the Forest Service would be needed beyond what is being conducted as part of this EIS."</p> <ul style="list-style-type: none"> It is disappointing that Ecology has not closed the door on "overland transport." This appears to be yet another example of Ecology piecemealing this process. 	I-224-9	Ecology's Dam Safety Office regulates 247 High Hazard Dams within the State of Washington. However, the national inventory of dams database indicates that Washington State has 398 High Hazard Dams, which includes dams regulated by all agencies. The federal government considers a High Hazard Dam as one that has any population at risk below the dam if it should fail, whereas Ecology considers a High Hazard Dam as one that has a population at risk below the dam as 7 or more.
I-224-10	<ul style="list-style-type: none"> It is also disappointing that the U.S. Forest Service has not undertaken environmental review under the National Environmental Policy Act (NEPA). NEPA regulations required federal agencies to: "Apply NEPA early in the process. (a) Agencies should integrate the NEPA process with other 	I-224-9	Comment noted. As described in Section 2.8.2 of the Draft and Final EISs, overland transportation of construction equipment is not currently planned as part of this project. As further noted, IPID may consider overland transport in the unanticipated event that helicopter use is infeasible for some reason. Additional environmental review and approval from the Forest Service would be needed should this occur.
		I-224-10	The proposed dam rebuild alternatives are being evaluated through the SEPA EIS process. This process will allow the Forest Service to consider a well-developed proposed action to determine if the National Environmental Policy

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	<p>Act (NEPA) applies, what activities should be evaluated in an environmental analysis, and the level of review and documentation required.</p> <p>The Forest Service will determine if NEPA applies to a proposal based on the Council on Environmental Quality's (CEQ) revised regulations at 40 CFR 1501.1 and agency regulations at 36 CFR 220.4(a).</p> <p>The Department of Ecology and the Forest Service are jointly reviewing the proposed action to determine the responsibilities of each agency. As authorized by the CEQ regulations, the Forest Service can cooperate with the State of Washington on environmental analysis (40 CFR 1506.2) and may use elements of the environmental analysis prepared under the SEPA process if NEPA analysis is required (40 CFR 1506.2(b)).</p> <p>The Draft and Final EISs include a description of the required NEPA and Forest Service review in Chapter 1, Section 1.11.</p>

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I-224-10	<p>planning and authorization processes at the earliest reasonable time to ensure that agencies consider environmental impacts in their planning and decisions, to avoid delays later in the process, and to head off potential conflicts. <i>40 CFR Sec. 1501.2. Why has the U.S. Forest Service failed to carry out its NEPA responsibilities?</i></p>	I-224-11	Comment noted. Analysis of the City of Leavenworth's water use is beyond the scope of the EIS. Refer also to the Global Response for Water Conservation.
I-224-11	<p>Sec. 2.84, pages 2-30 to 2-31. As noted above, the DEIS states, "Ecology has determined that water will not be made available for instream flow purposes for the mitigation of new out-of-stream uses, including municipal water supply use." However, the FPEIS states: "The City of Leavenworth currently provides water to 2,981 units, with the average Equivalent Residential Use at 304 gallons per day." <i>FPEIS, Sec. 2.5.4, page 2-70. The Final EIS should highlight that this is an extremely high volume of residential water use, as our own May 23-July 28, 2022, residential water bill shows an average water consumption of 45.33 gallons per day.</i></p>	I-224-12	Washington State sets instream flow rules in accordance with Washington Administrative Code Chapters 90.22.010, 90.22.020, and 90.54 RCW. The instream flow rules guide water resource decision-making and management as it relates to minimum surface water flows for ecological resources and communities. Figure 4-6 of the Draft and Final EISs shows the minimum instream flow rules (per WAC 173-545) relative to observed flows in Icicle Creek based on consideration of ecological resources and communities. Refer to Section 1.5 of the 2019 FPEIS for further discussion of the development of the instream flow rule guiding principle.
I-224-12	<p>Sec. 4.5.1, pages 4-26 to 4-27.</p> <ul style="list-style-type: none"> <i>What would be optimum instream flows for fish resources for the Icicle Creek?</i> 	I-224-13	Eightmile Lake was a natural lake prior to the construction of Eightmile Dam nearly 100 years. The dam altered the lake, but did not create it. Measuring the current amount of methane generated by Eightmile Lake is beyond the scope of this EIS. The dam replacement is not expected to result in a measurable increase in methane emissions because the increase in total lake area at maximum water surface elevation is relatively small increase compared to the size of the existing lake. Greenhouse gas emissions from reservoirs are typically at their highest for 20 years following dam construction as organic matter decomposes in the areas flooded by reservoirs. Methane is highest in deep portions of reservoirs and is released when deep water is pulled out of the reservoir and released downstream. Hydropower dams create more methane than non-hydro dams such as those used water storage. Therefore, the Eightmile Lake reservoir is unlikely to release high levels of methane due to its age, depth of water withdrawal, limited increase in vegetated inundation area, and size of the water storage reservoir.
I-224-13	<ul style="list-style-type: none"> Dams produce methane, a climate changing gas. <i>What is the current amount of methane generated annually by Eightmile Lake? What would be the amount of methane generated annually if Eightmile Lake was raised?</i> 		
I-224-14	<p>Table 15-2, page 15-6, states that the IPID includes 232 acres of forage/hay.</p> <ul style="list-style-type: none"> <i>How much of this forage/hay is exported to Asia?</i> 	I-224-13	Eightmile Lake was a natural lake prior to the construction of Eightmile Dam nearly 100 years. The dam altered the lake, but did not create it. Measuring the current amount of methane generated by Eightmile Lake is beyond the scope of this EIS. The dam replacement is not expected to result in a measurable increase in methane emissions because the increase in total lake area at maximum water surface elevation is relatively small increase compared to the size of the existing lake. Greenhouse gas emissions from reservoirs are typically at their highest for 20 years following dam construction as organic matter decomposes in the areas flooded by reservoirs. Methane is highest in deep portions of reservoirs and is released when deep water is pulled out of the reservoir and released downstream. Hydropower dams create more methane than non-hydro dams such as those used water storage. Therefore, the Eightmile Lake reservoir is unlikely to release high levels of methane due to its age, depth of water withdrawal, limited increase in vegetated inundation area, and size of the water storage reservoir.
I-224-15	<p>Chapter 17. Cumulative Impacts, page 17-1+</p> <ul style="list-style-type: none"> As noted above, Ecology has committed to providing the City of Leavenworth with additional water from elsewhere in the Alpine Lakes Wilderness, such as Square Lake, Upper Klonauqua Lake, Lower Klonauqua Lake, Eightmile Lake, Colchuck Lake, Nada Lake, Upper Snow Lake, and Lower Snow Lake, and their receiving streams. <i>The EIS must include a cumulative impact analysis of the impacts on the Alpine Lakes Wilderness from all projects proposed for additional water withdrawal.</i> <p>Table 17-1, page 17-1. This table mentions the <i>Icicle Creek Rockfall Mitigation Project</i> being carried out by the US Forest Service, and FHWA. Sec. 17.2.4, page 17-4, states that "The Icicle Creek Rockfall Mitigation Project could be ongoing during the construction period for the dam."</p> <ul style="list-style-type: none"> <i>What is the status of this project? What SEPA/NEPA compliance has been carried out for this project?</i> <p>Table 17-1, page 17-2. This table mentions the <i>Cascade Orchards Irrigation Company (COIC) Irrigation Efficiencies and Pump Exchange Project</i>.</p> <ul style="list-style-type: none"> <i>What is the status of this project?</i> <p>Please provide a copy of any Final EIS issued for this project. Thank you.</p>	I-224-14	The amount of possible export of forage/hay to Asia is outside the scope of the Eightmile Dam Rebuild and Restoration Project and is not included in the Final EIS analysis.
		I-224-15	As noted in Section 2.8.4 of the Draft and Final EISs, water withdrawn from Eightmile Lake would not be used by the City of Leavenworth. The potential use of water from other lakes within the Alpine Lakes Wilderness was evaluated as part of the 2019 FPEIS for the Icicle Strategy.

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	<p>The Icicle Creek Rockfall Mitigation Project is a federal project being undertaken by the US Department of Transportation Federal Highway Administration. According to FHWA's website (https://highways.dot.gov/federal-lands/projects/wa/fs-okw-76-1), the anticipated construction timeline for the Icicle Creek Rockfall Mitigation Project is fall 2025. The SEPA/NEPA analysis conducted for the rockfall project is beyond the scope of this EIS.</p> <p>The Cascade Orchard Irrigation Company Improvement Project is still in the design/planning phase; construction is currently planned for summer 2024 to spring 2025. If construction of the Cascade Orchard Irrigation Company Improvement Project and Eightmile Dam occur concurrently, it is not expected to result in any adverse effects on the elements of the environment presented in the EIS.</p>

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RESPONSE

I offer the following comments on the draft EIS for the Eightmile Dam Rebuild and Restoration. Currently, I am a consulting aquatic biologist but these comments reflect my personal views and not those of any past client or employer. I have been familiar with issues in the Icicle Creek watershed since 1999.

1. Water rights

The “Determination of Significance and Request for Comments on Scope of the EIS, Eightmile Dam Rebuild and Restoration Project” issued by Ecology on December 18, 2020 stated that

The spillway [of Eightmile Dam] overtopped and eroded the earthen embankment portion of the dam **more than 25 years ago. This has limited IPID's ability to refill the lake to the historical spillway elevation** and increased the potential for additional erosion and failure of the earthen embankment portion of the dam (emphasis added).

My comment to Ecology on this issue during scoping was that because the Districts may have in fact relinquished a portion of their rights due to nonuse, Ecology should make a determination on the Districts' water rights *before* any more analysis of the project occurs. In response, Ecology stated that

Ecology will provide a discussion of Water Rights and the status and implications of IPID's water rights in the Draft EIS, in the Water Rights section. IPID has not yet filed a Water Rights Change Application, so analyses described in the EIS will be based on preliminary information. Some level of detail that has been requested is not available, but the issue of the Districts' water rights will be comprehensively addressed in the Draft EIS (Scoping Summary Report¹, p. 16).

Unfortunately, Ecology has failed to “comprehensively” address the Districts' rights in the draft EIS, and has instead unequivocally stated that no such analysis is needed until the Districts file a water rights change application:

The purpose of this chapter is to identify and assess any potential impacts on water rights that may occur as a result of the action alternatives and No Action

I-225-1 Refer to the Global Responses for Tentative Determination of Extent and Validity and Relinquishment. Ecology has fulfilled the scope of Eightmile EIS as stated in the June 2021 scoping summary report. As noted in the scoping summary, and as quoted by the commenter, the water rights analysis within the Draft EIS is based on preliminary information available at the time. The focus of the water rights review in the EIS was to assess whether the range of active storage capacities for design alternatives being considered were reasonable. This review was accomplished by reviewing the information available, including the Multi-fill Analysis. After the Draft EIS was issued, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes. Following issuance of the Final EIS and informed by the EIS, Ecology will conduct its review of the quantities available through the Trust donation as prescribed in RCW 90.42.080(4).

Ecology believes the water rights analysis completed as part of the EIS is comprehensive within the level of existing water rights data and for the purposes required in the EIS. At the same time, Ecology is not being pre-decisional on a Trust donation application prior to the completion of the EIS. Additionally, as described in the Draft and Final EISs, the EIS process is not a venue for conducting a tentative determination of extent and validity.

¹ Scoping Summary Report, Eightmile Dam Rebuild and Restoration Project, Ecology Publication No. 21-12-008, June 2021.

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Alternative during construction and operation. To support this assessment, this chapter and associated appendix (Appendix B, *Water Rights*) generally describe and summarize the water rights within the study area, including the instream flows set by rule. **In addition, this chapter provides background on IPID's water right at Eightmile Dam and assesses whether the action alternatives analyzed are reasonable given IPID's existing water right authorization. However, it does not make a tentative determination of the validity and extent of IPID's water right because no application has been filed to trigger a formal review of the right.** Finally, it addresses potential implementation of the project, including continued water storage and releases proposed at Eightmile Lake for both ongoing irrigation water use by IPID and for streamflow augmentation within the study area as part of the Icicle Strategy (draft EIS, p. 6-1; emphasis added).

It is unclear why Ecology believes that a validity review can only happen after an application has been filed, as that is not supported by statute. RCW 90.14.160 states that a holder of a water right acquired by appropriation relinquishes that right after five years of nonuse if they cannot show sufficient cause. RCW 90.14.130 states that

When it appears to the department of ecology that a person entitled to the use of water has not beneficially used his or her water right or some portion thereof, and it appears that said right has or may have reverted to the state because of such nonuse, as provided by RCW 90.14.160, 90.14.170, or 90.14.180, the department of ecology shall notify such person by order... [t]he order shall contain: (1) A description of the water right, including the approximate location of the point of diversion, the general description of the lands or places where such waters were used, the water source, the amount involved, the purpose of use, and the apparent authority upon which the right is based; (2) a statement that unless sufficient cause be shown on appeal the water right will be declared relinquished; and (3) a statement that such order may be appealed to the pollution control hearings board...

In fact, the statute's use of the word "shall" places a duty on the agency to act once the nonuse of the water right "appears" to Ecology.

Ecology's position in this case is also not supported by its own Policy 1060, Part 2: Relinquishment, section D. Involuntary Relinquishment, which states "[t]here are three

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ways involuntary relinquishment can occur: though relinquishment orders, decisions on water right change applications, and general water rights adjudications" (p. 6).

Whether referring to statute or policy, it is clear that Ecology is not limited to decisions on water right change applications before determining if relinquishment has occurred.

Ecology knew of damage to the dam that limited its capacity to refill in 1995, at a minimum, when the Dam Safety Office examined it². The nonuse should have appeared to Ecology in 2009 or afterwards, simply by examining one of a number of reports on the dam or through its own leadership/participation on the Icicle Work Group.

Why is Ecology reluctant to examine the Districts' water rights during this EIS process when it clearly has the option—or obligation—to do so? Perhaps it is because dam reconstruction will create usable water storage over that currently used by the Districts, and the relinquishment of the right to the state *after* dam reconstruction will give Ecology more flexibility in how that water is used. Or that if the Districts offer to place some of the right into trust for instream flow, then the determination—possibly an adversarial process—need not occur at all. In contrast, determining whether part of the Districts' right has been relinquished *before* dam reconstruction begins is more transparent, even though it might complicate the effort to create additional storage.

Ecology should make the determination whether the Districts have in fact relinquished a portion of their right, placing the burden on the Districts to show otherwise or show sufficient cause for the apparent nonuse. If Ecology does in fact find that a portion of the Districts' right has been relinquished, appropriate changes should be made to the alternatives.

2. Studies of water quality

I-225-2

Ecology fails to address all possible relevant changes in water quality that may occur from implementation of the action alternatives. In 2009, Ecology completed the Wenatchee River Dissolved Oxygen and pH TMDL (total maximum daily load) (Ecology

² Reconnaissance Inspection of Eightmile Lake Dam; File No. CH45- 228, Dam Safety Office, Ecology, December 1995. Cited in "Eightmile Lake Storage Restoration Feasibility Study", Anchor GEA, April 2016, p. 5: "This letter was prepared by Ecology's Dam Safety Office following a reconnaissance visit to the site to evaluate and inspect the dam facilities at Eightmile Lake. The letter noted the breach or erosion of the embankment portion of the dam adjacent to the rock masonry structure and concluded that the breach had cut a channel down to a hardened surface that had potential to widen further with subsequent flood events, but that the configuration of the dam did 'not pose a sufficient incremental damage threat to warrant mandating a retrofit of the spillway.'"

I-225-2

As noted in the comment, Ecology's Wenatchee River Watershed Dissolved Oxygen and pH TMDL (2009) recommends that no increase in nutrient loading occur in the upper Wenatchee River (above Leavenworth) and Icicle Creek (above the Leavenworth National Fish Hatchery) watersheds during the critical periods of March-May and July-October. Phosphorus in particular is a nutrient that at high levels can cause excessive aquatic plant growth and reduce dissolved oxygen levels.

The alternatives considered in the Draft and Final EISs would generally not increase Eightmile Lake outlet flows during the March-May period when the lake is typically filling, but maximum summer (July/August) flow releases may be increased by over 10 percent. While the increase in summer flow rates could be expected to have a proportional increase in the mass of phosphorus in outlet flows (assuming phosphorus concentrations remain unchanged), the increase is unlikely to be significant with respect to dissolved oxygen issues in the Wenatchee River and Icicle Creek for the following reasons:

- There are no new sources of phosphorus upstream of the dam. No new actions are proposed that would add phosphorus to the system.
- The total volume of water moving through the system is not changing as a result of the project, and the watershed upstream of the dam is not changing as a result of this project. The project would result in a shift in the timing of release due to the dam. Typical July/August flow releases from the lake outlet pipe are expected to be in the range of 20 to 35 cfs under the No Action Alternative and in the range of 20 to 40 cfs for each of the action alternatives.
- The available data and the relatively pristine and undeveloped condition of the contributing watershed suggest generally good water quality conditions in Eightmile Lake and Eightmile Creek. Available data show Eightmile Creek to be in compliance with current water quality standards. Data presented in the TMDL show that average and 90th percentile inorganic phosphorus concentrations in samples from Eightmile Creek were below the maximum natural condition concentration of 4.7 ug/L. Limited data from Eightmile Lake samples collected in 1974 indicated low total phosphorus concentrations of 3 and 5 ug/L, with samples from 1978 showing concentrations of 7 and 12 ug/L.
- The expected effect of low-level phosphorus load increases due to relatively small increases in summer outlet flows is further

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diminished by the relative contribution of Eightmile Creek flows to Icicle Creek and the Wenatchee River. Eightmile Creek is a relatively small contributor of flows to Icicle Creek and the Wenatchee River where dissolved oxygen levels have been observed to be low and where phosphorus loading is of concern. In terms of contributing basin size, Eightmile Creek has a watershed area of approximately 31 square miles, whereas Icicle Creek drains approximately 213 square miles and the Wenatchee River watershed upstream of the Icicle Creek confluence is approximately 910 square miles. In terms of flow, Eightmile Creek contributes less than 10 percent of the mean daily flow to Icicle Creek where it enters at River Mile 9.0. The contributing streamflow of Eightmile Creek is approximately 1 percent of the total streamflow in the mainstem Wenatchee River.

- While not quantified in the Draft and Final EISs, the action alternatives could be expected to have some direct benefits to downstream temperature and dissolved oxygen conditions by augmenting baseline streamflows with cool water releases from the low-level outlet pipe in summer, when baseline water temperatures are highest and dissolved oxygen levels are lowest.

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publication No. 98-10-062) which set “waste load allocations” or “WLAs” for phosphorus for permitted wastewater dischargers to Icicle Creek and the Wenatchee River. Ecology’s TMDL is based on modeling instream water quality; the model’s inputs include the concentrations of various water quality parameters. Instream dissolved oxygen and pH are governed in large part by instream microbial photosynthesis and respiration. Phosphorus is a plant nutrient and usually controls aquatic plant growth in freshwater systems. Therefore, using the best available science, Ecology determined that controlling phosphorus is key if water quality standards for dissolved oxygen and pH are going to be met in Icicle Creek and the Wenatchee River.

WLAs are used to calculate NPDES effluent limitations in wastewater discharge permits. After the TMDL was completed, permitted dischargers received updated permits with new and stringent effluent limitations for phosphorus. Typical wastewater treatment does not include phosphorus removal. According to the 2017 City of Leavenworth Wastewater General Sewer Plan and Facility Plan, the City’s costs for building a new phosphorus removal treatment process is estimated at more than \$9 million.

One input to the model used in the TMDL is the background concentration of phosphorus upstream (of any permitted discharger), and another is the upstream flow at “critical” conditions. Multiplying concentration and flow equals “load”. The TMDL contemplated no additional phosphorus loading to the upper Icicle Creek watershed:

Ecology recommends that no increase in nutrient loading occur in the upper Wenatchee River (above Leavenworth) and Icicle Creek (above LNFH) watersheds during the critical period (March-May and July-October). The 2006 technical study for this TMDL concluded that the upper Wenatchee River and upper Icicle Creek had very limited loading capacities for nutrients (p. 52).

The TMDL indicated (p. 53) that Eightmile Creek had an average total phosphorus concentration of 3.4 µg/L and a 95th percentile total phosphorus concentration of only 4 µg/L (n = 9). These are low concentrations, typical of unproductive freshwater streams. But the draft EIS action alternatives contemplate increased flows from Eightmile Lake. Because phosphorus loading equals the concentration multiplied by the flow, the concentration of phosphorus would have to decrease by a proportional amount for loading to remain the same when flow increases. Lower levels of lakes often have increased phosphorus concentrations and releases from the lower levels of the Alpine Lakes may very well have greater phosphorus concentrations than the background concentrations modeled in the TMDL and therefore loading will increase due to increased concentration and increased flows.

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And increased phosphorus loading in the upper watershed might cause problems not just in the upper watershed as the TMDL warns, but also farther downstream, interfering with the considerable efforts made by NPDES dischargers to reduce their phosphorus loading so that Icicle Creek and the Wenatchee River meet applicable water quality standards.

Without a comprehensive study of the effects of the releases contemplated by the action alternatives in this draft EIS, in combination with the increased releases from other lakes that are contemplated in the Icicle PEIS, implementation of the action alternatives may actually cause water quality violations in the upper Icicle as well as negate the efforts of downstream dischargers to meet water quality standards. Ecology needs to address this data gap with such a comprehensive study.

3. Studies of aquatic biology

The natural hydrologic regime of small mountain streams is disrupted by augmenting flow in summer, and this likely affects aquatic communities because the flow regime, including high-flow and low-flow events, is a major factor in shaping those communities. The draft EIS makes no mention of any effects to aquatic communities, aside from an assumption that fish benefit when stored water is released in late summer when "natural" flows would have been lower.

Washington's water quality standards protect all freshwater aquatic life, not just fish:

Aquatic life uses. Aquatic life uses are designated based on the presence of, or the intent to provide protection for, the key uses identified in (a) of this subsection. It is required that all indigenous fish and nonfish aquatic species be protected in waters of the state in addition to the key species described below" (WAC 173-201A-200(1)).

I-225-3

This obligates Ecology to investigate how the action alternatives might affect aquatic communities in Eightmile Lake as well as Eightmile Creek, and perhaps Icicle Creek downstream of the confluence with Eightmile Creek. The first step in such a study is better information on how flows may in fact be affected by each alternative. The information included in the draft EIS, based on two years of gage data, is worse than inadequate; it is misleading. Two years of hydrologic data cannot capture the full range that will occur, and Ecology should not have published estimates of flow ranges based on only two water years of gage data. Standard hydrology practices require at least ten

I-225-3

Aquatic communities in streams, including benthic macroinvertebrates and insects, provide prey resources for fish. Text has been added to Section 8.5 to note the potential effects of the alternatives on aquatic communities. The effects of each alternative on aquatic communities are linked to the amount of wetted aquatic habitat provided in Eightmile and Icicle creeks. Alternatives providing more reliable streamflow supplementation during summer low flows would provide more wetted aquatic habitat for aquatic communities. Streamflow data are provided by Ecology from established gauging stations. At this time, the data presented are limited to the 2 years. This is not intended to mislead the reader. Streamflow and lake elevation data are presented because limited data are better than no data at all. The EIS does not attempt to draw conclusions from these data, but states their limitations for consideration.

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I-225-3	<p>years of streamflow data to characterize a watershed, and if they are not available then a hydrograph for the basin should have been constructed for the watershed.</p> <p>Ecology should make an effort to construct a hydrograph rather than publish flow estimates on scant data. Studies of the complete aquatic communities should be conducted.</p>	I-225-4	Comment noted. Impacts on surface water resources associated with operation of the alternatives are described in Section 4.5 of the Draft and Final EISs. The action alternatives provide increased ability to manage reservoir storage and outflow during both drought and non-drought years.
I-225-4	<p>4. Wilderness</p> <p>It is accepted that the dams are "grandfathered" into the Alpine Lakes Wilderness Area, so the aquatic communities of the lakes and the outlet streams should also be considered grandfathered. The communities in the lakes and streams have been established through the current practice where IPID rotates which lakes are tapped; not every lake is drawn down every year. But the preferred alternative in the Icicle Programmatic EIS contemplates releasing water from seven other Wilderness lakes/reservoirs every year, as opposed to the current practice.</p> <p>Here, Ecology and the IPID propose to further manipulate a Wilderness lake and stream to effect a less-than-complete restoration of the lower Icicle. The manipulation of the rebuilt Eightmile reservoir will likely result in changes to the aquatic ecosystems that lie in protected Wilderness. It is unclear what gives Ecology (or any multi-entity "adaptive management" panel) the right to potentially affect Wilderness lakes and streams in order to meet instream flow goals downstream of the Wilderness Area. This was not addressed in the Icicle PEIS and is also not addressed here³.</p> <p>The EIS should address how IPID and Ecology expect to manage releases under each alternative, and the consequences of those releases.</p>	I-225-5	Such alternatives were not developed as a part of the analysis because they did not meet the project objectives outlined in Section 1.4 of the Draft and Final EISs. Dam removal was considered but not carried forward, as described in Section 2.8.1 of the Draft and Final EISs. As described in the Global Response for Tentative Determination of Extent and Validity, if a future quantification (through adjudication or future water right action) results in an annual quantity that is less than the physical volumes considered for the design alternatives (up to 2,000 acre-feet of active storage) considered in this EIS, the physical active storage volume in the lake can be reduced through shortening the intake pipe outlet, as described in the Final EIS, without necessitating any changes to the main design.
I-225-5	<p>5. Alternatives that remove the dam and making the dam safe at the existing water height.</p> <p>The EIS should evaluate alternatives that 1) remove the existing structure, restores the historical elevation (before any dam was built), and re-creates (as much as practicable) a "natural" outlet, and 2) do the minimum to make the structure safe at its existing height should be evaluated. One of those might be IPID's choice (for instance, due to liability</p>		
I-225-5	<p>³ The PEIS cited only cursory studies, and received comments to that effect. Ecology's response was that "[a] more detailed analysis on the impacts of increased frequency of releases will occur during project level analysis where appropriate (Icicle PEIS, Appendix A, p. A-385)." A detailed analysis has not been done here.</p> <p>reasons) if in fact it is determined that it has relinquished some of its water storage right.</p> <p>Additional alternatives should be evaluated if the relinquishment determination shows the Districts have relinquished a portion of their right.</p> <p>I appreciate the opportunity to comment. I can be reached at waterhersh@gmail.com</p> <p>C.M. Hersh</p>		

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		COMMENT	RESPONSE
		I am writing in regards to the Eightmile Dam project in the Alpine Lakes Wilderness.	I-226-1 Comment noted. See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2.
I-226-1		I oppose both of the proposed Alternatives #1 or #2 for this project. A structure of this nature and its many impacts on the landscape could never be built today; but either of those alternatives increases those impacts rather than decreases them. No updates, rebuilding, or modifications to the existing dam should in any way raise the level of the lake beyond what is already present.	I-226-2 Comment noted. Refer to the Global Response for Water Conservation for additional information about conservation measures. Also, refer to Chapter 1, Section 1.10 of the Draft and Final EISs describing the lower storage capacity following the Jack Creek Fire in 2017 due to the compliance requirements from Ecology’s DSO (Aspect 2022a) related to the High Hazard Dam status, resulting in the flash boards remaining out of the control notch and gate remaining open.
I-226-2		The Icicle and Peshastin Irrigation Districts have managed for decades with Eightmile Lake at its current elevation level, and there is no compelling reason the cannot continue to do so. In particular, numerous water-saving irrigation techniques and plans could produce equal or greater agricultural output from the same amount of water. Time, effort, and funds would be far better spent on implementing those rather than further increasing the impact of a non-conforming structure on a pristine wilderness area.	

