

Wild & scenic sample comments

September 2016

Use plans to protect rivers

In a nation of highly developed working rivers, a vigorous effort to protect remaining intact, healthy rivers and stream corridors is essential and always timely.

While the best-known and most enduring method of protecting rivers is congressional designation of rivers into the *National Wild and Scenic Rivers System*, we can also secure more immediate administrative protections through federal land management plans.

The revision or update of these plans is your cue for action.

Well-crafted citizen comments can significantly influence federal land management plan decisions regarding rivers protection. Comments are especially effective when they provide detailed, carefully researched, professionally presented details about the values and uniqueness of select rivers and their natural corridors.

As you prepare your comments, remember the key aspects of assessment and documentation:

- **Know your river**

Systematically gather and document what you know about the rivers you are advocating. Include scientific data, as well as personal stories and knowledge

- **Provide useful, timely information**

Include narrative descriptions of each river; provide photographs and other graphics; highlight rare, unique, and sensitive species; include academic and scientific documentation.

- **Recruit influential supporters**

Include well-known and influential messengers, either as your spokespeople or signed on to your comments.

- **Focus on rivers-specific plan components**

Best portions include rivers inventory, w&s eligibility report, w&s suitability study, river recommendations.

Find more details on all this at *American Rivers'* full wild & scenic rivers advocate's resource center at

www.americanrivers.org/wildriverresources

Meanwhile, the following sample comments may be helpful to you...

Examples of w&s comments

Helena-Lewis & Clark National Forest w&s eligibility

Thank you for the opportunity to comment on the Helena-Lewis and Clark National Forest's *Wild and Scenic Rivers Eligibility Study* during the early stages of the forest plan revision process. The recently combined forests cover an incredible region of Montana that gives rise to some of the most stunning streams in the country. American Rivers is pleased that the Forest found 40 of these streams to be potentially eligible under the Wild and Scenic Rivers Act (WSRA). We hope that these streams, plus four more detailed below, will be included in the final study. These comments also contain a set of process recommendations and a list of additional Outstandingly Remarkable Values (ORVs) that we wish the Forest to consider.

The Wild and Scenic Eligibility Inventory Process

The Wild and Scenic Rivers Act is at its core a non-degradation policy that requires the protection and enhancement of the special values that led to designation.³ These values, when recognized prior to congressional designation, must be maintained by the managing agency to preserve future opportunities for designation at the classification each stream was inventoried. A determination of *eligible* is merely the first cut - the menu from which designated rivers are drawn, and as such should be interpreted as permissively as possible in this era where free-flowing rivers are increasingly important and relatively rare.

We want to thank the Forest for evaluating 21+ streams that we submitted as eligible for Wild & Scenic designation during the pre-analysis phase of the Forest Plan Revision process, and the transparency with which you have communicated your analysis...While the analysis appears to contain a significant measure of subjectivity that could be contested, we

appreciate being able to see some of the rationale that the Interdisciplinary Team used to arrive at its decisions...

To be considered "eligible" for designation under the WSRA, a stream must only be 1) free flowing and 2) possess at least one Outstandingly Remarkable Value (ORV). Once an agency has determined that a stream has both of those characteristics, which it appears the Helena-Lewis and Clark National Forest does in Steps 1-4 of their study, then that stream must be considered *eligible*. Neither the WSRA nor the Forest Service Handbook allow for the elimination of streams from eligibility that have been found to be both free-flowing and in possession of at least one ORV based upon a "rating" of ORVs, the determination of a "scale of importance" of ORVs, or the determination of the "significance" of ORVs at later steps in the process. Those processes are contrary to both law and policy.

Put another way, once a value attached to a stream has been determined to be "Outstandingly Remarkable" by the agency, that stream is by definition "eligible" under the WSRA if it has also been determined to be free-flowing. Such a stream must be documented as Wild and Scenic *eligible* by the agency.

Comments on Specific Streams

We would like to first note that both American Rivers and Montanans for Healthy Rivers support Wild & Scenic eligibility for all of the streams that the Forest has determined to be eligible...However, we do recommend additional ORVs for the streams listed...We also respectfully request that the Forest add Belt Creek, South Fork Deep Creed, North Fork Teton River, and South Fork Depuyer Creek to its list of Wild & Scenic eligible streams...

Comment letter then includes chart of proposed eligible rivers, listing river name, description, miles, potential w&s classification, ORVs, and justifications for addition.

Examples of w&s comment, p. 2

Kootenai Natl Forest draft plan

American Rivers, American Whitewater, and the Pacific Rivers Council are pleased to offer these comments on the Draft Forest Plan and related DEIS regarding the Kootenai National Forest. As groups dedicated to protecting the clean water, free-flowing character, biological resources, and recreational values of Montana's rivers, we have a direct interest in the management of the Kootenai National Forest (KNF)...

