

Electronic Filing

July 8, 2011

Kimberly D. Bose, Secretary  
Nathaniel J. Davis, Sr., Deputy Secretary  
Federal Energy Regulatory Commission  
888 First Street NE  
Washington, DC 20426

**Re: Black Canyon Hydroelectric Project Preliminary Permit, Project No. 14110  
Motion to Intervene**

Dear Secretary Bose:

Enclosed for filing in the above referenced proceedings is American Whitewater, American Rivers, North Cascades Conservation Council, and Alpine Lakes Protection Society MOTION TO INTERVENE IN OPPOSITION to the Commission's May 11, 2011 Notice of Acceptance for the Black Canyon Hydro Preliminary Permit Application.

Copies of this filing have been served on all parties of record to these proceedings. Thank you for your assistance. Please call me at (425) 417-9012 if you have any questions or need additional information.

Sincerely,



Thomas O'Keefe  
Pacific Northwest Stewardship Director  
American Whitewater  
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**UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION**

Black Canyon Hydro LLC	)	Project No. 14110-000
	)	Black Canyon
	)	Hydroelectric Project
	)	
	)	Motion to Intervene of American
<u>Preliminary Permit Application</u>	)	Whitewater, et al.

AMERICAN WHITEWATER, AMERICAN RIVERS, NORTH CASCADES  
CONSERVATION COUNCIL, AND ALPINE LAKES PROTECTION SOCIETY,  
MOTION TO INTERVENE IN OPPOSITION AND COMMENTS ON THE  
PRELIMINARY PERMIT APPLICATION FOR THE BLACK CANYON  
HYDROELECTRIC PROJECT, FERC PROJECT NUMBER 14110-000

(Submitted July 8, 2011)

**I. Introduction**

By notice dated May 11, 2011 the Federal Energy Regulatory Commission (Commission) issued its “NOTICE OF PRELIMINARY PERMIT APPLICATION ACCEPTED FOR FILING AND SOLICITING COMMENTS, MOTIONS TO INTERVENE, AND COMPETING APPLICATIONS,” for the Black Canyon Hydroelectric Project, FERC No. P-14110.<sup>1</sup> The Notice provided 60 days for the submission of filings. Pursuant to 18 C.F.R. § 385.214, American Whitewater, American Rivers, North Cascades Conservation Council, and Alpine Lakes Protection Society (collectively, the Conservation Groups) hereby move to intervene in these proceedings. Service of process and other communications should be made to:

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<sup>1</sup> (Accession No. 20110511-3014)

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## **II. Motion to Intervene**

### **A. Interest of the Intervenors**

The Conservation Groups are national or regional environmental and recreational nonprofit organizations with an interest in protecting and restoring rivers and streams and other natural resources located in the Pacific Northwest. Each organization has a direct interest in changes to flows, public and river access, flow information, habitat, land management, watershed protection and other topics that will arise in the consideration of a hydropower project on the Black Canyon (also referred to as Ernie's Gorge) section of the North Fork Snoqualmie River near North Bend, King County, Washington. Based on the interests stated above, the Conservation Groups hereby request Intervenor status and offer comments on the Preliminary Permit Applications in this filing.

American Whitewater is a national non-profit 501(c)(3) river conservation organization founded in 1954 with over 5,000 members and 100 local-based affiliate clubs, representing whitewater paddlers across the nation. American Whitewater's mission is to conserve and restore America's whitewater resources and to enhance opportunities to enjoy them safely. As a conservation-oriented paddling organization, American Whitewater has a significant percentage of members residing in Washington State and thus an interest in Ernie's Gorge and the North Fork Snoqualmie areas potentially affected by this project.

American Rivers is a national, non-profit, 501(c)(3) conservation organization, with northwest regional offices in Seattle, Washington and Portland, Oregon. American Rivers serves more than 35,000 members nationwide and 2,250 members in the region. American Rivers is dedicated to protecting and restoring America's river systems and to fostering a river stewardship ethic. Additionally, American Rivers promotes public awareness about the importance of healthy rivers and the threats that face them. American Rivers' programs address flood control and hydropower policy reform, endangered aquatic and riparian species protection, instream flow, clean water, and urban rivers.

North Cascades Conservation Council (NCCC) is a 501(c)(3) not-for-profit organization formed to protect and preserve the North Cascades' scenic, scientific, recreational, educational, and wilderness values. NCCC has a 50 year history of aggressively promoting National Parks and Wilderness, protecting old growth forests and pristine watersheds, conserving endangered wildlife, preventing off-road vehicle damage to public lands, and guiding Park and Wilderness management.

Alpine Lakes Protection Society works to encourage environmentally-sensitive recreational opportunities, including new trails and campgrounds, in the Alpine Lakes district of the Cascade Mountains, a beautiful, fascinating land of dramatic peaks, wild rivers, lush forests and over 600 high lakes directly east of Puget Sound in the state of Washington.

## **B. Grounds for Intervention**

Intervention by the Conservation Groups is in the public interest as required by 18 C.F.R. §385.214(b)(2)(iii). The Conservation Groups have significant and undeniable interests in the preservation of the North Fork Snoqualmie's natural, recreational and free-flowing resources. No other parties to the proceeding will be able to adequately represent those interests and therefore the Conservation Groups have a direct and substantial interest in the outcome of this process.

## **III. Comments**

Conservation Groups file in opposition to the issuance of a preliminary permit for the Black Canyon Hydroelectric Project for a number of reasons. The river section proposed for development has been found eligible and has been recommended for designation as a Wild and Scenic River by the United States Forest Service, and is identified as a protected area from hydropower development by the Northwest Power and Conservation Council (Council). Issuing a preliminary permit for a site that has previously been deemed unsuitable for development,<sup>2</sup> is located on a potential but not yet congressionally designated Wild and Scenic River section, and that lies within a "protected area" is not in the public interest. Furthermore, allowing an applicant to move forward with new studies

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<sup>2</sup> In October 1982, the City of Bellevue received a preliminary permit (P-5926) to study this stretch of river for water supply and hydropower development and in 1985 the City filed a license application with FERC that was ultimately rejected.

on a project with such enormous barriers to licensing creates unnecessary burden and expense for the applicant, agencies (including Commission staff) and other stakeholders.

The unavoidable and adverse environmental and recreational impacts of the proposed Black Canyon Project would run counter to these regional efforts to protect the area and would outweigh the likely benefits to be gained from this estimated 90,000 MWh project (10.2 MW of average annual generation). To generate this power, the project would require:

- Construction of an approximately 35-foot-wide, 7-foot-tall inflatable dam, a 60-foot-long 100-foot-wide metal powerhouse, a 7-foot-tall fish ladder, a 150 foot long tailrace, and appurtenant facilities;
- A 1.38 mile long (7,300 foot) penstock that would dewater the river for most of the year;
- A 4.2 mile transmission line;
- Extension of existing logging roads;
- Deforestation of both the project site as well as the transmission line and road extensions.

The reach of the North Fork Snoqualmie proposed for Black Canyon Project represents the border of the Washington State Department of Natural Resources Mount Si Natural Resources Conservation Area. The project would also be constructed on lands within Snoqualmie Forest, which is protected from development by a conservation easement purchased by King County with the goal to “prevent any use of the forestland that will significantly impair or interfere with its conservation value.” The Commission has long recognized the importance of regional and coordinated planning, and has declined to issue licenses in cases where the negative impacts of a proposed project would run counter to these regional plans. Wild and Scenic eligibility, protected area status, Conservation area designation, and County easements each constitute relevant in-place plans and strategies to enhance and protect the aquatic, aesthetic, habitat, recreational and conservation resources of the North Fork Snoqualmie River.<sup>3</sup> In addition, the North Fork Snoqualmie, and Ernie’s Gorge in particular, has been recognized for its free-flowing nature and for providing outstanding, unique, and regionally significant whitewater opportunities close to the City of Seattle.

Section 10(a)(2)(A) of the Federal Power Act (FPA) (16 U.S.C. § 803 (a)(2)(A)) specifically requires the Commission to consider “ the extent to which [a] project is consistent with a comprehensive plan (where one exists) for improving, developing, or conserving a waterway or waterways affected the project that is prepared by an agency established pursuant to Federal law that has the authority to prepare such a plan; or the

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<sup>3</sup> See City of Idaho Falls, Shelley Project No. 5090-005, “Order Denying License”, issued September 24, 1997. Accession No. 19970925-3154: “Federal and state agencies responsible for managing the aquatic and wildlife resources of the Snake River have recognized the negative impacts of past development on environmental resources, and have implemented various plans and strategies to enhance and protect those resources.”