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I-227-1	Thank you for the opportunity to provide comments on the Eightmile Lake dam replacement project Draft Environmental Impact Statement (DEIS). I have been visiting the Alpine Lakes Wilderness Area (ALWA) on a regular basis since establishing residence in Seattle in 1969. Over the last decade, I have resided in Stehekin about 50% of the time, but still get to the ALWA a few times each year. It and other wilderness areas have provided important recreational opportunities throughout my 83 years of life. I want those opportunities to continue for myself and others. I also recognize that there are existing water rights important for local agriculture. In-stream flows and serious downstream safety concerns with the present dam at Eightmile Lake also need attention. I am concerned about the scale of the proposed work, which should be minimized, given the location within designated Wilderness managed according to the Wilderness Act.	I-227-1	Comment noted.
		I-227-2	Comment noted.
		I-227-3	Refer to the Global Responses for Tentative Determination of Extent and Validity and Relinquishment, as well as Chapter 6 of the Draft and Final EISs for a description of IPID's Eightmile Lake water right. Chapter 6 of the Draft and Final EISs lists all IPID water rights relevant to the EIS by priority date, and all IPID water rights in the Icicle Creek watershed pre-date the Alpine Lakes Wilderness Act.
I-227-2			
I-227-3	Water rights The DEIS does not clearly address what water-rights the Icicle Peshastin Irrigation District (IPID) actually had at the time of the establishment of the ALWA and has not since relinquished by non-use. Most importantly, it can not reference any determination by Washington State Department of Ecology (DOE), the responsible agency. While adjudication in 1929 granted 2,500 acre-feet on an annual basis, the DEIS cites no evidence that IPID has ever perfected as much as 2000 acre-feet. Thus, all of the Active Alternatives may propose more storage than the IPID has a right to, except possibly Alternative 3. The IPID appears to find 1400 acre-feet adequate for its needs, but reassignment of its diversion rights in excess of that amount, if any, to other private interests would be inconsistent with the Wilderness Act. It should therefore be definite that any excess storage goes to maintaining downstream flow including Icicle Creek. The DEIS is premature without DOE determination of established water rights.		As described in the Global Responses, Ecology has not made a tentative determination of extent and validity of the Eightmile Lake water right because there has not been an action triggering a tentative determination. Additionally, relinquishment for non-use has not been established. Following the Draft EIS, IPID submitted a request to donate a portion of its Eightmile Lake water right to instream flow. As described on in Section 6.5 of the Draft EIS, IPID intended to donate any excess storage capacity above 1,400 acre-feet to instream flow. After the Final EIS is issued, Ecology will review quantities available for the Trust donation in accordance with RCW 90.42.080(4). As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology-approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flow use as well as for IPID's irrigation use such that the total uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered (2,000 acre-feet). The monitoring and reporting plan will also ensure that the Trust donation is managed properly.
	Expansion of structures All of the Action Alternatives involve an expansion of the footprint of structures, either higher spillway height (A1 & A2) or lower outlet pipe (A3) with corresponding impacts on drowned lake shoreline at high water and/or exposed lake bed at low water. All of the Action Alternatives are therefore out of compliance with the Wilderness Act, which prohibits expansion.		In regard to the comment on perfection, a water right is perfected when it is put to beneficial use. While the annual quantity of the Eightmile Lake water right was not included on the certificate when it issued in 1939, it is clear that some, and potentially all, of the right was perfected based on available information in IPID's and water right records related to infrastructure and historical beneficial use. Refer to response to comment O-9-15 for additional information.
I-227-4			Finally, also refer to the Global Response for No Change to Municipal Use and Section 2.8.4 of the Draft and Final EISs. Ecology has determined that water will not be made available for instream flow purposes for the mitigation of new out-of-stream uses, including municipal water supply use.

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		COMMENT	RESPONSE
I-227-5	Construction logistics The proposed construction logistics for the Active Alternatives are very heavy, especially reliance on helicopter transport of materials at an unprecedented level over established wilderness. A baseline for comparison should be the mode of construction of the original dam. I request that reopening of the abandoned FS road be reevaluated, given that it provides only marginal advantage for the construction phase and subsequent maintenance. The road should be decommissioned after dam construction, so it does not ease access to an already crowded backcountry area.	I-227-4	Construction activities, structures, and construction staging associated with the rebuilt dam will occur on IPID's Special Warranty Deed parcels.
		I-227-5	Comment noted. As described in Section 2.7.1 of the Draft and Final EISs, the road would not be available for public use and would remain closed and locked except for authorized entry.
I-227-6	Inadequate range of Alternatives Please develop Alternatives that conform to legally-determined water rights and that do not expand the scale of structures and associated impacts present at the time of wilderness establishment. Give more serious attention to minimizing construction disturbance. There needs to be an alternative that satisfies the stated IPID water diversion needs (up to 1400 acre-feet without exceeding its perfected rights).	I-227-6	Comment noted. The current alternatives have been developed with input from Ecology's Dam Safety Office to ensure public safety downstream, and the water rights analysis in the EIS addresses the reasonable range of active storage volumes under the right. As described in the Global Responses, the Multi-fill Analysis was relied on (in part) for the water right evaluation in the Draft EIS to assess the reasonableness of the maximum active storage design volumes for each alternative. Section 2.8 of the Draft and Final EISs describes alternatives that were considered but not carried forward. For more information on IPID's existing water, right see the Global Responses for Water Rights (including for Tentative Determination of Extent and Validity) and Section 6.2 of the Draft and Final EISs.

I-228

COMMENT

RESPONSE

I-228-1	I remain concerned about the project's environmental impacts. As proposed, the three non-No Action alternatives have significant impacts to the 'wilderness character' of the area as defined and protected by the 1964 Wilderness Act. The following concerns should be fully addressed and mitigated in the final plan adopted by DOE and IPID:	I-228-1	See the Global Response for Visual Resources for visual-related mitigation measures.
I-228-2	Maintaining Wilderness Character – the current dam and remnants blend in with the surrounding Wilderness, and have a minimal footprint. More needs to be done in all three of the non-No Action alternatives to protect wilderness character. The use of helicopters should be limited to dam construction and not extend to long-term maintenance within the Wilderness. Furthermore, the number of flights should be limited to as few as possible to mitigate impacts on wilderness character and recreation.	I-228-2	See the Global Response for Helicopter Use within the Alpine Lakes Wilderness.
I-228-3	Road Construction - Impacts to the Wilderness will be further degraded by construction of a road to bring vehicles closer to the Wilderness boundary. The DEIS proposes to "improve and reopen a portion of a currently closed road located outside of the Alpine Lakes Wilderness" along the existing Eightmile Lake Trail so workers hiking into the site will be able to park closer to the Wilderness boundary and have a shorter hike to the dam site. Are the workers invalids? There is no need for this access given the amount of helicopter access proposed to fly in materials and equipment. The construction of this road would increase the already easy access to the Wilderness and exacerbate overuse problems.	I-228-3	As discussed in Section 2.7.1 of the Draft and Final EISs, the road would be for the exclusive use of IPID to ease access to the project area. The road would not be accessible by the public and would remain locked at all times. As noted, the project will require access for personnel and provisions during the 15- to 20-week construction period. Opening the segment of road would reduce some of the distance and elevation to reach the dam site by foot, thus reducing travel time and facilitating on-site work time. After the completion of construction, the road would remain locked and closed to public entry.
I-228-4	Instream Flow – I support designating additional water to be permanently reserved for instream flows to be used to maintain water levels for fish. However, there are no assurances or mechanisms provided in any of the alternatives to ensure this will occur; the final plan must clarify this important matter.	I-228-4	Refer to the response to comment I-196-8 and the Global Responses for Trust Donation and Instream Flow Rule.
I-228-5	Relinquished Water Rights – There is still the question of the extent of the proponent's water right remaining at Eightmile Lake. The DEIS must fully address what seems to me an obvious relinquishment of water rights. If IPID has relinquished its water rights, IPID cannot increase the quantity of water extracted from the lake and the lake cannot be enlarged.	I-228-5	Refer to the Global Responses for Relinquishment and Tentative Determination of Extent and Validity.
I-228-6	In summary—the proposed non-No-Action alternatives in the draft plans for the Eightmile Dam repair and replacement do not fully address all concerns. DOE and IPID must ensure the project fully protects the wilderness, recreation, scenic, fish and wildlife habitat, and other natural resources of Eightmile Lake, Icicle Creek, the Alpine Lakes Wilderness, and Enchantment Permit Zone.	I-228-6	Comment noted.
	Thank you, Jena F. Gilman 1480 SW 10th St North Bend, WA 98045		

I-229

COMMENT

RESPONSE

Comments on the draft Environmental Impact Statement (EIS) for the Eightmile Dam Rebuild and Restoration project

The following are comments from Richard Rutz and Rebecca Z. Hoff

The Alpine Lakes Wilderness is a Congressionally-designated area within the National Wilderness Preservation System. It has one of the highest protective designations possible for federal lands.

When the Alpine Lakes Wilderness was designated, provision was made for the continuation of an existing, nonconforming use, the small irrigation and water supply structures and operation within part of the area. This was not intended to allow or promote additions to or increased quantity or intensity of this nonconforming use. Such additions or increases are in direct conflict with all of the purposes of wilderness designation.

It is sadly observed that many regulatory agencies often take the position, supported by development interests, that anything not explicitly prohibited must be permitted. This is a continuing fallacy that makes a mockery of protective designations and regulatory mechanisms. In the case of designated wilderness, and given the protective purposes that are the foundation of the Wilderness concept, any protections must be construed liberally to provide the best and highest protection to the area and its values and resources. Only that level of impact that must be done should even be considered, let alone allowed.

This Environmental Impact Statement (EIS), its analysis and conclusions all show a desire to bend over backwards to enable an increase in the quantity and intensity of impact to the Alpine Lakes Wilderness, and to minimize and trivialize the impacts that would result from the proposed project. If allowed to proceed as proposed, it would be an abrogation of the responsibility of several agencies to protect the area from avoidable, nonconforming, and completely inappropriate impacts.

I-229-1 As noted in Section 1.2 of the Draft and Final EISs, the dam was built in 1929, and the Alpine Lakes Wilderness was designated in 1976. IPID has an agreement with the Forest Service that allows IPID to maintain and repair its reservoirs within the Alpine Lakes Wilderness. Refer to Appendix E of the Final EIS for a copy of the Special Warranty Deed. Impacts on wilderness character are described in Sections 3.4 and 3.5 of the Draft and Final EISs, along with measures proposed to minimize those impacts during construction and operation of the rebuilt dam. Also, as noted in Section 1.11, the Forest Service will be conducting a review under NEPA of the proposed action.

I-229-2 Due to the aging infrastructure of the dam, it requires replacement to operate in a safe and reliable way. In 2017, the Jack Creek Fire, and subsequent reclassification of the dam to an unsatisfactory condition, has accelerated the need to rebuild the dam to current standards. As a result, IPID is proposing to rebuild the dam in the same location as the existing dam. Construction methods and the accompanying impacts on wilderness character are described in Chapter 3 of the Draft and Final EISs, along with the proposed mitigation measures to reduce the impacts on wilderness character. All construction activities will be closely coordinated with the Forest Service.

I-229-1

I-229-2 _What is the level of activity that must be done and is allowable?_

As was noted above, the small irrigation and water supply structures and operation within part of the area are recognized as existing nonconforming

I-229

	COMMENT	RESPONSE
I-229-3	<p>use. This does not mean that they are OK and acceptable and should continue forever, but that while they are intrusive and in conflict with the purposes of Wilderness, they existed at the time of designation and Congress did not see fit at that time to have them terminated and removed.</p> <p>In the absence of a commitment from the operators of the system to remove it, or of the federal government to work towards its removal, the only appropriate level of activity is maintenance of the existing level and intensity of the nonconforming use.</p>	<p>I-229-3 Refer to the responses to comments I-229-1 and I-229-2.</p> <p>I-229-4 As noted in Table 2-1 of the Draft and Final EISs, the historical lake full water surface elevation is approximately 4,671 feet. Alternatives 1 and 2 propose elevations consistent with the historical lake full water surface elevation.</p> <p>Section 6.2 of the Draft and Final EISs describes the regulatory context related to IPID's water right. The range of active storage volumes proposed for the action alternatives (1,698 to 2,000 acre-feet) appears to be reasonable based on IPID's records of their historical storage and release practices at the lake and their estimated range of multi-fill volumes. Refer also to the Global Response for Multi-fill Analysis.</p>
I-229-4	This means that the height of the structure, gates, etc., and the maximum lake level that it can impound, should not exceed the current level. Alternatives 1 and 2 both fail on this account. Only the maintenance measures in Alternative 3 fit the allowable criteria.	
I-229-5	<p>_Unallowable and Illegal Impacts of increased dam height and of lake level_</p> <p>Raising the lake level by four additional feet would inundate additional shoreline, submerge existing terrestrial habitats, possibly affect existing trails, change the existing visual landscape. The increased and modified dam and its structures would intrude additionally on scenic qualities. The lakeshore would be permanently altered by these actions, trees will be lost. The additional impoundment volume would rise and be lowered, resulting in a shoreline of up to four feet that would become a denuded mud bank during drawdown. These are direct, avoidable, effectively permanent negative impacts to an area that is designated in the National Wilderness Preservation System. These are directly contrary to the purposes of the Wilderness Act, and it ought to be recognized that as such they are not only inappropriate and unsupportable, they are illegal.</p> <p>Much is made of the use of Icicle Creek in support of the domestic water supply for the city of Leavenworth, hatchery fish raised at the Leavenworth National Fish Hatchery, streamflows and natural aquatic habitat for wild fish, and recreation. Impounding additional water in Eightmile Lake means that additional wilderness area is to be destroyed in order to provide more water to the irrigation and water district. Such a use was allowed by the Wilderness Act, as a compromise in order to secure its passage, but only with the written permission of the President of the United States. Hopefully, such a sad result</p>	<p>I-229-5 Comment noted.</p> <p>I-229-6 See the Global Response for Lake Level and Bathtub Ring. Chapter 3 of the Draft and Final EISs describes potential impacts and mitigation measures for wilderness character.</p>

I-229

COMMENT

RESPONSE

I-229-7

will never happen, but it is a fact that such permission has never been granted for this project or elsewhere.

The City of Leavenworth and irrigation interests must learn to live within their resources. The Alpine Lakes Wilderness is not a resource for them to increasingly mine for water! That the regulatory agencies seem to be complicit in this water grab from the wilderness is a sad commentary on them.

The fish hatchery exists because of major impacts in the past to the Columbia River from dam development and water withdrawals. Should we now use a mitigation measure from an era of resource exploitation as an excuse for newly exploiting the Alpine Lakes Wilderness? What a perversion of environmental protection that would be.

The assertion that some releases of stored water would be used to supplement flows in Icicle Creek suggests that Icicle Creek is already being overused and over-exploited and overallocated. This would not surprise many people who question the commitment of Washington State to environmental protection when water allocation is being considered. Icicle Creek must function with the Eightmile Dam at its current height and lake level. If it is true that more water is needed during low flow periods, typically during late summer, this suggests that the parties must work to better use and allocate the existing volumes of water, not illegally raid the wilderness for more.

What is the appropriate level of activity outside of the wilderness in support of this project?

In addition to impacts within the Alpine Lakes Wilderness, all of the alternatives (excepting No Action) would significantly alter the recreational experience on the lower portion of the trail to Eightmile Lake. This is a signal failing of the EIS, and highlights its dedication to furthering the development proposal.

The Eightmile Lake Trail is one of the more accessible trails in the Alpine Lakes Wilderness. It provides a popular alternative to the nearby Lake Colchuck Trail, which is experiencing heavy use. The first part of the trail is outside of the Alpine Lakes Wilderness. Part of this is on the bed of an old, decommissioned road. This road decommissioning was intentional, restoring natural vegetation, habitat and scenery to the approach to the wilderness.

I-229-7

No water stored within Eightmile Lake will be used by the City of Leavenworth (see Section 2.8.4 of the Draft and Final EISs). IPID holds an existing water right for the use of water stored within Eightmile Lake and is not permitted to withdraw more water than what is specified within that right. For more information related to IPID's existing water right, see the Global Response for Water Rights and Chapter 6 of the Draft and Final EISs.

As described in Section 1.2.1 of the Draft and Final EISs, streamflows within Icicle Creek and other rivers and streams in the Wenatchee River Basin are protected under the Wenatchee River Basin Instream Flow Rule. For additional water conservation measures throughout the Icicle Creek subbasin, see the Global Response for Water Conservation.

Analysis of the fish hatchery is outside the scope of this project. In addition, refer to Global Responses for Lake Level and Bathtub Ring and Trust Donation.

I-229

	COMMENT	RESPONSE
I-229-8	<p>It would be a travesty of the purpose of wilderness, the management of habitat and ecosystems, and of National Forest management to chainsaw and denude and maximally develop all lands not within the wilderness, up to the exact line of the wilderness. Equally, lands outside of wilderness have different management requirements and aims.</p> <p>A reasonable approach would be to allow the access that is necessary to the project, but to minimize its impacts. The proposed action does not do this. In all alternatives, the old road on the first three-quarters of a mile of the Eightmile Lake Trail would be reopened and rebuilt to bring vehicles closer to the project site. This would have very negative impacts on the recreational trail experience, and negate decades of environmental recovery.</p> <p>What would that accomplish? It would bring vehicles closer to the project site. What should have been considered, and proposed in alternatives, is to leave the trail and the old, decommissioned road alone, and bring up people and materials from three-quarters of a mile further, from currently road-accessible locations. Yes, this would have some additional time and distance on the trail for personnel, and possibly three-quarters of a mile of additional helicopter use, but these impacts will be incurred anyway, and the additional three-quarters of a mile would not increase their impact substantially.</p>	<p>I-229-8 Impacts on recreation are described in Chapter 10 of the Draft and Final EISs, including a description of measures to minimize and mitigate impacts in Section 10.6. Section 10.4.1 describes the potential impacts on hikers associated with light truck traffic on the reopened section of roadway, which is located away from the trail. Refer also to the Global Response for Recreation. Opening this segment of roadway is proposed for all action alternatives, as described in Section 2.7.1.</p>
		<p>I-229-9 Comment noted.</p>
		<p>I-229-10 Comment noted.</p>
I-229-9	<p><u>Conclusion</u></p> <p>We oppose Alternatives 1 and 2: they propose increased quantity and intensity of impacts to the Alpine Lakes Wilderness, a designated area in the National Wilderness Preservation System. They propose inappropriate, conflicting, and illegal increases to a nonconforming use in the wilderness.</p> <p>As the situation now stands, the existing Eightmile Lake dam needs maintenance and restoration. But the proposed project in Alternatives 1 and 2 attempts to use this for an unconscionable and illegal new raid on the resources of the designated Alpine Lakes Wilderness. Such activity would impose new, permanent significant impacts to the waters and land, habitat, recreation, and scenic qualities of the Alpine Lakes Wilderness.</p>	
I-229-10	<p>Inside the Alpine Lakes Wilderness, the project intensity of Alternative 3, to</p>	

I-229

	COMMENT	RESPONSE
	restore to the existing standard and lake level, is the only acceptable approach.	
I-229-11	Furthermore, the EIS fails to properly consider a lower intensity of activity outside of the wilderness. In all alternatives, the proposed road development should be removed, and project staging and access occur at currently road-accessible locations.	I-229-11 Comment noted.
I-229-12	The water and irrigation interests, and the responsible agencies should—indeed, do—know that their responsibility is to help protect the valuable and irreplaceable resources of the Alpine Lakes Wilderness. Rather than plan to better use existing committed resources, the proponents have elected to attempt to raid resources from, and to externalize impacts to the Alpine Lakes Wilderness. The agencies have failed to responsibly protect the resources that have been placed in their charge and regulatory oversight. These failures must be corrected as is described above. That it falls to the public to point these things out is very sad. Sincerely, (s) Richard Rutz Rebecca Z. Hoff	I-229-12 As described in Section 4.5 of the Draft and Final EISs, the action alternatives would result in benefits to surface water resources because the rebuilt dam would provide IPID the ability to optimize reservoir operation, including active water storage and downstream release for irrigation supply, and augmentation of flows during both drought and non-drought years. Potential impacts on wilderness character are described in Sections 3.4 and 3.5. For more information on IPID's existing water rights, see Chapter 6 and the Global Response for Water Rights.

I-230

	COMMENT	RESPONSE
I-230-1	I am passionate about outdoor recreation, sustainability and environmental protection. I moved to the PNW 3 years ago because of the incredible access to the outdoors. I haven't been to the Enchantments yet, but it has been on my list since I first arrived. I follow the work of Washintgon Trails Association, and I strongly support the protection of Eightmile Lake. I know how important it is to protect and preserve outdoor space, and particularly, with an area as incredible as The Enchantments. I strongly believe that construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure. I know that this needs to be considered with the proposed construction alternatives. I am concerned about these proposals for many reasons - alternatives one and two because the proposed designs would raise the lake level by four feet. The Icicle and Peshastin Irrigation Districts must plan their construction activities to minimize impacts to hiking and recreation. Also, as this is such a popular and difficult area to access with attaining a permit, any area closures should be planned and publicized prior to issuing camping permits.	I-230-1 Comment noted. I-230-2 Comment noted. I-230-3 See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2. I-230-4 Refer to the Global Response for Recreation for more information on recreation-related mitigation measures.

F.2.4 Public Meetings Hearings***Index of Comments from Public Meetings/Hearings***

Comment ID	Name of Commenter	Page
M-1-1	Rick Maguire	MTG-1
M-2-1	David van Cleve	MTG-2
M-2-6	Natalie Williams	MTG-3
M-3-1	Brian Huntoon	MTG-5
M-3-8	Margie Van Cleve	MTG-6
M-3-12	Bill Arthur	MTG-7
M-3-15	Richard Fiddler	MTG-8
M-3-19	Thomas Soeldner	MTG-9
M-3-23	Don Parks	MTG-10
M-3-26	David Ortman	MTG-12
M-3-29	Scot Brower	MTG-14
M-3-30	Harry Romberg	MTG-15

M-1

	COMMENT	RESPONSE
M-1-1	<p>00:06:58.930 --> 00:07:07.110 Rick McGuire: Hi! My name's Rick McGuire. I'm with the Alpine Lakes Protection Society, and we've been following this project closely, since its inception.</p> <p>41 00:07:26.020 --> 00:07:37.490 Rick McGuire: Um, we're guardedly pleased that, extracting more water from the wilderness no longer seems to be an objective. However, we're still worried about</p> <p>42 00:07:37.570 --> 00:07:55.379 Rick McGuire: whether that might still make its way into the back door, so to speak. So we'll be looking very closely at things like the footprint of the lake, making sure it's no larger than it has been, and also the location of the drain,</p> <p>43 00:07:55.390 --> 00:08:01.190 Rick McGuire: of the lake. So the drawdown level is not increased. So</p> <p>44 00:08:01.770 --> 00:08:05.490 Rick McGuire: with that guarded optimism,</p> <p>45 00:08:05.610 --> 00:08:21.910 Rick McGuire: and hoping that this is not gonna we had initial fears that this might have been something to aid in the conversion of orchards and to subdivisions in the Wenatchee Valley. I hope we're very wrong about that, so you'll be receiving written comments from us,</p> <p>46 00:08:21.920 --> 00:08:26.069 Rick McGuire: and thank you for the opportunity tonight. That's all I have for the moment.</p>	<p>M-1-1 As noted in Section 2.8.4 of the Draft and Final EISs, the use of water for municipal supply has been removed from further consideration. Details of the project design, including the lake footprint and the location of the outlet, are included in Chapter 2. The design will be further refined following selection of a preferred alternative; however, the information in Chapter 2 reflects the expected range of the potential footprint and location of the outlet. Refer to Chapter 6 of the EIS for a discussion of water rights, and how water is allocated under existing Washington Water Rights Law. This chapter includes Table 6-5, which includes a list of all surface water claims in the Icicle Creek subbasin, and identifies currently active water right applications, including two by the City of Leavenworth. As noted in the EIS, Ecology has not made a decision on any of these applications.</p>

M-2

COMMENTRESPONSE

M-2-1
Comment noted.

Tim Poppleton
00:02:19.180 --> 00:02:25.850
I'll be calling people up to provide oral testimony based on the order that your name appears on the registration.

7
00:02:25.980 --> 00:02:29.570
Once everyone I see indicated that they would like to testify

8
00:02:29.580 --> 00:02:39.200
that that opportunity we'll open it up for us. I'd like you to come up here to just make sure we get a good

9
00:02:39.320 --> 00:02:40.650
for a recording of it.

10
00:02:43.230 --> 00:02:51.739
Remember, comments should be about three minutes. When you reach that limit i'll ask you to summarize your comments, and then i'll.

11
00:03:09.880 --> 00:03:29.589
So we'll begin with Phil Leise, and he'll be followed by

12
00:03:30.730 --> 00:03:31.860
you.

David Van Cleve
Hello! My name is David Van Cleve. Two hundred and seventy two Maple A road, Selas, Washington, nine eight nine four two. I am an individual tonight, not representing any organization.

I'm. A retired professional civil engineer, and I have some knowledge of water rights. I'm an advocate for wilderness, and I would like to see IPID get their full water rights, or in-stream flows, and the least amount of damage to the wilderness,

i'm glad that they removed the road from the alternative, and i'm glad they removed the possibility of transferring water to municipal uses

ecology and the water Right chapter states that the utilizes a multi-fill analysis that determine the extent and validity of the water storage right. Melissa, earlier today, said. They believe they have a reasonable right for at least two hundred two thousand acre feet.

But the multi-fill analysis is basically they draw the lake down and let the more snow melt and more rainfall fill back up, Tony tonight, says it's the one that refills the most.

M-2-2 Comment noted.

