

Objection Reviewing Officer  
USDA Forest Service  
Northern Region  
26 Fort Missoula Road  
Missoula, MT 59804

September 5, 2020

This submittal is an objection to the Draft ROD, FEIS, and Revised LMP for the Custer-Gallatin National Forest. Name of the project being objected to, the name and title of the responsible official, and the name of the National Forest on which the project is located:

Custer-Gallatin Forest Plan, FEIS, and Draft ROD  
Mary Erickson, Forest Supervisor  
Custer-Gallatin National Forest  
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I would appreciate a meeting to discuss potential resolution of issues, if you find there is potential to resolve any of the specific concerns raised in this objection.

## Section I. Brief Review of Issues and Proposed Solutions

### A. Introduction

The Continental Divide National Scenic Trail (CDNST) Leadership Council 2004 vision for the future of the CDNST states, *“Complete the Trail to connect people and communities to the Continental Divide by providing scenic, high-quality, primitive hiking and horseback riding experiences, while preserving the significant natural, historic, and cultural resources along the Trail.”* The Leadership Council in 2006 reviewed concerns related to the 1985 CDNST Comprehensive Plan and decided to amend the Comprehensive Plan direction following official public involvement processes.<sup>1</sup> The final amended CDNST Comprehensive Plan programmatic direction was published in a Federal Register Notice and took effect on November 4, 2009.<sup>2</sup> The CDNST Comprehensive Plan should eventually be revised to further address the conservation,<sup>3</sup> protection,<sup>4</sup> and preservation<sup>5</sup> purposes of this National Scenic Trail.

The amended Comprehensive Plan was approved by Chief Thomas Tidwell.<sup>6</sup> An outcome of the amended Comprehensive Plan was the description of the nature and purposes of this National Scenic Trail: *“Administer the CDNST consistent with the nature and purposes for which this National Scenic Trail was established. The CDNST was established by an Act of Congress on November 10, 1978 (16 USC 1244(a)). The nature and purposes of the CDNST are to provide for high-quality scenic, primitive hiking and horseback riding opportunities and to conserve natural, historic, and cultural resources along the CDNST corridor.”*

The amended Comprehensive Plan establishes other important direction for the management of the CDNST including:

- The right-of-way for the CDNST is to be of sufficient width to protect natural, scenic, cultural, and historic features along the CDNST travel route and to provide needed public use facilities.
- Land and resource management plans are to provide for the protection, development, and management of the CDNST as an integrated part of the overall land and resource management direction for the land area through which the trail passes.
- The CDNST is a concern level 1 travel route with a scenic integrity objective of high or very high.
- Manage the CDNST to provide high-quality scenic, primitive hiking and pack and stock opportunities. Use the Recreation Opportunity Spectrum (ROS) in delineating and

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<sup>1</sup> 36 CFR § 216

<sup>2</sup> <https://www.federalregister.gov/documents/2009/10/05/E9-23873/continental-divide-national-scenic-trail-comprehensive-plan-fsm-2350>

<sup>3</sup> 16 U.S.C. §§ 1242(a)(2), 1246(k)

<sup>4</sup> 16 U.S.C. §§ 1244(f)(3), 1246(i)

<sup>5</sup> 16 U.S.C. §§ 1241(a), 1244(f)(1)

<sup>6</sup> [https://www.fs.fed.us/sites/default/files/fs\\_media/fs\\_document/cdnst\\_comprehensive\\_plan\\_final\\_092809.pdf](https://www.fs.fed.us/sites/default/files/fs_media/fs_document/cdnst_comprehensive_plan_final_092809.pdf)

integrating recreation opportunities in managing the CDNST.<sup>7</sup> The use of motorized vehicles by the general public along any national scenic trail shall be prohibited with limited exceptions.<sup>8</sup>

The CDNST Federal Register Notice provided additional direction to the Forest Service as described in FSM 2353. The final directives added a reference to the CDNST Comprehensive Plan as an authority in FSM 2353.01d; ... added the nature and purposes of the CDNST in FSM 2353.42; and added detailed direction in FSM 2353.44b for governing implementation of the CDNST on National Forest System lands.

The Land Management Planning Handbook establishes important guidance that address relationships between National Scenic and Historic Trail Comprehensive Plans and Forest Plans. Appropriate management of National Scenic Trails (36 CFR § 219.10(b)(1)(vi)) is addressed in FSH 1909.12 24.43 stating:

- The Interdisciplinary Team shall identify statutorily designated national scenic and historic trails and plan components must provide for the management of rights-of-ways (16 U.S.C. § 1246(a)(2)) consistent with applicable laws, regulations, and Executive Orders.
- Plan components must provide for the nature and purposes of existing national scenic and historic trails.

The final amendments to the CDNST Comprehensive Plan and corresponding directives ... will be applied through land management planning and project decisions following requisite environmental analysis (74 FR 51124). CDNST management direction enacted through correspondence may supplement this direction, but such direction would not supersede the guidance found in the National Trails System Act (NTSA), Executive Orders, CDNST Comprehensive Plan, regulations, and directives. **Attachment A** includes extensive comments submitted through Forest Plan revision processes, which included a handbook titled: *ROS as a Management Tool* by Bacon, Warren, and Stankey.

Much of the Custer-Gallatin plan direction departs from the CDNST Comprehensive Plan, FSH 2353.4, and FSH 1909.12 23.23a, 23.23f and 24.43 guidance without providing a reasoned basis or a detailed justification for ignoring these previous findings and direction.

## **B. Summary of Issues and Statements of Explanation**

### **1. Recreation Opportunity Spectrum**

The Recreation Opportunity Spectrum (ROS) provides a framework for stratifying and defining classes of outdoor recreation environments, activities, and experience opportunities. The Forest Service uses the recreation opportunity spectrum to define recreation settings. The 1982

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<sup>7</sup> Primitive and Semi-Primitive Non-Motorized ROS settings provide for the nature and purposes of the CDNST.

<sup>8</sup> 16 U.S.C. § 1246(c)

ROS User Guide, 1986 ROS Book, and FSM 2310 (WO Amendment 2300-90-1) were the recreation resource technical basis for the planning rule and planning directives. To be consistent with the planning rule and recreation policy and research the Forest Plan must define and apply ROS principles that are consistent with the ROS planning framework which is the best available scientific recreation planning information. Most important is including ROS physical setting indicators when describing Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized ROS setting desired conditions.

*The ROS Book states, "The physical setting is defined by the absence or presence of human sights and sounds, size, and the amount of environmental modification caused by human activity. The physical setting is documented by combining these three criteria as described below. Physical Setting - The physical setting is best defined by an area's degree of remoteness from the sights and sounds of humans, by its size, and by the amount of environmental change caused by human activity... The explicit nature of the ROS assists managers in identifying and mitigating conflict. Because the ROS identifies appropriate uses within different recreation opportunities, it is possible to separate potentially incompatible uses. It also helps separate those uses that yield experiences that might conflict, such as solitude and socialization... The ROS also helps identify potential conflicts between recreation and non-recreation resource uses. It does this in several ways. First, it can specify the overall compatibility between a given recreation opportunity and other resource management activities. Second, it can suggest how the activities, setting quality, or likely experiences might be impacted by other non-recreation activities. Third, it can indicate how future land use changes might impact the present pattern of a recreation opportunity provision. The apparent naturalness of an area is highly influenced by the evidence of human developments. If the landscape is obviously altered by roads, railroads, reservoirs, power lines, pipe lines, or even by highly visual vegetative manipulations, such as clearcuttings, the area will not be perceived as being predominately natural. Even if the total acres of modified land are relatively small, "out of scale" modifications can have a negative impact."*

The Forest Service, in FSM 2310 (WO Amendment 2300-2020-1) on April 23, 2020, modified the 1982 ROS User Guide and 1986 ROS Book Recreation Opportunity Spectrum setting definitions and no longer refers to the 1982 ROS User Guide direction for planning purposes. The agency does not explain the change to policy, but it appears that the agency wishes to allow for timber production in Semi-Primitive Motorized ROS settings and to allow for road construction in Semi-Primitive Non-Motorized ROS settings for the vague purpose of forest health. Concerning is that the agency does not disclose the consequences of those changes to recreationists seeking Primitive and Semi-Primitive ROS experiences when new roads and vegetation management activities are encountered, including those seeking high-quality scenic, primitive hiking and horseback riding opportunities along the Continental Divide National Scenic Trail.

Instead of declaring that timber production is compatible with Semi-Primitive ROS settings, the plan could establish a Roaded Natural/Modified ROS setting for those general National Forest System lands where timber production and harvest are to be emphasized. Primitive and Semi-Primitive ROS classes must constrain some management actions such as mechanical treatments of vegetation that utilize heavy equipment and permanent or temporary roads if these desired ROS class opportunities as described in the 1986 ROS Book and used in the Planning Rule PEIS are to be protected.

The recreation opportunity spectrum provides a framework for integrating recreational opportunities and nonrecreational activities. The central notion of the spectrum is to offer recreationists alternative settings in which they can derive a variety of experiences. Because the management factors that give recreational value to a site are interdependent, management must strive to maintain consistency among these factors so that unplanned or undesired changes in the opportunities do not occur. ROS is reviewed in more detail in Sections II, III Part B, and IV Part D of this objection.

## **2. Regional Forester and Custer-Gallatin CDNST Plan Components**

The National Trails System Act of 1968, 82 Stat. 919, as amended, provides that the CDNST shall be administered by the Secretary of Agriculture and so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of nationally significant scenic, historic, natural, or cultural qualities. It empowers and requires that the Secretary of Agriculture select the CDNST rights-of-way which informs the National Scenic Trail corridor location and width. The establishment of the CDNST corridor thus constitutes an overlay on the management regime otherwise applicable to public areas managed by land management agencies. The NTSA and *Trails for America in the 21st Century* Executive Order limits the management discretion the agencies would otherwise have by mandating the delineation and protection of the CDNST rights-of-way (aka National Trail Management Corridor) for the purpose of providing for the nature and purposes of the CDNST.

The Regional Foresters' and Custer-Gallatin revised Forest Plan CDNST plan components do not reflect the guidance in the National Forest Management Act of 1976 and the National Trails System Act as amended in 1978. The Forest Service relies on an ambiguous right-of-way<sup>9</sup> statement in the National Trails System Act as enacted in 1968 as an indicator that the management and protection of National Scenic and Historic Trails is subordinate to common multiple-use programs. This improper interpretation of the rights-of-way selection guidance in the NTSA often goes as follows: *"The National Trails System Act at 16 U.S.C. § 1246(a)(2) indicates that management in the vicinity of the CDNST while it traverses management areas that are subject to development or management is acceptable, but should be designed to*

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<sup>9</sup> 16 U.S.C. § 1246(a)(2)

*harmonize with the CDNST as possible. Development and management of each segment of the National Trails System shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land. The wording recognizes multiple uses and seeks to moderate impacts on the trail from resource management to the extent feasible while meeting resource management objectives.”<sup>10</sup>*

The 1968 guidance “to be designed to harmonize with and complement any established multiple-use plans for that specific area” was to some extent addressed in 1980 directives by Chief Max Peterson: “Development and administration of a National Scenic Trail or National Historic Trail will ensure retention of the outdoor recreation experience for which the trail was established... Land management planning should describe the planned actions that may affect that trail and its associated environments. Through this process, resource management activities prescribed for land adjacent to the trail can be made compatible with the purpose for which the trail is established. The objective is to maintain or enhance such values as esthetics, natural features, historic and archeological resources, and other cultural qualities of the areas through which a National Scenic or National Historic Trail goes.”