State in which the facility is or will be located.”<sup>4</sup> The project proposed in Black Canyon Hydro’s Preliminary Permit would be plainly inconsistent with a number of relevant comprehensive plans that have previously been filed with the Commission.<sup>5</sup>

We understand that Section 10(a)(2)(A) of the Federal Power Act deals with the Commission’s authority to issue licenses for hydroelectric projects and does not similarly constrain its authority to issue preliminary permits, and that the Commission typically considers it premature to address environmental and resource issues at the preliminary permit application stage, instead deferring those issues to be dealt with during the licensing. However, the Commission itself has acknowledged its considerable discretion in choosing whether or not to grant a preliminary permit: “[N]othing in the Federal Power Act requires the Commission to issue a preliminary permit; whether to do so is a matter solely within the Commission’s discretion”.<sup>6</sup> The Commission has declined to issue preliminary permits on a number of occasions based on a determination on the merits of the individual case that issuance of a permit would not be in the public interest.<sup>7</sup>

For all of the reasons noted above and described in greater detail below, the Conservation Groups request that the Commission deny this application for a preliminary permit.

There are substantial legal and policy barriers in place that will make this project extremely difficult if not impossible to license. By issuing a preliminary permit, the Commission will set in motion a licensing process that will require stakeholders as well as Federal and State agencies to expend considerable effort and resources on a project that has an extremely small likelihood of successful licensing. The Commission should exercise its discretion and make a public interest determination to deny issuance of a preliminary permit.

Alternately, in the event that the Commission determines that issuance of a preliminary permit for the Black Canyon project may be in the public interest, we request that the

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<sup>4</sup> See COMPREHENSIVE PLANS IN THE FEDERAL ENERGY REGULATORY COMMISSION'S LICENSING PROCESS <http://www.ferc.gov/industries/hydropower/gen-info/licensing/complan.pdf>, which identifies the following types of Federal and state comprehensive plans generally: “watershed plans prepared by the Department of the Army, Corps of Engineers Districts; plans for the protection of fishery resources, migratory waterfowl, and unique ecosystems prepared by the U.S. Fish and Wildlife Service or National Marine Fisheries Service; land and resource management plans prepared by the Forest Service, Bureau of Land Management, or National Park Service; and State Comprehensive Outdoor Recreation Plans (SCORP).”

<sup>5</sup> Such plans include but are not necessarily limited to: Mt. Baker/Snoqualmie National Forest Land and Resources Management Plan (June 1990); National Park Service Nationwide Rivers Inventory (June 1982); NWPPC Protected Areas Amendment (Sept. 14, 1988); and NWPPC Sixth Northwest Conservation and Electric Power Plan (February 2010).

<sup>6</sup> See Preliminary Permits for Wave, Current, and Instream New Technology Hydropower Projects (Docket No. RM07-8-000). Notice of Inquiry and Interim Statement of Policy (Accession No. 20070215-3073).

<sup>7</sup> See *Appalachian Rivers Resource Enhancement*, 113 FERC ¶ 61,043, where FERC determined that the issuance of a preliminary permit would be contrary to the public interest because based on its determination that the applicant was unfit to be awarded a license: “Our general policy is to issue a preliminary permit unless there is a permanent legal bar to granting a license application. We may, however, make exceptions to established policies if we articulate a rational basis for doing so” See also *Symbiotics, L.L.C. v. FERC*, 110 Fed. Appx. 76; 2004 U.S. App. LEXIS 19596 (9th Cir. 2004), which affirmed the Commission’s authority to deny a preliminary permit in a case where the Commission had previously issued an environmental document which found unmitigatable adverse environmental impacts and no evidence of changed circumstances.

Commission address the likelihood of the successful completion of a licensing process by directing the applicant to provide additional information prior to issuance of the preliminary permit. The applicant should be required to describe – based on consultation with interested stakeholders and agencies as well as the applicant’s experience with addressing stakeholder and agency concerns on other projects – that the proposed project will not run counter to the multiple national, regional and local comprehensive river conservation planning strategies that have been implemented to protect the environmental and recreational public resource values of the North Fork Snoqualmie.

Should the Commission ultimately choose to issue a preliminary permit to Black Canyon Hydro LLC, we recommend that the terms of the permit reflect the potential difficulties associated with licensing this project and the value of the resources that would potentially be impacted by the construction of the proposed project. A preliminary permit to study a project on a waterway with such extremely high resource values should be accompanied by requirements that ensure that an applicant is moving forward in good faith to reach out to agencies, landowners, and other stakeholders and address their potential concerns in an open and transparent manner. Put simply, the Commission should set the bar high for projects with extremely difficult resource issues like the proposed Black Canyon project in order to ensure that valuable resources (including tax dollars) are not wasted addressing a project that is unlikely to result in a successful license application.

The Commission has adopted similar policies before. For instance, when faced with a glut of preliminary permit applications for hydrokinetic projects and questions about whether or not applicants were capable of developing those projects, the Commission adopted a policy of applying a “strict scrutiny” to preliminary permits to ensure that the permit holder was actively pursuing project exploration. Under this standard, the Commission would “carefully scrutinize the reports that permit holders are required to file on a semi-annual basis, and would, where sufficient progress was not shown, consider canceling the permit.”<sup>8</sup> While the Commission cited concerns about potential site banking as its motivation for adopting the Strict Scrutiny policy, we note that the underlying problem of site banking is quite similar to the issue we raise here: the risk of valuable public resources being tied up by a preliminary permit that is unlikely to lead to a successful license application.

If the Commission does issue a preliminary permit in this case, we recommend that it adopt a similar standard by directing the applicant to demonstrate in its required progress reports its plan for successfully developing the project in a manner that is consistent with existing comprehensive plans for the conservation of the North Fork Snoqualmie, and how the applicant plans to address other significant natural resource and recreation issues as described elsewhere in this document. Additionally, we recommend that the Commission require the applicant to document how it plans to obtain access to private and state lands impacted by the project in order to perform studies that would be required to develop the project in a manner that is consistent with those comprehensive plans. If the applicant is unable to successfully demonstrate in a timely manner that it can overcome these

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<sup>8</sup> Reedsport OPT Wave Park, LLC 118 FERC ¶ 61,118 (Accession No. 20070216-4004)

significant hurdles, the Commission should revoke the permit, consistent with the Federal Power Act, which allows that “[preliminary permits] may be canceled by order of the Commission upon failure of permittees to comply with the conditions thereof or for other good cause shown after notice and opportunity for hearing.”<sup>9</sup>

### **A. Wild and Scenic Designation**

In 1990, the USDA Forest Service, as a part of its land management planning, evaluated all rivers and streams originating on National Forest Lands within the Mt. Baker-Snoqualmie National Forest to determine their suitability and eligibility for designation under the federal Wild and Scenic Rivers Act. A section of the North Fork Snoqualmie River on which the proposed Black Canyon Hydroelectric Project would be located was found to be suitable and was recommended by the Forest Service for designation; specifically, from Wagner Bridge at River Mile 12.1 ( T25N, R09E, S20 NE/NE) to the confluence with the Middle Fork Snoqualmie<sup>10</sup> [EXHIBITA]. The Forest Service recommended this section of the North Fork Snoqualmie even though it lies outside of the forest boundary. While the Forest Service has no direct authority to manage rivers off the National Forest prior to designation, the Forest Service recognized the unique and valuable character of this segment of the North Fork Snoqualmie River by assigning Outstandingly Remarkable Values, including recreation and fisheries.

The Forest Service has listed the 12 mile reach from Wagner Bridge to the confluence of the Middle Fork Snoqualmie in the Nationwide Rivers Inventory (NRI)<sup>11</sup> and specifically determined that this river reach is eligible and recommended it for designation under the Wild and Scenic Rivers Act. The website for the NRI explains:

The Nationwide Rivers Inventory (NRI) is a listing of more than 3,400 free-flowing river segments in the United States that are believed to possess one or more "outstandingly remarkable" natural or cultural values judged to be of more than local or regional significance. Under a 1979 Presidential directive,<sup>12</sup> and related Council on Environmental Quality procedures,<sup>13</sup> all federal agencies must seek to avoid or mitigate actions that would adversely affect one or more NRI segments.

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<sup>9</sup> 16 U.S.C. § 798

<sup>10</sup> Pages E-218 to E-223, Appendix E, Wild and Scenic Rivers, Land and Resource Management Plan, Mt. Baker-Snoqualmie National Forest. USDA Forest Service. June 1990.

<sup>11</sup> Nationwide Rivers Inventory. National Park

Service. <http://www.nps.gov/ncrc/programs/rtca/nri/states/wa2.html>

<sup>12</sup> MEMORANDUM FOR THE HEADS OF DEPARTMENTS AND AGENCIES. Presidential Directive of President Jimmy Carter. August 2, 1979. <http://www.nps.gov/ncrc/programs/rtca/nri/hist.html#pd>

The Directive orders that: Each federal agency shall, as part of its normal planning and environmental review process, take care to avoid or mitigate adverse effects on rivers identified in the Nationwide Inventory... Each Federal agency with responsibility for administering public lands shall,..to the extent of the agency's authority, promptly take such steps as are needed to protect and manage the river and the surrounding area in a fashion comparable to rivers already included in the Wild and Scenic Rivers System.