M-2-3
The comment about removing the possibility of transferring water to municipal uses is noted. While the EIS used the Multi-fill Analysis as one of many background documents reviewed for its analysis, the Multi-fill Analysis is not a tentative determination of extent and validity, nor is the EIS itself. See the Global Responses for Tentative Determination of Extent and Validity and Multi-fill Analysis.

M-2-1

M-2-2

M-2-3

M-2

COMMENT

RESPONSE

M-2-4

And so they basically use that method to do a multi-fill analysis to determine the validity of the water right. But then, when they jump to Chapter six in the report, they went back to a single-fill analysis to determine how much each of the three alternatives would store

I'd like to see that the multi-fill analysis be applied to the future also, if possible, because you could, possibly because looking at the math in three four, in the multifill analysis in the back of the

that I got from, I've asked for the public records request I got the multi-fill analysis.

It shows that alternate three should be able to provide two thousand acre feet to twenty, five, eight feet of storage.

So in one place, are using multi-fill. The next place are uses single. I have some concerns about this multi-fill analysis, and one of them is I don't want it to be used as a precedent and all the other storage rights in the State, because that's one of the possibilities with it. The multi-fill analysis doesn't meet the requirements of the one thousand nine hundred and sixty, the Washington, and administration code on storage rights. But they didn't give any legal opinion why they can use a multi-fill analysis, so they need to give some sort of legal opinion about why it's usable and so.

M-2-5

I don't know for sure that alternate three which is the smallest dam possible, with the least impact to the wilderness and the lowest cost because it's the smallest dam possible,

Won't provide two thousand to two thousand five hundred. They didn't give enough analysis in it. They need to provide more analysis to determine if that's possible.

Tim Poppleton- can I get I you to summarize your comments?

David Van Cleve
I think I just did

M-2-6

Natalie Williams
Hello! My name is Natalie Williams. I live in East Wenatchee, and I'm. Also an engineer. But thank you, David. I'm not going to go there. My comments are more historical.

I am the Alpine Lakes Protection Society on the board, so I am speaking for that board, and it is our opinion that if the eight mile lake dam is rebuilt, it should remain at the current elevation. We consider that the historical

M-2-4

See the Global Responses for Water Rights including for Multi-fill Analysis and Tentative Determination of Extent and Validity.

As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology-approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flow uses as well as for IPID's irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered for impacts in the EIS (up to 2,000 acre-feet), regardless of whether practices in a given year involve multiple fillings or a single fill. The monitoring plan will also ensure that the Trust donation is managed properly and that any excess water would be allowed to pass through the lake as natural flow without being actively managed and released for beneficial use.

Refer to the Global Responses for Multi-fill Analysis and Tentative Determination of Extent and Validity for additional information.

M-2-5

Refer to Table 2-1, Alternatives Comparison, in the Draft and Final EISs, which notes that the active storage volume for Alternative 3 is 1,698 acre-feet. Refer to the Global Response for Tentative Determination of Extent and Validity.

M-2-6

Comment noted.

M-2

COMMENTRESPONSE

M-2-7
Comment noted.

M-2-6 | level, because that's the level that's been at since one thousand nine hundred and ninety, and that would be the four, six, six, seven surface water elevation.

M-2-7 | Um. So given that as a starting point we are looking at the no action alternative and alternative three.

And so, since the no action, alternative isn't making us any friends here, we're going to look at Alternative Three.

M-2-8 | So when I was analyzing the tables, it looked like the volume of the lake would be reduced to a point that is less than what the lake held at the time it was designated a wilderness. And so that's a concern, for I believe, the conservation community. They are going to want to see an alternative, and I heard what you said about possibly adjusting that outlet pipes. That's where i'm going.

But I believe the conservation community is going to be very concerned about the volume of the lake and the surface water elevation, and even accepting, and there will be many that will complain about the noise and temporary violations of wilderness character, but I believe the argument can be sold if the end result leaves the lake the way it was at the time of the wilderness designation.

M-2-9 | So that's the That's the argument i'm trying to create. This could be done by simply in alternative three, by simply adjusting that outlet pipe.

And so my summary summarizing statement is, I believe, as an engineer we can find a solution to this problem. That means all of the requirements for the Ipid and meets the Wilderness act requirements. Thank you for letting a comment.

Thank you.

M-2-8
With regard to the lake drawdown proposed under all alternatives, see Table 2-1 in the Draft and Final EISs and the Global Response for Lake Level. Impacts from construction noise are described in Chapter 9 of the Draft and Final EISs.

M-2-9
Comment noted.

M-3

COMMENT

RESPONSE

M-3-1
Comment noted.

280
00:55:01.180 --> 00:55:09.870
Tim Poppleton: Comments should be about three minutes. When you reach that limit I will ask you to summarize your comments, so that the next person come up to testify

281
00:55:10.660 --> 00:55:17.570
Tim Poppleton: when we call your name. Stay your name for the record. Speak clearly so that we can get a good recording of your testimony.

282
00:55:18.060 --> 00:55:21.160
Tim Poppleton: We will begin with Brian Huntoon,

283
00:55:22.060 --> 00:55:25.279
Tim Poppleton: and then Marjorie Van Cleve.

285
00:55:26.810 --> 00:55:28.890
Tim Poppleton: Ah, Mr. Huntoon

Brian Huntoon: Hi, my name is Brian Huntoon, and i'm an avid hiker and Fly Fisherman. I'm over the years of enjoyed hiking into the Alpine lakes wilderness, including some hikes from the Icicle road area, as well as some hiking trips to the Mount Stuart and Ingalls Peak area from the other side. As a fly fisherman. I've got on my to do list of future fly fishing trips to do

288
fishing for lake trout or trout, and cutthroat trout in Eight Mile Lake, it looks like there are some nice rocky points that jut out into the lake where you don't have to worry about snagging a tree on your backcast, and it would be a real treat to fish for these three species of trout in this wilderness setting.

Rather than the usual rainbow trout that I find in most lowland lakes I fish. The Department of ecology's background information, and the environmental impact statement states in part that the dam needs to be rebuilt to maintain reliable irrigation water supplies for area farmers. The fact that a fire occurred within a designated wilderness area does not mean that the spirit and intent of the legislation creating the wilderness area can be ignored. Obviously repairs to the dam should meet current standards to ensure public safety.

However, the intent of the Wilderness Act is not to create reliable irrigation water supplies. It is to maintain the wilderness character of areas that are protected under the Wilderness Act.

There are four requests. I would like to make one is, Please comply with the Wilderness Act, and do not take any action that will degrade the

M-3-2
Comment noted. The dam would be rebuilt to meet current safety requirements, which include designing the spillway to pass the design storm event required by DSO while maintaining the required freeboard (the vertical distance of the crest of the dam above the maximum lake water level). The design storm event is one that has the probability of occurring once in 1,000,000 years. Eightmile Dam was built in 1929, which predates the designation of the Alpine Lakes Wilderness in 1976.

M-3-3
Comment noted. Refer to Chapter 3 of the Draft and Final EISs for a discussion of potential impacts on wilderness.

M-3

COMMENT

RESPONSE

			M-3-4	Comment noted.
M-3-4	wilderness character of the Eight Mile Lake area. Two. Please do not choose a course of action that will drop the water level of Eight Mile Lake. Lowering the level of the lake does not respect the spirit intent of the one thousand nine hundred and seventy six legislation that created the Alpine lakes wilderness area			
M-3-5	Three do not implement any action that will result in roads in the Alpine Lakes wilderness area. And four, please maintain the historical channel of Eight Mile Creek, ensure the dam blends into the landscape, and ensure that donated for in-stream flow water in Eight Mile Creek remains in stream all the way to the Pacific Ocean, and you know you had mentioned summarizing. So again, please do not implement any action that will result in roads in the Alpine Lakes wilderness area.		M-3-5	No roads are proposed for construction within the Alpine Lakes Wilderness as a part of this project.
M-3-6	Make the lakes. Don't make the lakes smaller by dropping the water level. And please do not implement any action that will otherwise degrade the wilderness character of this beautiful setting for a hike in a fishing trip.		M-3-6	Refer to the Global Response for Trust Donation and Chapter 11, Visual Resources of the Draft and Final EISs. As described in the Global Response for Trust Donation, Ecology intends to manage this donated water instream from the outlet of Eightmile Lake to the confluence of Icicle Creek with the Wenatchee River.
M-3-7	Thanks. Tim Poppleton: Thank you. 304 00:58:35.460 --> 00:58:39.689 Tim Poppleton: Next we'll have Marchy Van Cleave, followed by Bill Arthur. 305 00:58:40.670 --> 00:59:04.910 Margie Van Cleave: Hi, there! My name is Margie van Kleeve. I live in Selas, Washington. I'm Tthe Conservation chair for the Sierra Club of Washington State. Thank you for this opportunity to speak. I will be one of two speakers providing spoken comments for the Sierra Club this afternoon. I'd also like to thank ecology and IPID for convening the Wilderness Study group regarding a mile Lake dam replacement that allowed for some useful conversations about the draft EIS.		M-3-7	Comment noted.
M-3-8	The volume of Eight Mile Lake is calculated using a multi-fill analysis in chapter six versus a single fill analysis in chapter two. Application of the multi-fill analysis to chapter two data makes a significant difference in the amount of water that's available to be released from the dam to eightmile creek. Because of these inconsistencies it's difficult to compare the three alternatives. The draft EIS refers the ipad storage water right of two thousand five hundred acre feet. The drafty is also speaks to the one thousand four hundred Acre feet that ipid States. It requires for their customers, and an additional amount of water that ipad may transfer to permanent water to permanent trust water, for in stream flow this amount is sometimes given a six hundred acre feet, and in other places, as a number that will be ascertained at a later time. Well, one thousand four hundred plus six hundred does not equal two thousand five hundred alternatives, one, two, and three, all enlarge the bathtub ring of eight mile lake by approximately three acres.		M-3-8	See the Global Responses for Water Rights and Lake Level and Bathtub Ring. As part of the Draft EIS, Ecology did review the water right at Eightmile Lake and determined that the range of design volumes (up to 2,000 acre-feet of active storage) for the alternatives considered are reasonable given the review of information available on water use and storage at Eightmile Lake under IPID's existing right. The Multi-fill Analysis is described in the Water Rights Global Responses and was relied on (in part) for the water right evaluation. As described in Sections 2.6 and 6.5 of the Draft and Final EISs, an Ecology-approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flow uses as well as for IPID's irrigation use such that uses of stored water under a rebuilt dam fall within the limits of the maximum active storage volume of the design alternatives considered for impacts in the EIS (up to 2,000 acre-feet), regardless of whether practices in a given year involve multiple fillings or a single fill. The monitoring plan will also ensure that the Trust donation is managed properly and that any excess water would be allowed to pass through the lake as natural flow without being actively managed and released for beneficial use.

M-3

COMMENT

RESPONSE

		M-3-9	In regard to the lake drawdown proposed under all alternatives, see the Global Response for Lake Level.
M-3-9	This is because the drain and lower water level of an eight mile lake will be approximately four feet lower than Eight Mile Lake has been since the dam was first constructed in the nineteen twenties. And the passage of the legislation that created Alpine Lakes wilderness in one thousand nine hundred and seventy six,	M-3-10	Comment noted. Refer to the Global Responses for Trust Donation and Tentative Determination of Extent and Validity. After the Draft EIS was issued, IPID submitted a formal request in May 2024 to donate a portion of its water right to Trust for instream flow purposes. Following issuance of the Final EIS, Ecology will conduct its review of the quantities available through the Trust donation in accordance with the process prescribed in RCW 90.42.080(4). Quantities in excess of 1,400 acre-feet will be placed in Trust for instream flow purposes.
M-3-10	Without assurances that all water above one thousand four hundred acre feet will be permanently donated to in stream flow, The Sierra Club cannot support lowering of the water level in Eight Mile Lake.	M-3-11	Comment noted. With regards to the bathtub ring, see the Global Response for Lake Level and Bathtub Ring.
M-3-11	For those that might say that a larger bathtub ring of three acres is negligible as compared to the Alpine Lakes wilderness. I leave you with this thought. Suppose a request was made to IPID to give up approximately three acres of land in the special warranty deed area in return for the three acres of land that will now be part of the bath tub ring. I expect that wouldn't sit very well there either. Thank you for your time much appreciated. 312 01:01:00.250 --> 01:01:05.629 Tim Poppleton: Thank you. Next. Uh, Bill Arthur, followed by Harry Romberg. 313 01:01:06.880 --> 01:01:16.670 Bill Arthur: Yes, thank you, Bill Arthur. I reside in Shoreline Washington, and thank you for the opportunity to address this important issue.	M-3-12	Comment noted.
M-3-12	I'm an avid hiker and angler, and I have long used the trails and visited many of the wonderful lakes in the Alpine Lakes Wilderness, including our Eight Mile Lake, Colchuck Lake, and others. Alpine Lakes Wilderness is one of Washington's premier wilderness areas, and it's also what part of the national crown jewels of our wilderness areas. Maintaining the integrity of the wilderness should be a primary objective, and approaching the eight mile dam rebuild, and I think that the EIS has moved in that direction. I very much appreciate that the current DEIS does not call for using a road to access uh eight mile uh lake uh this prohibition uh should be maintained, and uh and make sure that we uh use options other than that.	M-3-13	Comment noted. The project does not propose to construct any roads within the Alpine Lakes Wilderness. Additionally, construction activities, structures, and construction staging associated with the replaced dam will occur on IPID's Special Warranty Deed parcels.
M-3-13	The natural rehabilitation of the reconstruction site must stay within the footprint of the warranty deed along with doing our best to restore the natural screening and the natural landscape, so that it blends into the natural wilderness character of the area to the maximum extent possible. Water is an important natural resource for the wilderness itself. It's not just a resource for the irrigation district.	M-3-14	Refer to the Global Responses for Relinquishment, Tentative Determination of Extent and Validity, and Trust Donation. Additionally, after the Draft EIS was issued, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes. Following issuance of the Final EIS, Ecology will conduct its review of the quantities available through the Trust donation as prescribed in RCW 90.42.080(4). As described in the Global Response for Trust Donation, Ecology intends to manage this donated water instream from the outlet of Eightmile Lake to the confluence of Icicle Creek with the Wenatchee River.
M-3-14	Ah! Even though you spoke to this, I still believe the Department of Ecology should complete the relinquishment, determination of the icicle		

M-3

COMMENT RESPONSE

M-3-15 Comment noted.

M-3-14	<p>Peshastin Irrigation district water right for Eight Mile Lake before finalizing the EIS</p> <p>Um, A portion of Ibid's water right has not been used since the nineteen nineties. There's legitimate questions and uncertainty making the determination could affect the reasonableness of the alternatives presented, and may require modification.</p> <p>The DEIS,well it speaks to having additional water that could be put into in Stream flow does not really include adequate detail on the potential donation of the water to the State trust water rights program.</p> <p>How much water is it? Permanent or temporary. Assurance that the water stays in the stream and river all the way to the Columbia river and out as important that it doesn't just get to be removed by others when it gets downstream. This is a potential benefit for resident and andromous fish, but the water must be guaranteed, not speculated. And again I thank you for the opportunity to speak to the issues.</p> <p>327 01:04:04.800 --> 01:04:05.929 Tim Poppleton: Thank you.</p> <p>328 01:04:06.030 --> 01:04:10.310 Tim Poppleton: Next. Uh, Harry Romberg, followed by Richard Fiddler.</p> <p>We'll come back to Mr. Romberg. Mr. Fiddler, are you ready?</p> <p>330 01:04:40.060 --> 01:04:41.580 Tim Poppleton: Richard Fiddler.</p> <p>331 01:04:42.040 --> 01:05:01.220 Richard Fiddler: Yes, I just got the on mute notice. My name is Richard Fiddler. I live in Seattle Washington. Ah, thank you for the opportunity to comment on this proposal. Ah! I wish that I was one of the people who was very involved in the creation of the Alpine lakes wilderness, and i'd like to offer one or two thoughts</p>
	<p>From that time the original Wilderness Act of one thousand nine hundred and sixty four included exemptions for certain kinds of activities in the wilderness, such as scientific surveys. Ah, the Alpine Lakes Act, that the act that created this wilderness</p>
	<p>also included</p>
	<p>accommodations for the icicle, irrigation district, and other uses like this. It was a stretch for Congress to do this, but they felt it was worth it in order to have a fully developed wilderness area</p>
M-3-15	

M-3

COMMENT

RESPONSE

M-3-16 Comment noted.

M-3-17 Comment noted.

M-3-18 The lake level fluctuates within each summer season as well as from year to year. As shown on Table 2-1 in the Draft and Final EISs, Alternatives 1 and 2 actually restore the full lake elevation to its historic high level of 4,671 feet, while Alternative 3 would keep the full lake elevation at its current elevation of 4,667 feet. All three alternatives would allow a low lake elevation of 4,636 feet, 4 feet lower than the current estimated low level, although the current low level is only an approximation due to continued seepage under the dam after the current low-level outlet pipe is exposed. Therefore, the current low lake elevation is likely actually lower than 4,640 feet. All the action alternatives are essentially within the "traditional" range of lake elevations. The No Action Alternative would possibly lead to dam failure, and lake levels would change drastically and fall below traditional levels. Also refer to Chapter 4: Surface Water Resources of the Draft and Final EISs for additional information regarding the Eightmile Lake and shoreline as well as an assessment of impacts for the alternatives evaluated. Refer also to the Global Response for Lake Levels and Bathtub Ring.

No excess water rights will be created by the Eightmile Dam rebuild and restoration project. Rather, it is proposed that storage in the lake after dam restoration that is not currently required by the IPID will be donated to the State Trust Water Rights Program for instream flow purposes. Following the issuance of the Draft EIS, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes. Ecology intends to manage this donated water instream from the outlet of Eightmile Lake to the confluence of Icicle Creek with the Wenatchee River. Refer to the Global Response for Trust Donation for additional information.

M-3-19 Comment noted.

M-3-16

At that time, the concept what not spelled out in the in the act in detail, but it didn't involve preservation of the irrigation district's, water rights it, but rather of their traditional use, and also the traditional water levels that were involved in that use, and it's those issues that I wish to comment on. Principally, I agree with previous speakers that there should be no roads built in this, and I appreciate the elimination of those from the alternatives. I do wish to speak to the Lower Lake level that the alternatives provide. That is not the traditional use of the of the of Eight Mile Lake.

M-3-17

in general that should should not be permitted. It's the idea to hold everybody harmless, and this would actually increase the ability of the irrigation district to take water

M-3-18

Any access, the only reason that I think legitimate for reducing the lake level below the traditional level that was being used would be to enhance other natural values, such as the ones that Bill Arthur just described in his testimony. Permanent in-stream clothes all the way down to the Columbia River and beyond, for the purposes of enhancing other national natural values which are similar to those that were on Congress's mind when they created the wilderness.

So I I think that any um excess water rights which might be created that involved lowering the lake below the traditional level should be absolutely dedicated to permanent in-stream flows, as others have mentioned in this hearing, so far thank you for the opportunity to comment.

348
01:07:33.580 --> 01:07:34.700
Tim Poppleton: Thank you.

349
01:07:35.120 --> 01:07:37.029
Tim Poppleton: Ah, Harry Romberg,

352
01:07:44.800 --> 01:07:50.100
Tim Poppleton: Okay? Well, we'll We'll ask Mr. Romberg at the end. Here again

353
01:07:50.200 --> 01:07:52.149
Tim Poppleton: W. Thomas Soldier.

M-3-19

Thomas Soeldner: Thank you. My name is Thomas Soldner. I live in the country south of Spokane. I hiked and camped in the enchantments in the late one thousand nine hundred and seventys, and again in the late nineteen nineties. I also hiked into Eight Mile Lake in the mid two thousands.

W Thomas Soeldner: Those trips are among the most meaningful experiences I've had in the out of doors.

M-3

COMMENT

RESPONSE

M-3-20 Comment noted.

M-3-21 Thank you for your comment. Refer to the Global Response for Trust Donation.

As described in the Global Response, Ecology intends to manage this donated water instream from the outlet of Eightmile Lake to the confluence of Icicle Creek with the Wenatchee River. The releases will be coordinated with Icicle Work Group (IWG) members, Icicle Strategy instream flow subcommittee, IWG co-conveners, and fishery co-managers. Coordination and decisions surrounding lake releases and flow management within the Icicle Creek Subbasin will be informed, in part, by a separate IWG process including a decision support tool being developed as part of the Icicle Strategy. Also refer to Section 2.6 (Dam Operation) of the Draft and Final EISs.

M-3-22 Comment noted.

M-3-20

Any decision about the restoration of the Eight Mile Lake dam should be made with an understanding of wilderness as the primary context. As important, and I would argue more foundational, than issues of water supply to Leavenworth agricultural use and flooding.

For well over a hundred years we have bulldozed the northern cascade's, natural landscape and constructed roads and dams and modern communities to facilitate, not just our presence, but our comfort,

Although revisiting history today is not likely to change any decision about eight mile lake dam. At least let any decision be conditioned by a well-informed and wise understanding of wilderness. I like to make two points. First, nature is the measure of everything. The truth of that is writ large in the climate, environmental and species extinction realities we are facing today. Nature is the measure of everything.

Second, we need wildness, places where we can see and begin to understand our natural and sustainable place in the world.

Wilderness says that everything is not under our control, nor for our immediate and utilitarian benefit.

The Wilderness Act defined wilderness as (I'm sure, most of you know) in contrast with those areas where man and his own works dominate the landscape, and it goes on... Wilderness is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain.

And therefore, as for the dam restoration, it's good to know that there will be no road building in the wilderness that's as it should be. But note whatever provision there is for helicopter transport of machines or material, the footprint must be minimal.

M-3-21

Any water placed into a trust. Water right must be designated permanently donated for in-stream flow, any water so designated should go into the historic channel for Eight-mile Creek.

M-3-22

Any reconstruction of eight mile lake dam should blend into its natural wilderness surroundings, and so I encourage you to select the least visible and least intrusive option.

Thank you for the opportunity to offer my comments

370

01:10:56.830 --> 01:11:02.740

Tim Poppleton: Next we'll go with Don Parks, followed by Harry Romberg. If he's available the

372

01:11:04.700 --> 01:11:13.040

Don Parks: Yes, Hello! My name is Don Parks. I live in Redmond, Washington. I co-chair the Washington State Chapter the Sierra Club,

M-3

COMMENT

RESPONSE

National Forest Committee, and I thank you for the opportunity to comment. The Sierra Club has had a long-term involvement with the protection of the Alpine Lakes region. Since the 1960s.

375
we helped shape the congressionally directed planning effort that resulted in

Don Parks: the Alpine Lakes area management plan of one thousand nine hundred and eighty one. Our involvement is continued with the Alpine lakes, wilderness expansion in two thousand and fourteen, and we are here today.

M-3-23 it's a well-known fact. The alpine lakes wilderness is one of our nation's most popular wilderness units, and it receives very heavy usage.

We offer initially these comments on the DEIS. There will be more comments in writing in a later time. The Sierra Club is keenly interested in the maintenance of the integrity of the wilderness, both in terms of its physical resources as well as the wilderness experiences it provides. As such we are concerned with the treatment of the special warranty deed parcels that are clearly part of the wilderness. We do not expect these parcels to be used as waste dumps and sacrifice areas during dam construction and subsequent dam maintenance. The DEIS is not sufficiently explicit on this question.

M-3-24 We are disappointed, particularly disappointed that DOE has ignored the Forest Service Alpine Lakes area management plan.

This Nepa document provides specific management direction for the operation of all IPID dams. In the icicle basins.

The plan states, current water diversions will not be expanded. They will continue to be maintained by primitive means unless environmental analysis indicates otherwise.

M-3-25 The DEIS is silent on this direction. The Sierra Club, applauds ipid for the donation of water from Eight Mile Lake as a trust water right. Any water placed in a trust water right must be designated permanently donated, for in stream flow, so that the waters from Eight Mile Creek, ultimately reach the ocean. Thank you very much.

392
01:14:10.010 --> 01:14:11.260
Tim Poppleton: Thank you.

393
01:14:11.800 --> 01:14:14.999
Tim Poppleton: Uh, is uh, Harry Romberg available,

395
01:14:21.950 --> 01:14:41.820
Rob Willis, Ross Strategic (He/Him): Um, Mr. Romberg, it shows that you are unmuted in zoom, but we still cannot hear you. I'm going to um mute

M-3-23 Comment noted. Section 2.7 of the Draft and Final EISs describes the project closeout activities and restoration efforts that will occur following completion of construction.

M-3-24 Comment noted. The Alpine Lakes Area Land Management Plan (1981) was reviewed and included, as appropriate, as part of the EIS process. Refer to Section 3.2, Regulatory Context, of the Draft and Final EISs for a list of the regulations and guidelines applicable to the preservation of wilderness character.

M-3-25 Refer to the Global Response for Trust Donation.

M-3

COMMENT

RESPONSE

you and then invite you to unmute again. And so hopefully, you'll get that dialog box, and you can press unmute, and we still can't hear you. So you may have um your device uh hardware muted

396

01:14:42.800 --> 01:14:56.860

Rob Willis, Ross Strategic (He/Him): Um Harry. I see that you unmuted on zoom. So zoom Um is unmuted for you right now. So if you, if you have a mute button on your computer that might be causing the uh that might be causing the challenge,

397

01:15:06.360 --> 01:15:09.450

Tim Poppleton: or you may have a mute button on your handset.

398

01:15:11.510 --> 01:15:21.300

Tim Poppleton: I'm going to open it up for anybody else who wishes to provide testimony. The people on our list. I do not believe that they are here.

399

01:15:21.550 --> 01:15:27.369

Tim Poppleton: Uh so if you'd like to provide testimony, please raise your hand

400

01:15:27.450 --> 01:15:38.370

Tim Poppleton: or type it in the Q. And A. Box it will. We'll call on you and Mr. Romberg we'll keep trying trying to

401

01:15:38.440 --> 01:15:41.080

Tim Poppleton: uh see if we can talk to you,

402

01:15:41.390 --> 01:15:43.839

Tim Poppleton: David Orman.

403

01:15:52.870 --> 01:15:56.589

David Ortman: Ah, thank you. My name is David Orkman. I'm. Here in Seattle, Washington, and would like to take issue with, I think, a statement that Mr. Had made earlier when he introduced this hearing, in which he

David Ortman: said, What's the effect that the

406

01:16:07.710 --> 01:16:12.700

David Ortman: there would be comments that would be addressed from those who live in the icicle basin.

M-3

COMMENT

RESPONSE

M-3-26

I think what you've heard here today that this is not an Icicle Basin project. This is a project in the national wilderness area that deserves much more attention. Then what the county of Chelan and Department of ecology have given it for the course of moving these projects for the irrigation districts along. I was at the field hearing prior to the 1976, in the University of Washington's Auditorium, where we had Congressman Lloyd Meads, and others participate in hearing hundreds and hundreds of comments on the Congressional hearing on the establishment of the Alpine Lake wilderness.