As you are surely aware, the Kootenai NF contains many regionally and nationally significant rivers and streams that serve as vital biological refugia as well as treasured recreational destinations.

Under the federal Wild & Scenic Rivers Act, streams that are free-flowing and have been found to possess at least one outstandingly remarkable value (ORV) are eligible for Wild and Scenic designation, and must be formally recognized and protected as such by the appropriate managing agency. The Draft Forest Plan and DEIS reference and describe in general terms an analysis conducted by the Kootenai NF sometime prior to 2006 intended to update the 1989 inventory of Wild and Scenic eligible streams. The outcome of this analysis was a slightly expanded inventory that included 10 new streams, totaling 63 miles. This proposal was also included in the 2006 Draft Forest Plan. We believe this most recent Wild and Scenic inventory, as well as the Draft Forest Plan, contain several omissions and opportunities for improvement related to the Wild & Scenic eligible streams on the forest, therefore we respectfully request that the Kootenai NF find additional stream reaches eligible for Wild & Scenic designation.

The Wild and Scenic Eligibility Inventory Needs to Provide Complete and Transparent Documentation

The Forest Service Handbook requires that Wild & Scenic eligibility inventories be "documented." In the case of the Draft Forest Plan, the public is not told which specific stream reaches the inventory considered, why some streams were rejected, and why other streams were found eligible... We ask that the Kootenai NF's eligibility analysis be made transparent as part of this NEPA process, including the stream-specific values that were used to determine whether or not each stream was considered to be Wild and Scenic eligible. This is particularly important when determining whether or not a stream possesses ORVs. An in-depth, objective analysis of a stream's potential ORVs requires not only first-hand knowledge of the stream reach as whole, but of its past and present uses, as well as the most current scientific information that could document its importance to native fauna and flora, including ESA listed species such as bull trout, which just received a critical habitat designation in 2009 from the US Fish and Wildlife Service. Transparent documentation and analysis allows all interested parties to work from the same set of premises...

The KNF Employed Screens that Were Too Narrow in Assessing Wild & Scenic Eligibility

The screens employed by the Kootenai NF to determine which rivers are eligible for Wild and Scenic designation resulted in errors and omissions. The DEIS states: *The comparative scale used for this assessment is the individual forest. That is, the rivers and streams on the Kootenai NF were compared one to another.*

Examples of w&s comments, p. 3

Kootenai comments, continued...

This narrow geographical screen overlooks a primary purpose of the Wild and Scenic Rivers Act, which is to protect streams possessing *nationally* and *regionally* significant values, as well as locally significant ones. For example, certain streams that offer high quality wildlife habitat and wildlife viewing opportunities (e.g. grizzly bear, lynx, harlequin duck, etc.) may arguably not be locally unique in that regard when compared to other streams on the Forest, however they certainly are *nationally* unique and significant. Forest Service Handbook direction on determining outstandingly remarkable values clearly allows for such national and regional comparisons to be made: *In order to be assessed as outstandingly remarkable, a river-related value must be a unique, rare, or exemplary feature that is significant at a comparative regional or national scale.*

The geographical area of comparison is a matter of discretion left up to the interdisciplinary (ID) team to decide, however that choice must be rational and consistent with the purpose and intent of the Wild and Scenic Rivers Act. A comparison only to other streams on the Forest arbitrarily and inappropriately omits the highly relevant distinction of the Kootenai NF's streams when compared to other streams nationally and to a broader region such as the U.S. Northern Rockies. We hereby request that the Kootenai NF broaden the scope of comparison to consider the regional and national significance of streams on the Forest when determining ORVs.

All Wild & Scenic Eligible Streams and Outstandingly Remarkable Values Lack Sufficient Description

The Wild and Scenic Rivers Act is at its core a non-degradation policy that requires the protection and enhancement of the special values that led to designation. These values, when recognized prior to congressional designation, must be maintained by the managing agency to preserve future opportunities for designation at the classification inventoried. The Kootenai NF appropriately recognizes this in the Draft Forest Plan: *Eligible rivers and adjacent areas are managed to protect the free-flowing nature of these rivers, and outstandingly remarkable scenic, recreational, geologic, fish, wildlife, historic, cultural, or other similar values for the benefit and enjoyment of present and future generations.*

In order to protect these values, the Forest Service and the public must have a clear description of what they are. The DEIS contains no descriptive language about what makes these eligible rivers special and thus what values will be protected.

Proposal for Additions to the Wild & Scenic Rivers Eligibility Inventory

Over the past two years our groups have been carefully studying the biological, recreational, scenic, and other values of streams on the Kootenai NF... Our report offers evidence for finding 17 rivers on the Kootenai NF eligible for Wild & Scenic designation, including eight streams either not considered, or considered and dismissed, by the Kootenai NF in the DEIS.

Based upon this information, we request that the USFS determine that each of these streams is eligible for Wild and Scenic designation, or provide a transparent analysis to the contrary... *(list of streams)*