<sup>13</sup> Procedures for Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory. Council on Environmental Quality. <http://www.nps.gov/ncrc/programs/rtca/nri/hist.html#ceq>



The NRI lists the potential Outstanding Remarkable Values (ORV's) of the North Fork Snoqualmie reach as *scenic, recreational, and fisheries*. The NRI lists the following general description of the ORV's found to exist on the North Fork Snoqualmie:

*Scenery (S)*: The landscape elements of landform, vegetation, water, color, and related factors result in notable or exemplary visual features and/or attractions. When analyzing scenic values, additional factors – such as seasonal variations in vegetation, scale of cultural modifications, and the length of time negative intrusions are viewed – may be considered. Scenery and visual attractions may be highly diverse over the majority of the river or river segment.

*Recreation (R)*: Recreational opportunities are, or have the potential to be, popular enough to attract visitors from throughout or beyond the region of comparison or are unique or rare within the region. Visitors are willing to travel long distances to use the river resources for recreational purposes. River-related opportunities could include, but are not limited to, sightseeing, wildlife observation, camping, photography, hiking, fishing and boating.

- Interpretive opportunities may be exceptional and attract, or have the potential to attract, visitors from outside the region of comparison.
- The river may provide, or have the potential to provide, settings for national or regional usage or competitive events.

*Fish (F)*: Fish values may be judged on the relative merits of either fish populations, habitat, or a combination of these river-related conditions.

- *Populations*: The river is nationally or regionally an important producer of resident and/or anadromous fish species. Of particular significance is the presence of wild stocks and/or federal or state listed (or candidate) threatened, endangered or sensitive species. Diversity of species is an important consideration and could, in itself, lead to a determination of "outstandingly remarkable."
- *Habitat*: The river provides exceptionally high quality habitat for fish species indigenous to the region of comparison. Of particular significance is habitat for wild stocks and/or federal or state listed (or candidate) threatened, endangered or sensitive species. Diversity of habitats is an important consideration and could, in itself, lead to a determination of "outstandingly remarkable."

## **B. Northwest Power and Conservation Council Protected Area**

The proposed Black Canyon Hydroelectric Project also lies within sections of the North Fork Snoqualmie River that are identified as a protected area (stream reaches where the Council determined that hydroelectric development would have unacceptable risks of irreversible loss to fish and wildlife) from hydropower development [EXHIBIT B].<sup>14</sup> Protected areas for the North Fork Snoqualmie can be found at:

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<sup>14</sup> Under the [Northwest Power Act](#) and the Federal Power Act, federal entities — specifically the Bonneville Power Administration, Federal Energy Regulatory Commission, U.S. Army Corps of Engineers, and the Bureau of Reclamation — must consider Protected Area status and restrictions when making decisions

<http://q.streamnet.org/Request.cfm?Cmd=BuildQuery&DataCategory=20&NewQuery=BuildCriteria&Required=Run,State&DataCategory=20&State=5&HUC4=17110010&Count=93&Stream=929&NewQuery=BuildCriteria#>

The Council has clearly stated that “[f]rom the inception of this program, the Council has supported the concept of protecting some streams and wildlife habitats from hydroelectric development where the Council believes such development would have major negative impacts that could not be reversed.”<sup>15</sup>

The Commission has determined previously<sup>16</sup> in applications for hydropower permits and licenses on other “protected area” river segments, that “[p]rotected areas represent an attempt by the region to prevent the continued degradation of the remaining high quality fish and wildlife habitat, and the region's unwillingness to risk further fish and wildlife losses. Even though the proposed [Shelley] project would meet the transition-project provisions,<sup>17</sup> it would still have unavoidable, long-term adverse impacts on fish and wildlife resources, which the Council has determined to be important to the region.” The Commission also has found that “[p]rotected areas are those areas where the Council believes that new dam development would have major negative impacts that could not be avoided” and “...the Commission is expected, to the fullest extent possible, to consider the protection of fish and wildlife resources located in protected areas and provide suitable protection and mitigation for such resources in the event that a license or exemption is approved.”<sup>18</sup>

When dealing with other projects within or adjacent to protected areas, the Commission typically recommends that the permit applicants contact the Council when they seek to obtain a preliminary permit. In Black Canyon Hydro LLC’s preliminary permit application, the applicant makes no mention of the Council’s protected areas on the North Fork Snoqualmie. Likewise, the Commission’s May 11 Notice of Acceptance makes no reference to the protected area status. To the best of the Conservation Groups’ knowledge, the applicant has not contacted the Council regarding protected areas.

The practice of the Commission is to deny a license for a project in a protected area. Therefore, it is highly unlikely that the Black Canyon Project would ultimately be licensed. The issuance of a preliminary permit would, however, initiate a time-consuming licensing

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regarding hydroelectric facility permits and access to electricity from those facilities. Inclusion in a “Protected Area” does not prohibit hydroelectric development at a site. However, the Council 1) calls on FERC not to license a new hydroelectric development in a Protected Area, and 2) calls on BPA not to acquire the power from such a project should one be licensed by FERC, [nor to allow access to the Pacific Northwest-Pacific Southwest Intertie \(the “power grid”\)](#) in a way that would undermine the protected areas policy.

<http://www.streamnet.org/ProtectedAreas.html>

<sup>15</sup> <http://www.nwcouncil.org/fw/protectedareas/Default.htm>

<sup>16</sup> See City of Idaho Falls, Shelley Project No. 5090-005, “Order Denying License”, issued September 24, 1997. Accession No. 19970925-3154.

<sup>17</sup> City of Idaho Falls. “New dam or diversion projects located within a protected reach can be consistent with the Program under its transition-project provisions if applicants had obtained a preliminary permit or filed an application for license or exemption prior to August 10, 1988.” The proposed Black Canyon project does not meet this qualification.

<sup>18</sup> Ibid, City of Idaho Falls

process that would create pointless and unnecessary work and expense for Conservation Groups, Federal and State Agencies, and FERC staff. Such an outcome would certainly not be in the public interest.

### **C. Mt. Si Natural Resources Conservation Area**

The reach of the North Fork Snoqualmie proposed for Black Canyon Project represents the border of the Washington State Department of Natural Resources Mt. Si Natural Resources Conservation Area, an area of important conservation value. [EXHIBIT C] “The Mount Si Natural Resources Conservation Area (NRCA) was one of the first to be established in 1987. It was designated to protect numerous natural resources including outstanding geologic features, examples of old growth forest, wildflower communities, and habitat for mountain goat and other species of wildlife. The towering site is a scenic landmark and popular recreation area, offering views of the Olympic Mountains, Snoqualmie Valley, and the Cascade Mountains. The NRCA encompassed 4,670 acres when it was designated in 1987, and has since been expanded to 13,363 acres.”<sup>19</sup> According to the Mount Si NRCA Public Use Plan,” The significant features to be found on Mount Si make this NCRA an excellent example of Washington’s natural heritage, especially since it’s so close to the state’s largest urban center.”<sup>20</sup>

In addition, the rare intact forested river corridor helps provide cool high-quality habitat for resident trout populations and is home to large mammals such as cougars, bears, bobcats, deer, and mountain goat. Remaining old growth along the gorge represents some of the best remaining low-elevation riparian habitat in the Western Cascades. Based on all of the unique values of the area, and pursuant to RCW 79A.05.725, the Washington Department of Natural Resources designated the Mt. Si conservation area as the Mt. Si natural resources conservation area.<sup>21</sup> The department is directed to continue its management of this area and to develop a plan for its continued conservation and use by the public.

### **D. Snoqualmie Forest – Conservation Easement**

On September 2, 2004, King County purchased a conservation easement for the development rights to 90,000 acres of the Snoqualmie Forest from the Hancock Timber Resources Group including land identified as necessary for development of the project in the applicant’s proposal. The Snoqualmie Forest property includes two major rivers (the North Fork Snoqualmie and Tolt), numerous smaller rivers, more than 500 acres of lakes and ponds, more than 6,000 acres of riparian areas along rivers and streams, and more than 4,000 acres of wetlands. The Snoqualmie Forest is located within the ranges of the northern spotted owl and marbled murrelet, and contains habitat for numerous fish species and other wildlife. Upon signing the deal, King County Executive Ron Sims said the

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<sup>19</sup> [http://www.dnr.wa.gov/AboutDNR/ManagedLands/Pages/amp\\_na\\_si.aspx](http://www.dnr.wa.gov/AboutDNR/ManagedLands/Pages/amp_na_si.aspx)

<sup>20</sup> Mount Si NRCA Public Use Plan,

[http://www.dnr.wa.gov/Publications/amp\\_na\\_mt\\_si\\_public\\_use\\_plan\\_1997\\_final.pdf](http://www.dnr.wa.gov/Publications/amp_na_mt_si_public_use_plan_1997_final.pdf)

<sup>21</sup> <http://apps.leg.wa.gov/rcw/default.aspx?cite=79.71.100>

purchase “ensures the area will always remain green to the crest of the Cascade Mountains.”<sup>22</sup>

While the conservation easement permits the right to construct, operate and maintain run-of-the-river or low-head hydroelectric projects, these are defined in the easement as “no more than 12 megawatt capacity”.<sup>23</sup> The name plate capacity of the applicant’s proposed project exceeds 12 megawatts and would thus violate the terms of the conservation easement.