I was over fifty years ago, or a close to fifty years ago, and unfortunately many of those people are no longer with us, have passed on, and are not here to restate their support for the wilderness values that they sought to protect back in the nineteen seventies.

There have also been other programmatic eis that have been produced by the Department of ecology, talks about other adjustments and other rebuilds and other water grabs from other Alpine lake wilderness lakes.

M-3-27

It seems like this is a piecemeal approach to try to deal with one specific lake under a dam rehabilitation. For Dam safety programs to ramrod something through without taking into consideration what the program programmatically EIS said was a fumitive effort, amongst other lakes, one of which each lake apparently is drained every year by the irrigation districts or their needs. And then, finally, it remains disappointing when we talk about a national ordinance area and impacts that the US Forest service seems unwilling to invoke the National Environmental Protector Policy Act to provide the impact that are needed under Nepa to review the impacts from this proposal as well as proposals to come. But I would hope that the US Forest Service rethinks its very limited and crabbed response for letting the SEPA EIS process go fward without the involvement of the NEPA Process

Thank you.
432
01:18:49.270 --> 01:18:50.629
Tim Poppleton: Thank you.

433
01:18:51.050 --> 01:18:53.590
Tim Poppleton: Uh, Mr. Omberg, Harry Romberg,

434
01:18:53.600 --> 01:18:55.690
Tim Poppleton: Are you able to speak now?

435
01:19:02.430 --> 01:19:07.319
Tim Poppleton: Is there anybody? Is there anyone else who wishes to provide testimony?

436
01:19:07.510 --> 01:19:12.960

M-3-26 Comment noted.

M-3-27 Comment noted. A discussion of the Wilderness Act and the establishment of the Alpine Lakes Wilderness is included in Chapter 3. Impacts on wilderness character associated with the project alternatives are included in that chapter of the Draft and Final EISs.

As noted in the first sentence of Section 1.1 of the Draft and Final EISs, Ecology and Chelan County issued a Final Programmatic EIS (FPEIS) evaluating the Icicle Creek Water Resource Management Strategy (Icicle Strategy). The Icicle Strategy is intended to provide a program of integrated long-term water resource management and habitat restoration actions to achieve reliable water supplies and improve streamflows. The FPEIS evaluated the environmental impacts of five program alternatives, with the SEPA non-project action being the adoption of the program called the Icicle Strategy. The FPEIS looked at the Icicle Strategy program as a whole, and then as noted, further environmental review will be done as each project is implemented. The Eightmile Dam project was identified as an early action project in the FPEIS. Evaluation in this manner is not segmentation and is consistent with the SEPA codified in WAC 197-11-060 (5), which outlines the requirements for phased review. As described in WAC 197-11-060 (5) (b), phased review "assists agencies and the public to focus on issues that are ready for decision and exclude from consideration issues that already decided or not yet ready. Broader environmental documents may be followed by narrower documents ..."

M-3-28 The proposed dam rebuild alternatives are being evaluated through the SEPA EIS process. This process will allow the Forest Service to consider a well-developed proposed action to determine if the National Environmental Policy Act (NEPA) applies, what activities should be evaluated in an environmental analysis, and the level of review and documentation required. The Forest Service will determine if NEPA applies to a proposal based on the Council on Environmental Quality's (CEQ) revised regulations at 40 CFR 1501.1 and agency regulations at 36 CFR 220.4(a). The Department of Ecology and the Forest Service are jointly reviewing the proposed action to determine the responsibilities of each agency. As authorized by the CEQ regulations, the Forest Service can cooperate with the State of Washington on environmental analysis (40 CFR 1506.2) and may use elements of the environmental analysis prepared under the SEPA process if NEPA analysis is required (40 CFR 1506.2(b)). The Draft and Final EISs include a description of the required NEPA and Forest Service review in Chapter 1, Section 1.11.

M-3

COMMENT

RESPONSE

M-3-29 Comment noted.

M-3-29

Tim Poppleton: And please indicate by raising your virtual hand or typing in the Q. And A. Box?

437
01:19:13.360 --> 01:19:15.319
Tim Poppleton: Please remember to tell us your night.

438
01:19:19.480 --> 01:19:21.819
Tim Poppleton: I'll wait here for a few minutes

439
01:19:25.010 --> 01:19:27.150
Tim Poppleton: again, if you'd like to

440
01:19:27.740 --> 01:19:29.520
Tim Poppleton: right testimony,

441
01:19:29.840 --> 01:19:32.629
Tim Poppleton: please indicate by raising your virtual hand.

442
01:19:32.830 --> 01:19:35.300
Tim Poppleton: We're typing in the Q. And A. Box.

443
01:19:38.000 --> 01:19:41.210
Tim Poppleton: Scott Brown, Mr. Brower,

444
01:19:44.140 --> 01:19:46.369
Tim Poppleton: It looks like you're muted well

445
01:19:46.380 --> 01:19:49.600
Tim Poppleton: on a mutator. Yeah, we can hear you now.

446
01:19:49.610 --> 01:20:06.509
Scot Brower: Yeah. Well, I would like to say that I live on Icicle Creek. Several miles below where Eight Mile Creek comes into Icicle Creek, and I have concerns about the safety integrity of the dam, and I think you guys should go ahead with whatever proposal best repairs the dam, so it will be safe and meet all standards for high water.

449
01:20:24.990 --> 01:20:26.160
Tim Poppleton: Thank you.

Harry Romberg: Yes, this is Harry Romberg. I live in the Seattle Washington but I've been hiking and climbing in the alpine lakes wilderness for decades.

M-3

COMMENT

RESPONSE

M-3-30

Comment noted. Construction activities, structures, and construction staging associated with the replaced dam will occur on IPID's Special Warranty Deed parcels. Section 11.6 of the Draft and Final EISs describes measures to reduce visual impacts associated with the project.

M-3-30

I'm pleased to hear that some of the my concerns were addressed in the presentation. I also a approve of No roads in wilderness. I'm glad you removed that possibility, but I wanted to reiterate it,

M-3-31

and also, I'm very concerned about any ground disturbing construction activity. They should remain within the footprint of the special warranty deed, and not stray into the wilderness proper. Any construction should blend in with the natural landscape, sounds like you've tried to do that with some of the alternatives.

Any water placed into a trust water right should be designated permanently donated to the in stream flow, as other people have mentioned.

Meaning that water in Eight Mile Creek and Eight Mile Basin remains, in the water right all the way to the Wenatchee River and the Columbia River and Ocean, and so on, and not just once. It leaves eight mile just drained out of the Wenatchee, should go all the way to the pacific ocean.

you want, or permanently designated the in-stream flow, should go into the historical channel for Eight Mile Creek.

No more water measured, however measured should be withdrawn from a mile lake, or any other lake in the system. For that matter, that has been withdrawn historically,

I also think water should be used only where conservation has been maximized, and not for purposes like providing an additional municipal supply or watering lawns in Leavenworth and on and so forth. So It sounds like You've addressed many of those things, but I want to reiterate my concerns and and preserve the wilderness as as best we can.

Thank you. I think that's about it.

561

M-3-31

Thank you for your comment. Refer to the Global Response for Trust Donation.

As described in the Global Responses, Ecology intends to manage this donated water instream from the outlet of Eightmile Lake to the confluence of Icicle Creek with the Wenatchee River. The releases will be coordinated with Icicle Work Group (IWG) members, Icicle Strategy instream flow subcommittee, IWG co-conveners, and fishery co-managers. Coordination and decisions surrounding lake releases and flow management within the Icicle Creek Subbasin will be informed, in part, by a separate IWG process including a decision support tool being developed as part of the Icicle Strategy. Also refer to Section 2.6 (Dam Operation) of the Draft and Final EISs.

The amount of water stored in and used from Eightmile Lake is limited to the extent of the water right and no more. Other than the portion proposed to enter into the State Trust Water Right Program for instream flow, the use is limited to irrigation and cannot be used for municipal purposes (see the Global Response for No Change to Municipal Use).

F.2.5 Form Letters

Comments from Form Letter 1 (Sierra Club)

In addition to the hundreds of original comments Ecology received on the Draft EIS, Ecology received 452 form letters submitted via email through the Sierra Club. While some commentors modified the form letter to express their desire for one alternative or another, they are all similar in their content. As a result, Ecology is not publishing each letter as a part of the Final EIS. See the letter on the next page for an example of Form Letter 1 and the corresponding responses.

All form letter submissions were reviewed, and each person was recorded as having submitted a comment letter. Modifications to the form letter did not require unique responses or require changes in the Final EIS. These modifications included but are not limited the following:

- People's personal experiences within the Alpine Lakes Wilderness and other wilderness areas throughout the U.S.
- Request that the Alpine Lakes Wilderness be protected.
- Request that the environment be protected.
- Reiterations of points made within the form letter (no roads, no motorized equipment, instream flow donation, etc.).
- Request for the project to meet the Sierras Club's suggested conditions.

See Attachment A for a full list of commenters who submitted Form Letter 1.

FL-1 Seirra Club Received 453 submissions

	COMMENT	RESPONSE
	Dear Director Tom Tebb,	FL-1-1 Comment noted.
	To whom it may concern,	FL-1-2 Comment noted.
FL-1-1	Thank you for the opportunity to comment on the Draft Environmental Impact Statement for the Eightmile Dam Rebuild and Restoration Project (?DEIS?). While I support the maintenance of the Eightmile Lake dam to protect public health and safety downstream, the integrity of the Alpine Lakes Wilderness must be protected during this unprecedented process. To do this, the following conditions must be met in the alternative that is chosen:	FL-1-3 Thank you for your comment. Refer to the Water Rights Global Response for Trust Donation.
FL-1-2	<ul style="list-style-type: none"> No roads in the Wilderness. 	As described in the Global Response, Ecology intends to manage this donated water instream from the outlet of Eightmile Lake to the confluence of Icicle Creek with the Wenatchee River. The releases will be coordinated with Icicle Work Group (IWG) members, Icicle Strategy instream flow subcommittee, IWG co-conveners, and fishery co-managers. Coordination and decisions surrounding lake releases and flow management within the Icicle Creek Subbasin will be informed, in part, by a separate IWG process including a decision support tool being developed as part of the Icicle Strategy. Also refer to the Section 2.6 (Dam Operation) of the Draft and Final EISs.
FL-1-3	<ul style="list-style-type: none"> Any water placed into a Trust Water Right must be designated "permanently donated for instream flow" so that water in Eightmile Creek remains instream until reaching the ocean. 	
	<ul style="list-style-type: none"> Any water "permanently donated for instream flow" should go into the historical channel for Icicle Creek. 	
FL-1-4	<ul style="list-style-type: none"> Any reconstruction of the dam should blend into the natural landscape of the Wilderness as much as the existing dam does. 	FL-1-4 Comment noted. Refer to the Global Response for Visual Resources for more information on visual-related mitigation measures.
		FL-1-5 Comment noted.
FL-1-5	The Alpine Lakes is one of the most iconic and beloved wilderness areas in our state, and the Eightmile Dam must be repaired in a way that continues to honor and protect this important and irreplaceable landscape.	
	Sincerely,	
	This message was sent by KnowWho, as a service provider, on behalf of an individual associated with Sierra Club Washington State. If you need more information, please contact Emilio Garza, Communications Associate at Sierra Club Washington State at emilio.garza@sierraclub.org or (360) 217-9848.	

Comments from Form Letter 2 (The Mountaineers)

In addition to the hundreds of original comments Ecology received on the Draft EIS, Ecology received 5,997 form letters submitted via email through The Mountaineers. See the letter on the next page for an example of Form Letter 2 and the corresponding responses.

All form letter submissions were reviewed, and each person was recorded as having submitted a comment letter. Some minor modifications such as slight changes in text, grammar, the inclusion of quotes, or the removal of some portions of the comment were noted during the comment review. Comments with modifications did not require unique responses or any changes to the EIS and are therefore not included in this response document.

See Attachment A for a full list of commenters who submitted Form Letter 2.

FL-2 The Mountaineers Received 5,997 submissions

	COMMENT	RESPONSE
	Dear Melissa Downes,	
	Please accept my following comments on the “Eightmile Dam Rebuild & Restoration” project DEIS.	
FL-2-1	<ul style="list-style-type: none"> The DEIS is inadequate because all alternatives ignore water rights relinquishment and irreparably harm the Alpine Lakes Wilderness. A wilderness-compatible alternative for the Eightmile dam must be analyzed. 	FL-2-1 Refer to the relinquishment section of the Water Rights Global Responses.
FL-2-2	<ul style="list-style-type: none"> The project cannot increase the water extracted from Eightmile Lake, the lake cannot be enlarged, the lake elevation cannot be increased four feet, and the low pipe cannot be made any lower than it currently sits. 	FL-2-2 Comment noted. Project objectives are described in Section 1.4 of the Draft and Final EISs, which includes restoring the storage capacity and meeting needs under its existing water rights. The amount of water use under the Eightmile Lake water right is limited to the extent of the right and no more. The design of Alternatives 1, 2, and 3 is described in Chapter 2 of the Draft and Final EISs. Section 2.6 describes the operation of each alternative in further detail.
FL-2-3	<ul style="list-style-type: none"> The project should not rely on helicopters. The shocking amount of helicopter use proposed—101 to 271 round-trip flights—will significantly degrade the Alpine Lakes Wilderness. 	FL-2-3 See the Global Response for Helicopter Use within the Alpine Lakes Wilderness.
FL-2-4	<ul style="list-style-type: none"> The DEIS does not recognize that helicopters and other motorized equipment enable industrial-scale development and manipulation that are not possible with wilderness-compatible modes of access and non-industrial tools and materials. The impacts of industrial transformation should not be discounted as “temporary” and they should be eliminated or minimized accordingly. 	FL-2-4 See the Global Response for Helicopter Use within the Alpine Lakes Wilderness.
FL-2-5	<ul style="list-style-type: none"> The DEIS discounts the impacts of motorized and aerial noise and disturbance on both wildlife and human visitors. Dam construction would take approximately four to five months during the summer and compound other disturbance impacts related to recreation overuse and other helicopter and motorized uses in the Wilderness. The stress on wildlife is likely to be significant with impacts extending beyond the project completion date. 	FL-2-5 Disturbances from construction, including helicopter use, construction noise, and human disturbance, are accounted for in the Draft and Final EISs. This “disturbance” zone has been determined to extend up to the valley walls surrounding the construction zone (as illustrated in Figures 9-1 through 9-8 of the Draft and Final EISs). Once construction is complete, construction impacts on wildlife from construction activities will no longer occur. Impacts on recreationists during construction are described in Section 10.4.
FL-2-6	<ul style="list-style-type: none"> DEIS alternatives all result in a dam would be more visible and obviously developed than the current dam. 	FL-2-6 Refer to Chapter 11 of the Draft and Final EISs for visual simulations of the project alternatives. Refer also to the Global Response for Visual Resources for more information on visual-related mitigation measures.
FL-2-7	<ul style="list-style-type: none"> DEIS alternatives all call for telemetry towers, secured with guy wires, within the Wilderness, to allow for remote operation of release valves and gates. For nearly a century, administrators have hiked to the dam and released water manually. There is no need for telemetry installations. 	FL-2-7 In regard to the impacts on the wilderness from telemetry equipment, see the Global Response for Telemetry Equipment.
FL-2-8	<ul style="list-style-type: none"> DEIS alternatives all call for construction of a road to bring vehicles closer to the Wilderness boundary, increasing the already easy access and exacerbating overuse problems. The road should only be considered if it will serve as a replacement for helicopter access and if it will be completely and effectively decommissioned. 	FL-2-8 Comment noted. Section 2.7.1 of the Draft and Final EISs describes the purpose and use of reopening a portion of the Forest Service Road. Also, refer to the Global Response for Helicopter Use in the Alpine Lakes Wilderness.
FL-2-9	<ul style="list-style-type: none"> The dam was originally built without helicopters and heavy equipment, and it has persisted for nearly a century. The final EIS must explore a dam design that is similar to the current one and that only includes the minimum additional design features to comply with safety requirements. The design would include less reliance on industrial materials, instead relying more on those that can be packed into or sourced from the site, manual water release features that would alleviate the additional structures and installations in Wilderness, and dam sizing and design that would not increase the visual appearance of the structure, its footprint within the Wilderness, or its water storage capacity beyond the water right post-relinquishment. 	FL-2-9 Comment noted. Section 2.7.1 of the Draft and Final EISs describes the proposed method of transportation of equipment and materials to the dam site. The three action alternatives have been designed to current dam safety standards for a High Hazard Dam and meet the project objectives outlined in Section 1.4 of the Draft and Final EISs. Potential impacts on wilderness character are described in Chapter 3. Refer also to the Global Responses for Visual Resources and Relinquishment.

Comments from Form Letter 3 (Washington Wild)

In addition to the hundreds of original comments Ecology received on the Draft EIS, Ecology received 97 form letters submitted via email through Washington Wild. While some commentors modified the form letter to express their desire for one alternative or another, they are all similar in their content. As a result, Ecology is not publishing each letter as a part of the Final EIS. See the letter on the next page for an example of Form Letter 3 and the corresponding responses.

All form letter submissions were reviewed, and each person was recorded as having submitted a comment letter. Modifications to the form letter did not require unique responses or require changes in the Final EIS. These modifications included but are not limited the following:

- Request to remove the dam and protect wilderness areas.
- Personal experiences within the Alpine Lakes Wilderness and other wilderness areas.

See Attachment A for a full list of commenters who submitted Form Letter 3.

FL-3 Washington Wild Received 97 submissions

	COMMENT	RESPONSE
	Dear Director Tom Tebb,	FL-3-1 Comment noted.
	Director Tebb,	FL-3-2 Comment noted.
FL-3-1	Thank you for the opportunity to provide comments on the Eightmile Dam Restoration and Replacement Project Draft Environmental Impact Statement. As one of the most visited Wilderness areas in the country, the Alpine Lakes Wilderness—and Enchantment Permit Zone contained within—are an alpine wonderland and bucket list destination for the thousands of backpackers who enter the permit lottery each year. As a Washingtonian, I am proud of my state for protecting this special place, and I want to ensure it remains that way.	FL-3-3 Refer to the Global Response for Visual Resources for more information on visual-related mitigation measures. Additionally, see the Global Response for Helicopter Use within the Alpine Lakes Wilderness.
FL-3-2	I understand the need to repair and maintain the Eightmile Dam, recognizing the importance of taking action to protect public health and safety downstream. However, I also am deeply concerned about the project's environmental impacts. As proposed, all three draft plans would have significant impacts to the 'wilderness character' of the area as defined and protected by the 1964 Wilderness Act. The following concerns must be fully addressed and further mitigated in the final plan adopted by DOE and IPID:	FL-3-4 As described in Chapter 10 of the Draft and Final EISs and the Global Response for Recreation, construction activities have been planned to minimize the impacts on hikers and recreationists to the greatest extent possible. Some users may experience delays or choose to avoid the area during construction, as helicopter activity will be noticeable. Avoiding construction during peak recreation season is unavoidable, because access to the lake during non-peak periods is not possible due to snowy conditions at the dam site. Recreationists at Eightmile Lake would experience visual changes due to fluctuating water levels, as described in Chapter 11, Visual Resources. Fluctuating water levels would also alter informal fishing opportunities around the lake, potentially making some areas less suitable for fishing and other areas more desirable, depending on the water level. While the operation of the dam would change recreational opportunities at Eightmile Lake, some of these changes could be experienced as improvements by some recreationists, and there would be no permanent closure of recreation.
FL-3-3	<ul style="list-style-type: none"> • Maintaining Wilderness Character – the current dam is not conspicuous to recreationists, blending in with the surrounding Wilderness, and has a minimal footprint. More needs to be done in all three alternatives to protect the wilderness character. I appreciate there is no proposal to build a road into the designated Wilderness area, which would violate the 1964 Wilderness Act. The use of helicopters should be limited to dam construction and not extend to long-term maintenance within the Wilderness. Furthermore, the number of flights should be limited to as few as possible to mitigate impacts on wilderness character and recreation. 	
FL-3-4	<ul style="list-style-type: none"> • Recreation – Located within the Enchantment Permit Zone, this area offers unique recreational opportunities that over 45,000 day and overnight users visited in 2018. There should be advanced notice of any potential impacts on recreational access and the final plan should take measures to avoid construction during peak season. 	FL-3-5 Refer to the Global Response for Trust Donations. Following issuance of the Draft EIS, IPID submitted a formal request to donate a portion of its water right to Trust for instream flow purposes. After the Final EIS is issued, Ecology will conduct its review of the quantities available for the Trust donation under the right as prescribed by RCW 90.42.080(4)). Additionally, as described on pages 2-18 and 6-21 of the Draft EIS, an Ecology-approved monitoring plan will be developed in which IPID will monitor and report total annual storage and release volumes for instream flows as well as for IPID's irrigation use. The monitoring and reporting plan will be executed as part of the Trust donation process and will ensure that the 2,000 acre-foot maximum active lake volume considered for alternatives in the EIS is not exceeded on an annual basis and that the Trust donation and associated quantities are managed properly. Section 2.6 (Dam Operation) of the Draft and Final EISs describes the monitoring plan and coordination that will ensure that the instream flow portion will be managed and released to improve fisheries habitat and provide benefits for aquatic resources.
FL-3-5	<ul style="list-style-type: none"> • Instream Flow – I strongly support designating additional water from the repaired dam to be permanently reserved for instream flows to be used to maintain water levels for fish and ensure tribal treaty rights. However, there are no assurances or mechanisms provided in any of the draft plans to ensure this will occur; the final plan must clarify this important matter. 	
FL-3-6	In summary—the proposed alternatives in the draft plans for the Eightmile Dam repair and replacement do not fully address all concerns. DOE and IPID must ensure the dam is repaired to protect public health and safety downstream while also fully protecting the wilderness, recreation, scenic, fish and wildlife habitat, and other natural resources of Eightmile Lake, Icicle Creek, the Alpine Lakes Wilderness, and Enchantment Permit Zone.	
	Thank you for your time and consideration,	
	Sincerely,	FL-3-6 Comment noted.

Comments from Form Letter 4 (Washington Trails Association)

In addition to the hundreds of original comments Ecology received on the Draft EIS, Ecology received 138 form letters submitted via the comment tracker from Washington Trails Association members. As a result, Ecology is not publishing each letter as a part of the Final EIS. See the letter on below for an example of Form Letter 4 and the corresponding responses.

All form letter submissions were reviewed, and each person was recorded as having submitted a comment letter. Some minor modifications such as slight changes in support for one of the alternatives, text, grammar, the inclusion of quotes, or the removal of some portions of the comment were noted during the comment review. Comments with modifications did not require unique responses or any changes to the EIS and are therefore not included in this response document.

See Attachment A for a full list of commenters who submitted Form Letter 4.

FL-4- Washington Trails Association Received 138 submissions

		COMMENT	RESPONSE
FL-4-1	I oppose alternatives one and two because the proposed designs would raise the lake by four feet.	FL-4-1	Comment noted. See the Global Response for Lake Level and Bathtub Ring in regard to Alternatives 1 and 2.
FL-4-2	Construction should not create new impacts to the area's wilderness character by expanding the footprint of the existing structure.	FL-4-2	Comment noted. Construction activities, structures, and construction staging associated with rebuilding the dam would be located within IPID's Special Warranty Deeded Parcels.
FL-4-3	The Icicle Peshastin Irrigation District must plan their construction activities to minimize impacts to hiking and recreation. Any area closures should be planned and publicized prior to issuing camping permits.	FL-4-3	See the Global Response for Recreation for more information on recreation-related mitigation measures.