The National Forest Management Act requires that a Land Management Plan address the comprehensive planning and other requirements of the NTSA in order to form one integrated Plan. As such, the NTSA guidance that a National Trails System segment be, “*designed to harmonize with and complement any established multiple-use plans for that specific area,*” is not applicable to a land management plan approved after the passage of the National Forest Management Act (NFMA) in 1976 and as addressed in the 1982 planning regulations. Furthermore, the NTSA was amended in 1978 in part to designate the CDNST and require comprehensive planning for National Scenic and Historic Trails, which the Forest Service is attempting to complete through staged decisions for the CDNST whereas the revised Custer-Gallatin Forest Plan is critical in contributing to NTSA comprehensive planning requirements.

The Custer-Gallatin Forest Plan does not clearly display the CDNST management corridor. In addition, CDNST plan components do not protect the qualities and values of this National Scenic Trail. The Custer-Gallatin plan components do not address the National Trails System Act and CDNST Comprehensive Plan requirements to: (1) provide for high-quality scenic, primitive hiking and horseback riding opportunities that reflect ROS planning framework conventions, and (2) fails to conserve scenic, historic, natural, or cultural qualities of the areas through which such trails may pass. Custer-Gallatin Forest Plan CDNST direction is reviewed in detail in Section III Part G and Section IV Part F of this objection.

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<sup>10</sup> [Medicine Bow Landscape Vegetation Analysis Project, Reviewing Officer’s Instructions, June 10, 2020.](#)

### C. Proposed Solution to Improve the Decision

The CDNST Comprehensive Plan in Chapter IV Part A states, “*The primary policy is to administer the CDNST consistent with the nature and purposes for which this National Scenic Trail was established. The nature and purposes of the CDNST are to provide for high-quality scenic, primitive hiking and horseback riding opportunities and to conserve natural, historic, and cultural resources along the CDNST corridor.*”

The Forest Plan should identify and map the probable location of the rights-of-way and delineate a corridor that protects the resource values for which this National Scenic Trail was designated. The Responsible Official shall include plan components that provide for the nature and purposes of national scenic trails in the plan area (FSH 1909.12 Part 24.43). For the purpose of providing for the nature and purposes of the CDNST, resolving this objection, and addressing key proposed Forest Plan deficiencies, the Forest Service should take the following actions:

- ROS class definitions need to be expanded to add descriptions of Non-Recreation Uses and Evidence of Humans. ROS setting descriptions need to be consistent with the 1986 ROS Book which was a basis for the recreation direction in the planning rule as informed by the Planning Rule PEIS and FSM 2310 (WO Amendment 2300-90-1).
- Establish and display on a Forest Plan map a CDNST Management Area<sup>11</sup> (aka National Trail Management Corridor) that is discernable with an extent of at least one-half mile on both sides of the CDNST travel route where overlaid on the Custer-Gallatin National Forest.
- Modify the CDNST management corridor direction by adding the following plan components and eliminating proposed plan guidance that may conflict with the following direction:
  1. Desired Condition: The CDNST provides for high-quality scenic, primitive hiking and horseback riding opportunities and conserves natural, historic, and cultural resources along the corridor (nature and purposes).<sup>12</sup>
  2. Desired Condition: Primitive or Semi-Primitive Non-Motorized ROS settings<sup>13</sup> are protected or restored.
  3. Desired Condition: Scenic Character is Naturally Evolving or Natural-Appearing. Scenic Integrity Objective is Very High or High.<sup>14</sup>
  4. Desired Condition: The CDNST corridor contributes to providing for habitat connectivity for significant and wide-ranging wildlife species.<sup>15</sup>
  5. Standard: Resource management actions and allowed uses must be compatible with maintaining or restoring Primitive or Semi-Primitive Non-Motorized ROS class settings.<sup>31</sup> Accepted inconsistencies are Highway 20 and general public motor vehicle use that is

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<sup>11</sup> FSM 2353.44b(1) – 74 FR 51125

<sup>12</sup> 16 U.S.C. §§ 1242(a)(2), 1244(f), 1246(c); CDNST Comprehensive Plan Chapter IV.A.; FSM 2353.42 – 74 FR 51124

<sup>13</sup> CDNST Comprehensive Plan Chapter IV.B.5 and FSM 2353.44b – 74 FR 51125; ROS User Guide; ROS Book

<sup>14</sup> CDNST Comprehensive Plan Chapter IV.B.4 and FSM 2353.44b – 74 FR 51124; Landscape Aesthetics Handbook

<sup>15</sup> Provides for the CDNST conservation purposes and supports FW-DC-WL-05, FW-DC-WL-06, and FW-DC-WL-07.

allowed as described under *motor vehicle use by the general public* (7) and other uses as described under *other use or activities that may be allowed* (8).

6. Guideline: To provide for high-quality scenic, primitive hiking and horseback riding opportunities, bicycles may only be allowed on the CDNST travel route if the use is consistent with the applicable CDNST unit plan<sup>16</sup> and the use will not substantially interfere with the nature and purposes of the CDNST.<sup>17</sup>
7. Standard: Motor vehicle use by the general public is prohibited by the National Trails System Act unless that use is consistent with the applicable CDNST unit plan and:
  - a. Is necessary to meet emergencies;
  - b. Is necessary to enable adjacent landowners or those with valid outstanding rights to have reasonable access to their lands or rights;
  - c. Is for the purpose of allowing private landowners who have agreed to include their lands in the CDNST by cooperative agreement to use or cross those lands or adjacent lands from time to time in accordance with Forest Service regulations; or
  - d. Is on a motor vehicle route that crosses the CDNST, if that use will not substantially interfere with the nature and purposes of the CDNST;
  - e. Is designated in accordance with 36 CFR Part 212 Subpart B and:
    - i. The vehicle class and width were allowed on that segment of the CDNST prior to November 10, 1978, and the use will not substantially interfere with the nature and purposes of the CDNST or
    - ii. That segment of the CDNST was constructed as a road prior to November 10, 1978; or
  - f. In the case of over-snow vehicles, is allowed in accordance with 36 CFR Part 212, Subpart C and the use will not substantially interfere with the nature and purposes of the CDNST.<sup>18</sup>
8. Standard: To protect the values for which the CDNST was designated, a Federal action that could conflict with the nature and purposes of the CDNST may only be allowed where there is a reasoned decision that the action would not substantially interfere with the CDNST nature and purposes.
9. Suitability: The CDNST management corridor is not suitable for timber production. Timber harvest is not an objective.<sup>19</sup>
10. CDNST Comprehensive Planning: For the purpose of addressing the National Trail System Act comprehensive planning requirements, a CDNST unit plan should be completed within three years.

The CDNST management corridor is displayed in **Figure 1** with a desired summer and winter CDNST Recreation Opportunity Spectrum classes and Scenic Integrity Objectives identified. A discernable map of the CDNST management corridor, with established ROS classes, needs to be part of the Forest Plan.

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<sup>16</sup> FSM 2353.44b(2) – 74 FR 51125

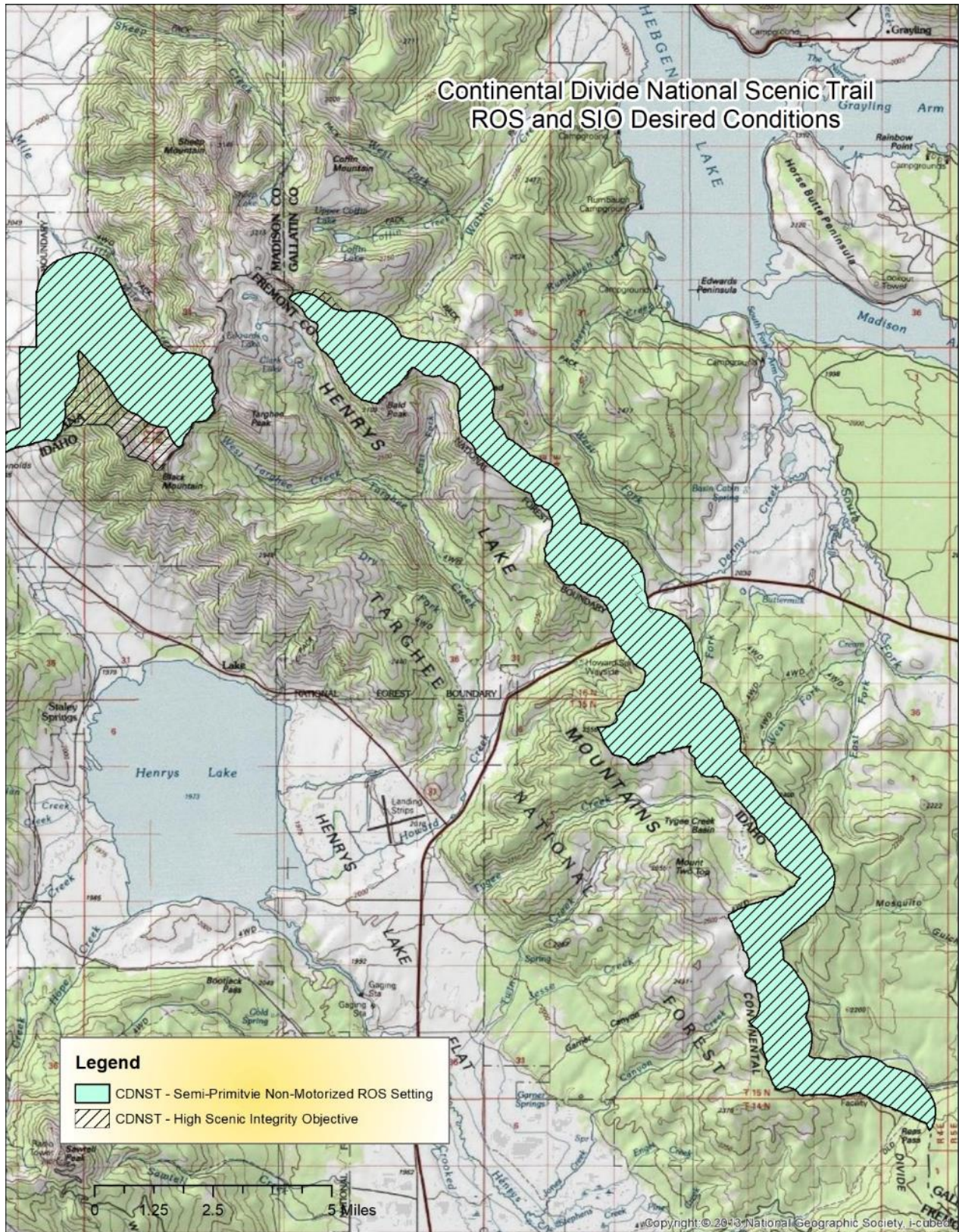
<sup>17</sup> CDNST Comprehensive Plan Chapter IV.B.5 and FSM 2353.44b – 74 FR 51125

<sup>18</sup> 16 U.S.C §§ 1244(a)(5), 1246(c); CDNST Comprehensive Plan Chapter IV.B.6 and FSM 2353.44b – 74 FR 51125

<sup>19</sup> 16 U.S.C. §§ 1242(a)(2), 1246(c) – 74 FR 51125



**Figure 1.** The CDNST Management Corridor in the Henry's Lake Mountains displaying an appropriate CDNST Recreation Opportunity Spectrum setting and Scenic Integrity Objective.