## **E. Recreational Values**

The section of the North Fork Snoqualmie River proposed for development is a high gradient reach flowing through a deep and rocky canyon. It is an outstanding regionally-significant whitewater resource close to the city of Seattle offering a unique, high quality whitewater kayaking experience. Black Canyon (Ernie’s Gorge) provides one of the more challenging whitewater runs in the region, and, when the flows are right, provides some of the most technical and powerful class V paddling in the Cascades. The river regularly attracts the region’s top expert paddlers living within a 200 mile radius who come to experience the unique attributes of this river gorge. Several individual comments on this docket speak to the spectacular recreational value of this river reach. The recreation value of this 6.5 mile section is well documented through high resolution videos posted on YouTube. A typical experience can be viewed at:

<http://www.youtube.com/watch?v=VVjbDP8tprI>

American Whitewater’s National Rivers Database<sup>24</sup> provides a great deal of information on the recreational use of this resource, and suggests that a flow range between 400 and 900 cfs could provide boating opportunities for most of the fall, winter and spring boating seasons. Contrary to the applicant’s statement in local newspapers [EXHIBIT D] "My guess is that there would be more available days at these flows after project operations than what exist today," USGS flow data demonstrates that the proposed project’s diversion of 900 cfs around Ernie’s Gorge would eliminate all whitewater boating in this section of river.<sup>25</sup>

## **F. Need for Power and Availability of Power with Less Impact**

While the proposed project would be useful in helping meet a small part of the Northwest regional need for power, it would provide a relatively minimal amount of power at a high cost to the outstanding environmental, recreational, cultural and aesthetic values of the North Fork Snoqualmie. Equally important, this power could be easily offset by other renewable generation or by energy efficiency and conservation efforts.

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<sup>22</sup> <http://your.kingcounty.gov/exec/news/2004/090204.htm>

<sup>23</sup> Section 5(g), Transfer of Development Rights Deed of Conservation Easement dated December 14, 2004, recorded on the same date as King County Official Public Record 20041214002392.

<sup>24</sup> <http://americanwhitewater.org/content/River/detail/id/2223/>

<sup>25</sup> <http://waterdata.usgs.gov/usa/nwis/uv?12142000>

Contrary to the applicant’s statement in the June 20, 2011 article in the Snoqualmie Valley Record [See EXHIBIT D], this remote project, constrained by seasonal water availability, limited storage, and only intermittent power generation would do little to provide “efficient energy,” would have no impact on improving the nation’s “under built power grid,” and has no connection to “national security” interests or concerns.

Most important, the marginal amount of power anticipated from this project, and its adverse impacts to the river, are not necessary. The Washington Department of Ecology’s 2010 Inventory of Dams lists regulation of more than 1100 dams already in existence,<sup>26</sup> and the 2007 Washington State Resource Assessment Report lists more than 250 existing dams in Washington that either do not have hydropower (e.g. storage or flood control dams) or are not operating at peak efficiency.<sup>27</sup> The report shows that more than 2,500 MW could be added simply by improving efficiencies or adding hydro to non-power dams.

Given the number of existing dams in Washington State, new dam construction – and the resulting environmental impacts – should not be contemplated until all potential from the existing hydropower infrastructure has been exhausted.

The Northwest Power and Conservation Council’s 2010 Sixth Power Plan<sup>28</sup> identifies energy efficiency as the least cost resource and envisions that almost 60 percent of the Pacific Northwest’s new demand for electricity over the next five years and 85 percent of load growth over the next 20 years could be met cost effectively with energy efficiency. The plan also predicts that this efficiency will reduce the risk of future electricity shortages, reduce emissions from power plants to help meet regional carbon reduction goals and policies, and cost consumers less than relying solely on new power plants (Emphasis added).

Conservation Groups recommend that before looking to build costly and damaging new dams like the Black Canyon Project, we should maximize conservation and our existing hydropower capacity by increasing efficiency at existing projects, and if environmentally responsible, by adding hydropower to existing dams that currently do not generate electricity.

#### **IV. Conclusion**

The Conservation Groups strongly object to the development of the Black Canyon Hydroelectric Project due to the significant negative impacts on the recreational, aesthetic, habitat and ecological values, as well as the free flowing nature of the North Fork

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<sup>26</sup> <http://www.ecy.wa.gov/pubs/94016.pdf>

<sup>27</sup> The 2007 Washington State Resource Assessment Report, prepared by Idaho National Laboratories, lists 249 existing dams in Washington that do not produce power (such as flood control or storage dams) or where the total power has not yet been fully developed (efficiency upgrades). The report shows that more than 2,500 MW could be added simply by improving efficiencies or adding hydro to non-power dams. (Developing all the state’s potential hydro sites would only add 762MW).

<sup>28</sup> [http://www.nwcouncil.org/energy/powerplan/6/final/SixthPowerPlan\\_Ch1.pdf](http://www.nwcouncil.org/energy/powerplan/6/final/SixthPowerPlan_Ch1.pdf)

Snoqualmie. These impacts, if allowed to occur, would violate directives and policies governing the management of this river found eligible and recommended for designation under the Wild and Scenic Rivers Act and designated as a Northwest Power and Conservation Council Protected Area.

For all of the reasons noted above the Conservation Groups request that the Commission deny this application for a preliminary permit. As previously stated by the Commission, “nothing in the Federal Power Act requires the Commission to issue a preliminary permit; whether to do so is a matter solely within the Commission’s discretion”.<sup>29</sup> We believe that given the substantial barriers to construction of a project on this river, the Commission should exercise its discretion and make a public interest determination to deny issuance of a preliminary permit. If a preliminary permit is ultimately issued, we request that the Commission use its considerable discretion to apply a standard similar to the “strict scrutiny” standard that it has successfully applied elsewhere in order to ensure that the permit holder is actively pursuing project exploration. As the first step, we recommend that the Commission direct the applicant to clearly describe how the project will not run counter to the multiple national, regional and local comprehensive river conservation planning strategies detailed below that have been implemented to protect the environmental and recreational public resource values of the North Fork Snoqualmie.

The Conservation Groups also respectfully request that the Commission grant the Conservation Groups’ Motion to Intervene, providing each with party status in the proceedings related to Black Canyon Hydro LLC’s application for Preliminary Permit for the proposed Black Canyon Hydroelectric Project.

Respectfully submitted,



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Dated: July 8, 2011

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<sup>29</sup> See Preliminary Permits for Wave, Current, and Instream New Technology Hydropower Projects (Docket No. RM07-8-000). Notice of Inquiry and Interim Statement of Policy (Accession No. 20070215-3073).

**UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION**

Black Canyon Hydro LLC                    )                    Project No. 14110-000  
  )                    Black Canyon  
  )                    Hydroelectric Project

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 8<sup>th</sup> day of July 2011, served the foregoing document upon each person designated on the official service list compiled by the Secretary in these proceedings.

*Carla Miner*

Carla Miner  
American Whitewater  
Stewardship Assistant

Service List for P-14110-000 Black Canyon Hydro, LLC

Contacts marked \*\* must be postal served

<b>Party</b>	<b>Primary Person or Counsel of Record to be Served</b>	<b>Other Contact to be Served</b>
Chris Spens	Chris Spens Licensing Manager 3633 Alderwood Avenue Bellingham, WASHINGTON 98225 UNITED STATES cspens@tollhouseenergy.com	
Patrick B. Anderson, P.S.	Patrick Anderson City Attorney Patrick B. Anderson, P.S. PO Box 924 Snoqualmie, WASHINGTON 98065-0924 UNITED STATES panderson@ci.snoqualmie.wa.us	
TULALIP TRIBES OF WASHINGTON	MICHELLE DEMMERT TULALIP TRIBES OF WASHINGTON	Daryl Brent Williams Environmental Liaison TULALIP TRIBES OF