ATTACHMENT A: LIST OF FORM LETTER COMMENTERS

Form Letter 1: Submitter List

Achala Devi	Carolyn Rhett	Delmar Fadden	Fuhwa Ko	Jeanne Krenzer	Ken Gersten	Marian Wineman	Patricia Brent	S Shaw	Suzanne Hamer
Adam Wallas	Carrie Pilger	Denise Langeland	G G	Jeannie Keyes	Ken Zirinsky	Marianna Haniger	Patricia Leckenby Ronald	Sally Burke	Terhi Telsavaara
Aida Bound	Carrie Woods	Derek Benedict	G. Rose Montgomery	Jenina Quinn	Keridwyn Bray	Marie Weis	Patricia Perron	Samuel Merrill III	Teri Scheuer
Aimee Olivier	Catherine Green	Dessi Armstrong	Gail Vincent	Jennifer Hahn	Kevin Hodack	Marilyn Mosley	Patricia Perron	Sandra Ciske	Terrance Ryan
Aisha Farhoud	Catherine Kocarek	Diane Falk	Garrison Dyer	Jennifer Nelson	Kim Howe	Marisa Jacks	Patti Rader	Sara Hoerlein	Terri Dumala
Alice Flegel	Catherine Madole	Diane Marks	Gary Albright	Jennifer Riker	Kimberley Bauer	Mark Leed	Paul Bigelow	Sara Jensen	Terri Wile
Alice Nicholson	Cece Reoux	Doane Rising	Gary Bennett	Jennifer Vining	King Schoenfeld	Mark Reback	Paul Roberts	Sarah Greene	Thomas Clough
Alice Pfister	Charles Collier	Don Smith	Gary Brill	Jenny Clark	Lael Bradshaw	Mark Williams	Peter Brazitis	Sarah M	Thomas Cox
Alice Steijn	Chelsea Braun	Don Williams	Gary Reid	Jeri Ichikawa	Laney Richter	Marla Blazer	Peter Litwin	Serena Donnelly	Thomas Duff
Alixandre Wilkins	Chelsea Villarreal	Donald Chesebro	Gary Renzelman	Jessica Diallo	Larry Lewin	Marquam Krantz	Peter Martin	Serena Maurer	Thomas Guobis
Amy Heyneman	Cheryl Gray	Donna Musgrove	Ginny Cleaveland	Jessica Sand	Larry Mc Claran	Mary Shields	Peter Viavant	Serena Maurer	Tien Vu
Amy Jones	Cheryl Olson	Donnelle Brotherton	Glenda Carper	Jillain Peterson	Larry Wilke	Mary Taylor	Philippa Nye	Shane Dombrowski	Timothy Marymee
Andrea Vos	Chris Guillory	Dorene Kelly	Graham Golbuff	Jim Bernthal	Laura Finkelstein	Matthew Cloner	Phillip Brugalette	Shannon Markley	Tina Brown
Andres Lopez	Chrystol White	Dori Bailey	Gwen Anderson	Joan Collins	Laura Ramon	Maureen Cleveland	Phyllis Farrell	Shari Laverty	Tina Matzke
Ann Faires	Claire Aiello	Dorinda Otto	Hannah Taylor	Joanie Beldin	Laura Toussaint	May Gauvin	Polly Parson	Shari Laverty	Tina Matzke
Annabelle Heiman	Claire Alkire	Dorrie Main	Harry Gerecke	Joanna Chesnut	Laurie Dils	Megan Bastow	Polly Taylor	Sharon Andrews	Tom Behan
Anne Leask	Clarice Arakawa	Doug Staab	Heather Chenevert	Joanne Watchie	Laurie Gogic	Megan Dustan	Priscilla Martinez	Sharon Dunn	Tom Borst
Anne Phillips	Cole Grabow	Ed Loosli	Heidi Shuler	John Flynn	Laurie Larsen	Megan Machiniak	Randall Collins	Shary B	Toni Penton
Art Bogie	Cole Kanaka Mumper	Edward Whitesell	Helga Burkhardt	John Green	Laurie Schaetzel-Hill	Megan Pickus	Ray Anderson	Shirley Cooper	Toniann Reading

Art Huffine Rhinc	Corey Burgess	Eileen Kelley	Hiedi Culbertson	John Macdonald	Lawrence Magliola	Meghan Tinnea	Rebecca Deardorff	Shirley Sonnichsen	Tracy and Caroline Ceravolo
Barb Biondo	Corine Johnson	Eleanor Israel	Hilke Faber	Jon Phillips	Leonty Kolodiy	Melinda HUGHES	Rebecca Evans	Shyam Parekh	Tracy Ouellette
Barbara Bonfield	Cornelia Teed	Elena Rumiantseva	Isaac Heiman	Joseph Gush	Liisa Wale	Melissa Lopez-Barbosa	Rebecca Lee	Stela Martin	Tracy Podzimek
Barbara Boyle	Corrine Anderson-Ketchmark	Eli Funk	J J	Judith Schwab	Linda Bock	Melodie Martin	Rebecca Nimmons	Stephanie Bell	Trudy Zimmerman
Barbara Dubois	Craig Britton	Eliza Kronenberger	J. Eggers	Julia Reitan	Linda Carroll	Merle Hooley	Reinhold Groepler	Stephanie Cooper	Tryna Lyons
Barbara Phalen	Cyndi C	Elizabeth Neary	Jack Rowse	Juliet Todd	Linda Ellsworth	Michael and Barbara Hill	Renee Adams	Stephanie Coson	Turner Van Slyke
Barbara Rollinger	Dale And Pamela Wright	Elizabeth Scranton	Jackie Easley	June and Ronald MacArthur	Linda Thompsen	Michael Gan	Renee Duprel	Stephen Thompson	Valarie Matinjussi
Barbara Sanborn	Dale Dellario	Elizabeth Sundquist	Jacob Warzon	K Loro	Linda Vanderbilt	Michael Jones	Richard Kolber	Steve Albrecht	Vera Swanson
Barbara Scavezze	Dan Hoey	Ellen Hopkins	Jacquelyn Wheeler	K M Keiser	Lindley Gifford	Michael Mc	Richard Noll	Steve and Kathi Hulick	Vicky McClellan
Barbara Wos Elledge	Dan Scheer	Ellen Zarter	James Bates	Kara Harms	Lois Ward	Michael Pietro	Richard Spry	Steve Foster	Victoria Leistman
Beth Borst	Dan Schneider	Emily Cliff	James Keeley	Karen Conlon	Lore Wintergreen	Michael Winger	Rick Ress	Steve Green	Virgene Link-New
Betty Kellow	Daniel Havens	Emily Su	James Mulcare	Karen Fisher	Lorie Stoneberger	Nancy Canyon	Rick Taylor	Steve Knutsen	Virginia Becker
Beverly Crocker	Daniela Roth	Emily Van Alyne	James Nelson	Karen Hoover	Lorraine James	Nancy Johnson	Rob And Esther Sumner	Steve Tauscheck	Virginia Becker, Psy.D.
Bill Arthur	Dara Kessler	Emily White	Jamie Granger	Karen Verrill	Lorraine Johnson	Nancy Peacock	Robby Robinson	Steven Smith	Wally Bubelis
Blair Kangley	Darcy Johnson	Emily Willoughly	Jan Hajnosz	Kari Darvill-Peterson	Louann Ballew	Nancy White	Robert Astyk	Steven Uyenishi	Walt Rennick
Brandie Deal	Dave Fairburn	Epifanio Cruz	Jan Hurd	Katherine Nelson	Lucy Ostrander	Nathan Trimble	Robert Blumenthal	Steven Woolpert	Walter Jorgensen
Brandon Bowersox-Johnson	Dave Groves	Eric Konnick	Jane Landstra	Katheryn Hayes	Lyn Higgins	Ned Vasquez	Robert Gregerich	Sue Dearman	Walter Rennick
Brian Nelson	David Askew	Erick Campisi	Janet Callis	Kathleen Bentley	Lynda Cunningh	Neil Martin	Robert Kummer	Susan Baker	Wendy Heiman
Brian Weatherby	David Baine	Evan Littmann	Janet Riordan	Kathleen Gylland	Lynnette Spanola Eastlake	Ness Piper	Robert Shwed	Susan Chamberlain	William Anderson
Bruce Dorrbecker	David Gross	Evan Skytte	Janet Swihart	Kathleen Hutton	Malcolm Cumming	Nick Engelfried	Robert VanderKamp	Susan Cyr	William Biederman
Candice Cassato	David Habib	Eve Alyson	Janis Schweitzer	Kathryn Grey	Malia Latin	Nick Lund	Ronald Heiman	Susan Heywood	William Crimbring

Candice Lampe	David Joel Thornton	Evelyn Bittner	Janis Swalwell	Kathy Albert	Marc Lacrampe	Noah Ehler	Rosemary Moore	Susan Johnson	William Hayton
Carole Hiatt	David Miller	Florence Harty	Jason Cole	Katie Duncan	Marguerite Pappaioanou	Nolen Scott	Russell Grindle	Susan Pitiger	William Phipps
Carole Huelsberg	David Peha	Fran Post	Jean and Kyle Pauley	Kayla Torell	Mari Plombon	Noushin Safaie	Russell Grindle	Susan Shouse	William Sneiderwine
Carolee Jones	Deborah Kramer	Frances Wammack	Jean Aslakson	Kayla Waller	Maria and Tom Lambright	Pam Adams	Rusty West	Susan Tochtermann	Yonit Yogev
Caroline Bowdish	Dede Campbell	Fred Neil	Jean M. Avery	Keith Henson	Maria Vallianatos	Pamela Harris	Ruth Darden	Suzanne Cunliffe	Yvette Goot
Yvonne Leach	Zachary Henige								

Form Letter 2: Submitter List

A Armstrong	Briana Clements	David Cotton	Franca Bontacchio	Jeff Thayer	Kathleen O'Connell	Louise Simone	Michelle Mondragon	Rhonda Swineford	Steve Piku
A French	Brianna Hallinan	David Doering	Frances Allred	Jeff Thiemann	Kathleen O'Sullivan	Louise Slattery	Michelle Oroz	Rhonda Vanecek	Steve Robey
A G Hansen	Bridget Irons	David Dunneback	Frances Bell	Jeffery Anderson	Kathleen Phillips	Louise Yohalem	Michelle Parr	Ric Watkins	Steve S
A L	Bridgett Heinly	David Edwards	Frances Carpenter	Jeffery Blanton	Kathleen Procter	Lozz Starseed	Michelle Profant	Rich & Eileen Hening	Steve Schueth
A Lynn Raiser	Brigid Murphy	David Elfin	Frances Crouter	Jeffery McConaughy	Kathleen Sewght	Luan Pinson	Michelle Rekstad	Rich Hughes	Steve Sheehy
A Merzi	Brigid Vele	David Evans	Frances Hankin	Jeffery Morgenthaler	Kathleen Shabi	LuAnne Swainson	Michelle Sewald	Richard and Kim Rendigs	Steve Spry
A Patterson	Brigitte Mueller	David Fiedler	Frances Mcaroy	Jeffrey Bains	Kathleen Smith	Lucia DePretto	Michelle Thomas	Richard Ashton	Steve Taylor
A Rossner	Brigitte Silvestre	David G	Frances Melott	Jeffrey Ballou	Kathleen Sumida	Lucia Durand	Mick Alderman	Richard Balentine	Steve Troyanovich
A Sanchez	Britta Campton	David H Nikkel	Frances Recca	Jeffrey Blackman	Kathleen Turnbull	Lucie Laberge	Micki Besancon	Richard Ballew	Steve Werda
A Sid	Brittany Bannerman	David H. Kavanaugh	Frances Urban	Jeffrey Block	Kathleen Williams	Lucinda Macias	Midge Tuley	Richard Battaglia	Steve Wilson
A W	Brittney Hammock	David Harralson	Francesca Rago	Jeffrey Campbell	Kathleen. O'Donnell	Lucy Duggan	Midori Furutate	Richard Beville	Steven Acosta
A.L. Steiner	Brittni Mills	David Harris	Francesco Scotto di Frega	Jeffrey Christo	Kathleen Vadnais	Lucy Gough	Mija Gentes	Richard Blain	Steven Adams
Aaron Mlynek	Britton Saunders	David Hatcher	Francine Traniello	Jeffrey Collins	Kathlene Henry-Gorman	Luisa P	Mika Gentili-Lloyd	Richard Bold	Steven Andrychowski
Aaron Wade	Brnda Miller	David Hayes	Francis Blake	Jeffrey Eichner	Kathrin Dodds	Luke Melaragno	Mika Menasco	Richard Boyce	Steven Carrell
Abbie Bernstein	Bronwen Evans	David Heffernan	Francis Zilla	Jeffrey Evans	Kathrine Fegette	Lusine Karabadzakyan	Mike Brinkley	Richard Camp	Steven Cook
Abby Harrison	Bruce A. Lisiecki	David Hoffmann	Francisco Javier Martin	Jeffrey Hemenez	Kathryn Burkhardt	Lydia Garvey	Mike Carolla	Richard Carr	Steven Cypher
Abe Levy	Bruce and Maureen DeNunzio	David Jackson	Frank Ayers	Jeffrey Hurwitz	Kathryn Burns	Lyman Welch	Mike DeCook	Richard Crosland	Steven Dicicco

Abigail Corbet	Bruce Carley	David Klingensmith	Frank Bures	Jeffrey Jenkins	Kathryn DeWees	Lyn Capurro	Mike Evans	Richard Cummins	Steven Edmonds
Abigail Gindele	Bruce Dassel	David Lanker	Frank Burke	Jeffrey Jones	Kathryn Hardy	Lyn Lowry	Mike Hamilton	Richard Cusumano	Steven Federman
Abigail Hartojo	Bruce Grobman	David Laverne	Frank Metzger	Jeffrey Levicke	Kathryn Heet	Lyn Lukich	Mike Hansen	Richard Fox	Steven Fenster
Abigail Howes	Bruce Higgins	David Meade	Frank Ortiz	Jeffrey M Holstein	Kathryn Lemoine	Lynda Kerr	Mike Hudak	Richard Gallo	Steven Hasty
Abigail Villodas	Bruce Krawisz	David Myers	Frank Pilholski	Jeffrey McCollim	Kathryn Melton	Lynda Mandarino	Mike Inganamort	Richard Gilman	Steven Hayashi
Ada Rippberger	Bruce Littlefield	David Neumann	Frank Rouse	Jeffrey Pilkinton	Kathryn Mosher	Lynda Nesbitt	Mike McCampbell	Richard Glass	Steven Hester
Adam D'Onofrio	Bruce Moyer	David Nichols	Frank Thacker	Jeffrey Sanders	Kathryn Schneider	Lynda Pauling	Mike McCool	Richard Gray	Steven Hoelke
Adam Fogel	Bruce Revesz	David Ortiz	Franklin I Hamilton	Jeffrey Shuben	Kathryn Sugg	Lynda West	Mike Newport	Richard Guier	Steven Iszauk
Adam Wegren	Bruce Ross	David Patenaude	Fred Brodsky	Jeffrey Sterling	Kathryn Summers	Lynelle Behler	Mike Peale	Richard Han	Steven Nelson
Adele Outland	Bruce Vincent	David Pedersen	Fred Coppotelli	Jeffrey Stone	Kathryn Torvik	Lynette Brooks	Mike Rummerfield	Richard Hieber	Steven Rosenberg
Adil Mehta	Bruna Annika	David Pisaneschi	Fred Granlund	Jeffrey Surovell	Kathy Bates	Lynette Ridder	Mike Seyfried	Richard Hiscock	Steven Standard
Adolfo Bermeo	Bruno Novel	David Ramer	Fred Lavy	Jeffrey Thompson	Kathy Brigger	Lynette Rynders	Mike Shasky	Richard Hubacek	Steven Uyenishi
Adrian Bergeron	Bryan Howard	David Ramirez	Freda Karpf	Jelica Roland	Kathy Burch	Lynette Smith	Mike Souza	Richard Jackson	Steven Vogel
Adriana Micciulla	Bryan Johns	David Rieckmann	Freddy Luke	Jen Danner	Kathy Dabanian	Lynn Bengston	Mike Winget	Richard Kite	Stewart Casey
Adriana Nunez	Bryan Lambert	David Roth	Freya Harris	Jen Scibetta	Kathy Day	Lynn C. Lang	Mikki Chalker	Richard Legault	Stewart Wilber
Adrienne S.	Bryan Lucore	David Rudin	Freyda Isaacs	Jen Stedman	Kathy Dowds	Lynn Costa	Mila Woff	Richard McCombs	Stu Farnsworth
Adrienne Trattner	Bryan Wyberg	David Rust	Fulvio Valsangiacomo	Jenifer Johnson	Kathy Flocco-McMaster	Lynn DeVos	Mildred Yarborough	Richard Packer	Stuart Lynn
Aeron Wild	Burkhard Broecker	David Savige	Fun Dad	Jeniffer Graham	Kathy Forney	Lynn Gazik	Millie Magner	Richard Peterson	Stuart Mork
Agnes Hetzel	C Grimes	David Somers	G D Abbott	Jenna Fallaw	Kathy Freese	Lynn Hoang	Milton Davis	Richard Phillips	Stuart Smith

Agnew Wilson	C K	David Soto	G Lindemann	Jenna Rossiter	Kathy Fullerton	Lynn Levine	Mimi Abers	Richard Piatkowski	Stuart Weiss
Agustin Arroyo	C Kasey	David Stetler	G. Paxton	Jenne Marie Sindoni	Kathy Gosselin	Lynn Marlin	Mina Blyly-Strauss	Richard Rutherford	Sue and John Morris
Ah Ho	C L Brear	David Stevens	G. Trubow	Jennie Blodgett	Kathy Grieves	Lynn Nelson	Mindi White	Richard Saretsky	Sue Balk
Ahnna Weber	C Lamb	David Suarez	Gabriel Sheets	Jennifer Bambauer	Kathy Haber	Lynn Patra	Mindie Sivey	Richard Saunders	Sue DiMoia
Aida Marina	C M	David Sweet	Gabrielle Swanberg	Jennifer Barbara	Kathy Hafter	Lynn Shoemaker	Miranda O'shields	Richard Schoemer	Sue Ellen Lupien
Aileen Glynn	C P	David Todnem	Gaia Cole	Jennifer Bradford	Kathy Hanson	Lynn Skibinski	Miriam and Mike Kurland	Richard Schwartz	Sue Halligan
Ailenise Jackson	C S	David Walker	Gaia Kimberly	Jennifer Brandon	Kathy Johnson	Lynn Slonaker	Miriam Baum	Richard Shannahan	Sue Harrington
Aimee Mellensifer	C Winstead	David Wilcox	Gail Bell	Jennifer Brooks	Kathy Jordan	Lynn Sunday	Miriam Paisner	Richard Shepard	Sue Lundquist
Ainga Dobbelaere	C. Martinez	Dawn Albanese	Gail Gaebe	Jennifer Burish	Kathy Laird	Lynn Tondrick	Miroslava Elfeky	Richard Smith	Sue Russ
AJ Cho	C. Yee	Dawn Copola	Gail Lack	Jennifer Cartwright	Kathy Lyles-Diers	Lynne C.	Mishia Hunwick	Richard Spotts	Sue Shimer
Al Bobroff	Ca Sweeney	Dawn Corby	Gail Ladd	Jennifer Corrigan	Kathy Marie Behl-Whiting	Lynne Chimiklis	Missie Smith	Richard St. Angelo	Sue Wilkin
Al Giles	Caephren McKenna	Dawn Cumings	Gail Linnerson	Jennifer Denetz	Kathy Mason	Lynne Firestone	Missy Harris	Richard Stern	Sue Wright
Al Pom	Caitlin Archambault	Dawn Nelson	Gail Murchison	Jennifer DiMarco	Kathy Michaelson	Lynne Gaudette	Mitchell Chaikin	Richard Tidd	Summer Crabtree
Al Shayne	Caitlin Welsh	Dawn Taylor	Gail Ohara	Jennifer Doob	Kathy Monteleone	Lynne Preston	Mitchell Mead	Richard Tregidgo	Summer Shah
Alan Brown	Caleb Ellis	Dawn Zelinski	Gail Powell	Jennifer Emerle-Sifuentes	Kathy Moraski	Lynne Weiske	Mj Lagatta	Richenda Davison	Sunil Misra
Alan Carter	Calissa Grady	Dawn Zizzo	Gail Tinsley	Jennifer Eskridge-Hart	Kathy Ross	Lynnette Simon	MM Seeley	Rick Brigham	Sunny Tabino
Alan D Levine	Calli Madrone	Dawne Meneguzzo	Gale Luce	Jennifer Fleming	Kathy Saunders	Lysne Torgerson	Mo Kafka	Rick Hancock	Susan Alice Mufson

Alan DeGrand	Calum Mackay	Dayana Avila	Gale Rullmann	Jennifer Griffith	Kathy Tharp	M Chessin	Mollie Smith	Rick Horne	Susan Babbitt
Alan Feltman	Calvin Jager	DC Katten	Galen Schlich	Jennifer Henshaw	Katie Desmond	M Freiberg	Molly Sullivan	Rick Szarl	Susan Bailey
Alan Hart	Camelia Snejana Lovanovici	Dean Borgeson	Galloway Allbright	Jennifer Herstein	Katie Finnerty	M Kimberly Dalinowski	Moneca Dunham	Rick Walters	Susan Beil
Alan Jasper	Camille Gilbert	Dean Clarke	Garry Taroli	Jennifer Keys	Katie Griesar	M King	Monica Bastien	Rickey Buttery	Susan Bellis
Alan Linn	Cammy Colton	Dean Frazer	Gary and Karen Holm	Jennifer Koval	Katie L	M Langelan	Monica DuClaud	Ricki Newman	Susan Blain
Alan Linville	Candace Bassat	Dean Mieras	Gary Barton	Jennifer Lane	Katie Wood	M Pal	Monica Friedman	Ricky Taylor	Susan Campanel
Alan MacLamroc	Candace Rocha	Dean Onessimo	Gary Beckerman	Jennifer Lewis	Katie Yu	M R	Monica Gilman	Rita Benlolo	Susan Castelli-Hill
Alan P Socol	Candace Russell	Deanne O'Donnell	Gary Boerner	Jennifer Marinilli	Katleen Holmes	M Rossner	Monica Leccese	Rita Browne	Susan Christino
Alan Papsun	Candace Wolken	Deb Denbow	Gary Brooker	Jennifer Nelson	Katren Garrett	M Rute Correia	Monica Montalvo	Rita Carlson	Susan Coen
Alan Peltzer	Candi Ausman	Deb Hahn	Gary Cantara	Jennifer Nitz	Katrina Child	M S	Monica Myers	Rita F.	Susan Darish
Alan Robert	Candice Schellenger	Beb Romero	Gary Connaught	Jennifer Oppenheim	Kay Bradfield	M. Cecilia Correia	Monica Riedler	Rita Franco	Susan Davenport
Alan Schenck	Candy Bowman	Debasri Roy	Gary Cornett	Jennifer Piche	Kay Glinsman	M. Kathryn Karn	Monika Gosteli-Gyger	Rita Grolitzer	Susan Deschenes
Alan Wojtalik	Candy Sullivan	Debbi Pratt	Gary Dube	Jennifer Quick	Kay Jay	M. S.	Monique De	Rita Hartojo	Susan Devereaux
Alana Willroth	Cara Ammon	Debbie Blair	Gary E. Ranz	Jennifer Rankin	Kay Kiechel White	M. Virginia Leslie	Monique Musialowski	Rita Kovshun	Susan Donaldson
Albert Fecko	Cara Artman	Debbie Bolsky	Gary Goetz	Jennifer Reame	Kay Krause	M.cecilia Dallari	Monty Foley	Rita Lemkuil	Susan Drucker
Albert Roca Enrich	Caren Mehay	Debbie Brent	Gary Gover	Jennifer Reinert	Kay Reinfried	M.E. Eccles	Moraima Suarez	Rita Meuer	Susan Dusman
Albert Tahhan	Carey Suckow	Debbie Burroughs	Gary Hamel	Jennifer Reis	Kay S.	M.K. Russell	Moranda Meyer	Rita Orleans	Susan Eckstein
Aldana Santto	Carin Pavlinchak	Debbie Ellis	Gary Hendricks	Jennifer Rice	Kay Ward	M.S. Sutton	Moriah Barth	Rita Poppenk	Susan Espinoza

Alea Chevalier	Carina Chadwick	Debbie Friesen	Gary Landgrebe	Jennifer Rier	Kayelah Skelton	Mac Donofrio	Mr. And Mrs. E. R. Adams	Rita Santos-Oyama	Susan Esposito
Alecia Morgan	Carl Ellman	Debbie Kearns	Gary Lofgren	Jennifer Romans	Kaylah Sterling	Madeleine Glick	Mr. Shelley Dahlgren, PhD	Rob Abromavage	Susan F Fleming
Aleda Richardson	Carl Luhning	Debbie Kenyon	Gary Mazzotti	Jennifer Sullivan	Keiko Barrett	Madeleine Souza	Mr. Lynnward Lacy	Rob Carter	Susan Fisher
Aleks Kosowicz	Carl Prellwitz	Debbie Krapf	Gary Overby	Jennifer Taylor	Keil Albert	Madeline Cotton	Mrs. Turco	Rob Fursich	Susan Foley
Alena Jorgensen	Carl Stapler	Debbie McKeivitt	Gary Piper	Jennifer Valentine	Keir Novak	Madeline Perkins	Mrs. Marilyn Dougher	Rob Nash	Susan Gardner
Alexa McMahan	Carl Veaux	Debbie Nelson	Gary Stickel	Jennifer Will	Keith Albritton	Madeline Stetser	Mrs. P. D. Waterworth	Rob Peters	Susan Gilcreast
Alexander Dolowitz	Carl Zimmerman	Debbie Sequichie-Kerchee	Gary Thaler	Jenny Ruckdeschel	Keith Cowan	Madelyn Garrett	Ms. Lilith	Rob Roberto	Susan Glatter-Judy
Alexander Fierro-Clarke	Carla Anchors	Debbie Spear	Gary Wolf Ardito	Jenny Taylor	Keith D'Alessandro	Magaly Léger	Ms. Zentura	Rob Seltzer	Susan Gunther
Alexandra Haenisch	Carla Dalton	Debbie Tenenbaum	Gary Zahler	Jerald Vinikoff	Keith Fisher	Magda Santiago	Ms. Maria Celia Hernandez	Robbyn Sarvas Robbyn Sarvas	Susan Harmon
Alexandra Lamb	Carla Davis	Debbie Wall	Gatha Pierucki	Jerami Prendiville	Keith Krupinski	Maggie Lefford	Ms. Susan Hainey	Robert Alan Binnie	Susan Haywood
Alexandra Rappaport	Carla Haim	Debby Mayberry Jensen	Gavin Baker	Jered Cargman	Keith Taylor	Maggie Shields	Ms. Paula Shafransky	Robert Bartlett	Susan Heath
Alexandra Schulz	Carla Hedden	Debi Holt	Gavin Bornholtz	Jeremy Baptist	Keith Wilkins	Maia Van Pelt	Mykel Reese	Robert Bullis	Susan Holland
Alexia Jandourek	Carla McCannon	Deborah Allison	Gavin Ellis	Jeremy Feldman	Kellen Dunn	Malcolm Groome	Myra Dremeaux	Robert Carnevale	Susan Hood
Alexis Morris	Carla Morin	Deborah Balasko	Gavin Needler	Jeremy Rossman	Kelley Dempsey	Malcolm Simpson	Myriam Bois	Robert Carroll	Susan Horthy
Alexis Stark	Carla Williams	Deborah Brown-Ridley	Gay Linfante	Jeri Romero	Kelli Fizzano	Mandana Nakhai	Myriam Eythrib	Robert Chambers	Susan Hubbard-Reeves
Alfa Santos	Carlene Estacion	Deborah Burge	Gay Mikelson	Jerome Comeau	Kelli Lent	Mandie Flint	Myrian Monnet	Robert Chirpin	Susan Jacobson
Alfonsa Paternuosto	Carlene Visperas	Debora Chase	Gayle Doukas	Jerome Walker	Kelli Lewis	Mandy Homer	Myrna Castaline	robert cobb	Susan Jobe