Section I. Brief Review of Issues and Proposed Solutions .....	2
A. Introduction.....	2
B. Summary of Issues and Statements of Explanation .....	3
1. Recreation Opportunity Spectrum .....	3
2. Regional Forester and Custer-Gallatin CDNST Plan Components .....	5
C. Proposed Solution to Improve the Decision.....	7
Section II. ROS and SMS Review .....	11
A. Recreation Opportunity Spectrum .....	11
B. Scenery Management System .....	20
C. ROS and SMS Relationships .....	21
D. Ecosystem Integrity and Diversity of Plant and Animal Communities .....	25
Section III. Statement of Issues – Proposed Plan.....	28
A. Wildlife .....	28
B. Recreation Settings and Recreation Opportunity Spectrum .....	29
C. Scenery .....	38
D. Backcountry Areas.....	39
E. Recreation Emphasis.....	40
F. Madison, Henrys Lake, and Gallatin Mountains Geographic Area .....	40
G. Continental Divide National Scenic Trail .....	41
H. Glossary .....	50
Section IV. Statement of Issues – FEIS .....	51
A. Alternatives .....	52
B. Canada Lynx.....	52
C. Timber.....	54
D. Recreation Settings, Opportunities, and Access .....	56
E. Scenery .....	58
F. Continental Divide National Scenic Trail.....	59
G. National Recreation Trail and the CDNST .....	69
H. Recommended Wilderness .....	69
I. Backcountry Areas .....	71
J. Recreation Emphasis Areas .....	72
K. Glossary and References Cited .....	72
L. Responses to Comments – Continental Divided National Scenic Trail .....	72
M. Recreation Opportunity Spectrum .....	80
Section V. Statement of Issues Draft ROD .....	82
A. Rationale for the Decision – Backcountry Areas .....	82
B. Rationale for the Decision – Recreation.....	83
C. Requirements of the 2012 Planning Rule – Multiple Use .....	86
D. Preliminary Administrative Recommendations – Recommended Wilderness .....	87
E. Alternatives Considered .....	88
F. Best Available Scientific Information.....	89
G. Findings Required by Other Laws – Multiple-Use Sustained-Yield Act.....	90
H. Findings Required by Other Laws – National Environmental Policy Act.....	92
I. Findings Required by Other Laws – National Forest Management Act.....	93
J. Findings Required by Other Laws – National Trails System Act .....	93
Section VI. CDNST Regulatory Planning Framework.....	96
Section VII. Specialized and Expert Knowledge .....	98

## Section II. ROS and SMS Review

The following discussion summarizes key elements of Recreation Opportunity Spectrum and Scenery Management System analyses protocols that are important to the understanding of issues brought forth in this objection. Following the 1986 Recreation Opportunity Spectrum and 1995 Scenery Management System planning protocols would lead to analyses that would be consistent with the Department's Science Integrity policy, Planning Regulations Role of Science in Planning; Planning Rule requirement to use the Best Available Scientific Information to inform the planning process; and CEQ Methodology and Scientific Accuracy requirements (Departmental Regulation 1074-001, 36 CFR § 219.3, and 40 CFR § 1502.24)). The 1986 ROS Book is included in this objection as **Attachment B**.

### A. Recreation Opportunity Spectrum

The Recreation Opportunity Spectrum is a system by which existing and desired recreation settings are defined, classified, inventoried, established, and monitored. A recreation opportunity is a chance to participate in a specific recreation activity in a recreation setting to enjoy desired recreation experiences and other benefits that accrue. Recreation opportunities include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air. The recreation setting is the social, managerial, and physical attributes of a place that, when combined, provide a distinct set of recreation opportunities. The Forest Service uses the recreation opportunity spectrum to define recreation settings and categorize them into six distinct classes.

McCool, Clark, and Stankey in An Assessment of Frameworks Useful for Public Land Recreation Planning, General Technical Report PNW-GTR-705 states, *"Beginning in 1978, the concepts of an opportunity setting and spectrum of recreation opportunities were formalized as a planning framework in a series of significant papers involving two groups of researchers working with public land managers: (1) Roger Clark and George Stankey (Clark and Stankey 1979) and (2) Perry Brown and Bev Driver (Brown et al. 1978, Driver and Brown 1978, Driver et al. 1987). The series of papers that evolved described the rationale, criteria, and linkages that could be made to other resource uses. The goal of these papers was to articulate the concept of an opportunity spectrum and to translate it into a planning framework; today they serve to archive the fundamental rationale behind the ROS concept and planning framework. The ROS framework as a planning framework was oriented toward integrating recreation into the NFMA required forest management plans. Both the BLM and the Forest Service eventually developed procedures and user guides to do this (e.g., USDA FS 1982)."*<sup>20</sup>

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<sup>20</sup> "An Assessment of Frameworks Useful for Public Land Recreation Planning by Stephen F. McCool, Roger N. Clark, and George H. Stankey (PNW-GTR-705) compares recreation planning frameworks. ROS is discussed on pages 43-66. ROS is the preferred recreation planning framework for addressing Forest Service Planning Rule

McCool, Clark, and Stankey further describe that, *“The fundamental premise of ROS is that quality recreational experiences are best assured by providing a range or diversity of opportunities: by allowing visitors to make decisions about the settings they seek, there will be a closer match between the expectations and preferences visitors hold and the experiences they realize (Stankey 1999). Thus, underlying the ROS idea is the notion of a spectrum or diversity of opportunities that can be described as a continuum, roughly from developed to undeveloped. Such opportunities are described by the setting. A setting is defined as the combination of attributes of a real place that gives it recreational value...”*

*As both managers and scientists gained experience with ROS, and as collaboration continued, the efficacy of implementation also increased. The arrival of computer-based geographic information systems at about the same time as the implementation of ROS also enhanced its use as a framework for examining interactions between recreation and other resource uses and values. A major output of ROS was a map of a planning area displaying the spatial distribution of recreation opportunities. This was a distinct advance in resource management and enhanced the move away from reliance on tabular displays of data...*

*The ROS planning framework has become an important tool for public land recreation managers. Undoubtedly, its intuitive appeal and ease of integration with other resource uses and values are responsible for its widespread adoption and modification. Its strong science foundation, and the collaborative nature of its initial development are probably also primary reasons why it has endured over a quarter century of natural resource planning. As a planning framework, ROS forces management to explicate fundamental assumptions, but in the process of moving through the framework, it allows reviewers to follow and understand results.”*

Roger Clark and George Stankey in the Recreation Opportunity Spectrum – A Framework for Planning, Management, and Research, General Technical Report PNW-98<sup>21</sup> states, *“The end product of recreation management is a diverse range of opportunities from which people can derive various experiences. This paper offers a framework for managing recreation opportunities based on six physical, biological, social, and managerial factors that, when combined, can be utilized by recreationists to obtain diverse experiences...”*

*We define a recreation opportunity setting as the combination of physical, biological, social, and managerial conditions that give value to a place. Thus, an opportunity includes qualities provided by-nature (vegetation; landscape, topography, scenery), qualities associated with recreational use (levels and types of use), and conditions provided by management (developments, roads, regulations). By combining variations of these qualities and conditions,*

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requirements: 36 CFR §§ 219.6(b)(9), 219.8(b)(2), 219.10(a)(1) & (b)(1), and 219.19 definitions for Recreation Opportunity and Setting. In addition, using ROS could lead to meeting the NEPA requirement for Methodology and Scientific Accuracy (40 CFR § 1502.24).

<sup>21</sup> [http://nstrail.org/carrying\\_capacity/gtr098.pdf](http://nstrail.org/carrying_capacity/gtr098.pdf)

*management can provide a variety of opportunities for recreationists.”*

Recreation Opportunity settings are described using six factors: Access, Nonrecreational Resources Uses, Onsite Management, Social Interaction, Acceptability of Visitor Impacts, and Acceptable Level of Regimentation. The factor that is most closely related to the Scenery Management System is Non-recreational Resources Uses describing that, *“This factor considers the extent to which nonrecreational resource uses (grazing, mining, logging) are compatible with various opportunities for outdoor recreation. Other uses can severely conflict with opportunities for primitive experiences. For example, Stankey (1973) found that grazing in the Bridger Wilderness in Wyoming was the most serious source of conflict reported by visitors. In other cases, a variety of resource management activities that might even contribute to visitor enjoyment can be found in conjunction with outdoor recreation... Planners and managers must consider the lasting effects of a resource activity (mines, clearcuts), as well as short-term effects (logging trucks, noise from a mine) to determine the impacts on the recreational opportunity... The recreation opportunity setting is composed of other natural features in addition to the six factors. Landform types, vegetation, scenery, water, wildlife, etc., are all important elements of recreation environments; they influence where people go and the kinds of activities possible. Considerable work has gone into developing procedures for measuring and managing visual resources.”*

This technical report further states, *“The recreation opportunity spectrum provides a framework for integrating recreational opportunities and nonrecreational activities. The central notion of the spectrum is to offer recreationists alternative settings in which they can derive a variety of experiences. Because the management factors that give recreational value to a site are interdependent, management must strive to maintain consistency among these factors so that unplanned or undesired changes in the opportunities do not occur.”*

The 1986 ROS Book states, *“The physical setting is defined by the absence or presence of human sights and sounds, size, and the amount of environmental modification caused by human activity. The physical setting is documented by combining these three criteria as described below. Physical Setting - The physical setting is best defined by an area's degree of remoteness from the sights and sounds of humans, by its size, and by the amount of environmental change caused by human activity... (page II-11)*

Chuck McConnell and Warren Bacon in the 1986 ROS Book state, *“Much of the success in managing vegetation to achieve desired visual character and meet visual quality objectives in Roaded Natural and Rural areas is tied to control of viewing positions primarily on roads, highways, and use areas. When the recreation user is traveling on trails or cross-country in Primitive or Semi-Primitive areas, near view becomes very evident. Recreation experience*

*opportunities, which are not as available in Roaded Natural and Rural settings should become a primary goal. Some of these may include:*

- 1. Obtaining privacy, solitude, and tranquility in an outdoor setting.*
- 2. Experiencing natural ecosystems in environments which are largely unmodified by human activity.*
- 3. Gaining a new mental perspective in a tranquil outdoor setting.*
- 4. Self-testing and risk-taking for self-development and sense of accomplishment.*
- 5. Learning more about nature, especially natural processes, human dependence on them, and how to live in greater harmony with nature. To the extent practical, these opportunities should be goals in all ROS settings on the National Forest System.*

*Any vegetative management must be quite subtle and for the purposes of creating and maintaining an attractive recreation setting that will offer these types of experience opportunities. Details such as the attributes of an old growth Forest (rotting logs with conks, large trees with distinctive bark, etc.,) become even more important in Primitive and Semi-Primitive than in Roaded Natural and Rural. Providing human scale or created openings generally means they must be quite small with natural appearing forest floor, edge, shape, and disbursement.” (page II-17)*

