



Skagit County Board of Commissioners

Ron Wesen, First District

Peter Browning, Second District

Lisa Janicki, Third District

September 27, 2023

Re: Public Comment on Cascade River Tier III Designation Rulemaking Sept 27, 2023

WDOE Rulemaking Administrator,

Thank you for the opportunity to comment on the proposed Cascade River nomination for an “Outstanding Resource Water” Tier III designation. As previously stated, we share the goals of wanting to enjoy and experience our beautiful waters like the Cascade River and its tributaries. As a committed resource county, Skagit County articulated in our Comprehensive Plan, through zoning regulations, our intentions in conserving our forest, agricultural and mineral resource lands along with the critical area protections, which include flow sensitive basins, wetlands, geologically hazardous areas, and fish and wildlife habitat.

Because existing regulations already provide significant restrictions that maintain the waters in their current state, the application fails to meet criteria, unanswered questions remain, and the effect of the designation is unclear, we cannot support this nomination and as detailed in this comment we oppose the filing of CR-103.

➤ **Significant restrictions provide protections of the designated area.**

Skagit County utilizes SEPA, as it was intended, to gather information on all impacts of an activity (project or non-project) utilizing open public comments thus allowing for purposeful/appropriate mitigative actions (if necessary). Issuing a Determination of Non-Significance (DNS), without public input, curbs the ability to involve how everyone may be potentially impacted. This is done through an Environmental Assessment (EA) or Environmental Impact Statement (EIS).

Regulations such as the Forest Practice Rules with the associated Habitat Conservation Plans (HCP) on both private and State lands along with the United States Forest Service (USFS) use of National Environmental Policy Act (NEPA), as seen recently in the development of the Northwest Scenic Trail and ongoing timber sales, fully cover regulating impacts from land uses and activities. Designations like “Wild and Scenic” and “Roadless Areas” already in place within some of the designated area, identify higher environmental qualities exist and limit actions.

➤ **The application fails to meet multiple criteria when carefully examined. One or more of five criteria under WAC 173-201A-330 must be satisfied to merit the designation.**

WAC 173-201A-330(1)(a) guidance as to “relatively pristine” is “largely absent human sources of degradation” There are no baselines of what human sources are considered. Washington Department of Ecology (WDOE) appears to have disregarded existing conditions, for example roads and campsites as detailed below.

WAC 173-201A-330(3) states that “After receiving a request for outstanding resource water designation, the department will: ... (b) In determining whether or not to designate an outstanding resource water, the department **will consider factors relating to the difficulty of maintaining the current quality of the water body** (emphasis added)”.

There is no indication that WDOE would find difficulty maintaining current water quality. As stated above, regulations already exist which identify higher environmental qualities occur and limit actions.

WAC 173-201A-330(3)(d) criteria requires a water of **exceptional** statewide significance. The standard fails to indicate how such an exceptional status can be determined.

➤ **Applying these criteria suggests this designation would NOT be appropriate.**

The Proponent claims the proposal meets requisite conditions to be designated as an outstanding resource water under WAC 173-201A-330(1)(a). However, the following condition is lacking: *(t)he water is in a relatively pristine condition (largely absent human sources of degradation) or possesses exceptional water quality, and also occurs in federal and state parks, monuments, preserves, wildlife refuges, wilderness areas, marine sanctuaries, estuarine research reserves, or wild and scenic rivers (emphasis added)*. The characterization of the nominated segment as “pristine” is unsupported. The Cascade River is one of few in western Washington to have a public road from its mouth to its headwaters. There are miles of which is a paved two-lane road. Construction of the Cascade Wagon Road by Skagit County (now known as Cascade River Road or Forest System Road # 15) began in 1895. The proposal erroneously maps “roadless areas” where there have been forest roads for decades. In fact, there are existing USFS forest road networks (including NC 1530, 1540, 1550) and named roads in Marble Creek, Irene Creek, Sibley Creek, Sonny Boy / Kindy / Vee Creeks, lower South Fork Cascade River / Pincer Creek, Found Creek and Saddle Point Road. The current road density is significantly higher than many comparably sized watersheds in the North Cascades. Each of these drainages served by the existing forest road network has historic timber harvest activity. There is also a ‘developed’ drive-in campground at Mineral Park and four identified trailheads.