Alfred Mancini	Carlie Doeberiner	Deborah Cinquino	Gayle Guidry	Jerry Banks	Kelly Berry	Manfred Zanger	Myrna Torrie	robert crenshaw	Susan Kaiser
Aldredo Escandon	Carlos Acosta	Deborah Cosentino	Gee Simmons	Jerry Charlson	Kelly Brannigan	Manny Garcia	Myron Klos	Robert Duy	Susan Lea
Ali Van Zee	Carlos Nunez	Deborah Coviello	Geisha García	Jerry Eskew	Kelly Fowler	Manucher Baybordi	N B	Robert Ensman	Susan Lefler
Alice Gard	Carly Clements Owens	Deborah Dahlgren	Gemma Alcasid	Jerry Horner	Kelly Hogue	Mara Jeffress	N Houghton	Robert Fehsinger	Susan Leibowitz
Alice Gem	Carmel and June Nolin-Hartford and Buo	Deborah Douglas	Gemma Smith	Jerry Hughes	Kelly Kessl	Mara Lopez	N Refes	Robert Ferrara	Susan Lemont
Alice Jacobson	Carmen Chacon	Deborah Friend	Gena Burke	Jerry Johnson	Kelly Kreiser	Mara Unger	N. Kaluza	Robert Fingerman	Susan Lessin
Alice Jena	Carmen Plaza	Deborah Gandolfo	Gena DiLabio	Jerry Matson	Kelly Kroske	Marc Imlay	N. Schneider	Robert Fischhoff	Susan Lilly
Alice Markey	Carol A Sassaman	Deborah Hawlwy	Gene Ammarell	Jerry Mawhorter	Kelly Lewis	Marc Laverdiere	Nadia Corvers	Robert Focht	Susan Loomis
Alice Mizesak	Carol Anderson	Deborah Hoffmann	Gene Jones	Jerry Mazzolini	Kelly Riley	Marc Silverman	Nadine Duckworth	Robert Foley Jr	Susan Lowe
Alice Naegele	Carol Baier	Deborah Irwin	Genevieve Fujimoto	Jerry Persky	Kelly Schwartz	Marce Walsh	Nadine Godwin	Robert Good	Susan Ludke
Alice Neuhauser	Carol Bodenmiller	Deborah Jaworski	Genia Moncada	Jerry Redpath	Kelly Siranko	Marcello Franciamore	Nadine Kouba	Robert Hammond	Susan Magana
Alice Polesky	Carol Book	Deborah Jennison	Genny Hoyle	Jerry Rivers	Kelly Taylor	Marci Moss	Nadine Parish	Robert Handelsman	Susan McGovern
Alice Ross	Carol Broll	Deborah Kassis	George Bilyeu	Jerry Savas	Ken Barton	Marci Robinson	Nadine Vergilia	Robert Havrilla	Susan McNeill
Alice Savage	Carol Collier	Deborah King	George Bodenheimer	Jerry Scott	Ken Bosch	Marcia Ferguson	Nadine Wallace	Robert Honish	Susan Messerschmitt
Alice West	Carol Collins	Deborah Kreuser	George Burnash	Jerry Swarzman	Ken Bowman	Marcia Migdal	Nair Lopes	Robert Hughes	Susan N Todd
Alida Bockino	Carol Cook	Deborah Labb	George Craciun	Jerry Weiss	Ken Gigliello	Marcia Walker	Nan Brunskill	Robert Jehn	Susan Noalani Terry
Alina Parera	Carol Coons	Deborah Mastrandrea	George Georganas	Jess Turner	Ken LaMance	Marcia Weare	Nan Stevenson	Robert Karli	Susan Norris

Aline Rosenzweig	Carol Curtis	Deborah Milkowski	George Hanas	Jesse Bohl	Kendra Knight	Marcie Clem	Nan Wollman	Robert Knauber	Susan P. Walp
Alison Stankrauff	Carol Dean	Deborah Morton	George Hartman	Jesse Counterman	Kendra Kolsen	Marcie Clutter	Nancy Anderson	Robert Lawrence	Susan Peirce
Alison Zyla	Carol Dodson	Deborah Perrero	George Howe	Jesse Croxton	Kennard Woods	Marco de la Rosa	Nancy Arbuckle	Robert Lombardi	Susan Perez
Alissa Sollitto	Carol Esler	Deborah Reade	George Latta	Jesse Gore	Kenneth Althiser	Marcus Lanskey	Nancy Burger	Robert Martin	Susan Peters
Alix Bowman	Carol Fletcher	Deborah Reiter	George Lee	Jesse Kessler	Kenneth Boyle	Marcus N	Nancy Crider	Robert Megraw	Susan Powers
Allan Young	Carol Fly	Deborah Richards	George Milkowski	Jesse Williams	Kenneth Douglas	Marcy Gordon	Nancy Edmondson	Robert Mick	Susan Proffitt
Allen Altman	Carol Ford	Deborah Sargent	George Munoz	Jessica Acevedo	Kenneth Lapointe	Margaret Bell	Nancy Fleming	Robert Minnick	Susan Querze
Allen Price	Carol G	Deborah Sheinman	George Schneider	Jessica Adams	Kenneth Large	Margaret C Albrets	Nancy Gowani	Robert Mitchell	Susan Reid
Allen Salyer	Carol Goslant	Deborah Siebers	George Simon	Jessica Anderson	Kenneth Meersand	Margaret Cain	Nancy Gregory	Robert Mizar	Susan Rodriguez
Allen Todd	Carol Grady MacRae	Deborah Spencer	George Spruill	Jessica Andrews	Kenneth Nahigian	Margaret Champion	Nancy Haarmann	Robert Munro	Susan Rollins
Allen Yun	Carol Hatfield	Deborah Stowe	George Y. Bramwell	Jessica Card	Kenneth Rosenblad	Margaret Cobb	Nancy Hanson	Robert Nobrega	Susan Roverud
Allie Palmer	Carol Hewitt	Deborah Tebet	Georgia Braithwaite	Jessica Cresseveur	Kenneth Winer	Margaret Davies	Nancy Hartman	Robert Nowak	Susan Saltzman
Allison Castle	Carol Hill	Deborah Walsh	Georgia Forbes	Jessica Heiden	Kenny Lerner	Margaret Ellis	Nancy Hayden	Robert Obrien	Susan Sander
Allison Everitt	Carol Hoke	Deborah Wertz	Georgia Griego	Jessica Jacobson	Kent Iverson	Margaret Goscilo	Nancy Heck	Robert Osborne	Susan Santilli
Allister Layne	Carol Kaploe	Deborah Williams	Georgia Locker	Jessica Jakubanis	Kent John Clark	Margaret Griffin	Nancy Hiestand	Robert Plata	Susan Schlessinger
Ally Matteodo	Carol Khazai	Debra Ashton	Georgia Shankel	Jessica Jern	Kent Purdy	Margaret Guilfooy Tyler	Nancy Howard	Robert Racine	Susan Smith
Ally Mora	Carol Kotcher	Debra Bruegge	Georgie Peterson	Jessica Moody	Keren Kumar	Margaret Handley	Nancy Jahnel	Robert Reed	Susan Spilecki
Aloysius Wald	Carol Krasula	Debra Cameron	Georgina Ried	Jessica Ramirez	Kermit Cuff	Margaret Kitts	Nancy King	Robert Ressler	Susan Storch

Alson Sachs	Carol Lawrence	Debra Csenge	Gerald Czamanske	Jessica Sherwood	Kerry Burkhardt	Margaret Krause	Nancy Kyriacou	Robert Ross	Susan Strauss
Althea Harris	Carol Leibenson	Debra Floyd	Gerald Gouge	Jessie Casteel	Kerry Dietz	Margaret Lohr	Nancy Lipka	Robert Rutkowski	Susan Susan
Alton Roundy	Carol Leuenberger	Debra Goodnight	Gerald Gushleff	Jesus Montealegre	Kerry Heck	Margaret McGee	Nancy Luiz	Robert Sipe	Susan Thompson
Alva Pingel	Carol Lofgren Lofgren	Debra Krauss	Gerald Hallead	Jewell Batway	Kevin Bannon	Margaret Meinert	Nancy Lund	Robert Smith	Susan Thornton
Alyce Fritch	Carol Lynne Eyster	Debra Lane	Gerald Hassett	Ji Montgomery	Kevin Bessett	Margaret Milnes	Nancy M Francy	Robert Stark	Susan Triassi
Alycia Staats	Carol Martin	Debra Lichstein	Gerald Terwilliger	Jill Caldwell	Kevin Bickers	Margaret Murray	Nancy McCullough	Robert Stewart	Susan Valiga
Alyson Shotz	Carol Masuda	Debra Miller	Gerald Wambach	Jill Dahlman	Kevin Bissonnette	Margaret Needham	Nancy McRae	Robert Swett	Susan Vossler
Alyssa Melton	Carol McDaniel	Debra Moore	Geralyn Gulseth	Jill Davine	Kevin Branstetter	Margaret Olness	Nancy Miller	Robert Swift	Susan Watts
Amanda Alcamo	Carol Mone	Debra Moyer	Geralyn Leannah	Jill Greer	Kevin Callahan	Margaret Polino	Nancy Molner-Vieira	Robert W. Rhodes, III	Susan Williard
Amanda Clairmonte	Carol Nealy	Debra Rehn	GERARD GARDNER	Jill Grundfest	Kevin Chapman	Margaret Powell	Nancy Newbury	Robert Weggel	Susana Perez
Amanda Felt	Carol Ohlendorf	Debra Rulifson	Gerard Kuehn	Jill Jensen	Kevin Eisenstaedt	Margaret Rogers	Nancy Nilssen	Robert Wohlberg	Susanita Nichols
Amanda Heske	Carol Pennington	Debra Taylor	Geri Ott	Jill Mistretta	Kevin Gaczewski	Margaret Rydant	Nancy O'Hearn	Robert Wolf	Susanna Stone
Amanda Lowe	Carol Schaffer	Debra Westom	Gerritt and Elizabeth Baker-Smith	Jill Nicholas	Kevin Gallagher	Margaret Schulenberg	Nancy Partin	Robert Yancey	Susanne Groenendaal
Amanda Salvner	Carol Shelton	Debra Wontor	Gerry Masurat	Jill Suttle	Kevin Goodwin	Margaret Woll	Nancy Pearson	Robert Zeller	Susanne Kiriatty
Amanda Schmidt	Carol Skowronnek	Debra Wright	Gerry Williams	Jill Timm	Kevin Jensen	Margareta Lofstrom	Nancy Prowell	Roberta Bishop	Susanne Madden
Amanda Smock	Carol Souva	DeDe O'Donnell	Gertrude Turley	Jill Wettersten	Kevin Kimmel	Margarita Perez	Nancy Rasmussen	Roberta Corona	Susanne Press
Amanda Spalt	Carol Stanton	Dee Costello	Gilda Valli	Jill Wiechman	Kevin Laliberte	Marge Barry	Nancy Reynolds	Roberta Giblin	Susanne Varlese

Amanda Taylor	Carol Steinhart	Dee Kearney	Giles Sydnor	Jillana Laufer	Kevin Milam	Marge Joefreda	Nancy Riggelman	Roberta Glaze	Susi Westwood
Amanda Zangara	Carol Stevens	Dee Randolph	Gillian Miller	Jillian Fiedor	Kevin O'Rourke	Margo Robinson	Nancy Roane	Roberta Orlando	Susie Duckworth
Amber Abascal	Carol Taggart	Dee Sands	Gina Antonino	Jim Allen	Kevin Petty	Margo Slaughter	Nancy Roberts-Moneir	Roberta R Czarnecki	Susie Lopez
Amber Murphy	Carol Tavani	Dee Steele	Gina Gatto	Jim Brunton	Kevin Proescholdt	Margo Vanderhill	Nancy Saunders	Roberta Shields	Susie Warner
Amitav Dash	Carol Uschyk	DeeAnn Saber	Gina Johansen	Jim Capizzo	Kevin Quail	Margo Wyse	Nancy Scarzello	Robin Coleman	Suz Weis
Amy Benesch	Carol Vandeveire	Deedee Tostanoski	Gina LoBiondo	Jim Clapp	Kevin Rauch	Margot Lowe	Nancy Schuhrke	Robin Covino	Suzann Cummings
Amy Dalporto	Carol Yerden	Deepak Dadlani	Gina Ness	Jim Fisher	Kevin Rolfes	Margret Cifaldi	Nancy Schultz	Robin Craft	Suzanne Barns
Amy Elston	Carole Ann Cole	Deirdre Morris	Gina Norton	Jim Head	Kevin Silvey	Marguerite Doyle	Nancy Schwartz	Robin Dax	Suzanne Esaine
Amy Fleiss	Carole Helmkamp	Delia Almares	Gina Petty	Jim Krebs	Kevin Walsh	Marguerite Eliasson	Nancy Schweiger	Robin Lightner	Suzanne Immonen
Amy Harlib	Carole Korn	Delmar Fadden	Gina Price	Jim Landua	Kevin Worker	Marguerite Fortin	Nancy Sidebotham	Robin Mater	Suzanne Jones
Amy Kalblein	Carole Maclure	Dempsey Holloway	Gina Read	Jim Leske	Khai Hang	Marguerite Shuster	Nancy Sowersby	Robin Pappas	Suzanne Kruger
Amy Kelm	Carolina Moreno	Denine Heinemann	Gina Turner	Jim Lewis	Kia H.	Mari Elvi	Nancy Stamm	Robin Patten	Suzanne Kunstman
Amy Lagrone	Caroline Kane	Denis Tidrick	Ginger brewer	Jim Lindsay	Kian Daniel	Mari Mennel-Bell	Nancy Tate	Robin Perry	Suzanne M.
Amy Liebman	Caroline Kipling	Denise Bonk	Ginger Pierce	Jim Loveland	Kim Altana	Maria Cadeddu	Nancy Treffry	Robin Peterson	Suzanne Malis-Andersen
Amy McClintock	Caroline Kirsch	Denise Cameron	Ginnie Preuss	Jim Melton	Kim Block	Maria Casler	Nancy White	Robin Pinsof	Suzanne Murray
Amy Merritt	Caroline Sévilla	Denise Churchill	Gisela Zech	Jim Murphy	Kim Brower	Maria Cetrola	Nancy Woolley	Robin Reinhart	Suzanne Schaem
Amy Polenberg	Caroline Van Haeften	Denise Cooper	Gisele De Mulder	Jim Spooner	Kim Chaney	Maria Corvalan	Nancy Yarosis	Robin Spiegelman	Suzanne Thomas
Amy Roberts	Carolita McGee	Denise Lenardson	Gladys Simerl	Jim Stone	Kim Davis	María Dabrowski	Naomi AVISSAR	Robin Swope	Suzanne Torkar

Amy Scarpinato	Carolyn De Mirjian	Denise Martini	Gladys Tchatal	Jim Strickland	Kim Fetters	Maria Dominicis	Naomi Klass	Robin Van Tassell	Suzi Beaton
Amy Schumacher	Carolyn Dickson	Denise Meadow	Glen Holstein	Jim Trepka	Kim Godwin	María García	Naomi Linkous	Robin Vogler	Suzie NOVAK
Amy Stiles	Carolyn Haupt	Denise Motta	Glen Van Slyke	Jim Yarbrough	Kim Halizak	Maria Gonzalez	Naomi Weismn	Robin Weirich	Suzy Clarkson Holstein
Amy Veloz	Carolyn Massey	Denise Ress	Glen Wetzel	Jim Zubko	Kim Keller	Maria Louise Morandi Long Zwicker	Natalie Aharonian	Robin Wright	Sy Brown
Amy Wrobel	Carolyn Nieland	Denise Sprague	Glenda Krause	Jimmie Lunsford	Kim Kensler-Prager	Maria Machado	Natalie DeBoer	Robyn Deciccio	Sybil Kohl
Ana Cots	Carolyn Pearson	Denise Vandermeer	Glenn Barclift	Jimmy Doty	Kim Lines	Maria Miller	Natalie Hall	Robyn Dibble	Sydney Allrud
Ana Herrero	Carolyn Repeta	Denise Ward	Glenn DeLuca	Jinn Ngo	Kim McReavy	Maria Miranda	Natalie Malec	Robyn Little	Sylvia Cardella
Ana Johnson	Carolyn Rice	Denise Zembryki	Glenn Hufnagel	Jitka Mencik	Kim Miceli	Maria Nowicki	Natalie Warren	Rochelle Gravance	Sylvia De Baca
Ana Salinas	Carolyn Riddle	Dennis Baldry	Glenn Nappi	JL Angell	Kim Porter	Maria Peteinaraki	Natasha Saravanja	Rochelle Lazio	Sylvia DeMars
Anah McMahon	Carolyn Ryan	Dennis Honkomp	Glenn Novak	JL Charrier	Kim Powell	Maria Pia Scotto di Frega	Nathan Nielsen	Rochelle Massey	Sylvia Nachlinger
Analisa Crandall	Carolyn Stenseth	Dennis Knaack	Glenn Schlippert	Jo Ann Herr	Kim Smith	Maria Schiller	Nathan Pate	Rocquelle Woods	Sylvia Selverston
Anastasia Yovanopoulos	Carolyn Summers	Dennis Kreiner	Gloria Aguirre	Jo Baxter	Kim Springer	Maria Vitória Magri	Nathan Tompkins	Rod Ridenhour	Sylvia Shaw
Andi Shotwell	Carolyn Walker	Dennis Ledden	Gloria and Bob Ziller	Jo Harvey	Kim Swenka	Mariam Andalibi	Nathan Wetzel	Rodney O'Bryant	Sylvia Vairo
Andra Heide	Carrie Cammack	Dennis McGee	Gloria Cash-Procell	Joan Andersson	Kimberley Harris	Marian Aument	Naveen Chilakapati	Roger Cardillo	Sylvia Wessels
Andre Meaux	Carrie Darling	Dennis McVey	Gloria Diggle	Joan Breiding	Kimberly Allen	Marian Carter	Nawal Tamimi	Roger Clark	T B
Andrea And Al	Carrie Hartigan	Dennis Nagel	Gloria McClintock	Joan Carlson	Kimberly Badger	Marian Erwin	Neal Steiner	Roger Delmar	T Bruster
Andrea Bonnett	Carrie Luce	Dennis Tackett	Gloria Navan	Joan Chryst	Kimberly Bailey	Marian Kauffman	Ned Long	Roger Hollander	T Gargiulo
Andrea DePaola	Carrie Olds	Dennis Werner	Gloria Sefton	Joan Cummings	Kimberly Bouchard-Shapiro	Marian Volkman	Neena Deibler	Roger Kulp	T Jeffries

Andrea Eisenberg	Carrie Thompson	Derek Benedict	Gloria Shen	Joan Daniels	Kimberly Carignan	Mariana Tupper	Neil Harrison	Roger Schmidt	T Todaro
Andrea Fetsko	Carroll Arkema	Derek Carpenter	Gm Whiting	Joan Dulberg	Kimberly Derwent	Marian Kitty Dennis	Neil Hastings	Roger Stanley	Tai Stillwater
Andrea Fritz	Caryl Pearson	Derek Collett	Gordon Cook	Joan Ford	Kimberly Hollis	Marianna Mejia	Neil Puckett	Roger Woitte	Takako Ishii-Kiefer
Andrea Hall	Caryn Ackerman	Derek Gendvil	Gordon Parker III	Joan Hansen	Kimberly Howard	Marianne Flanagan	Neilia Pierson	Rohini Gangasarran	Tamara Bergum
Andrea Kendall	Caryn Cowin	Derinda Nilsson	Gordon Wood	Joan Hebert	Kimberly Hurschik	Marianne Frusteri	Nelly Prestat	Roland D'amour	Tamara Dreier
Andrea Pellicani	Caryn Graves	Devon Benton	Grace Nicholson	Joan Kalvelage	Kimberly Lang	Marianne Lappin	Nena Cook	Rolf Friis	Tamara Filas
Andrea Snyder	Casee Maxfield	Devon Seltzer	Grace Payne	Joan Klein	Kimberly McConkey	Marianne Lazarus	Nevada Rousey	Romona Czichos	Tamara Gossard
Andrea Turner	Casey Herr	Dhanraji Ramlakhan	Grace Reynolds	Joan Lewin	Kimberly Nieman	Marie Alabiso	Neville Bruce	Ron Cuoio	Tamara Larned
Andrea Zajac	Cason Snow	Dia Schumacher	Grace Silva	Joan Smith	Kimberly Pettit	Marie Cabaroc	Neville Dunn	Ron De Stefano	Tamara Rakow
Andrea Zinn	Cassandra Tereschak	Diana Angelis	Gracie Campbell	Joan Stelter	Kimberly Rice	Marie D'Anna	Nezka Pfeifer	Ron Faich	Tamara Voyles
Andrew Ashburn	Cassie C	Diana Baker	Graciela Ramirez	Joan Yater	Kimberly Seger	Marie Dickenson	Nichelle Virzi	Ron Harder	Tami Beck
Andrew Cardno	Cassie Fletcher	Diana Black	Grady Warren	Joan Youell	Kimberly Swenson-Zakula	Marie Driscoll	Nicholas D Frederick	Ron Marshall	Tami Harvey
Andrew Carman	Cate Bedzyk	Diana Bohn	Greg and Becky Zahradnik	Joann Ramos	Kimberly Teraberry	Marie Garescher	Nicholas Franklin	Ron Melin	Tami Linder
Andrew Grob	Cate Manochio	Diana Duffy	Greg Bischof	Joann Wilson	Kimberly Vaz	Marie Horan	Nicholas Kovalcik	Ron Melsha	Tami McCready
Andrew Hayter	Catherine Anders	Diana Goslin	Greg Brown	Joanna Hollis	Kimberly Vincent	Marie Hutchens	Nichole Dimond	Ron P	Tami Palacky
Andrew Hellinger	Catherine Arnett	Dianna Kekule	Greg Dinger	Joanna Kling	Kimberly Walker	Marie Mildner	Nichole Holden	Ron Rahav	Tami Trearse
Andrew Hoffman	Catherine Cerqua	Diana Lee	Greg Espe	Joanna Ridgway	Kinney Evitt	Marie Napolitano	Nick Barcott	Ron Richter	Tammi Priggins

Andrew Isoda	Catherine Chaney	Diana Lewis	Greg Kay	Joanna Zacari	Kira Van Dijk	Marie Neville	Nick Macdonald	Ron Shansby	Tammi Stewart
Andrew Jackson	Catherine Elsacker	Diana M. Williams	Greg Onsel	Joanne Barnes	Kirk Rhoads	Marie Raich	Nick Mouzourakis	Ron Snyder	Tammy Bullock
Andrew Middleton	Catherine Harrington	Diana Morgan-Hickey	Greg Ptucha	Joanne Britton	Kishan Wiratunga	Marie Smith	Nicola Dandelion	Ron Torretta	Tammy King
Andrew Mueckenberger	Catherine J Stout	Diana Pace	Greg Sells	JoAnne Cohen	Kitty D'Antonio	Marie Travis	Nicola Nicolai	Ron Weiss	Tammy Lettieri
Andrew Philpot	Catherine Jex	Diana Praus	Greg Stawinoga	Joanne Desposito	Kitty Emerald	Marie Young	Nicolas Duonn	Rona Rosen	Tammy Ritchie
Andrew Robbins	Catherine McNamara	Diana Soleil	Greg Sweel	Joanne Lowery	Korinna Shan.	Marielle Marne	Nicolás Estévez	Ronald Carter	Tammy Rohatynski
Andrew Rosenthal	Catherine Morris	Diana Urbon	Greg Winton	Joanne McMillan	Korrine McCarthy	Marietta Scaltrito	Nicolas Gaete	Ronald Kucynski	Tammy Shaw
Andrew Siegal	Catherine Nelson	Diana Ward	Gregg Matson	Joanne Rongo	Kris Akione	Marija Minic	Nicolas Humphrey, PhD	Ronald Larsen	Tan Dugi
Andrew Wadsworth	Catherine Saint-Clair	Diana Williams	Gregg Oelker	Joanne Sulkoske	Kris Knoll	Marilee Meyer	Nicole D Frezza	Ronald Olszewski	Tanja Rieger
Andrew Willman	Catherine Sims	Diane Armagost	Gregory Bowling	Joaquim Pujals	Kris Lacy	Marilee Murray	Nicole Fountain	Ronald Ratner	Tansy Woods
Andy Johnson	Catherine Tierney	Diane Arnal	Gregory Esteve	Jocelyn Stowell	Kris N.	Marilyn Briones	Nicole Hickox	Ronald Schlesinger	Tanya Field
Andy Lupenko	Catherine Uchiyama	Diane Barbera	Gregory Fite	Jodi Rodar	Kris Strate	Marilyn Campolettano	Nicole Reicher	Ronalee Thatcher	Tanya Milanowski
Andy Lynn	Catherine van Zanten	Diane Bolon	Gregory Freeman	Jodi Rowe	Krissy Ash	Marilyn Conrad	Nicole Wilke	Ronda O'Bryant	Tanya Piker
Andy McNutt	Catherine Webster	Diane Cook	Gregory Garnant	Jodie Zupancic	Krista Sexton	Marilyn Costamagna	Nicoleta Sava	Rondane Hollar	Tanya Taylor
Andy Zahn	Catherine Williams	Diane Craig	Gregory Penchoen	Jody Gibson	Krista Taylor	Marilyn Eng	Nika Kollar	Ronnie Bolling	Tara Charvet
Anette Cyr	Cathie Ernst	Diane DiFante	Gregory Reingruber	Jody Heriot Dehart	Kristen Bossert	Marilyn Evenson	Nikki P	Rosalind Ivens	Tara Mueller
Angel Orona	Cathie Kwasneski	Diane Faircloth	Gregory Robinson	Jody Olvera	Kristen Brown	Marilyn Flower-Stachenfeld	Nikki Wojtalik	Rosalind Kotlar	Tara Roberts

Angela Anderson	Cathy Barton	Diane Gaertner	Gregory Strauss	Joe Cundari	Kristie Eklund	Marilyn Fuller	Niles and Michele Busler	Rosalinda Turner	Taran Green
Angela Callis	Cathy Brandt	Diane Gargiulo	Gret Rowe	Joe Glaston	Kristin Bradley	Marilyn Kolar	Nina Aronoff	Rosalyn Rohloff	Taren Atkins
Angela Clark	Cathy Brunick	Diane Hart	Greta Rossi	Joe Hernandez	Kristin Campbell	Marilyn Lee	Nina Berry	Rose Jenkins	Taryn Haynes
Angela Cole	Cathy Curtis	Diane Kent	Gretchen Sand	Joe Marsala	Kristin Crage	Marilyn Linley	Nina Davis	Rose Marie Stef	Tascha Babitch
Angela H	Cathy Grovenburg	Diane Kulungian-Halabi	Guadalupe Sanchez-Luna	Joe Nichols	Kristin Felix	Marilyn Martin	Nina French	Rose Minasian	Tatiana Medina
Angela Hoehne	Cathy Kraus	Diane LaMagdeleine	Gudrun Dennis	Joe Sidor	Kristin Freeman	Marilyn Montgomery	Nina Gondos	Rose Shulman	Tatiana Zolotareva
Angela Hughes	Cathy Nieman	Diane Lamont	Gudrun Weinberg	joe smith	Kristin Graziano	Marilyn Quindo	Nina Minsky	Roseann Dudrick	Tatyana Stevens
Angela Jones	Cathy Simmons	Diane Lutz	Gunnar Sievert	Joe Swabb	Kristin Green	Marilyn Turney	Nina Perino	Roseann Santangelo	Taylor Brown
Angela Knable	Cathy Staniunas	Diane Martin	Gustaf Sarkkinen	Joe Tricase	Kristin Hegwood	Marilyn Weir	Nina Wouk	Roseanne Pacheco	Ted Fishman
Angela Kump	Cathy Thompson	Diane Merrick	Guy Nguyen	Joe Tutt	Kristin Konstanty	Marilyn Wendt	NK A	Rosemarie Bisiar	Ted Hume
Angela Phoenix	Cathy Wootan	Diane Miller	Gwen Carlson	Joe Walicki	Kristin Logerquist	Mari Lynn Herman	NM Porter	Rosemarie Garczynski	Ted LaPage
Angela Plagge	Cathy Elizabeth Levin	Diane Nemitz	Gwen Innes	Joel Cooper	Kristin Maurelia	Marina Omaña	Noa Iacob	Rosemarie McPeake	Ted Rasch
Angela Ramirez	Cave Man	Diane Pease	Gwen Myers	Joel Eisenberg	Kristin Smith	Marina Ris	Noah Hanmer	RosemarieSawdon Sawdon	Ted Silen
Angela Ridolfo	Cece Samp	Diane Rymer	Gwen Shotwell	Joel Kay	Kristin Vyhna	Mario E Martínez	Noah Mabon	Rosemary A. Kaszuba	Tedd Ward Jr.
Angela Schieferecke	Cecil Philip	Diane Soddy	Gwen Stone	Joel Masser	Kristin Wise	Mario G. Rivera	Noah Youngelson	Rosemary Bernier	Tem Narvios
Angela Wilkinson	Cecilia Brown	Diane Tessari	Gwen Straub	Joel Meier	Kristin Womack	Mario Velarde	Nocturnal Wind	Rosemary Busterna	Tere Giganti
Angela Wilson	Cecilia Nevel	Diane Young	Gwendolyn East	Joel Quaintance	Kristina Fedorov	Marion Irwin	Noelle Cormier	Rosemary Caolo	Teresa Beutel
Angelica Jochim	Cecilia Seabrook	Diane-Michele Petrillo	Gwendolyn Kent	JoEllen Rudolph	Kristina Wunder	Marion Kraus	Nona Weiner	Rosemary Ross	Teresa Daylight