The Forest Service 1986 ROS Red Book repeats information that is found in the 1982 ROS User Guide and provides ROS background information, reviews research, and adds land management planning guidance. The 1986 ROS Book states, *“Settings are composed of three primary elements: The physical setting, the social setting, and the management setting. These three elements exist in various combination and are subject to managerial control so that diverse opportunity settings can be provided. These settings, however, are not ends in themselves. Providing settings is a means of meeting the third aspect of demand, desired experiences. Settings are used for providing opportunities to realize specific experiences that are satisfying to the participant. In offering diverse settings where participants can pursue various activities, the broadest range of experiences can be realized. The task of the recreation planner and manager, then, is to formulate various combinations of activity and setting opportunities to facilitate the widest possible achievements of desired experiences--or to preserve options for various types of recreation opportunities... (page II-19)*

The Forest Service ROS User Guide and ROS Book state, *“For management and conceptual convenience possible mixes or combinations of activities, settings, and probable experience opportunities have been arranged along a spectrum, or continuum. This continuum is called the Recreation Opportunity Spectrum (ROS) and is divided into six classes (Table 1). The six classes, or portions along the continuum, and the accompanying class names have been selected and conventionalized because of their descriptiveness and utility in Land and Resource Management Planning and other management applications.” (Table 1 is found in the 1982 ROS Users Guide on pages 7 and 8 and in the 1986 ROS Book on pages II-32 and II-33)*

Table 1

Recreation Opportunity Spectrum					
Primitive	Semi-Primitive Non-Motorized	Semi-Primitive Motorized	Roaded Natural	Rural	Urban
Setting Characterization					
<p>Area is characterized by essentially unmodified natural environment of fairly large size. Interaction between user is very low and evidence of other users is minimal. The area is managed to be essentially free from evidence of human induced restrictions and controls. Motorized use within the area is not permitted.</p>	<p>Area is characterized by a predominantly natural or natural-appearing environment of moderate-to-large size. Interaction between users is low, but there is often evidence of other users. The area is managed in such a way that minimum on-site controls and restrictions may be present, but are subtle. Motorized use is not permitted.</p>	<p>Area is characterized by a predominantly natural or natural-appearing environment of moderate-to-large size. Concentration of users is low, but there is often evidence of other users. The area is managed in such a way that minimum on-site controls and restrictions may be present, but are subtle. Motorized use is permitted.</p>	<p>Area is characterized by predominantly natural appearing environments with moderate evidences of the sights and sounds of man. Such evidences usually harmonize with the natural environment. Interaction between users may be low to moderate, but with evidence of other users prevalent. Resource modification and utilization practices are evident, but harmonize with the natural environment. Conventional motorized use is provided for in construction standards and design of facilities.</p>	<p>Area is characterized by substantially modified natural environment. Resource modification and utilization practices are to enhance specific recreation activities and to maintain vegetative cover and soil. Sights and sounds of humans are readily evident, and the interaction between users is often moderate to high. A considerable number of facilities are designed for use by a large number of people....</p>	<p>Area is characterized by a substantially urbanized environment, although the background may have natural-appearing elements. Renewable resource modification and utilization practices are to enhance specific recreation activities. Vegetative cover is often exotic and manicured. Sights and sounds of humans, on-site, are predominant. Large numbers of users can be expected, both on-site and in nearby areas....</p>

Experience Characterization					
Extremely high probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance through the application of woodsman and outdoor skills in an environment that offers a high degree of challenge and risk.	High, but not extremely high, probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance through the application of woodsman and outdoor skills in an environment that offers challenge and risk.	Moderate probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance through the application of woodsman and outdoor skills in an environment that offers challenge and risk. Opportunity to have a high degree of interaction with the natural environment. Opportunity to use motorized equipment while in the area.	About equal probability to experience affiliation with other user groups and for isolation from sights and sound of humans. Opportunity to have a high degree of interaction with the natural environment. Challenge and risk opportunities associated with more primitive type of recreation are not very important. Practice and testing of outdoor skills might be important. Opportunities for both motorized and non-motorized forms of recreation are possible.	Probability for experiencing affiliation with individuals and groups is prevalent, as is the convenience of sites and opportunities. These factors are generally more important than the setting of the physical environment. Opportunities for wildland challenges, risk-taking, and testing of outdoor skills are generally unimportant except for specific activities like downhill skiing, for which challenge and risk-taking are important element.	Probability for experiencing affiliation with individuals and groups is prevalent, as is the convenience of sites and opportunities. Experiencing natural environments. Having challenges and risks afforded by the natural environment, and the use of outdoor skills are relatively unimportant. Opportunities for competitive and spectator sports and for passive uses of highly human-influenced parks and open spaces are common.

The Forest Service 1982 ROS User Guide further describes in part 21.23 that, “*Evidence of Humans is used as an indicator of the opportunity to recreate in environmental settings having varying degrees of human influence or modification. Apply the Evidence of Humans criteria given in Table 5 [repeated below] to determine whether the impact of human modification on the landscape is appropriate for each class designation on the inventory overlay. If the Evidence of Humans is more dominant than indicated for the designated Recreation Opportunity Spectrum class, adjust the class boundaries on the overlay so the designations accurately reflect the situation... The Evidence of Humans criteria for each Recreation Opportunity Spectrum class is primarily based on the visual impact and effect of modifications on the recreation experience,*



*as distinguished from only the physical existence of modifications. The criteria take into account the variation in visual absorption capacity of different landscapes.”*

*The 1986 ROS Book states, “The ROS helps planners identify different allocations of recreation, specifying where and what types of recreational opportunities might be offered and the implications and consequences associated with these different allocations. Because the ROS requires explicit definitions of different recreation opportunities, it facilitates comparisons between different alternatives. It also helps identify what specific actions might be needed in order to achieve certain allocations in the future. (page IV-32)*

*The explicit nature of the ROS assists managers in identifying and mitigating conflict. Because the ROS identifies appropriate uses within different recreation opportunities, it is possible to separate potentially incompatible uses. It also helps separate those uses that yield experiences that might conflict, such as solitude and socialization... (page IV-32)*

*The ROS also helps identify potential conflicts between recreation and non-recreation resource uses. It does this in several ways. First, it can specify the overall compatibility between a given recreation opportunity and other resource management activities. Second, it can suggest how the activities, setting quality, or likely experiences might be impacted by other non-recreation activities. Third, it can indicate how future land use changes might impact the present pattern of a recreation opportunity provision.” (page IV-32)*

*The apparent naturalness of an area is highly influenced by the evidence of human developments. If the landscape is obviously altered by roads, railroads, reservoirs, power lines, pipe lines, or even by highly visual vegetative manipulations, such as clearcuttings, the area will not be perceived as being predominately natural. Even if the total acres of modified land are relatively small, “out of scale” modifications can have a negative impact... (page IV-33)*

*Management prescriptions<sup>22</sup> are the building blocks for formulating planning alternatives, and for providing site specific management. Each prescription describes a set of compatible multiple-use management practices that will produce a particular mix of resource outputs. For example, one management area prescription might allow grazing and provide for primitive recreation opportunities, but permit only minimal water development structures and place strict controls on timber harvesting and mineral development. Another prescription for the same type of land might also permit grazing, but provide for roaded-natural recreation opportunities and allow for clearcutting and strip mining... (page IV-35)*

The recreation opportunity spectrum provides a framework for integrating recreational opportunities and nonrecreational activities. The central notion of the spectrum is to offer

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<sup>22</sup> Management prescription (1982 Planning Rule): Management practices and intensity selected and scheduled for application on a specific area to attain multiple-use and other goals and objectives. Similarly, the 2012 Planning Rule requires the establishment of plan components indicating where those components apply.

recreationists alternative settings in which they can derive a variety of experiences. Because the management factors that give recreational value to a site are interdependent, management must strive to maintain consistency among these factors so that unplanned or undesired changes in the opportunities do not occur.

It is improper that the Custer-Gallatin Plan modifies the 1986 ROS class definitions without articulating compelling reasons for the modifications and disclosing the consequences to those recreationists seeking Primitive and Semi-Primitive ROS settings as described since 1982, including those seeking a high-quality scenic, primitive hiking and horseback riding experience in the CDNST corridor.

Consistent with the 1986 ROS Book, a handbook titled *Recreation Opportunity Setting as a Management Tool* by George Stankey, Greg Warren, and Warren Bacon states, “A recreation opportunity setting is defined as the combination of physical, biological, social, and managerial conditions that give value to a place... The seven indicators include access, remoteness, non-recreation uses, onsite management, visitor management, social encounters, and visitor impacts:

*Access - Includes the type of transportation used by the recreationists within the area and the level of access development, such as trails and roads.*

*Remoteness - The distance of an area from the nearest road, access point, or center of human habitation or development.*

*Non-recreation uses, evidence of humans, and naturalness - Refers to the type and extent of non-recreation uses present in the area, such as timber harvesting, grazing, and mining.*

*On-site management - The on-site management indicator refers to modifications such as facilities, vegetation management, and site design.*

*Visitor management – Includes the management actions undertaken to maintain conditions and enhance visitor experiences within an ROS class.*

*Social encounters - The number, type, and character of other recreationists met in the area, along travel ways, or camped within sight or sound.*

*Visitor impacts - Includes those impacts caused by recreation use and affecting resources such as soil, vegetation, air, water, and wildlife....”*

The *Recreation Opportunity Setting as a Management Tool* handbook reviews Roaded Modified ROS setting considerations, on pages 22-24, which is not addressed in the 1982 ROS User Guide and 1986 ROS Book.<sup>23</sup> Setting indicators are describe in part as, “Roads are an integral part of these classes and provide a range of opportunities for users of high clearance vehicles on dirt roads to passenger cars on pavement. Roads may be closed to recreational use to meet other resource management objectives. In addition to roads, a full range of trail types and difficulty levels can be present in order to meet recreation objectives... The natural setting is often heavily altered as this environment and access throughout are often the result of intensive commodity production. Timber harvest, for example, is constrained primarily by the NFMA regulation of

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<sup>23</sup> [http://nstrail.org/carrying\\_capacity/ros\\_tool\\_1986.pdf](http://nstrail.org/carrying_capacity/ros_tool_1986.pdf)

*shaping and blending harvest units with the terrain to the degree practicable. Harvest activities should protect user-established sites from alteration and provide access to them. It should be used to meet other recreation needs such as provide trailhead access, parking areas, and a diversity of travelway opportunities....”*

Where inventories of setting characteristics are not completely aligned with a specific ROS class, a determination should be made as to which class best represents the current specific setting. As a general rule, the physical characteristics take precedent over social and managerial characteristics. This is because social and managerial characteristics can often be altered through visitor use management techniques (permits, closures, etc.) where as the physical characteristics (size, remoteness, and others) are more permanent.

Primitive and Semi-Primitive Non-Motorized ROS settings are of greatest risk of being eliminated from available recreation opportunities as pressures increase to control insect and disease through vegetation management practices that include timber harvest and permanent and temporary roads. In addition, unauthorized OHV use and excessive mechanized use may displace traditional non-motorized users from these areas. In established Primitive and Semi-Primitive ROS settings, as adjacent lands are developed, minimizing any degradation of evidence of human indicators will increase in importance if remoteness protections diminish.