	6406 Marine Drive Tulalip, WASHINGTON 98271 UNITED STATES MDEMMERT@TULALIPTRIBES- NSN.GOV	WASHINGTON 6406 Marine Drive Tulalip, WASHINGTON 98271 <a href="mailto:dwilliams@tulaliptribes-nsn.gov">dwilliams@tulaliptribes-nsn.gov</a>
Washington State Department of Ecology	Joan Marchioro Senior Counsel Washington Office of Attorney General PO Box 40117 Olympia, WASHINGTON 00117 UNITED STATES JoanM2@atg.wa.gov	MONIKA KANNADAGULI PROJECT MANAGER/Environmental Washington Department of Ecology 3190-160TH AVE SE BELLEVUE, WASHINGTON 98008 <a href="mailto:mkan461@ecy.wa.gov">mkan461@ecy.wa.gov</a>
Washington State Department of Fish and Wildlife	Bill Frymire Senior Counsel Washington Office of Attorney General PO Box 40100 Olympia, WASHINGTON 00100 UNITED STATES billf@atg.wa.gov	Brock Applegate Washington State Department of Fish and Wildlife 111 Sherman St La Conner, WASHINGTON 98257 <a href="mailto:brock.applegate@dfw.wa.gov">brock.applegate@dfw.wa.gov</a>



**CONSERVATION GROUP INTERVENTION – EXHIBIT A**

**Pages E-218 to E-223, Appendix E, Wild and Scenic Rivers, Land and Resource Management Plan, Mt. Baker-Snoqualmie National Forest. USDA Forest Service. June 1990.**

NORTH FORK SNOQUALMIE RIVER  
LENNOX CREEK

King County

The North Fork Snoqualmie River and Lennox Creek were studied for potential Wild and Scenic River designation by the MBS in conjunction with the Forest Planning process. The study included an eligibility and suitability assessment. The DEIS and Draft Plan were issued December, 1987. Public and other agency comment to the DEIS led to reevaluating eligibility and suitability.

**LOCATION:** Lennox Creek flows from its headwaters inside the Alpine Lakes Wilderness downstream to its confluence with the North Fork Snoqualmie River. The North Fork of the Snoqualmie River flows from its headwaters at Lake Kanim in the Alpine Lakes Wilderness downstream 26 miles to its confluence with the Middle Fork Snoqualmie.

- Segment 1 - Headwaters of Lennox Creek in NW 1/4 of Sec. 36, T.25N., R.10 E. to the Alpine Lakes Wilderness boundary (0.3 mi).
- Segment 2 - Alpine Lakes Wilderness boundary to the confluence with the North Fork Snoqualmie River (6.9 mi).
- Segment 3 - Headwaters of North Fork Snoqualmie at Lake Kanim in SE 1/4 of Sec. 11, T.25N., R.10 E. to the Alpine Lakes Wilderness boundary (1.0 mi).
- Segment 4 - Alpine Lakes Wilderness boundary to Lennox Creek (5.1 mi).
- Segment 5 - Lennox Creek to Wagner Bridge in NE 1/4 of Sec. 20, T.25N., R.9 E. (8.0 mi).
- Segment 6 - Wagner Bridge to confluence with Middle Fork Snoqualmie River (12.1 mi).

**RIVER MILEAGE:**

Study:	33.4 miles
Eligible:	33.4 miles
Forest Plan:	12.1 miles recommended for designation in preferred alternative

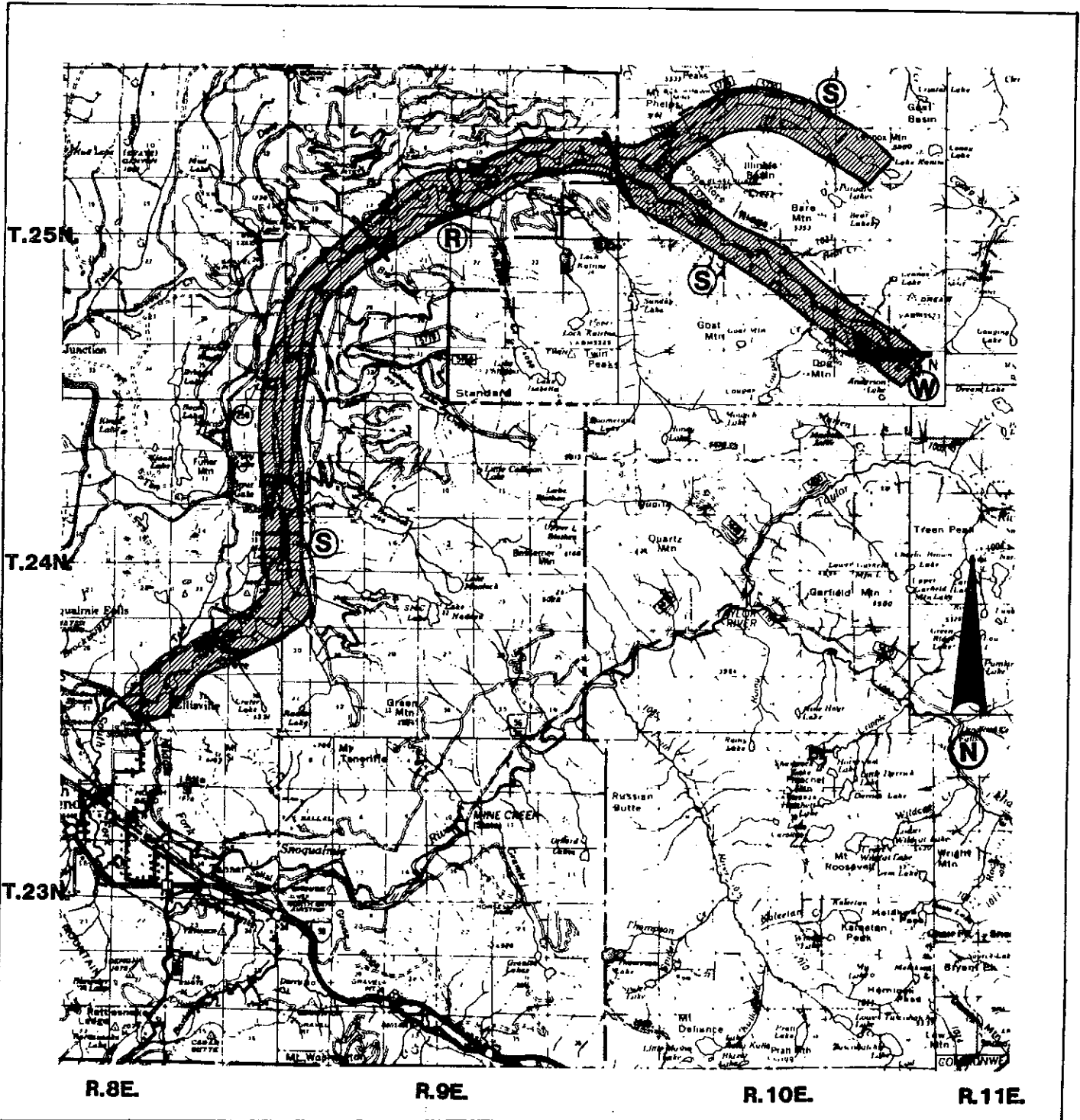
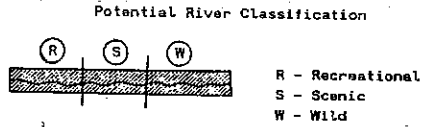
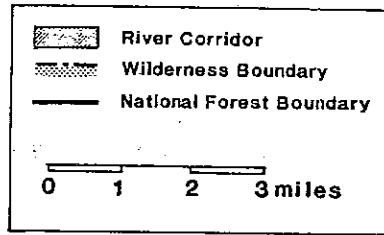
**OUTSTANDINGLY REMARKABLE VALUES:** Lennox Creek was found to possess "Outstandingly Remarkable" values for the following: Fisheries and Wildlife.

The North Fork Snoqualmie River was found to possess "Outstandingly Remarkable" values for the following: Recreation and Fisheries.

Both the North Fork Snoqualmie and Lennox Creek are important resources for resident cutthroat trout. Special fishing restrictions provide quality fisheries.

The Lennox River corridor provides extensive winter range for black-tailed deer and mountain goats, as well as good riparian habitat.

# North Fork Snoqualmie River Lennox Creek



**Appendix E**  
 North Fork Snoqualmie River  
 Lennox Creek

The lower 6 miles of the North Fork Snoqualmie offers a great diversity of challenges for advanced kayaking and canoeing. Fishing for trout is also a high use activity.

**POTENTIAL AND RECOMMENDED CLASSIFICATION:**

Segment	Potential Classification	Miles	Recommended Classification in Preferred Alt.	Miles
Segment 1	Wild	.3	None recommended	0.0
Segment 2	Scenic	6.9	None recommended	0.0
Segment 3	Wild	1.0	None recommended	0.0
Segment 4	Scenic	5.1	None recommended	0.0
Segment 5	Recreation	8.0	None recommended	0.0
Segment 6	Scenic	12.1	Scenic	12.1

**SUITABILITY DETERMINATION:**

Portions of the North Fork of the Snoqualmie River were found to be suitable for inclusion in the preferred alternative of the Forest Plan. The lower seven miles below the Wagner Bridge - all state or private ownership - are recommended for designation. While there was little public support for designation and timber harvest is the highest value on the National Forest lands in this area, it was felt that the lower river had very high recreation potential and deserved designation.