Angelina None	Cecly Corbett	Diann Rose	Gwenna Weshinsky	Johan Van Dijk	Kristine Soly	Marion Shepherd	Nora Groeneweg	Rosemary Sweatt	Teresa Johnsen
Angeline Sieb	Celeste Hong	Dianna Burton	H Ande	Johanna Hantel	Kristine Winnicki	Marisa Besteiro	Nora Walker	Rosina Harter	Teresa Ligorelli
Angell Chisholm	Celeste M Anacker	Dianna Holland	H S	Johanna Mueller	Kristy Bonoyer	Marisa Landsberg	Norda Gromol	Roslyn Jones	Teresa Lyman
Angi Tilley	Celeste Tindall	Dianna McNair	H. Rosenberg	John A Beavers	Kristy Lindberg	Marita-Constance Supan, IHM	Norm Wilmes	Ross Huffman-Kerr	Teresa Martin
Angie Baker	Celia Celorio	Dianne Bragg	H.L. Chris Chrissos	John Altshuler	Kristy Pace	Marivee Frayer	Norma Campbell	Roth Woods	Teresa Reno
Anil Prabhakar	Ceri McClellan	Dianne Ensign	Hailey Wood	John Andes	KT Guthrie	Marjorie Angelo	Norma Feagin	Roxana Huggins	Teresia LaFleur
Anira Newman	Cesarina Somogy	Dianne Matheny	Hal Pillinger	John B Lizak	Kurt Cruger	Marjorie Pasch	Norma Kafer	Roxanne Hartung	Teri Danos
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Anita Pearl	Chad Evans	Dirk Beving	Hannah Liu	John Brown	Kurt Johnston	Marjorie Xavier	O Lewis	Roy Wessbecher	Teri Spray
Anita Sullivan	Chantal Buslot	Dirk Faegre	Hannes Brunner	John Burke	Kurt Kessner	Marjory Keenan	O.C. Oliveira	Rudolph P. Tucich, Sr.	Terilyn Palanca
Anita Watkins	Chantel Mitchell	Dixie Nihsen	Harley Pierce	John Burrridge chem engineer	Kurt Kiebler	Mark and Patti McMahan	Olga Suldovská	Rush Hardin	Terrance Hutchinson
Anita Youabian	Char Esser	DJ Fura	Harold Mann	John Carpenter	Kurt Simer	Mark Blandford	Olga Zakharova	Russ Cross	Terri Bachman
Anja Phenix	Char Sch un mann	DK Weamer	Harold Thompson	John Carroll	Kylara Hunter	Mark Bradley	Oliver Guichard	Russ Ziegler	Terri Greene
Anje' Waters	Charesa Harper	Dobi Dobroslawa	Harriet Cohen	John Catherine	Kyle Haines	Mark Cappetta	Omar Siddique	Russell Fowler	Terri Knauber
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Ann Coz	Charlene Henley	Domenica Ott	Harriett Clementson	John Crosby	L M	Mark Fanatico	P Nunez	Ruth Boice	Terry Cline

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Ann Prych	Charles Byrne	Don Hon	Hashi Hanta	John Everett	Lalie Burns	Mark Gorsetman	Pam Bonaventura	Ruth Koblenz	Terry Tedesco
Ann Rossman	Charles Dineen	Don Jacobson	Hatley Morison	John Feeney	Landis Crockett	Mark Grossman	Pam Doran	Ruth Overdier	Terry Wolfe
Ann Storms	Charles Favorite	Don Nardone	Haven Knight	John Geiger	Lani Hummel	Mark Hayduke Grenard	Pam Elders	Ruth Schechter	Terry Yada
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Ann Wiseman	Charles Fox	Don Steininger	Hazel McCoy	john Haller	L'Ann Bingham	Mark Houdashelt	Pam Harper-Smith	Ruth Wilburn	Thane Harpole
Anna Brewer	Charles Hammerstad	Don Thomsen	Heath Post	John Hill	Lanora and Damon Ovino	Mark Howard	Pam Millett	RW Marzulla	Theda Zaretsky
Anna Cowen	Charles Hammock	Don Worley	Heather Babb	John Hinnant	Laren Kessler	Mark Hurst	Pam Negri	RY Moran	Theodora Boura
Anna Drummond	Charles Heinrichs	Dona LaSchiava	Heather Braut	John Holmes	Larry Benvenuti	Mark Knowles	Pam Parsons	Ryan Zupancic	Theodora Jenkins
Anna Eyring	Charles Hessler	Donald & Gerda Nightingale	Heather Cross	John Howden	Larry Bogolub	Mark Reback	Pam Pritzl	S Bracken	Theodore King
Anna Jasiukiewicz	Charles Huff	Donald A Cook	Heather Dale	John Joadwine	Larry Bullock	Mark Redmond	Pam Roux	S. Cook	Theodore Voth
Anna K	Charles McCullagh	Donald Betts	Heather Haverfield	John Kerschbaum	Larry Cunningham	Mark Ristow	Pam Sohan	S E Williams	Theresa Bucher
Anna Kolovou	Charles Mcsweeney	Donald Coleman	Heather Huggins	John Kesich	Larry Gioannini	Mark Rodgers Sr	Pam Turick	S L	Theresa Hebron

Anna Louise Fontaine	Charles Smith	Donald Fatzinger	Heather Mallow	John Kinsella	Larry Johnson	Mark Ryneerson	Pamela Breitwater	S. Paren	Theresa Lianzi
Anna Narbutovskih	Charles W Baumann	Donald Keyser	Heather Marsh	John Kirchner	Larry Lewis	Mark Scheunemann	Pamela Brocious	S Patrick	Theresa M. Campbell
Anna Rincon	Charles Wieland	Donald Kosak	Heather Miller	John Koehler	Larry Macey	Mark Skevofilax	Pamela Colony	S S	Theresa Morris
AnnaMary Walsh	Charles Wirth	Donald Stanko	Heather Murawski	John Kozub	Larry MacInnis	mark snawadzki	Pamela Goodman	S. Andregg	Theresa Neidich
Anne Baker	Charles Wolfe	Donald Taylor	Heather Nordin	John Kreft	Larry Musson	Mark Sweeney	Pamela Green	S. Burgess	Theresa Owens
Anne Dal Vera	Charlie Burns	Donald Walsh	Heather R	John Lampson	Lascinda Goetschius	Mark Thompson	Pamela Hamilton	S. Nam	Therese DeBing
Anne Hibbard	Charlotte Fremaux	Donelle Sawyer	Heather Tachna	Jahn Lazor	Laura Arias	Mark Vargo	Pamela Kjono	S. Smith	Therese Steinlauf
Anne Hoop	Charlotte Mullen	Donna Bing	Hector Bertin	John Lent	Laura Boden	Mark Walton	Pamela Leverett	Sabine Sedall	Thomas Berg
Anne Imhoff	Charlotte Serazio	Donna Bookheimer	Heide Coppotelli	John Leonard	Laura Bruess	Mark Waltzer	Pamela Llewellyn	Sabine Williams	Thomas Brustman
Anne Jameson	Charlotte Sines	Donna Davidheiser	Heide Hennen	John Marro	Laura Chinofsky	Mark Weinberger	Pamela Miller	Sabrina Fedel	Thomas Campanini
Anne Lavine	Charmaine Henriques	Donna Davis	heidi ahlstrand	John McGinn	Laura Colston	Mark Wheeler	Pamela Mullins	Saffra Milano	Thomas Conroy
Anne M. Van Alstyne	Chas Griffin	Donna Gold	Heidi Genito	John Messer	Laura De la Garza Blanca	Mark White	Pamela Parrott	Sagar Patel	Thomas Cope
Anne Mazzone	Chas Martin	Donna Greathouse Neel	Heidi Mugrauer	John Miller	Laura Dufel	Marla Berry	Pamela Rogers	Sallie Donkin	Thomas Ferrito
Anne Millbrooke	Chaz Huffman	Donna Hreha	Heidi Shuler	John Murphy	Laura Ellenwood	Marla West	Pamela Yates	Sally Burke	Thomas Filip
Anne Olivares	Chelsea Hirtzel	Donna Ingenito	Heidi Siebens	John Nettleton	Laura Fake	Marleen Schussler	Paola Ayala	Sally Gilmore	Thomas Gorman
Anne Roda	Chere Gruver	Donna Jones	Helen Briner	John Nuffer	Laura Finazzo	Marlena Lange	Paola Maino	Sally Lunn	Thomas Guaraldi
Annette Bailey	Chereale Cormack	Donna Knipp	Helen Buchanan	John P	Laura Gamsby	Marlene Bicardi	Pat A.	Sally Maish	Thomas Hall
Annette Benton	Cheri Pierce	Donna Leavitt	Helen Curtis	John Paladin	Laura Gorman	Marlene Borton	Pat Barnes	Sally Marone	Thomas J Stocker

Annette Elder	Cheri Porter Keisner	Donna Marks	Helen Drwinga	John Pederson	Laura Guttridge	Marlene Schwarz	Pat Beyer	Sally Neary	Thomas Keane
Annette Fallin	Cherie Ticknor	Donna Parente	Helen Goldenberg	John Pitcher	Laura Herndon	Marlene Testaguzza	Pat Dosky	Sally Spelbring	Thomas Lesley
Annette Pirrone	Cherine Bauer	Donna Pope	Helen Greer	John Randolph	Laura Horton	Marlene Van Skike	Pat Fitz	Sally Stevens	Thomas Lewis
Annette Raible	Cheryl Biale	Donna Rhodes	Helen Kolff	John Reckling	Laura Huddlestone	Marley McDermott	Pat Harding	Sally Marie Jonesten	Thomas Nelson
Annette Tchelka	Cheryl Brumbaugh-Cayford	Donna Rowe	Helen Kopp	John Richkus	Laura J. Peskin	Marna Rusher	Pat Johnson	Salvatore Greco	Thomas Nieland
Annie Caton	Cheryl Carnahan	Donna Selquist	Helen Moissant	John Ronci	Laura Kaufman	Marquita Tanner	Pat Jones	Sam Asseff	Thomas Ray
Annie D'Lima	Cheryl Carney	Donna Sharee	Helen Morgan	John Rose	Laura Lynch	Marsha Adams	Pat Lang	Sam Butler	Thomas Ricobene
Annie McCann	Cheryl Champy	Donna Slowik	Helen Rutherford	John Schmittauer	Laura Lyons	Marsha Heinrich	Pat Mace	Samantha Holm	Thomas Rose
Annie McCombs	Cheryl Costigan	Donna Smith	Helen Sully Jones	John Schumacher	Laura Mazar	Marsha Henderson	Pat Magrath	Samantha Murphy	Thomas Sadowski
Annie McCuen	Cheryl Cusella	Donna Thomas	Helen Tanguis	John Scott	Laura Nardoza	Marsha Lyon	Pat Petro	Samantha Nathan	Thomas Small
Annie McMahon	Cheryl DeShaies	Donna Zsoldos	Heléna Kazandjian	John Seamon	Laura Pitt Taylor	Marsha Stanek	Pat Pire	Samuel Durkin	Thomas Thompson
Annie Woodward	Cheryl Eames	Donnalynn Warren	Helene Bank	John Simanton	Laura Prushinski	Marshall Sorkin	Pat Rose	Samuel Morningstar	Thomas Tizard
Ann-Marie Christopher	Cheryl Elkins	Donovan Mccall	Helmut Kothbauer	John Slate	Laura Ricci	Marta Hawkins	Pat Smith Hoare	Samuel Warner	Thomas Wolslegel
AnnMarie Sardineer	Cheryl Fergeson	Dora Oldham	Heloisa Henriques	John Smithers	Laura Sholtz	Marta Reyes	Pat Vescio	Sandi Ault	Thomasin Kellermann
anthony Anthony Gilchrist	Cheryl Hilton	Dorcas Marie Daly	Hendricka Samytowski	John Sray	Laura Siros	Martha Burton	Pati Jio	Sandi Redman	Tia Triplett
Anthony Colangeli	Cheryl Minieri	Doreen Terletzky	Henry Berkowitz	John Staunton	Laura Staples	Martha Byers	Patrice Capan	Sandra Angelini	Tiffani Long
Anthony Donnici	Cheryl Rigby	Doreen Tignanelli	Henry Gaudsmith	John Sturtevant	Laura Strong	Martha Carrington	Patrice Wallace	Sandra Arapoudis	Tiffany Buell
Anthony Jammal	Cheryl Vana	Dorine Kramer	Henry Mobley	John Sutherland	Laura Vera	Martha Cottle	Patricia Auer	Sandra Ashmore	Tiffany Deal

Anthony Kaye	Cheryl Walker	Doris Luther	Herb Sayas	John Teevan	Laura Woods	Martha D. Perlmutter	Patricia Blackwell-Marchant	Sandra Bergman	Tiffany Ehnes
Anthony Kerr	Cheryl Watters	Doris Potter	Herman Waetjen	John Travis	Laurel Brewer	Martha Karmann	Patricia Borri	Sandra Christopher	Tiffany Rapplean
Anthony Montapert	Cheryl Weiss	Doris Shultz	Herman Whiterabbit	John Viacrucis	Laurel Cameron	Martha Pinnola	Patricia Burton	Sandra Clark	Tika Bordelon
Anthony Ricciardi	Cheryl Whitehurst	Dorothea Leicher	Herschel Flowers	John Wadsworth	Laurel E Tate	Martha Seijas	Patricia Chambers	Sandra Costa	Tim Allard
Anthony Tower	Chessa Johnson	Dorothy Bruce	Heyward Nash	John Wheeler	Laurel Gress	Martha Spencer	Patricia Cooney	Sandra Couch	Tim Barrington
Antoine Parmentier	Chow-chi Huang	Dorothy Henry	Hilary Capstick	John White	Laural Mckay	Martha Stevens	Patricia Deluca	Sandra Dal Cais	Tim Dad
Antonia Chianis	Chris Aldrich	Dorothy Poppe	Hillary Ostrow	John Zimmermann	Laurel Powers	Marti May	Patricia Dion	Sandra Denninger	Tim DiChiara
Antonia Matthew	Chris Baird	Dorothy Saxe	Hillary Tiefer	Johnny And Debbie Alderson	Laurel Wagner	Martin Becker	Patricia Dishman	Sandra Forgan	Tim Fleischer
Antonio Scognamiglio	Chris Brunner	Dottie Buch	Holly Graves	Johnny Armstrong	Laurel Wilkinson	Martin Brockway	Patricia Dobson	Sandra Johnson	Tim Hanson
April A West	Chris Burns	Doug Allen III	Holly Hall	Johnny Fisher	Lauren A.	Martin Carroll	Patricia Espinosa	Sandra Joos	Tim Lawnicki
April Bravenec	Chris Busby	Doug Cecere	Holly Putman	Johnny Hall	Lauren Beebe	Martin Du Plessis	Patricia Fleetwood	Sandra Kawa	Tim Lewandowski
April Fennell	Chris Calvert	Doug Flack	Holly Rolfes	Johnny Wilson	Lauren Fenenbock	Martin Fisher	Patricia Gehring	Sandra Laase	Tim Linerud
April Narcisse	Chris Casper	Doug Franklin	Holly Smallwood	Jolie Misek	Lauren LeBlanc	Martin Fox	Patricia Grivetti	Sandra Lane	Tim McGrath
April Woods	Chris Dacus	Doug Frugé	Holly Tippet	Jo Lynn Jarboe	Lauren Linda	Martin Hazeltine	Patricia Hammons-Lewis	Sandra Materi	Tim Schmitt
Arden Green	Chris Erickson	Doug Gledhill	Hooman Larimi	Jon Anderholm	Lauren Moss-Racusin	Martin Horwitz	Patricia Hunter	Sandra Middour	Timothy and Angela Mitchell
Ariel Leibowitz	Chris Guillory	Doug Krause	Howard Petlack	Jon Cecil	Lauren Murdock	Martin Kuebler	Patricia Kelly	Sandra Nealon	Timothy Carroll

Arlen Tucker	Chris Kunkel	Doug Landau	Hugh Curtler III	Jon Eden	Lauren Ranz	Martin Marcus	Patricia May	Sandra Oliver-Poore	Timothy Coleman
Arlene Aughey	Chris Lewkowitz	Doug Metzler	Hunter Klapperich	Jon Erickson	Lauren Shaw	Martin Slater	Patricia McClanahan	Sandra Parry	Timothy Dunn
Arlene Baker	Chris Lish	Doug Ruth	Hyun Lee	Jon Hayman	Lauren Tartaglia	Martina Klingenfuss	Patricia Mensing	Sandra Resner	Timothy Dunnbier
Arlene Bolden	Chris Loo	Doug Swanson	I. Engle	Jon Jarvis	Lauren Wilson	Marty Crowley	Patricia Miller	Sandra Sobanski	Timothy Edward Duda
Arlene Butters	Chris Lopez	Doug Thompson	Ian Shelley	Jon Kiesling	Laurence Buckingham	Marty Harrison	Patricia Monacella	Sandra Steinle	Timothy Fridsma
Arlene Dreeste	Chris Lowe	Doug Wagoner	Ilana Krug	Jon Klingel	Laurence Margolis	Marty Nicholas	Patricia Moreno	Sandra Taggart	Timothy Harrison
Arlene Fullaway	Chris Marquardt	Doug Wittren	Ilene Budin	Jon Moulesong	Laurence Skirvin	Martyn Roberts	Patricia Nadreau	Sandra Walters	Timothy Lippert
Arlene Macintosh	Chris Moore	Douglas & Elvira Rivalsi	Ilya Speranza	Jon Mullin	Laurent Seugnet	Mary Ann and Frank Graffagnino	Patricia Nazzaro	Sandy Gross	Timothy Mullen
Arlene Sherman	Chris Ness	Douglas Campbell	Ilya Turov	Jon Pitt	Laurette Culbert	Mary Ann Maikish	Patricia nick	Sandy Levine	Timothy Post
Arlene Spencer	Chris Pedone	Douglas Johnston	Imogene Burkhart	Jon Van de Grift	Laurie Bentley	Mary Ann Nowack	Patricia Perron	Sandy Menden	Timothy Schacht
Arlene Zuckerman	Chris Piekarski	Douglas Poore	Ines Nedelcovic	Jonathan Clapp	Laurie Denis	Mary Ann Ware	Patricia Ramsey, Ph.D.	Sandy Moyer	Tina Bailey
Arlene Fass	Chris Rice	Douglas Schneller	Inge Ness	Jonathan Cruise	Laurie Ellis	Mary Anne Tokar	Patricia Reynolds	Sandy Rodgers	Tina Bartlett
Armando A. Garcia	Chris Roche	Douglas Sedon	Ingrid Broecker	Jonathan Halperen	Laurie Gogic	Mary Axle	Patricia Rodriguez Tillman	Sandy Steers	Tina Beedle
Arthur Bjork	Chris Rose	Dr Baker	Ingrid Brown	Jonathan Kennedy	Laurie Leland	Mary Baglivi	Patricia Santos	Sandy Whitley	Tina Floyd
Arthur Hagar	Chris Thigpen	Dr Fred and Mrs Patricia Montague	Ingrid Koch-Adler	Jonathan Mitchell	Laurie Lindemulder-Harris	Mary Bandura	Patricia Serra	Sandy Williams	Tina Garner
Artineh Havan	Chris VanDerhoof	Dr Kristi Dunn	Ingrid Rochester	Jonathan Nash	Laurie Loveman	Mary Barbezat	Patricia Smith	Sara Green	Tina Gregory

Arturo Beyeler	Christel Bel	Dr. Susan Huber	Irena Franchi	Joni Dennison	Laurie Neagle	Mary Barhydt	Patricia Stevesand	Sara Lazarus	Tina Grider
Asano Fertig	Christi Dillon	Drena LaPointe	Irena Tumova	Joni Mulder	Laurie Rowe	Mary Beagle	Patricia Stewart	Sara Stepnicka	Tina Grissom
Ashley Grace	Christiane Bruch	Drew Martin	Irene Bucko	Jordan Glass	Laurie Stadther	Mary Beth Davenport	Patricia Vance	Sarah Adrian	Tina Rogers
Ashley Hanshaw	Christie Lum	Dustin Cloyes	Irene Miller	Jordan Hayes	Laurie Sudol	Mary Beth O'Connor	Patricia Vineski	Sarah Date	Tina Sallee
Ashley Wapenski	Christie Ruppel	Dustin Dalman	Irene Osborn	Jordan Hunnicut	Laurie Toner	Mary Bingham	Patricia Williamson	Sarah Dean	Tina Seagraves
Ashley Yonker	Christina Babst	Dustin Kearns	Irene Roos	Jordan Longever	Lawrence Bojarski	Mary Bissell	Patricia Winters	Sarah Devine	Tina Sessions
Asphodel Denning	Christina Clement	Dustin Sotnyk	Irene Rowe	Jorge De Cecco	Lawrence Brown	Mary Brooks	Patrick Boot	Sarah Dougan	Tina Vazquez
Associazione Italiana Wilderness Franco Zunino	Christina DeRespiris	Dwight Hughes	Irene Sriboonwong	Jose Leroux	Lawrence Humphrey	Mary Catherine Moran	Patrick Callanan	Sarah Epstein	Tobe Martin
Astra Kalodukas	Christina Hodge	Dyan Muse	Irene Welch	Josefina Lopez	Lawrence Lima	Mary Cato	Patrick Conn	Sarah Garn	Tobey Thatcher
Astrid Geest	Christina Hodges	Dylan Flather	Irini Dieringer	Joseph A Flasch	Lawrence Magliola	Mary Clarke	Patrick Dannunzio	Sarah Kim	Toby Ann Reese
Aubrey Johnson	Christina McKeon	Dylan Murphy	Iris Carman	Joseph Azzarello	Lawrence Nitishin	Mary Dean	Patrick De La Garza Und Senkel	Sarah Lincoln	Tod Babick
Audrey Brown	Christina Penrose	Dylan Shaw	Iris Patty Yermak	Joseph Blum	Lawrence Rice	Mary D'Errico	Patrick Diehl	Sarah M	Todd Atkins
Audrey Lee	Christina Petridou	E A Guss	Irmgard Gutersohn	joseph bock	Lawrence Wright	Mary Dickson	Patrick Facht	Sarah Meyers	Todd Chenore
Audrey Quintero	Christina Viljoen	E Clark	Isabel Cervera	Joseph Conerton	Lea Ella Boyle	Mary Drake	Patrick Growe	Sarah Mullins	Todd Cisna
August Oberti	Christine Becker	E. James Nedea	Isabelle Boisgard	Joseph Dadgari	Leah Bush	Mary Eames	Patrick Hartnett	Sarah Peters	Todd Fisk
Autumn Garcia	Christine Borje	E.Muriel Gravina	Ivalee Wilson	Joseph Hardin	Leah Knapp	Mary Ellen Frye	Patrick Huey	Sarah Sismondo	Todd Fletcher

Aviva Shliselberg	Christine Caredda	Earl Poteet	J Davis	Joseph Hayes	Leah Wilson	Mary Gamson	Patrick Maher	Sarah Stewart	Todd Gross
Axel Vogt	Christine Dingeman	Ed Atkins	J Day	Joseph Lawson	Leann Turley	Mary Gershanoff	Patrick Niese	Sarah Townsend	Todd Jensen
Ayako Fujita	christine etapa	Ed Cornwell	J Farn	Joseph Quirk	Lee Johnson	Mary Hancock	Patrick Padovan	Sarah Walling	Todd Smarr
Ayesha Vavrek	Christine Gasco	Ed Fiedler	J K	Joseph Sebastian	Lee O'Brien	Mary Hard	Patrick Quinn	Sarah Weekley	Todd Snyder
Ayn Silverman	Christine Grabar	Ed K	J Lhesli Benedict	Joseph Skalecki	Lee Politis	Mary Harte	Patrick Roberts	Saran K.	Todd Southworth
Aysin Öztürk	Christine Hayes	Ed Kordas	J Lukas	Joseph suarez	Lee Rhoads	Mary Hayes	Patrizia Arvati	Saraphine Metis	Tom Armagost
B. R. Lemonik	Christine Johnson	Ed Loosli	J Noble	Joseph Wasserman	Lee Winslow	Mary Hickey	Patti Davis	Sarita Vij	Tom Beatini
B. Thomas Diener	Christine Marquette	Ed Parks	J. Barry Gurdin	Josh Baresh	LeeAnn Lopez	Mary Hicklin	Patti Fink	Sarosh Patel	Tom Bornheimer
B. Z.	Christine McLaughlin	Ed Perry	J. Beverly	Josh Cupriks	Leena Maristo	Mary Hurley	Patti Gmeiner	Sasha Gibbons Kirby	Tom Emmott
Babara Franck	Christine Mueller	Ed Popielarczyk	J. Dana Forbes	Josh Schafer	Lehman Holder	Mary Jane Cupp	Patti Johnson	Sasha Jackson	Tom Harris
Barb Brunton	Christine Novak	Ed Zimmermann	J. David Scott	Josi Chow	Leigh Begalske	Mary Jo Butler	Patti Schultze	Saskia Santos	Tom Hougham
Barb Kruse	Christine Powell	Eddie Gutierrez	J. F.	Joslyn Pine	Leigh Saunders	Mary Johnson	Patty Adams	Savannah Hawkins	Tom McCarty
Barb Morrison	Christine Resch	Eddie Konczal	J. Moore	Joy Strasser	Leigh Winn	Mary Jones	Patty Erwin	Scheree Davis	Tom Nulty
Barb Travis	Christine Roane	Edele Heath	J.T. Smith	Joy Turlo	Leigh Yeoman	Mary Junek	Patty Linder	Scott Cecile	Tom Peace
Barbara Abraham	Christine Sirias	Edie Bruce	Jacci McKenna	Joyce Alexander	Leila Mohseni	Mary Keitelman	Patty Viers	Scott Chapman	Tom Quinn
Barbara Aronowitz	Christine Walton	Edith Ogella	Jack Dais	Joyce Burk	Leila Tawil	Mary Kennedy Ice	Patty Young	Scott Crain	Tom Sahlin
Barbara Benson	Christine Wordlaw	Edna Anderson	Jack Polonka	Joyce ciotti	Leilah Yanez	Mary Khalil	Paul Allen	Scott Dale Deering	Tom Schrader
Barbara Bernhart	Christopher Carbone	Edson Rood	Jack Raby	Joyce Frohn	Lela Perkins	Mary Lebert	Paul Bechtel	Scott Emsley	Tom Suk
Barbara Bersell	Christopher Chatard	Eduardo Izquierdo	Jack Roberts	Joyce Hodel	Len Fennessy	Mary Loughlin	Paul Belz	Scott Gibson	Tom Tripp