How are ROS setting inconsistencies addressed in providing for desired settings along a National Scenic Trail? An inconsistency is defined as a situation in which the condition of an indicator exceeds the range defined as acceptable by the management guidance. For example, the condition of the indicators for a National Scenic Trail corridor may all be consistent with its management as a semi-primitive non-motorized area except for the presence of a trailhead and access road. In such a case, what are the implications of the inconsistency? Does the inconsistency benefit or interfere with the nature and purposes of the National Scenic Trail? What should be done about the inconsistency? Three general kinds of actions are possible. First, perhaps nothing can or should be done. It may be concluded that the inconsistency will have little or no effect on the area's general character. Alternatively, the agency may lack jurisdiction over the source of the inconsistency. A second response is to direct management action at the inconsistency to bring it back in line with the guidance established for the desired ROS class. The main point to be understood about inconsistencies is that they might be managed. The presence of one does not necessarily automatically lead to a change in ROS class. By analyzing its cause, implications, and possible solutions, an inconsistency may be handled in a logical and systematic fashion.

FSM 2310 (WO Amendment 2300-2020-1) – Sustainable Recreation Planning, approved on April 23, 2020, is reviewed in **Appendix A** of this objection.

## **B. Scenery Management System**

The Scenery Management System (SMS) provides a systematic approach to inventory, assess, define, and monitor both existing and desired scenic resource conditions. Specific components of the SMS include scenic character, the degree of scenic diversity (scenic attractiveness), how and where people view the scenery (distance zones), the importance of scenery to those viewing it (concern levels), and the desired degree of intactness (scenic integrity objectives). The following paraphrases discussions found in the Landscape Aesthetic Handbook.

There are several over-arching concepts of the SMS that facilitate the inclusion and integration of scenery resources with planning efforts. The SMS is grounded in an ecological context; recognizes valued aspects of the built environment; and incorporates constituent input about valued features (biophysical and human-made) of settings.

Scenic Attractiveness (ISA) classes are developed to determine the relative scenic value of lands within a Landscape Character. The three ISA classes are: Class A, Distinctive; Class B, Typical; Class C, Indistinctive. The landscape elements of landform, vegetation, rocks, cultural features, and water features are described in terms of their line, form, color, texture, and composition for each of these classes. The classes and their breakdown are generally displayed in a chart format. A map delineating the ISA classes is prepared.

The Scenic Character (aka Landscape Character) description is used as a reference for the Scenic Integrity of all lands. Scenic Integrity indicates the degree of intactness and wholeness of the Landscape Character; conversely, Scenic Integrity is a measure of the degree of visible disruption of the Landscape Character. A landscape with very minimal visual disruption is considered to have High Scenic Integrity. Those landscapes having increasingly discordant relationships among scenic attributes are viewed as having diminished Scenic Integrity. Scenic Integrity is expressed and mapped in terms of Very High, High, Moderate, Low, Very Low, and Unacceptably Low.

Constituent analysis serves as a guide to perceptions of attractiveness, helps identify special places, and helps to define the meaning people give to the subject landscape. Constituent analysis leads to a determination of the relative importance of aesthetics to the public; this importance is expressed as a Concern Level. Sites, travelways, special places, and other areas are assigned a Concern Level value of 1, 2, or 3 to reflect the relatively High, Medium, or Low importance of aesthetics.

During the alternative development portion of the planning process, the potential and historical aspects of the Landscape Character Description are used to develop achievable Landscape Character Options concert with other resource and social demands. Landscape Character Descriptions and associated Scenic Integrity Objectives are identified for each option and alternative. The desired Scenic Character and Scenic Integrity are included within the

descriptions of the management area and geographic area desired conditions and standards and guidelines. Generally a Very High or High Scenic Integrity Objective is assigned to Wilderness and other statutorily designated areas.

Natural scenic character originates from natural disturbances, succession of plants, or indirect activities of humans. The existing scenic character continues to change gradually over time by natural processes unless affected by drastic natural forces or indirect human activities. In a natural-appearing landscape, the existing landscape character has resulted from both direct and indirect human activities. Scenic character may have changed gradually over decades or centuries by plant succession unless a concerted effort was made to preserve and maintain cultural elements through processes such as prescribed fires.

Scenic integrity is defined as the degree of direct human-caused deviation in the landscape, such as roads, timber harvests, or activity debris. Indirect deviations, such as a landscape created by human suppression of the natural role of fire, are not included in scenic integrity evaluations. Natural occurring incidents, such as insects and disease infestations, are not defined as human-caused deviations in the landscape.

Scenic integrity objectives in the context of a forest plan are equivalent to desired conditions. Scenic integrity describes the state of naturalness or a measure of the degree to which a landscape is visually perceived to be "*complete*." The highest scenic integrity ratings are given to those landscapes that have little or no deviation from the landscape character valued by constituents for its aesthetic quality. Scenic integrity is the state of naturalness or, conversely, the state of disturbance created by human activities or alteration.

The frame of reference for measuring achievement of scenic integrity levels is the valued attributes of the "*existing*" landscape character "*being viewed*." Naturally Evolving or Natural-Appearing Scenic Character is limited to natural or natural appearing vegetative patterns and features, water, rock, and landforms. Direct human alterations may be included if they have become accepted over time as positive landscape character attributes.

### **C. ROS and SMS Relationships**

The relationship between the Scenery Management System and the Recreation Opportunity Spectrum systems is discussed in the 1982 and 1986 ROS Users Guides. The FSM 2310 (WO Amendment 2300-90-1) policy guidance informed and was foundational for the recreation planning direction that is found in the 2012 planning rule and 2015 planning directives.

The Landscape Aesthetics Handbook. Landscape Aesthetics - A Handbook for Scenery Management (Agricultural Handbook Number 701); Appendix F - 1 - Recreation Opportunity Spectrum states: "*Recreation planners, landscape architects, and other Forest Service resource managers are interested in providing high quality recreation settings, experiences, and benefits for their constituents. This is accomplished, in part, by linking the Scenery Management System*

*and the Recreation Opportunity Spectrum (ROS) System. In addition, providing a single constituent inventory and analysis for both systems is helpful in coordinating management practices.*

*Esthetic value is an important consideration in the management of recreation settings. This is especially so in National Forest settings where most people expect a natural appearing landscape with limited evidence of 'unnatural' disturbance of landscape features...*

*Although the ROS User's Guide mentions the need for establishing a value for different landscapes and recreation opportunities within a single ROS class in the attractiveness overlay, there is currently no systematic approach to do so. For instance, in most ROS inventories, all lands that are classified semi-primitive non-motorized are valued equally. Some semi-primitive non-motorized lands are more valuable than other lands because of existing scenic integrity or scenic attractiveness. The Scenery Management System provides indicators of importance for these in all ROS settings. Attractiveness for outdoor recreation also varies by the variety and type of activities, experiences, and benefits possible in each setting...*

*In the past, there have been apparent conflicts between The Visual Management System sensitivity levels and ROS primitive or semi-primitive classes. One apparent conflict has been where an undeveloped area, having little existing recreation use and seldom seen from sensitive travel routes, was inventoried using The Visual Management System. The inventory led to a sensitivity level 3 classification, and thus apparently contradicted ROS inventory classes of primitive or semi-primitive non-motorized or semi-primitive motorized. Using criteria in The Visual Management System, in a variety class B landscape with a sensitivity level 3, the initial visual quality objective is 'modification' or 'maximum modification,' depending on surrounding land classification. However, because of factors such as few social encounters, lack of managerial regimentation and control, and feelings of remoteness, the same area having little existing recreation use may establish an ROS primitive, semi-primitive non-motorized, or semi-primitive motorized inventory classification. There have been concerns over the premise of The Visual Management System that the visual impact of management activities becomes more important as the number of viewers increases; yet, the ROS System emphasizes solitude, infrequent social encounters, and naturalness at the primitive end of the spectrum, with frequent social encounters and more evident management activities at the urban end. Value or importance is dependent on more than the number of viewers or users, and the key is that both the Scenery Management System and ROS are first used as inventory tools. Land management objectives are established during, not before, development of alternatives.*

*Where there does appear to be a conflict in setting objectives for alternative forest plans, the most restrictive criteria should apply. An example might be an undeveloped land area in a viewshed managed for both middleground partial retention and semi-primitive non-motorized opportunities. Semi-primitive non-motorized criteria are usually the more restrictive.*

*The Scenery Management System and ROS serve related, but different, purposes that affect management of landscape settings. In some cases, ROS provides stronger protection for landscape settings than does the Scenery Management System. This is similar to landscape setting protection provided by management of other resources, such as cultural resource management, wildlife management, and old-growth management. In all these examples, there may be management directions for other resources that actually provide higher scenic integrity standards than those reached by the Scenery Management System. Different resource values and systems (the Scenery Management System, the ROS System...) are developed for differing needs, but they are all systems that work harmoniously if properly utilized. In all these examples, there are management decisions made for other resources that result in protection and enhancement of landscape settings...*

*Evidence of Humans Criteria and the Visual Management System – While in some ways it seems possible to equate Visual Quality Objectives, or a range of objectives, with each Recreation Opportunity Spectrum class the function of the Evidence of Humans Criteria in the Recreation Opportunity Spectrum is not the same as Visual Quality Objectives in the Visual Management System and equating the two is not recommended. For example, middle and background Visual Management System areas are often where Primitive and Semi-Primitive Recreation Opportunity Spectrum classes occur. A retention or partial retention Visual Quality Objective given to such an area for management direction could have a vastly different meaning than the delineated Recreation Opportunity Spectrum class. Thus, identify the Recreation Opportunity Spectrum classes through the setting descriptions in the Evidence of Humans Criteria—Table 5... To assist in this, the Evidence of Humans Criteria are purposely worded differently than the definitions of Visual Quality Objectives.” Table 5 is found in the 1982 ROS Users Guide on page 22 and in the 1986 ROS Book on page IV-10.*

**Table 5**

<b>Evidence of Humans Criteria</b>					
<b>Primitive</b>	<b>Semi-Primitive Non-Motorized</b>	<b>Semi-Primitive Motorized</b>	<b>Roaded Natural</b>	<b>Rural</b>	<b>Urban</b>
Setting is essentially an Unmodified natural environment. Evidence of humans would be unnoticed by an observer	Natural setting may have subtle modifications that would be noticed, but not draw the attention of an observer	Natural setting may have moderately dominant alterations, but would not draw the attention of motorized observers on	Natural setting may have modifications which range from being easily noticed to strongly dominant to observers within the area. However,	Natural setting is culturally modified to the point that it is dominant to the sensitive travel route observer. May include pastoral,	Setting is strongly structure dominated. Natural or natural-appearing elements may play an

wandering through the area.	wandering through the area.	trails and primitive roads within the area.	from sensitive travel routes and use areas these alterations would remain unnoticed or visually subordinate.	agricultural, intensively managed wildland resource landscapes, or utility corridors....	important role but be visually subordinate....
Evidence of trails is acceptable, but should not exceed standard to carry expected use.	Little or no evidence of primitive roads and the motorized use of trails and primitive roads.	Strong evidence of primitive roads and the motorized use of trails and primitive roads.	There is strong evidence of designed roads and/or highways.	There is strong evidence of designed roads and/or highways.	There is strong evidence of designed roads and/or highways and streets.
Structures are extremely rare.	Structures are rare and isolated.	Structures are rare and isolated.	Structures are generally scattered, remaining visually subordinate....	Structures are readily apparent....	Structures and structure complexes are dominant....