Lennox Creek was found to be not suitable for inclusion in the preferred alternative. It is tributary to the North Fork of the Snoqualmie, and is an illogical addition without the upper reaches of the North Fork.

**LANDOWNERSHIP:**

Segment	River Miles	Corridor Acres
Segment 1 Mt. Baker-Snoqualmie National Forest (Alpine Lakes Wilderness - 0.3 mi)	0.3 mile	96 acres
Segment 2 Mt. Baker-Snoqualmie National Forest	6.9 miles	2,208 acres
Segment 3 Mt. Baker-Snoqualmie National Forest (Alpine Lakes Wilderness - 1.0 mi)	1.0 mile	320 acres
Segment 4 Mt. Baker-Snoqualmie National Forest	5.1 miles	1,632 acres
Segment 5 Private	6.0 miles	2,200 acres
State	2.0 miles	360 acres
Segment 6 Private	12.1 miles	3,872 acres
<b>TOTAL</b>	<b>33.4 miles</b>	<b>10,688 acres</b>

**Appendix E**  
North Fork Snoqualmie River  
Lennox Creek

1/Acres based on a 1/4-mile corridor on each side of the river.

**MINERAL AND ENERGY RESOURCE ACTIVITIES:** None of the river segments have been classified as areas of critical mineral potential. However, the area near the eastern 7 miles of the river has been encumbered by 99 unpatented mining claims, of which 43 have either been abandoned or declared to be null and void. A review of available literature, including the Bureau of Mines MILS data, indicates that the portion of the river lying in T.25N., R.10 E. does contain reported occurrences of both precious and base metal mineral resources. In addition, Sections 24 and 25, T.24 N., R.8 E. contain reported occurrences of both copper and gold resources.

The BLM has classified the eastern 6 miles of the river as being prospectively valuable for geothermal resources. The area is not considered to have potential for the occurrence of other leasable mineral commodities, and none of the area has been encumbered by mineral leases or lease applications.

Based upon the available information, it appears that the eastern 6 miles of the river has a low to moderate potential for the occurrence of both precious and base metal resources. Interest in those resources is currently being expressed in the form of numerous unpatented mining claims. It also appears that a small part of the area has at least a low potential for the occurrence of geothermal resources. However, no interest in that resource is currently being expressed.

**WATER RESOURCE DEVELOPMENT:** For many years, the North Fork Snoqualmie Valley has been considered to be a good location for a dam. The dam would control flooding downstream and/or create a water supply reservoir for domestic use.

The upper 15.4 miles of the North Fork Snoqualmie and all of Lennox Creek are classified as "Protected" from hydropower development by the Northwest Power Planning Council.

Preliminary permits for hydroelectric projects have been issued by FERC for four tributaries of the North Fork Snoqualmie: Lennox Creek, Big Creek, Hancock Creek and Tate Creek.

**TRANSPORTATION, FACILITIES AND OTHER DEVELOPMENTS:** Logging roads are extensive along both sides of the North Fork Snoqualmie except for that portion in the wilderness. The North Fork County Road parallels the North Fork Snoqualmie sporadically, along with Weyerhaeuser logging roads, from its mouth to the Forest boundary, where it becomes F.S. Road #57. The road continues upstream, paralleling Lennox Creek from its mouth to the Wilderness boundary. F.S. Road #5730 parallels the North Fork from the confluence with Lennox Creek to the Wilderness boundary.

Six bridges traverse the North Fork Snoqualmie River. One bridge is found on the North Fork Road near the mouth of the river, one on the Weyco Road to Lake Hancock and one on the Weyco Road at Sunday Creek. The Wagner Bridge lies near the confluence with Big Creek, and the other two bridges are on F.S. Road #5730 over the North Fork. There are also 3 bridges that span Lennox Creek.

No developed campgrounds exist along either river.

**Appendix E**  
**North Fork Snoqualmie River**  
**Lennox Creek**

The Bare Mtn. (#1037) and Lennox Cr. (#1001) Trailheads are located on F.S. Road #57 in the Lennox Creek drainage.

Residences line the North Fork Snoqualmie along the lower 3 miles.

Pastures are also found in the lower 3 miles.

The proposed 905-acre Three Forks Park site is located at the confluence of the North, South and Middle Forks of the Snoqualmie River. In 1978, Washington State Parks prepared a draft conceptual plan to meet the Snohomish Mediated Agreements requirement of developing a major recreation area at the Three Forks location. The plan called for most of the site to be managed as a natural area for wildlife habitat. It was also suggested for teaching beginning recreation skills in canoeing, kayaking, hiking and camping. Limited development is envisioned.

**RECREATION ACTIVITIES:** From Deep Creek to the swinging bridge, the lower 6 miles of the North Fork Snoqualmie offers a great diversity of challenges for advanced kayaking and canoeing. Heaviest use is from late April through June. There is no kayaking on Lennox Creek.

Fishing for resident trout is a high use on the North Fork Snoqualmie. Lennox Creek receives moderate use. The wild resident trout population is of high quality.

Hunting occurs on the uplands. Other dispersed recreation use in the drainages is low to moderate.

	1988 RVD'S	Projected 2000 RVD'S
Boating (power and nonpower)	50	80
Waterplay (swim, wade)	750	1,125
Fishing, Hunting	750	1,080
Camping	8,000	12,000
Viewing (scenery, wildlife, driving for pleasure)	500	760
Misc. (hike, picnic, berry picking, etc.)	1,000	1,960
<b>TOTAL</b>	<b>11,050</b>	<b>17,005</b>

**WILDLIFE AND FISHERIES:** The river corridors provide extensive winter range for black-tailed deer and mountain goats, as well as good riparian habitat.

There are no natural salmon runs above Snoqualmie Falls. Hatchery propagated chinook and coho have been planted in the upper drainages. Both the North Fork Snoqualmie and Lennox Creek are important resources for resident cutthroat trout. Special fishing restrictions provide quality fisheries.

**STREAMFLOW, GRADIENT AND VALLEY PROFILE:** The entire length of Lennox Creek and the upper 6 miles of the North Fork Snoqualmie cut through a narrow, steep-sloped valley. Below Lennox Creek for 7 miles, the valley is broad and flat. Downstream, the valley narrows and then broadens.

**Appendix E**  
**North Fork Snoqualmie River**  
**Lennox Creek**

Numerous small falls are found on the lower reaches of Lennox Creek. Below Hancock Creek, the North Fork Snoqualmie River falls over a series of cascades, with some drops exceeding 4 feet.

Water quality is excellent of both river.

**GEOLOGY:** Originating in massive, granite dominated mountains, the river flows through a wide, U-shaped glacially carved valley. Headwater mountains are highly dissected with rock outcrop and patches of perennial snow at higher elevations. The downstream topography is more subdued and is surrounded by forested (or cutover) ridge systems.

**CULTURAL RESOURCES:** No systematic archaeological survey has been made of the North Fork Snoqualmie/Lennox Creek drainage. Existing information comes primarily from published historical sources. During the historic period, the area was within the territory of the Snoqualmie Indians. There is some evidence that the mouth of the North Fork was used during the historic period by the Indian groups and currently holds some value for traditional religious practices.

Mining began in the upper valley in 1896 and numerous claims were filed within a year. The Lennox Mining and Development Company was located on Lennox Creek and prospectors built a small town at the mouth of the creek. A railroad was extended up the North Fork for logging in the early part of the century. None of the sites known from the North Fork Snoqualmie - Lennox Creek drainage are listed on the National Register of Historic Places.

**TIMBER:** Logged areas are found intermittently for most of the length of Lennox Creek. Extensive logging is found throughout most of the North Fork Snoqualmie drainage, especially on private land outside the forest boundary.

The following table describes total timber volume and annual sale quantity (ASQ) in millions of board feet for National Forest systems lands only:

	-----ASQ-----	
Total Timber Volume (MMBF)	Preferred Alternative w/o W&SR Designation (MMBF/yr.) <u>1/</u>	Preferred Alt. with Eligible W&SR Designation (MMBF/yr.) <u>1/</u>
89.0	4.628	4.268

1/ Based on preferred alternative with management requirements.

**SOCIO-ECONOMIC EFFECTS:** The North Fork Snoqualmie River flows into the Snoqualmie River approximately 1/2 mile from the community of North Bend and about 5 miles from the community of Snoqualmie. Lennox Creek has its origin in the Alpine Lakes Wilderness but for most of its length is paralleled by a forest road.

**Appendix E**  
**North Fork Snoqualmie River**  
**Lennox Creek**

The local communities, only about 30 miles from Seattle, are increasingly populated by people who work in the city. They are also strongly impacted by visitors seeking the scenic and recreation amenities of the area. These include hiking, camping, hunting and fishing. Traditional occupations within the timber industry still provide the livelihood of a number of residents.