Barbara Bills	Christopher Evans	Edward Bennett	Jacki Coughlin	Joyce Janicki	Len Greenwood	Mary Louise Wooldridge	Paul Blackburn	Scott Harrison	Tonda Bailey
Barbara Bonfield	Christopher F. Vota	Edward Bielaus	Jackie Carroll	Joyce Lahna	LenaMae Maki	Mary Martin	Paul Caprioli	Scott Kennedy	Toni Klos-Huber
Barbara Bradley	Christopher Hamilton	Edward Butler	Jackie Freeman	Joyce Olsen	Lenore Beck	Mary McAuliffe	Paul Cooley	Scott Landolt	Toni Patterson
Barbara Brunell	Christopher Kirkman	Edward Carkuff	Jackie Grguric	Joyce Overton	Lenore Reeves	Mary McGaughey	Paul Daniello	Scott Lundgren	Toni Smalley
Barbara Childers	Christopher Kohlman	Edward Cassidy	Jackie Pomies	Joyce Pusel	Lenore Sivulich	Mary McGeary	Paul Deschenes	Scott Maclowry	Toni Thomas
Barbara Conrad	Christopher Lepple	Edward Fisher	Jackie Purpura	Joyce Stoffers	leo lieber	Mary Mckenzie	Paul Dyer	Scott Merrell	Tonia Liss
Barbara Coy	Christopher Riti	Edward Giguere	Jackie Smith	Juanita Montano	Leo Shapiro	Mary Morse	Paul Eisenberg	Scott Messick	Tony and Cindy Guarnieri
Barbara Fite	Christopher Still	Edward Henderson	Jacky Westoby	Juanita Rinas	Leon Werdinger	Mary Orr	Paul Grove	Scott Meyer	Tony Barron
Barbara Frances	Christopher Stimson	Edward Hubbard	Jacque Vulcano	Jude Green	Leonard Epstein	Mary P Anderson	Paul Hoernig	Scott Nelson	Tony Espinosa
Barbara Gholz	Christopher Tobias	Edward Jasiewicz	Jacqueline Birnbaum	Judi Burbes	Leonard Schoch	Mary Peele-Masek	Paul Hughes	Scott Swanson	Tony Jones
Barbara Giorgio	Christopher Tumolo	Edward Kaeufer	Jacqueline Cuthbertson	Judi Malinish	Leonid Volovnik	Mary Pivarnik	Paul Hunrichs	Scott Thurman	Tony Menechella
Barbara Greenwood	Christopher Ware	Edward Kuczynski	Jacqueline Eliopoulos	Judie Rae	Les Roberts	Mary Popiel	Paul Kalka	Sean Demers	Tony Piselli
Barbara Hargrove	Christy Moneymaker	Edward Kush	Jacqueline Glyde	Judith Ackerman	Les Waters	Mary Potvin	Paul Kindel	Sean Edmison	Tony Tsang
Barbara Harper	Christy Schilling	Edward Landler	Jacqueline Hollis	Judith Anderson	Lesley Finlayson	Mary Puccini	Paul Ladenheim	Sebastián Fernández	Tonya Michel
Barbara Hauck	Christy Spear	Edward Markushewski	Jacqueline Jenkins	Judith Bayer	Lesley Jorgensen	Mary Puckett	Paul M. Deauville	Seth Laursen	Tonya Sexton
Barbara Hoch	Chriz Ocean	Edward Maxedon	Jacqueline Zimmerman	Judith Benkendorf	Lesley Schultz	Mary Ramirez	Paul Manson	Seth Schneider	Tori Herbst
Barbara Johnson	Chuck Gehling	Edward Rengers	Jacquelyn Hoff	Judith Bennett	Leslie Byrnes	Mary Rodeman	Paul Massei	Sha'ari Garfinkel	Torri Beagle

Barbara Kadyszewski	Chuck Rocco	Edward Sienkiewicz	Jacqui Deveneau	Judith Berry	Leslie Colyer	Mary S Reed	Paul McCarthy	Shambhavi Taylor	Torunn Sivesind
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Barbara Kiernan	Cigy Cyriac	Edwin Gross, DDS	Jaedra Luke	Judith DiBiase Bennis	Leslie Hardyman	Mary Schultz	Paul Moss	Shana Gerwens	Tova Cohen
Barbara Letsom	Cinda Black	Edye Calderon	Jai Parekh	Judith E Wecker	Leslie Harper	Mary Sena	Paul Nehring	Shana Van Meter	Tracey Aquino
Barbara Levedahl	Cinda Johansen	Eileen Anglin	Jairus James	Judith Falck-Madsen	Leslie King	Mary Shabbott	Paul Nelson	Shandra Officer	Tracey Archer
Barbara Maat	Cindi dean	Eileen Awsikiewicz	Jake Cummings	Judith Fry	Leslie Klein	Mary Champney	Paul Palla	Shani Schulman	Tracey Bonner
Barbara Mason	Cindy Allison	Eileen Brophy	James Balder	Judith Keeley	Leslie Kuhn	Mary Sorokie	Paul Potts	Shannon Bearman	Tracey Cain
Barbara Mathes	Cindy Beckley	Eileen Herman-Haase	James Beeler II	Judith Kirk	Leslie Michetti	Mary Stanton	Paul Rubin	Shannon Elliott	Tracey Katsouros
Barbara McCane	Cindy Borske	Eileen Jones	James Bengel	Judith Pottle	Leslie Smith	Mary Steele	Paul Ryals	Shannon Hunter	Tracey Vivar
Barbara McMahan	Cindy Hatcher	Eileen Levin	James Berchert	Judith Poxon	Leslie Spoon	Mary Teresa Terlau	Paul Schmalzer	Shannon Irwin	Tracy Callow
Barbara Merrill	Cindy Lewis	Eileen McCorry	James Bond	Judith Ramos	Leslie Stewart	Mary Thornton	Paul Senyszyn	Shannon Milhaupt	Tracy Cole
Barbara Miller	Cindy Meyers	Eithne Clarke	James C Walton	Judith Wilson	Leslie Tate	Mary Troland	Paul Slack	Shari Sutherland	Tracy Drake
Barbara Poland	Cindy P.	El P.	James Caliva	Judith Wright	Leslie Ungar	Mary Tuma	Paul Swain	Shari Yudenfreund-Sujka, MD	Tracy Feldman
Barbara Prince	Cindy Stein	Ela Thomas	James Castellan	Judson Wynne	Leslie Valentine	Mary Wagner	Paul Toomey	Sharon Anderson	Tracy Foster
Barbara Rizzo	CJ James	Elaine Frech	James Chittenden	Judy Avery	Leslie Wilbur	Marry Williams	Paul Ward	Sharon Bolton	Tracy Kalesnik
Barbara Rosenkotter	Claire Bush	Elaine Genasci	James Cotten	Judy Basye	Letitia Noel	Mary Wilson	Paul Wellin	Sharon Breaman	Tracy Richards
Barbara Scott	Claire Leavitt	Elaine Johnson	James Cronin	Judy Bryan	Letizia Balsamo	Mary Zack	Paul West	Sharon Camhi	Tracy Templin
Barbara Shenton	Claire Prevost	Elaine Livesey-Fassel	James D. Gillian	Judy Castillo	Lezlie Ringland	Marya Bradley	Paul Williams	Sharon Carlson	Tracy Wang
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Barbara Tacker	Clarence Sutton	Elaine Parker	James Goodhart	Judy Kollar	Lida Stevenson	Mary Anna Foscett	Paula Glaser	Sharon Fetter	Tricis Satifka
Barbara Tillman	Claude krampe	Elaine Preston	James Hadcroft	Judy Madigan	Lila-Dave Astrow-Hendrickson	MaryAnne Morrow	Paula Grande	Sharon Gillespie	Trini Lish
Barbara Trypaluk	Claudette Kulkarni	Elaine Woodruff	James Haig	Judy McClung	Lilli Ross	Maryellen Redish	Paula Hartgraves	Sharon Hafner	Tristan Campbell
Barbara Wyatt	Claudia Chaffin	Elana Katz rose	James Harrell	Judy Mickey	Lillian Santana	Maryetta Pinn	Paula LeVous	Sharon Hamm	Tristan Sophia
Barclay Hauber	Claudia Chalden	Eleanor Dowson	James Heermans	Judy Moran	Lilly Dakouris	Maryjo Osowski	Paula Neville	Sharon Hawkins	Troy Tackett
Barney McComas	Claudia Foster	Eleanor Thomas	James Henriksen	Judy Oates	Lillyam Barberi	MaryRose Randall	Paula Pickerill	Sharon Hawkinson	Trudy Gerlach
Barrie Olsen	Claudia Garoutte	Elena C	James Herther	Judy Reynolds	Lily Lau-Enright	Matt Bender	Paula Posnick	Sharon Kearney	Trudy Jacobs
Barry Cutler	Claudia Hasenhuttl	Elena Moutier	James Hickey	Judy Shively	Lily Mejia	Matt Brzezinski	Paula Stober	Sharon LaLond	Tucker Thomas
Barry Farley	Claudia Kaplan	Elena Rumiantseva	James Hill	Judy Skopek	Lin Provost	Matt Kass	Paula Summers	Sharon Levit	Twyla Meyer
Barry Flaherty	Claudia Martinez	Eli Celli	James Hollis	Julanne Nowak	Linc Conard	Matt Probert	Paulette Schindele	Sharon Longyear	Tyler Graham
Barry Grimecy	Claudia Reed	Elimaris Gonzalez	James Johnson	Julia Benson	Linda A	Matt Woolery	Paulette Zimmerman	Sharon Mora	Tyra Pellerin
Barry Medlin	Claudia Sabine	Elin Soderquist	James Kawamura	Julia Bohnen	Linda Allen	Matthew Boruta	Paz Paulsen-Sacks	Sharon Nicodemus	Urmila Padmanabhan
Baysan Tulu	Claudia Wornum	Elinor Graham	James Kenny	Julia Bottom	Linda Calbreath	Matthew Iskra	Pearl Foster	Sharon Novak	Ursula Gruener
BC Shelby	Claudio Henriques	Eliot Moss	James Knott	Julia Cichon	Linda Campbell	Matthew Koehler	Pearl Zalon	Sharon Paltin	Utkarsh Nath
Bea Cohen	Claudio Simoes	Elisabeth Carroll	James Krafcik	Julia Fuller	Linda Carroll	Matthew Lipschik	Peggy Acosta	Sharon Peach	Uwe Dotzauer
Beatrice Broughton	Clayton Murray	Elisabeth Jakob	James Lennox	Julia Gillett	Linda Conner	Matthew Midgett	Peggy Alpert	Sharon Rodrigues	Vakerie LaBreche

Beatriz Pallanes	Clayton St. John	Elise McCoubrie	James Lohman	Julia Knaz	Linda Cramer	Matthew Reid	Peggy Carlisle	Sharon Stanke	Val Farrelly
Bebe McCarthy	Clifford Ballard	Elissa Eunice	James Mandler	Julia Maynard	Linda Cronin	Matthew Rivers	Peggy Cooley	Sharon Wolfsohn	Valarie Snell
Becca Forrest	Clifford J. and Christine E. Schmutz	Elissa Mericle-Gray	James McCarthy	Julia N Allen, PhD DVM	Linda Delaney	Matthew Watkins	Peggy England	Sharron Laplante, MD	Valdyne Viers
Becca Lesniewski	Clint Lenard	Elizabeth Adan	James Mondragon	Julia Skelton	Linda Eaton	Maureen Knutsen	Peggy Kocoras	Shary B	Valeri Fornagiel
Becki Leigh	Clive O'Donoghue	Elizabeth Ashby	James Moran	Juliana Cyman	Linda Eberle	Maureen Koneval	Peggy Moody	Sharyn Porter	Valerie Adell
Becky Andrews	Cody Curtis	Elizabeth Binstead	James Patton	Juliann Berman	Linda Ellingboe	Maureen McCullough	Peggy Oba	Shawn Johnson	Valerie Brown
Becky Breeding	Colby Kline	Elizabeth Butler	James R Monroe	Juliann Rule	Linda Evinger	Maureen Ouellette	Peggy S. Collins	Shawn Jones-Bunn	Valerie Charbonneau
Becky Calhoun	Cole Grabow	Elizabeth Carlisle	James Roberts	Julie Allnutt	Linda Fadem	Maureen Porcelli	Peggy Thompson	Shawn Kakuk	Valerie Dilger
Becky Wood	Coleen Bush	Elizabeth Cruickshank	James Santoro	Julie Beer	Linda Farmer	Maureen Wheeler	Peggy Tribble	Shawn Liddick	Valerie Fannin
Bee Evans	Colene Flaherty	Elizabeth Eich	James Scarborough	Julie Berberi	Linda Fielder	Maurice Grefe	Peggy Yeargain	Shawn O'Grady	Valerie Hildebrand
Belinda Biddle	Colette Breton	Elizabeth Enright	James Sorrells	Julie Block	Linda Fowler	Maurice Rosenstraus	Pela Tomasello	Shawn Olsen	Valerie Leonard
Belinda Collins	Colette Sherrington	Elizabeth Guzyski	James Steger	Julie Clayman	Linda Francisco	Maurice Samuels	Penelope Andrews	Shawn Tays	Valerie Ranne
Ben Badger	Colette Wilson	Elizabeth Hartrick	James Stoner	Julie du Bois	Linda Freeman	Mauricio Carvajal	Penelope Peterson	Shawn Troxell	Valérie Raynaud
Ben Goodin	Colin Kay	Elizabeth Hegarty	James Stover	Julie Dutto	Linda Gazzola	Maurine Gilmore	Penelope Ward	Shawn Winters	Valerie Sanderson
Ben Martin	Colleen & Joe - Wilder Watch O'Meara	Elizabeth Hickman	James Tangney	Julie Fissinger	Linda Gillespie	Maxine Goodyear	Penney Rubin	Shawnda Jacobs	Valerie Shideler
Ben Rall	Colleen Anderson	Elizabeth Hoffman	James Tillis	Julie Glover	Linda Goetz	Maxine Zylberberg	Penni Anifer	Sheila Carnegie	Valerie Sotere
Benjamin Martin	Colleen Bergh	Elizabeth Kelson	James Tomlinson	Julie Griffith	Linda Granato	Maxwell Fogleman	Penny Mackenzie	Sheila Dempsey	Valerie Williams

Benjamin Sinclair	Colleen Curtis	Elizabeth Koopman	James True	Julie Holtzman	Linda Grove	Maya Rainey	Pepper Trail	Sheila Dillon	Valeriya Efimova
Bennie Scott	Colleen Harrison	Elizabeth Leita	James Tucker	Julie Johnson	Linda Harrell	Maynard Jerome	Peri Doubleday	Sheila Dixon	Valissa and Robert Taggart
Bennie Woodard	Colleen Hinton	Elizabeth Lynch	James Turner	Julie Martin	Linda Hayes	McKenzie Blair	Perry Gx	Sheila Kelley	Van Knox
Benton Elliott	Colleen Humphries	Elizabeth Major	James Watkins	Julie Moore	Linda Helvie	Meaghan Leavitt	Pete Cumming	Sheila McCrea	Vana Spear
Bernadette Andaloro	Colleen K	Elizabeth Mantel	James Woods	Julie Parcels	Linda Hendrix	Mee Mee	Pete Klosterman	Sheila Powers	Vanessa Bartley
Bernadette Belcastro	Colleen Keyes	Elizabeth Menetrey	James Zizzo	Julie Pellman	Linda Holsapple	Megan M	Pete Wilson	Sheila Sheehan	Vanessa Hranitz
Bernadette Espinoza	Colleen Lobel	Elizabeth Mitchell	Jameson Sachs	Julie Roberts	Linda Howard	Megan Stalker	Peter Aron	Sheila Swindle	Vanessa Jamison
Bernadette Payne	Colleen Loughran	Elizabeth Mooney	Jami Olsen	Julie Roedel	Linda MacKenzie	Megan Warren	Peter Ayres	Sheila Tran	Vasileios Grigoriou
Bernadette Webster	Colleen Wysser - Martin	Elizabeth Mostov	Jami Shaver	Julie Stinchcomb	Linda Marshall	Megan Wright	Peter Burval	Sheila Ward	Veda Joy
Bernard Dirnberger	Colonel Meyer	Elizabeth Olson	Jamie Lantz	Julie Turner	Linda McCracken	Meghan Tracy	Peter Curia	Shel Grove	Veda White
Bernard Hochendoner	Connie Allison	Elizabeth Ramsey	Jamie Le	Julie Wade	Linda Mezieres	Meira Nocella	Peter Gargiulo	Shelley Carlisle	Veena Singwi
Bernice Day	Connie Cranford	Elizabeth Redwing	Jamie Masterson	Julie Wiebe	Linda Mooney	Melanie Baldi	Peter Gavin	Shelley Coss	Venetia Large
Bernie Cremin	Connie Devine	Elizabeth Scherbak	Jamie Reifman	Julien Jegou	Linda Morgan	Melanie Davis	Peter Gorbenko	Shelley Hartz	Venkata Chalapathy Chandrappa
Berta Parks	Connie Kirkham	Elizabeth Schlein	Jamie Shields	Juliet Pearson	Linda Mori-Roberts	Melanie Mahoney Stopyra	Peter Guerrero	Shelley Kilbon	Verena Ketola
Beth De Guise	Connie Northern	Elizabeth Seltzer	Jamie Smith	June Elliott-Cattell	Linda Murphy	Melinda Ahn	Peter Haroutian	Shelley Mckee	Verena Ritter
Beth Eisenbeis	Connie Nunemaker	Elizabeth Smith	Jamila Garrecht	June Lanning	Linda Myers	Melinda Barnett	Peter Harwood	Shelly Peddicord	Verlaine Halvorsen
Beth Herndobler	Connie Pennington	Elizabeth Sundquist	Jamila Viandier	June Tullman	Linda Olson	Melinda Bloom	Peter Jones	Sheree Courtney-Noeth	Veronica Bourassa

Beth Jane Freeman	Connie Ryan	Elizabeth Watts	Jan Ankerson	Jussi Gamache	Linda Osburn	Melissa Abreu	Peter Lee	Sheri Kuticka	Veronica Liebert
Beth Levin	Connor Hansell	Elle Cook	Jan Barbour	Justice BOYD	Linda Pawloski	Melissa Barnard	Peter Mason	Sherman Lewis	Veronica Michael
Beth Marshall	Constance DeRooy	Ellen Dreyer	Jan Drew	Justin Boucher	Linda Pohle	Melissa Bishop	Peter Munro	Sherri Fryer	Veronica Renteria
Beth Merrill	Constance Minerovic	Ellen Dryer	Jan Hansen	Justin Chernow	Linda Proetta	Melissa Clayman	Peter Piazza	Sherri Hodges	Vesa Kaakkuriniemi
Beth Olson	Constance Trecartin	Ellen Gutfleisch	Jan Hunter	Justin Kreiser	Linda Prostko	Melissa Cleaver	Peter Ries	Sherri Kenney	Vic Bostock
Beth Renwick	Constantine Bogios	Ellen Homsey	Jan Jones	Justin Landry	Linda Reilly	Melissa Culver	Peter Rimbos	Sherri Robertson	Vic DeAngelo
Beth VanBuren	Consuelo Olivarez	Ellen Middleditch	Jan Modjeski	Justin Philipps	Linda Reynolds	Melissa Gaskins	Peter Sepe	Sherrie Hansen	Vic Mandarich
Beth Workman	Copley Smoak	Ellen Parker	Jan Moughler	Justin Truong	Linda Ricks	Melissa Gilmer	Peter Souza	Sherrill Futrell	Vic Simm
Bethany Bradshaw	Corey Schade	Ellen Piascik	Jan Shillito	K Danowski	Linda Rolf	Melissa Grondin	Peter Townsend	Sherry Althouse	Vicki Call
Betsey Porter	Cori Bishop	Ellen Segal	Jan Stark	k francis	Linda Schmidt	Melissa Hathaway	Peter Urquhart	Sherry Guzzi	Vicki Jenkins
Betsy Ungeheier	Cornelia Teed	Ellen Smith	Jan Stone	K Krupinski	Linda Schneider	Melissa Mazias	Peter Wood	Sherry Knoppers	Vicki Johnson
Betti Jones	Cornelius Devlin III	Ellen Wertheim	Jan Vinegar	K Nichols	Linda Schwartz	Melissa Miller	Peter Worley	Sherry Macias	Vicki Wheeler
Bettie Paradis	Cortney Zaret	Elli Kimbauer	Jan Yates	K Schultz	Linda Sear	Melissa O'Rourke	Peter/ R4TL Ch	Sherry Oliveri	Vicky Brandt
Betty Massoni	Craig Asbury	Ellie Carin	Jana Harter	K Taylor	Linda Sessine	Melissa Polick	Petra Jones	Sherry Rogers	Victor Escobar
Betty Pierce	Craig Clapper	Ellie Gieser	Jana Perinchief	K Tiek	Linda Skorheim	Melissa Rees	Phebe Schwartz	Sherry Vatter	Victor L Lawrence
Betty Platt	Craig Drew	Ellie Meehan	Jane Barron	Kaci Caldwell	Linda Smith	Melissa Shaffer-O'Connell	Phil James	Sherry Weiland	Victor Miiller
Betty Ross	Craig Mankowski	Elliot Daniels	Jane Broendel	Kacy Harnedy	Linda Smyth	Melissa Thirloway	Philip Abraham	Sheryl Iversen	Victor Villasenor
Betty Winholtz	Cristy Murray	Elliot Gordon	Jane Butler	Kaiba White	Linda Swan	Melissa Vasconcellos	Philip Fenner	Sheryl Kerby	Victoria Berruenco
Betty Winsett	Crystal Mitchell	Elliott Bales	Jane C White	Kaija Jones`	Linda Tarantino	Melodie Huffman	Philip Fraser	Sheryl Porter	Victoria Hall

Beverly Buckley	Crystal Reamer	Ellyn Musser	Jane Chischilly	Kandice Bilisoly	Linda Thompsen	Melody Taylor	Philip Goodman	Shira Miess	Victoria Jensen
Beverly Bullock	Curt Vickers	Elnor Eggart	Jane Forbes	Kara Horstman	Linda Walters	Meredith Needham	Philip Hembury	Shirlene Harris	Victoria Khazzam
Beverly Dillard	Curtis Coffey	Elsa Knutson	Jane Gowe	Karen A Katrak	Linda Whetstine	Merle Rosenzweig	Philip Mcmarrow	Shirley Crenshaw	Victoria Martin
Beverly Harris	Curtis Tomlin	Elsy Shallman	Jane Herschlag	Karen Ahn	Linda Winn	Merrie Thornburg	Philip Ratcliff	Shirley McCarthy	Victoria Shih
Beverly Janowitz-Price	Cydney Siri	Elyette Weinstein	Jane Kwiatkowski	Karen and Jeff Hay	Lindsey Baldewicz	Merrily Robinson	Philip Simon	Shirley Mills	Vikki Jones
Beverly Jennings	Cyndi Hunt	Elza Correll	Jane Lanham	Karen Benson	Lindy A Von Dohlen	Merry Smoller	Philip Stoffregen	Shirley Swan	Vince L
Beverly McIlwain	Cynee Gillette-Wenner	Emil Gallardo	Jane Leavitt	Karen Boehler	Linette Grayum	Meryl Pinque	Philip Verellen	Shirley DeRuchie	Vince Mendieta
Beverly Mitchell	Cynthia Arneson	Emilie Booker	Jane Sawina	Karen Bravo	Lisa Acher	Mia Laurence	Phillip Farrell	Shreeraj Sutaria	Vincent and Tess Vially
Beverly Nichols	Cynthia Curtis	Emily Boone	Jane Schnee	Karen Casey	Lisa Agelopoulos	Mich Sampery	Phillip Hope	Sid Amster	Vincent Cipolla
Beverly Rae	Cynthia Enlow	Emily Dickinson-Adams	Jane Webb	Karen Collett	Lisa Ann Kelly and Family	Michael A. Johnston	Phyllis Chavez	Signe Wetteland	Vincent Elliott
Beverly Scott	Cynthia Hartley	Emily Van Alyne	Jane Wiley	Karen Conner	Lisa Annecone	Michael And Barbara Hill	Phyllis Gaiti	Silvia Bertano	Vinnedge Lawrence
Beverly Simone	Cynthia Hautzinger	Emma Crane	Jane Wolterreck	Karen Curry	Lisa Banik	Michael Ankelman	Phyllis Newburn	Silvia Hall	Violeta Cozorici
Beverly Walter	Cynthia Hicks	Emma Henderson	Janell Copello	Karen Desmond	Lisa Barrett	Michael Bailey	Phyllis Park	Silvia Maretto	Vira Confectioner
Bharat Adarkar	Cynthia Hill	Emmanuel Ramirez	Janell Curtis	Karen Doerr	Lisa Bey	Michael Bergman	Phyllis Senter	Silvia Raum	Virginia Bortoluzzo
Bianca Deleon	Cynthia Hobgood	Emmet Ryan	Janelle Church	Karen Donaldson	Lisa Blanck	Michael Biers	Phyllis Turner	Silvina Parkin	Virginia Bottorff
Bianca Molgora	Cynthia Howell	Enid Breakstone	Janelle George	Karen Emanuel	Lisa Brehm	Michael Braude	Phyllis Van Leuven	Sima Cooperman	Virginia Davis
Bianca Tenneriello	Cynthia Liss	Enid Cardinal	Janelle Lopez	Karen Estel	Lisa Cherrier	Michael Cloud	Pietra McNamara	Simon Validzic	Virginia Dwyer

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Bilgi Atay	Cynthia Murphy	Eric Daniels	Janet Bilodeau	Karen Fortier	Lisa Elderton	Michael Crews	Pilar Quintana	Singgih Tan	Virginia Jones
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