The following exhibit displays the relationship between ROS class and Scenic Integrity Objectives (Landscape Aesthetics Handbook).

Scenic Integrity Objectives					
ROS Class	Very High	High	Moderate	Low	Very Low
Primitive	Norm	Inconsistent	Unacceptable	Unacceptable	Unacceptable
Semi-Primitive Non-Motorized	Fully Compatible	Norm	Inconsistent	Unacceptable	Unacceptable
Semi-Primitive Motorized	Fully Compatible	Fully Compatible	Norm <sup>24</sup>	Inconsistent	Unacceptable
Roaded Natural-Appearing	Fully Compatible	Norm	Norm	Norm <sup>25</sup>	Inconsistent <sup>26</sup>
Rural	Fully Compatible	Fully Compatible	Norm	Norm <sup>25</sup>	Inconsistent <sup>26</sup>
Urban	Fully Compatible	Fully Compatible	Fully Compatible	Fully Compatible	Not Applicable

**Violation of Law, Regulation or Policy:** 36 CFR § 219.3; 40 CFR § 1502.24 as further addressed in later comments.

**Connection with Comments:** CDNST Planning Handbook, Chapter III Part F.

<sup>24</sup> Norm from sensitive roads and trails.

<sup>25</sup> Norm only in middleground-concern level 2, where Roaded Modified subclass is used.

<sup>26</sup> Unacceptable in Roaded Natural-Appearing and Rural where Roaded Modified subclass is used. It may be the norm in a Roaded Modified subclass.



## **D. Ecosystem Integrity and Diversity of Plant and Animal Communities**

The Forest Plan refers to forest health and restoration projects and activities. The Planning Rule states, *“The plan must include plan components, including standards or guidelines, to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area, including plan components to maintain or restore structure, function, composition, and connectivity...”* (36 CFR § 219.8(a)(1)). Ecological integrity is defined as, *“The quality or condition of an ecosystem when its dominant ecological characteristics (for example, composition, structure, function, connectivity, and species composition and diversity) occur within the natural range of variation and can withstand and recover from most perturbations imposed by natural environmental dynamics or human influence”* (36 CFR § 219.19).

The Forest Service states, *“Agency intent is to promote ecosystem integrity in the plan area. However, it may not be possible or appropriate to strive for returning key characteristics to past conditions throughout the plan area... Understanding the natural range of variation is fundamental in strategic thinking and planning, even if restoration to historical conditions is not the management goal or possible on parts of the plan area. Understanding the natural range of variation of an ecosystem provides an understanding of how ecosystems are dynamic and change over time. The natural range of variation is useful for understanding each specific ecosystem, for understanding its existing ecological conditions, and for understanding its likely future character, based on projections of climate regimes”* (FSH 1909.12 23.11a). *“Plans must contain plan components, including standards or guidelines, that maintain or restore the composition, structure, ecological processes, and connectivity of plan area ecosystems in a manner that promotes their ecological integrity”* (FSH 1909.12 23.11b). *“Desired conditions should define and identify fire’s role in the ecosystem”* (FSH 1909.12 23.11c).

The scenic character and recreation settings of the planning area must be addressed in the context of ecosystem integrity and diversity. It is important to understand the spatial extent and distribution of ecosystems and habitat types and spatial relationships to the natural range of variation. Understanding these relationships is critical to addressing scenic character and recreation setting stability along the CDNST corridor.

Scenic stability and sustainable recreation in an ecological context are the degree to which the scenic character and recreation settings can be sustained through time with ecological progression. Scenic and setting stability may be at risk if the landscape vegetation is outside the natural range of variation. Older forested areas may be at risk from large intense wildfires and be subject to land clearing from timber harvest, road construction, and other developments in Roaded Natural/Roaded Modified ROS settings as defined by the 1986 ROS Book. The Land Management Plan and related EIS should describe how much land could be devoted to timber production, mechanical treatments, and associated actions and activities while still meeting requirements for ecological integrity.

The natural range of variation analyses can be used to assess the scenic and setting stability of forest landscapes. This can be measured in terms of the landscape's departure from the natural range of variation and rate of seral-stage change. Seral-stage communities consist of vegetation types that are adapted to the site's set of physical and biotic conditions. In the unmanaged forested landscape, various natural disturbance agents (such as fire, wind-throw, landslides, and insects) are responsible for creating forests containing a full range of stand ages. Departures in fire regime, extensive insect outbreaks, excessive timber production, development of permanent and temporary roads, and other disturbances from the natural range of variation and the rate of seral-stage change may affect scenic stability and sustainable recreation.

If the final ROD approves the Forest Plan without changes to ROS class management direction, Semi-Primitive ROS settings would be subject to unconstrained land clearing from timber harvest and road construction, which is inconsistent with the ROS planning framework and Planning Rule

Sustainable recreation is the set of recreation settings and opportunities on the National Forest System that is ecologically, economically, and socially sustainable for present and future generations. In statutorily designated areas such as the CDNST rights-of-way corridor, limited prescribed fire or non-intervention policies are often the desired approach in order to promote natural processes and natural rejuvenation. Outside of protected areas including Roded Natural and Roded Modified settings, interventions may include removal of infected and dead trees or clear cuts, associated roads, and then followed by artificial reforestation. In addition, the Custer-Gallatin Plan if implemented would allow similar interventions in Semi-Primitive ROS settings, which is inconsistent with the 1982/1986 ROS planning framework conventions.

Mark Swanson and others describe that, *“Early-successional forest ecosystems that develop after stand-replacing or partial disturbances are diverse in species, processes, and structure. Post-disturbance ecosystems are also often rich in biological legacies, including surviving organisms and organically derived structures, such as woody debris. These legacies and post-disturbance plant communities provide resources that attract and sustain high species diversity, including numerous early-successional obligates, such as certain woodpeckers and arthropods. Early succession is the only period when tree canopies do not dominate the forest site, and so this stage can be characterized by high productivity of plant species (including herbs and shrubs), complex food webs, large nutrient fluxes, and high structural and spatial complexity. Different disturbances contrast markedly in terms of biological legacies, and this will influence the resultant physical and biological conditions, thus affecting successional pathways. Management activities, such as post-disturbance logging and dense tree planting, can reduce the richness within and the duration of early-successional ecosystems. Where maintenance of*

*biodiversity is an objective, the importance and value of these natural early-successional ecosystems are often underappreciated.*

*Naturally occurring, early-successional ecosystems on forest sites have distinctive characteristics, including high species diversity, as well as complex food webs and ecosystem processes. This high species diversity is made up of survivors, opportunists, and habitat specialists that require the distinctive conditions present there. Organic structures, such as live and dead trees, create habitat for surviving and colonizing organisms on many types of recently disturbed sites. Traditional forestry activities (e.g., clearcutting or post-disturbance logging) reduce the species richness and key ecological processes associated with early-successional ecosystems; other activities, such as tree planting, can limit the duration (e.g., by plantation establishment) of this important successional stage.”<sup>27</sup>*

Forest ecological integrity assessments must clearly describe the quality or condition of an ecosystem that may need to be restored. Forest restoration is a range of actions that strive to manage a forest in a way that reflects its historical ecological state in a certain place. This can include replanting or reintroducing native plants and animals, mechanical thinning, and prescribed burning to replicate historical tree densities, removal of invasive species, or returning physical processes, including fire behavior, functioning streams, and floodplains to a more natural and resilient state.

The goal of forest health projects should be the same as the goal of restoration which is not to recreate a specific appearance, but to reduce the effects of past human activities, such as clearcutting, fire suppression, and roads. Proposed actions to enhance forest resiliency and improve ecological integrity should clearly explain how management actions will increase age class, structural, and vegetation diversity across the landscape. Harvesting live trees in areas of extensive tree mortality, especially if temporary or new permanent roads are needed for the action, would not contribute to forest resiliency, and improve ecological integrity.

Successful restoration of any road entails many steps. It requires ripping up the road bed to remove the compacted soil layers. The side slope soil must be put back on the site, and reshaped so sub surface and surface water flow are restored. Culverts need to be removed, and stream channels fully restructured and reconstituted. Native vegetation needs to be planted and logs, rocks, and other natural structures need to be put back on the slope. Long-term monitoring of restoration actions is critical to ensure that desired site conditions are achieved and sustained.

Restoration actions may be limited by natural resource, designated area, and Primitive and Semi-Primitive ROS setting management constraints. Roads may need to be reclaimed if

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<sup>27</sup> [http://nstrail.org/insect\\_disease\\_fire/forgotten\\_stage\\_of\\_forest\\_succession\\_mark\\_swanson\\_others\\_2010.pdf](http://nstrail.org/insect_disease_fire/forgotten_stage_of_forest_succession_mark_swanson_others_2010.pdf)

Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized ROS class conditions are to be restored or recovered.

**Violation of Law, Regulation or Policy:** 36 CFR § 219.3; 40 CFR § 1502.24 as further addressed in later comments.

**Connection with Comments:** CDNST Planning Handbook, Chapter III Parts F and G.

### **Section III. Statement of Issues – Proposed Plan**

The following are statements of the issues to which the objection applies and concise statements explaining the objection and suggestions on how the proposed plan decision may be improved.

Plan components should be integrated, written clearly, concisely, and without ambiguity, and include desired conditions, objectives, standards, guidelines, goals, and suitability-of-land determinations. Taken together, plan components establish the vision of a plan, set forth the strategy to achieve it, and provide the constraints of subsequent management.

#### **A. Wildlife**

**Forest Plan:** The plan beginning on page 52 states, *“Both ecosystem and species-specific plan components are included to contribute to the recovery of federally listed threatened or endangered species, conserve proposed and candidate species, and maintain the long-term persistence of species of conservation concern within the plan area or within the species’ range...”*

*Desired Conditions (FW-DC-WL) - 02 Habitat conditions contribute to species recovery needs such that population trends of listed species are stable or increasing across their range...*

*Desired Conditions (FW-DC-WL) - 07 In key linkage areas, human disturbance does not limit habitat connectivity for wildlife, particularly wide-ranging species...*

*Guidelines (FW-GDL-WL) - 01 To maintain or restore habitat connectivity for wildlife, management actions should not create movement barriers to wide-ranging species such as medium to large carnivores and wild ungulates, except where necessary to provide for human or wildlife safety....”*

**Issue and Statement of Explanation:** The CDNST corridor should contribute to providing for habitat connectivity for significant and wide-ranging species between public lands. For example, the CDNST corridor, with appropriate plan components, would contribute to the protection of a Canada Lynx connectivity area as identified in the Northern Rockies Canada Lynx amendment as depicted in **Appendix B** of this objection.