**CURRENT ADMINISTRATION:** The upper 0.3 miles of Lennox Creek and 1.0 miles of the North Fork flow within the Alpine Lakes Wilderness. Public lands are administered by the Mt. Baker-Snoqualmie National Forest, USDA Forest Service. These lands are in the Alpine Lakes Area under management direction found in the Alpine Lakes Management Plan.

The Shoreline Environment has been designated by King County as Conservancy for both river banks outside Federal jurisdiction. The Conservancy Environment consists of shoreline areas which are primarily free from intensive development. It is the most suitable designation for shoreline areas of high scenic or historical values, for areas unsuitable for development due to biophysical limitations and for commercial forest lands.

Zoning for the banks of both rivers is classified as Forestry except for the section from Crater Lake to the mouth of the North Fork. This section is zoned as Rural Area with one home per 2.5 - 10 acres.

**FUNDING NEEDS IF CLASSIFIED AS A WILD AND SCENIC RIVER:**

The following are expected funding requirements for the North Fork Snoqualmie River and Lennox Creek for the next five years:

	<b>Expected Expenses Inde- pendent of Designation</b>	<b>Addit. Expenses with Designation</b>
General Administration	\$5,000	\$ 5,000
Costs of Implementation		1,000
Development of Management Plan		58,200
Development Costs		60,000
Operation and Maintenance Costs		12,000
<b>Total - First Five Years</b>	<b>\$5,000</b>	<b>\$136,000</b>

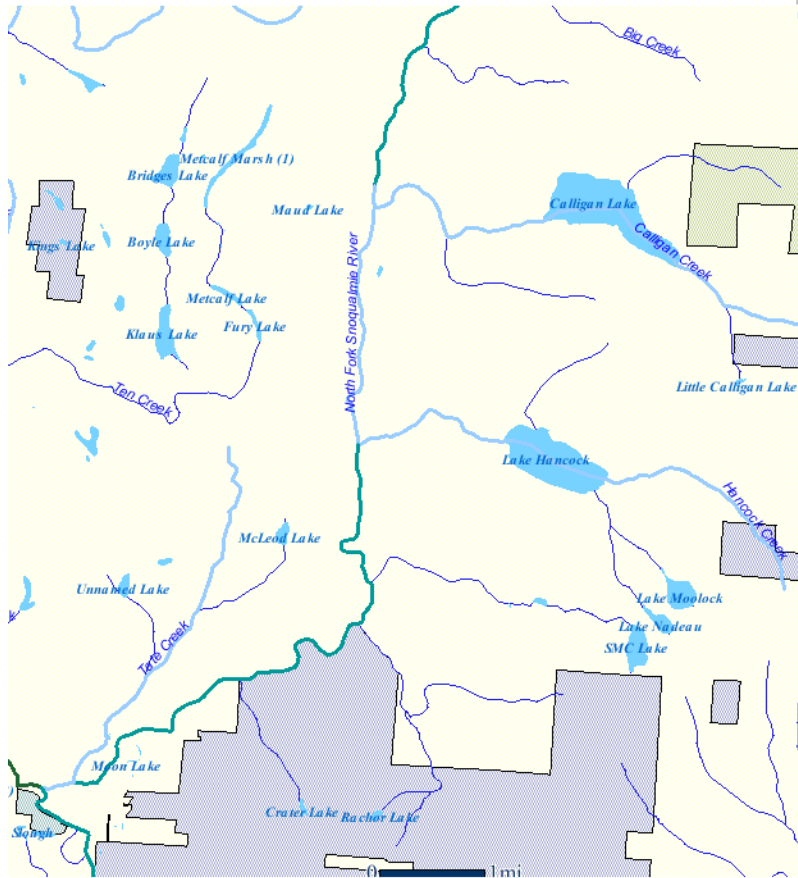
General administration and operation and maintenance costs are estimated to continue at \$4,400 annually.



**CONSERVATION GROUP INTERVENTION – EXHIBIT B**

**Map of Northwest Power and Conservation Council Protected Areas for North Fork  
Snoqualmie**

# Protected Areas Mapper



- Protected Areas**
- ▬ Anadromous Fish Only
  - ▬ Resident Fish and Wildlife
  - ▬ Anadromous and Resident Fish and Wildlife
  - ▬ Anadromous and Resident Fish or Wildlife
  - ▬ Resident Fish Only
  - ▬ Wildlife Only
  - ▬ Protected under other Federal/State Action
  - ▬ Unprotected
  - Major Dams
  - ▬ Highways
  - ▬ Streams (1:100,000 scale)
- Urban Areas**
- Land Owner**
- Bureau Land Mgmt
  - Local Govt
  - Nat Park Serv
  - Other/Unknown
  - Other Federal
  - Private
  - State Govt
  - Tribal Land
  - US Forest Serv
- Shoreline Boundary**
- Land
  - Ocean

**CONSERVATION GROUP INTERVENTION – EXHIBIT C**

**Washington State Department of Natural Resources Mount Si Natural Resources  
Conservation Area Map**

# Mount Si NRCA and Upper Snoqualmie Valley

Scale: 1 inch on the map represents 1 mile on the ground

## Public Land

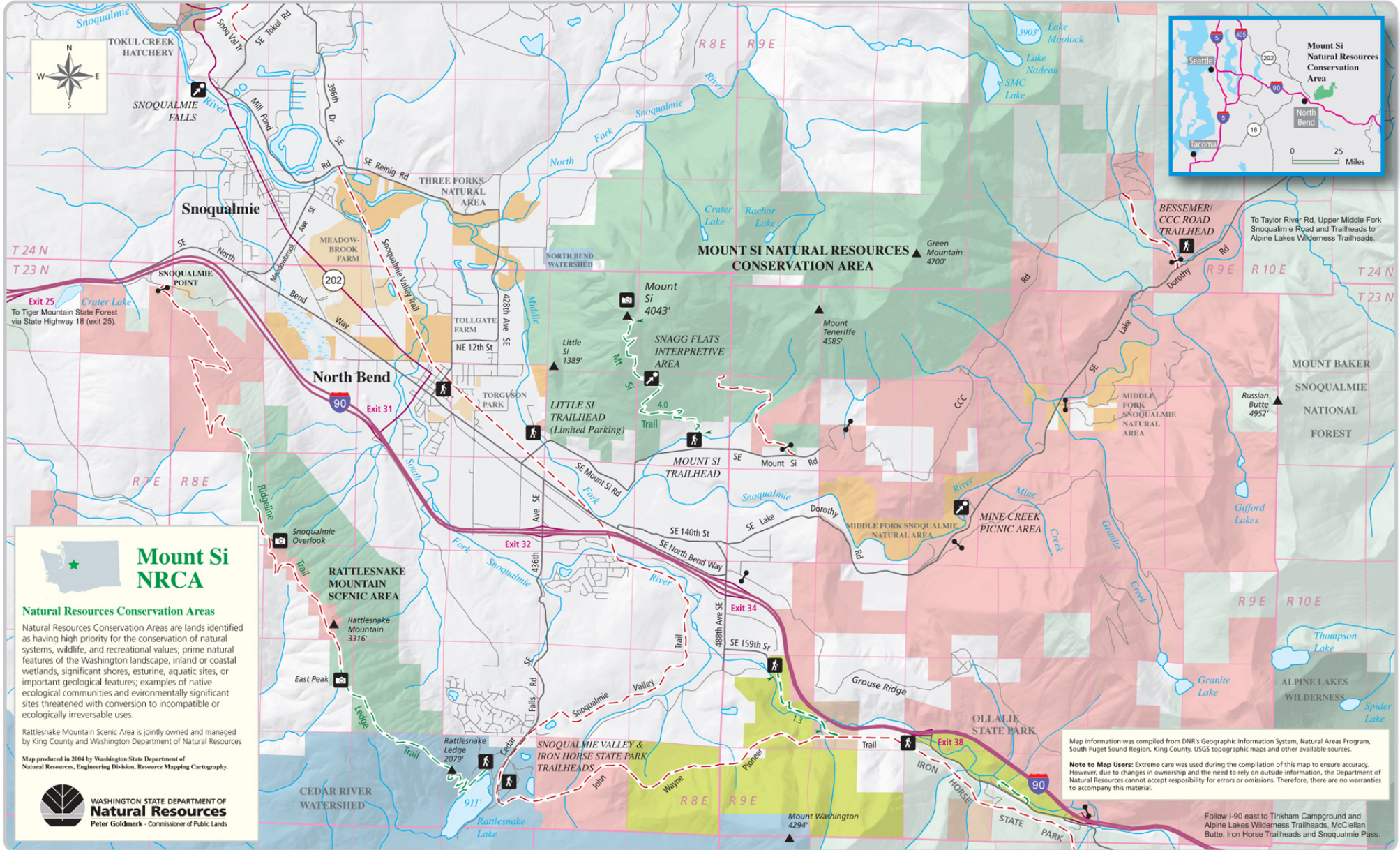
- DNR Natural Resources Conservation Area
- Other DNR Land
- Washington State Parks
- Washington State Dept of Fish and Wildlife
- Municipal Watershed
- King County
- Cities of North Bend or Snoqualmie
- US Forest Service
- US Forest Service Wilderness
- US Bureau of Land Management

## Trail Systems

- Hiker only
- Non Motorized Multiple Use
- 4.0 Mileage
- Gate

## Recreation Sites

- Trailhead Parking
- Viewpoint
- Point of Interest



## Mount Si NRCA

### Natural Resources Conservation Areas

Natural Resources Conservation Areas are lands identified as having high priority for the conservation of natural systems, wildlife, and recreational values; prime natural features of the Washington landscape, inland or coastal wetlands, significant shores, estuarine, aquatic sites, or important geological features; examples of native ecological communities and environmentally significant sites threatened with conversion to incompatible or ecologically irreversible uses.