By a plain English reading, the majority of length of the nominated segment does not occur in one of the enumerated land use categories. Only a small fraction of the proposed segments (portions of Marble Creek and North Fork Cascade River) are within North Cascades National Park. Only a portion of the mainstem Cascade River is designated Wild and Scenic. A small fraction of the proposed segments exists in Administratively Withdrawn Areas. The majority of the (estimated) 149.8 miles of stream length proposed for designation are within Mount Baker-Snoqualmie National Forest, which is not a federal park. The Northwest Forest Plan (NWFP) designates these areas of the watershed as Late-Successional Reserves (a category not enumerated in WAC 173-201A-330(1)(a)). Within Late Successional Reserves, second growth forest stands are available for timber harvest and salvage harvest is an available management option in all forest stands. Further, the NWFP designations are subject to periodic review and modification to meet planning goals.

The Proponent claims the proposal meets requisite conditions to be designated as an outstanding resource water under WAC 173-201A-330(1) (c). The following condition is lacking: *(t)he water has both high water quality and regionally unique recreational value (emphasis added)*. Both the proposal and the determination by the Department of Ecology (WDOE) lack any underlying data regarding temperature, sediment, dissolved oxygen or any other water quality pollutants. The Proponent and WDOE conflate a lack of known water quality impairments with appropriate due diligence to document “outstanding water quality” much less a measurement relative to the designated use criteria.

The Cascade River and its named tributaries (an estimated 149.8 miles) do have recreational value. The Cascade Road provides easy access to some fantastic North Cascade landscapes, which may only be experienced by some via a motorized vehicle and very popular with hikers, backpackers, climbers, kayakers, car campers, sightseers, and day use. There has been a steady increase of visitors to these limited areas within the designated tier III boundary over the past several years. Parking at trailheads is limited on busy weekends. Cars are parked in turnouts, on side roads and in front of gates. Tents are pitched along the road and next to the river. Restrooms are scarce. Refuse collection limited. How

will the impacts from increased users be mitigated. Who will be responsible for the maintenance? We don't believe this has been addressed or even if additional infrastructure will be allowed. Like so many other scenic areas with easy access, the Cascade River's biggest issue is the amount of use and lack of facilities to handle impacts. A Tier III designation is more likely, with the Tier III recognition will increase popularity and use, increasing negative impacts.

The Proponent of this application proposal claims it meets requisite conditions to be designated as an outstanding resource water under WAC 173-201A-330 (1) (d): *(t)he water is of exceptional statewide ecological significance*. The Proponents' characterization relies on subjective, circular logic that because the Cascade River supports many species of fish (as do many rivers that are far from pristine), that because it has recreation value (as do many other rivers that offer much more recreational diversity and availability), and that because small portions ARE designated 'wild and scenic', the entire 149.8 miles (plus an the unknown length of tributaries) a *de facto* proclamation of exceptional significance should be assumed. This is not an appropriate approach to designating a Tier III River.

There are additional assertions that are factually incorrect. The Proponent asserts that no private property is contained within the proposed segments. The WDOE has noted that one private parcel exists which has been identified. Identification of additional parcels is unable to occur because WDOE has stated it lacks maps available which our county GIS department can use to accurately assess whether there are other parcels or inaccuracies such as known county roads, campsites, trailheads, etc.

WAC 173-201A does not provide any limitations on what future regulations might be. For example, the potential impact on downstream waters has not been provided nor how or what policies the WDOE will use to ensure how to keep designated waters from undergoing **any** degradation.

Finally, the "Wild and Scenic" designation (16 USC 1271) currently in place along with the State Forest Practice Rules (RCW 76.09) and the Skagit County Comprehensive Plan provide protections necessary to keep the Cascade River a valuable river with high value ecological habitats for aquatic and terrestrial species, recreational opportunities, and forest management and sustainable resource production benefiting our rural communities and the carbon footprint. Many rivers in Washington could easily be considered "relatively pristine" while having recreational activities occurring on them. We firmly believe that regulations and restrictions currently in place are more than adequate especially in concert with the aid of SEPA and NEPA to provide protection of the Cascade River and maintain it in its existing condition and that a new designation with so many unanswered questions about definitions, access, and impacts should preclude this site from Tier III designation at this time.

Sincerely,

BOARD OF SKAGIT COUNTY COMMISSIONERS



Ron Wesen, Chair



Lisa Janicki, Commissioner



Peter Browning, Commissioner