**Proposed Solution to Improve the Decision:** See Section I Part C of this objection.

**Violation of Law, Regulation or Policy:** 16 U.S.C. § 1242(a)(2) – National Scenic Trail Purpose; 16 U.S.C. § 1244(f) – Comprehensive Planning; 16 U.S.C. § 1246(c) – Nature and Purposes, Avoid Incompatible Activities, Substantial Interference; and 36 CFR § 219.9(a)(1) - Ecosystem Integrity

**Connection with Comments:** Draft Plan and DEIS comments page(s) 5-7.

## **B. Recreation Settings and Recreation Opportunity Spectrum**

**Forest Plan:** The plan beginning on page 90 states, *“The recreation opportunity spectrum (ROS) is a classification tool used by Forest Service managers to provide visitors with varying challenges and outdoor experiences. Recreation opportunity spectrum classifies national forest lands into six management class categories defined by setting and the probable recreation experiences and activities it affords including: urban; rural; roaded natural; semi-primitive motorized; semi-primitive nonmotorized; and primitive.”*

The glossary states, *“recreation opportunity spectrum: The system that the Forest Service describes an opportunity to participate in a specific recreation activity in a particular recreation setting to enjoy desired recreation experiences and other benefits that accrue. Recreation opportunities include nonmotorized, motorized, developed, and dispersed recreation on land, water, and in the air (36 CFR 219.19).”*

**Issue and Statement of Explanation:** The plan should further state that, *“The recreation opportunity spectrum has been an effective land management planning tool since 1982. The recreation opportunity spectrum is a framework for identifying, classifying, planning, and managing a range of recreation settings. The setting, activity, and opportunity for obtaining experience are arranged along a spectrum of classes from primitive to urban. In each setting, a range of activities is accommodated. For example, primitive settings accommodate primarily non-motorized uses, such as backpacking and hiking; whereas roaded settings (such as roaded natural) or rural settings accommodate motorized uses, such as driving for scenery or access for hunting. Through this framework, planners compare the relative tradeoffs of how different patterns of settings across the landscape would accommodate (or not accommodate) recreational preferences, opportunities, and impacts (programmatic indirect environmental effects) with other multiple uses”* (Planning Rule PEIS, page 209).

The following discuss some of my concerns with the proposed ROS plan components and depict potential edits to the descriptions:

### **Desired Conditions (FW-DC-ROS)**

**01 Recreation opportunity spectrum settings (All):** *Outdoor recreation opportunities and experiences are provided year-round in a range of settings ~~as described by~~ [through established] ~~the~~ desired recreation opportunity spectrum [setting desired conditions]. ~~These settings reflect~~*

~~the integration of other resource values, in a sustainable manner, with the desired recreation opportunities, access, facilities, and infrastructure provided within those settings.~~

**Issue and Statement of Explanation:** The second part of this description should have been addressed in the Forest Plan and is not germane to the implementation of the plan.

**03 Primitive recreation opportunity spectrum settings (summer)** encompass large, wild, remote, and predominately unmodified landscapes. Primitive settings often provide secure wildlife habitat, naturally ~~evolving~~ ~~appearing~~ vegetation, clean water, may contain the unit's most intact ecosystems and often coincide with designated wilderness. Primitive recreation opportunity spectrum settings contain no motorized ~~[and mechanized transport]~~ recreation. They provide quiet solitude away from roads and people, are generally free of human development, and facilitate self-reliance and discovery. Historic structures such as administrative ranger stations are occasionally present. Signing and other infrastructure are not prevalent and constructed of rustic, native materials.

**Issue and Statement of Explanation:** Bicycles should not be allowed in established Primitive ROS settings. Primitive means "of or relating to an earliest or original stage or state." Mountain bikes are not primitive in nature. The 1982 Specialized Stumpjumper was generally considered the first "production" mountain bike. Asymmetric impacts between bicyclists and traditional nonmotorized users will tend to displace hikers and equestrians from non-wilderness trails. Manning states, "The asymmetric or one-way nature of conflict suggests that active management is needed to maintain the quality of recreation for visitors who are sensitive to conflicting uses. Visitors who are sensitive to conflict are likely to be dissatisfied or ultimately displaced."<sup>28</sup>

[quote continues]

**05 Semi-primitive nonmotorized settings (summer)** provide opportunities for exploration, challenge, and self-reliance in a ~~naturally~~ ~~[natural-]~~ appearing landscape. Rustic structures such as signs and footbridges are occasionally present to direct use and protect the setting's natural and cultural resources. These rustic constructed features are built from native materials or those that mimic native materials. These settings are free of motorized transport, but mechanized transport may be present on appropriately designed and constructed routes.

**Issue and Statement of Explanation:** The description of desired conditions must be supplemented to include "Evidence of Humans" "Non-Recreation Uses," and "Naturalness" setting indicators for this ROS class. The description must add that natural settings may have

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<sup>28</sup> Manning, R.E. (2010). Studies in Outdoor Recreation: Search and Research for Satisfaction. Studies in Outdoor Recreation: Search and Research for Satisfaction. Page 218.

subtle modifications that would be noticed, but not draw the attention of an observer wandering through the area.

**[quote continues]**

**06 Semi-primitive nonmotorized settings (winter)** provide backcountry and Nordic skiing, snowboarding, and snowshoeing opportunities. Trails are generally un-groomed and not marked for winter travel. Some areas that have enough compaction may see fat tire bike use. Rustic facilities, such as historic cabins and yurts may exist but are rare. These settings are free of motorized transport, but mechanized transport may be present on appropriately designed and constructed routes.

**Issue and Statement of Explanation:** The description of desired conditions must be supplemented to include “Evidence of Humans,” “Non-Recreation Uses,” and “Naturalness” setting indicators for this ROS class. The description must add that natural settings may have subtle modifications that would be noticed, but not draw the attention of an observer wandering through the area.

**[quote continues]**

**07 Semi-primitive motorized recreation opportunity spectrum settings (summer)** provide motorized recreation opportunities in backcountry settings. Routes are designed for off-highway vehicles and high-clearance vehicles, including motorcycles, that connect to local communities, access key destinations and vantage points, provide short day trips on scenic loops or facilitate longer and even overnight, expeditions. Visitors challenge themselves as they explore vast, rugged landscapes. Mountain bikes and other mechanized equipment may also be present. Facilities are rustic and are used to protect the setting’s natural and cultural resources. Bridges are sometimes present to accommodate foot, horse, and all-terrain vehicle traffic, but are built from native or natural appearing materials that blend with the surrounding landscape and maintain the semi-primitive character of the setting. There may also be nodes that function as portals for visitors to park their all-terrain vehicles and explore adjacent semi-primitive nonmotorized and primitive settings on foot. Vegetation management may be present, but does not dominate the landscape or detract from the experience of visitors traveling throughout the semi-primitive motorized setting.

**08 Semi-primitive motorized settings (winter)** provide backcountry skiing and snowmobiling opportunities. Routes are typically un-groomed, but are often signed and marked. There are vast areas to travel cross-country, offering visitors an opportunity for exploration and challenge. Occasionally, historic cabins or warming huts are available for short breaks or overnight use.

**Issue and Statement of Explanation:** The description should also describe that the natural setting may have moderate alterations, but would not draw the attention of motorized

observers on trails and primitive roads within the area. Vegetation management does not dominate the landscape or detract from the experience of visitors.

[quote continues]

### ***Standards (FW-STD-ROS)***

*01 In rural, roaded natural, semi-primitive motorized recreation opportunity spectrum settings, new motorized routes and areas shall be located so the new route does not change the setting of an adjacent semi-primitive nonmotorized and primitive recreation opportunity spectrum class.*

**Issue and Statement of Explanation:** This standard should be expanded to protect Semi-Primitive Motorized settings from the development of adjacent areas. A Semi-Primitive Motorized setting remoteness criterion is, “*An area designated within ½-mile of primitive roads or trails used by motor vehicles; but not closer than ½-mile from better than primitive roads.*”

Forest Service designed permanent and temporary roads are “*better*” than primitive roads.

### **Primitive Recreation Opportunity Spectrum Settings (ROSP)**

#### ***Standard (FW-STD-ROSP)***

*01 Permanent ~~or~~ [and] temporary motorized routes shall not be constructed in primitive settings.*

### **Semi-Primitive Non-Motorized Settings (ROSSPNM)**

#### **Standards (FW-STD-ROSSPNM)**

*01 New permanent motorized routes shall not be constructed, and no routes or areas shall be designated for motorized transport in semi-primitive nonmotorized settings. Temporary roads for vegetation management projects, where otherwise not prohibited, may occur.*

**Issue and Statement of Explanation:** The unconstrained direction that, “*temporary roads for vegetation management projects, where otherwise not prohibited, may occur*” does not support SPNM desired conditions and must be deleted. This ROS setting may only have subtle modifications that would be noticed but not draw the attention of an observer wandering through the area. Rarely would permanent and temporary roads be consistent with protecting SPNM ROS setting desired conditions where defined using the 1982/1986 ROS planning framework.

[quote continues]

#### **Guidelines (FW-GDL-ROSSPNM)**

*03 To retain the quiet recreation character, roads should not be plowed for recreation access in winter semi-primitive nonmotorized settings.*



### **Suitability (FW-SUIT-ROSSPNM)**

*01 Motorized transport is not suitable in semi-primitive non-motorized settings.*

**Issue and Statement of Explanation:** In addition, SPNM settings are not suitable for timber production.

[quote continues]

### **Semi-Primitive Motorized Recreation Opportunity Spectrum Settings (ROSSPM)**

#### **Standards (FW-STD-ROSSPM)**

*01 New roads in semi-primitive motorized settings shall not be constructed for user comfort and convenience and maintenance level shall not exceed an operational maintenance level of 2.*

**Issue and Statement of Explanation:** Roads in SPM settings should be converted and managed as trails. Motorized routes should be typically designed as motorized trails<sup>29</sup> and Four-Wheel Drive Vehicles routes<sup>30</sup> offering a high degree of self-reliance, challenge, and risk in exploring these backcountry settings.

[quote continues]

#### **Guidelines (FW-GDL-ROSSPM)**

*03 To retain the semi-primitive motorized character, road maintenance should not exceed an operational maintenance level 2.*

**Issue and Statement of Explanation:** Roads in SPM settings should not be retained, but converted and managed as trails.

#### **Suitability (FW-SUIT-ROSSPM)**

*01 Motorized transport is suitable on designated routes and areas in semi-primitive motorized settings.*

*02 Motorized vehicles that are not designed for over-snow use, are not suitable in winter semi-primitive motorized settings.*

**Issue and Statement of Explanation:** SPM settings are not suitable for timber production.

**Summary of Issues and Statements of Explanation for this Section:** FSM 2310 (WO Amendment 2300-90-1) states, "FSM 2311.1 - Recreation Opportunity Spectrum (ROS). Use the Recreation Opportunity Spectrum (ROS) system and the ROS Users Guide (U.S. Department of Agriculture, Forest Service. ROS Users Guide. Washington, DC: U.S. Department of Agriculture, Forest Service; 1982. 37p.) to delineate, define, and integrate outdoor recreation opportunities

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<sup>29</sup> FSH 2309.18 part 23.21, Trail Class 2, No Double Lane

<sup>30</sup> FSH 2309.18 part 23.23, Trail Class 2, No Double Lane

in land and resource management planning.”

ROS plan components are not integrated, written clearly, concisely, and without ambiguity. The characterizations of ROS classes in many cases are a significant deviation from established Physical Setting descriptions. “*Evidence of Humans*,” “*Non-Recreation Uses*,” and “*Naturalness*” setting indicators are improperly omitted in the narratives for Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized ROS settings. The proposed ROS plan components must be consistent with the 1982/1986 ROS planning framework, which supported the planning rule as informed by the planning rule PEIS.