Rattlesnake Mountain Scenic Area is jointly owned and managed by King County and Washington Department of Natural Resources

Map produced in 2004 by Washington State Department of Natural Resources, Engineering Division, Resource Mapping Cartography.

**WASHINGTON STATE DEPARTMENT OF Natural Resources**  
Peter Goldmark - Commissioner of Public Lands

Map information was compiled from DNR's Geographic Information System, Natural Areas Program, South Puget Sound Region, King County, USGS topographic maps and other available sources.

**Note to Map Users:** Extreme care was used during the compilation of this map to ensure accuracy. However, due to changes in ownership and the need to rely on outside information, the Department of Natural Resources cannot accept responsibility for errors or omissions. Therefore, there are no warranties to accompany this material.

Follow I-90 east to Tinkham Campground and Alpine Lakes Wilderness Trailheads, McClellan Butte, Iron Horse Trailheads and Snoqualmie Pass.

**CONSERVATION GROUP INTERVENTION – EXHIBIT D**

**Snoqualmie Valley Record Newspaper Article, June 20, 2011**

**Power of the North Fork: Plant builder, kayakers stake out issues on proposed Black Canyon hydropower project**

By [SETH TRUSCOTT](#)

**Snoqualmie Valley Record Editor**

Jun 20 2011

Thom Fischer powers his truck up the rugged, stony road, past a racing waterfall, to a ledge that opens into an emerald panorama of the Valley floor hundreds of feet below.

Few people travel this route, a pitted logging road in the private Hancock Timber forest, or take in the view, gazing south to Snoqualmie's rooftops, west along the face of Mount Si—and in all directions over a sea of trees. Skyscrapers dot the far distance.

"You can see Seattle from up here," said Fischer.

President of Bellingham-based Tollhouse Power Company, Fischer knows the road well enough to predict the exact spot he'll lose cell coverage. He visits the heart of the 100,000-acre tree farm to regularly, checking on his company's 4-megawatt hydropower project, the Black Creek power plant.

But Fischer also has plans for the river below. A strip of whitewater in the distance marks the beginning of Tollhouse's newest project, the proposed 25-megawatt Black Canyon hydro plant on the North Fork of the Snoqualmie River.

**Permit sought**

The Federal Energy Regulatory Commission in May announced receipt of Black Canyon's request for a preliminary permit, which would give the company priority in studying and preparing to build a plant. The company filed for the permit in March.

A 60-day public comment period was announced May 11 and runs through July 10.

The Tollhouse-owned Black Canyon hydroelectric project would put a 30-foot diversion dam across the river, channeling water into a mile-long tunnel. The penstocks would connect to two turbines at a power plant north of Ernie's Grove. Typical capacity would provide energy for about 13,700 homes, which Black Canyon would sell to Puget Sound Energy.

In their permit application, Black Canyon anticipates a slate of studies on topics ranging from tribal interests and history of land uses to hydrology and impacts on fish and wildlife, recreation and scenery. Those studies are expected to cost between \$500,000 and \$1 million and take three years to complete.

Fischer's optimistic estimate is that construction could begin in four years. He'd like to see that moment sped up, however, in order to meet what he describes as a nearing power crunch on the western United States.

"As long as people can walk over and flip on that light, they don't worry about it," he said. But Fischer says west coast power managers know otherwise.

"Our power grid isn't big enough for increased demand," he said. "We're underbuilt."

The diversion dam would not offer flood protection to downriver residents. Fischer said the company is considering an inflatable weir that would lower to release high flows.

Fischer contrasts the placid stretches of the North Fork downriver from the Black Canyon site with the whitewater along the project's length.

"It drops about 450 feet in a mile," he said.

That, Fischer says, means the stretch is infrequently accessible to only a few skilled kayakers.

### **Plant opposition**

To Thomas O'Keefe, Pacific Northwest Stewardship Director for American Whitewater, the pristine state of that challenging mile of whitewater is something that needs to be protected.

"This is an expert run," he said. While it's true that "the casual river runner is not going to go out there right away—you have to have the skill set," O'Keefe describes the Black Canyon run as a "hugely valued" wilderness experience.

"It's one of the iconic destinations, less than an hour from downtown Seattle," he said.

O'Keefe's organization, which represents kayakers, plans to offer serious opposition to the Black Canyon project.

"I think it's a terrible idea," he said.

His reasons include the river's proximity to the Mount Si Natural Resources Conservation Area, its recommendation as a Wild and Scenic River, its identification as a protected area by the Northwest Power and Conservation Council, and King County's purchase of development rights of Hancock Forest land.

Government agencies and councils "have recognized the river for its conservation value," O'Keefe said.

"Hydropower comes at tremendous environmental cost," O'Keefe said. While the region derives much benefit from hydropower, O'Keefe adds that "we need to look carefully at new projects." He wants to see Washington's hydroelectric plants run more efficiently.

"There is a clearly recognized conservation value in play," O'Keefe said. "This is one of the most outstanding expert kayak runs in the region. The idea that you would dewater this thing for a private developer of a hydro plant is, frankly, unacceptable."

American Whitewater has posted a notice about the proposal, along with a video tour of the river, on its [website](#).

With the plant proposed across the river from Washington Department of Natural Resources' Mount Si conservation area, the project surprises Doug McClelland, assistant manager for DNR's South Puget Sound Region.

"We never thought that was a type of use that you would see directly adjacent to the conservation area," McClelland said.

DNR plans to comment to FERC, emphasizing the wildness of the North Fork valley.

"It's all about the size and scale," McClelland said.

### **Hydro proponent**

For his part, Fischer doesn't see much of a conflict with kayakers.

"We can work with them," he told the Record by e-mail. For example, Black Canyon could accommodate water levels in the bypass reach when they want to run the river.

"My guess is that there would be more available days at these flows after project operations than what exist today," Fischer stated.

"I am a whitewater rafter myself," he added.

According to Fischer, North Fork kayakers must cross private property to access the river.

"This access issue also needs to be worked out with Hancock Forest Management, who owns the property," he said.

Fischer urges critics of hydropower projects to read up on the technology (He suggests <http://www.canyonhydro.com/resources.html>) and describes his colleagues as "engineers who have dedicated their lives to efficient, clean energy."

"It's more responsible to do this kind of thing than light diesel on fire or send wheelbarrows full of money to the Middle East," he said. "There is enough resources in the United States to produce all of our own energy.

"Even in the richest places in the world, what separates a first-rate economic town from a town that's bankrupt is the price of power," Fischer added. "If you don't have cheap energy, you don't have an economy."

### **Existing plant**

Finishing his drive, Fischer arrives at the 17-year-old Black Creek hydropower plant. There, a creek halts at a diversion dam before tumbling down a steep hill to a powerhouse far below before entering the North Fork.

Few people have seen this place, where cutthroat trout jump in the reservoir, and insects buzz around the sluice grating.

"There are national security interests," Fischer said. "We are reluctant to show people these things."

Fischer's company didn't build this site; he manages it for Puget Sound Energy. But the principles are the same. Power plant design has evolved a lot in the last 17 years—Fischer points to some underwater debris near the sluice gate, and talks about how latest designs minimize its buildup. Every time a plant is built, he said, lessons are learned.

Pointing to the surrounding stands of fir, Fischer said he is struck by the local beauty around the project.

"Every single one of these is in an absolutely beautiful place," he said.

Fischer wants the project to work, to blend in with its surroundings.

"It's a measure of pride," Fischer said. "You want these things built right."

### **Comments sought**

- The 60-day public comment period for the Black Canyon dam began May 11 and runs through July 10

Commenters can submit brief comments up to 6,000 characters, without prior registration, using FERC's eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>



More information about this project, including a copy of the application, can be viewed at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-14110-000) to access the document.

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