Permanent and temporary roads in Semi-Primitive ROS settings must be constrained using Evidence of Humans criteria as described in the 1986 ROS Book. Rarely would permanent and temporary roads be consistent with a SPNM setting. If a road was to be built for any reason, it should be decommissioned with full obliteration, recontouring, and restoring natural slopes. Monitoring must ensure that surface areas are stabilized and revegetated with native plants.

The Forest Service did not provide a reasoned basis or a detailed justification for modifying the 1982 ROS User Guide and 1986 ROS Book Recreation Opportunity Spectrum setting definitions and disclosing the consequences of those changes to recreationists seeking Primitive and Semi-Primitive ROS settings, including those seeking high-quality scenic, primitive hiking and horseback riding experiences along the Continental Divide National Scenic Trail.

**Proposed Solution to Improve the Decision:**

Establish ROS plan components that are consistent with the 1986 ROS Book,<sup>31</sup> as described in comments and below.

**Primitive ROS Setting**

Primitive ROS Class Desired Conditions
Setting: The area is essentially an unmodified natural environment. Interaction between users is very low and evidence of other users is minimal.
Experience: Very high probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance through the application of outdoor skill in an environment that offers a high degree of challenge and risk.
Evidence of Humans: Evidence of humans would be un-noticed by an observer wandering through the area. Natural ecological processes such as fire, insects, and disease exist. The area may provide for wildlife connectivity across landscapes. Primitive ROS settings contain no

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<sup>31</sup> This reference is to ROS classes as defined in the 1982 ROS User Guide and 1986 ROS Book, which was the basis for the sustainable recreation direction in the Planning Rule as informed by the Planning Rule PEIS. Furthermore, these ROS User Guides were a basis for the CDNST Comprehensive Plan recreation resource direction in Chapter IV Part 5 and Forest Service directives CDNST recreation management direction in FSM 2353.44b Part 8.

<p>motorized and mechanized vehicles and there is little probability of seeing other groups. They provide quiet solitude away from roads and people or other parties, are generally free of human development, and facilitate self-reliance and discovery. Signing, and other infrastructure is minimal and constructed of rustic, native materials. Scenic Integrity Objective is Very High.</p>
<p><b>Primitive ROS Class Standards and Guidelines</b></p>
<p>Standards: (1) Motor vehicles are not allowed unless the use is mandated by Federal law and regulation.</p>
<p>Guidelines: (1) No new permanent buildings should be constructed, since building may degrade the unmodified character of these landscapes; (2) Less than 6 parties per day encountered on trails and less than 3 parties visible at campsite since an increase in the number of groups may lead to a sense of crowding; (3) Party size limits range between 6 and 12; and (4) No permanent and temporary roads, timber harvest, or mineral extraction are allowed in order to protect the remoteness and naturalness of the area.</p>
<p><b>Primitive ROS Class Suitability of Lands</b></p>
<p>Suitability: (1) Motorized and mechanized recreation travel are not suitable; and (2) lands are not suitable for timber production.</p>

**Semi-Primitive Non-Motorized ROS Setting**

<p><b>Semi-Primitive Non-Motorized ROS Class Desired Conditions</b></p>
<p>Setting: The area is predominantly a natural-appearing environment where natural ecological processes such as fire, insects, and disease exist. Interaction between users is low, but there is often evidence of other users.</p>
<p>Experience: High probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance through the application of outdoor skill in an environment that offers a high degree of challenge and risk.</p>
<p>Evidence of Humans: Natural setting may have subtle modifications that would be noticed but not draw the attention of an observer wandering through the area. The area provides opportunities for exploration, challenge, and self-reliance. The area may contribute to wildlife connectivity corridors. Closed roads may be present, but are managed to not dominate the landscape or detract from the naturalness of the area. Rustic structures such as signs and footbridges are occasionally present to direct use and/or protect the setting’s natural and cultural resources. Scenic Integrity Objective is High.</p>
<p><b>Semi-Primitive Non-Motorized ROS Class Standards and Guidelines</b></p>
<p>Standards: (1) Motor vehicle use is not allowed unless the use is mandated by Federal law and regulation; and (2) Permanent and temporary roads may not be constructed.</p>
<p>Guidelines: (1) The development scale of recreation facilities should be 0-1 to protect the undeveloped character of desired SPNM settings; (2) Less than 15 parties per day encountered</p>

on trails and less than 6 parties visible at campsite, since an increased in the number of groups may lead to a sense of crowding; (3) Party size limits range between 12 and 18; (4) Vegetation management may range from prescribed fire to very limited and restricted timber harvest for the purpose of maintaining or restoring a natural setting; and (5) To protect resources, any existing road should be decommissioned, obliterated, and recontoured with natural slopes.

**Semi-Primitive Non-Motorized ROS Class Suitability of Lands**

Suitability: (1) Motorized recreation travel is not suitable; and (2) Lands are not suitable for timber production.

**Semi-Primitive Motorized ROS Setting**

**Semi-Primitive Motorized ROS Class Desired Conditions**

Setting: The area is predominantly a natural-appearing environment. Concentration of users is low, but there is often evidence of other users.

Experience: Moderate probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance through the application of woodsman and outdoor skill in an environment that offers a high degree of challenge and risk. Opportunity to have a high degree of interaction with the natural environment. Opportunity to use motorized equipment.

Evidence of Humans: Natural setting may have moderate alterations, but would not draw the attention of motorized observers on trails and primitive roads within the area. The area provides for motorized recreation opportunities in backcountry settings. Vegetation management does not dominate the landscape or detract from the experience of visitors. Visitors challenge themselves as they explore rugged landscapes. Scenic Integrity Objective is Moderate.

**Semi-Primitive Motorized ROS Class Standards and Guidelines**

Guidelines: (1) The development scale of recreation facilities should be 0-1 to protect the undeveloped character of desired SPM settings; (2) Low to moderate contact between parties to protect the social setting; (3) Vegetation management may range from prescribed fire to limited and restricted timber harvest for the purpose of maintaining or restoring natural vegetative conditions; and (4) Motorized routes are typically designed as motorized trails (FSH 2309.18 part 23.21, Trail Class 2, No Double Lane) and Four-Wheel Drive Vehicles routes (FSH 2309.18 part 23.23, Trail Class 2, No Double Lane) offering a high degree of self-reliance, challenge, and risk in exploring these backcountry settings.

**Semi-Primitive Motorized ROS Class Suitability of Lands**

Suitability: Lands are not suitable for timber production.

**Roaded Natural ROS Setting**

**Roaded Natural ROS Class Desired Conditions**

Setting: The area is predominantly natural-appearing environments with moderate evidences of the sights and sounds of human activities. Such evidences usually harmonize with the natural environment Interaction between users may be low to moderate, but with evidence of other users prevalent. Resource modification and utilization practices evident, but harmonize with the natural environment. Conventional motorized use is provided for in construction standards and design of facilities.

Experience: About equal probability to experience affiliation with other user groups and for isolation from sights and sound of humans. Opportunity to have a high degree of interaction with the natural environment. Challenge and risk opportunities associated with a more primitive type of recreation are not very important. Practice and testing of outdoor skills might be important. Opportunities for both motorized and non-motorized forms of recreation are possible.

Evidence of Humans: Natural settings may have modifications, which range from being easily noticed to strongly dominant to observers within the area. However, from sensitive travel routes and use areas these alternations would remain unnoticed or visually subordinate. The landscape is generally natural with modifications moderately evident. Concentration of users is low to moderate, but facilities for group activities may be present. Challenge and risk opportunities are generally not important in this class. Opportunities for both motorized and non-motorized activities are present. Construction standards and facility design incorporate conventional motorized uses.

The **Roaded Modified** subclass includes areas that exhibit evidence of extensive forest management activities that are dominant on the landscape, including having high road densities, heavily logged areas, highly visible mining, oil and gas, wind energy, or other similar uses and activities. Scenic Integrity Objective is Low.

#### Roaded Natural ROS Class Suitability of Lands

Suitability: Lands may be suitable for timber production.

### **Rural ROS Setting**

#### Rural ROS Class Desired Conditions

Setting: Area is characterized by substantially modified natural environment. Resource modification and utilization practices are to enhance specific recreation activities and to maintain vegetative cover and soil. Sights and sounds of humans are readily evident, and the interaction between users is often moderate to high. A considerable number of facilities are designed for use by many people. Facilities are often provided for special activities. Moderate densities are provided far away from developed sites. Facilities for intensified motorized use and parking are available.

Experience: Probability for experiencing affiliation with individuals and groups is prevalent as is the convenience of sites and opportunities. These factors are generally more important than the setting of the physical environment. Opportunities for wildland challenges, risk-taking, and

testing of outdoor skills are generally unimportant except for specific activities like downhill skiing, for which challenge and risk-taking are important elements.

Evidence of Humans: Natural setting is culturally modified to the point that it is dominant to the sensitive travel route observer. May include intensively managed wildland resource landscapes. Pedestrian or other slow-moving observers are constantly within view of the culturally changed landscape.

**Violation of Law, Regulation or Policy:** 36 CFR § 219.3; 36 CFR 219.10(b)(1)(i) – Sustainable recreation; FSM 2310.3 (WO Amendment 2300-90-1) – Recreation Planning; FSH 1909.12 part 23.23a - Sustainable Recreation. USDA DR 1074-001. See FSM 2310 (2300-2020-1) discussion in **Appendix A** of this objection.

**Connection with Comments:** Draft Plan and DEIS Comments page 15. CDNST Planning Handbook pages 53 and 56.

### **C. Scenery**

**Forest Plan:** The plan on page 103 states, *“There are five levels of scenic integrity described by the Forest Service Scenery Management System (table 19). These levels, when used for management, are referred to as scenic integrity objectives (SIOs) and describe the lowest allowable integrity levels of the scenic character that the visible results of all new management actions must meet.”*

FW-GDL-SCENERY 04 on page 105 states, *“To provide an adequate time for regrowth after vegetation management projects and to meet the intent of scenery management, projects should be designed and implemented to achieve the assigned scenic integrity objective within five years after completion of all project activities, as viewed from applicable critical viewing platforms. This applies to the results of project work, including operational remnants, such as temporary roads or landings, slash, stumps, tree markings, but does not apply to remnants of prescribed fire that appear to be a natural occurrence when viewed by the casual observer.”*

**Issue and Statement of Explanation:** I support the direction that, *“...does not apply to remnants of prescribed fire that appear to be a natural occurrence when viewed by the casual observer.”*

Scenic integrity objectives are defined by minimally acceptable levels and the direct intent to achieve the highest scenic integrity possible. *“When there are considerable differences between existing and desired landscape character, it may be necessary to design a transition strategy. The design should include a reasonable time line for reaching the goal. It should exclude excessive increments of change. Scenic integrity objectives define the degrees of deviation in form, line, color, scale, and texture that may occur at any given time, thus defining a transition strategy”* (Landscape Aesthetic Handbook, page 5-9).

Scenic integrity is degraded by vegetation management projects that require permanent or temporary roads. This guideline should be restricted to only Roaded Natural/Modified ROS

settings with low Scenic Integrity Objectives. In Semi-Primitive ROS settings, where vegetation management occurs for resource benefit, the extent and duration of the impacts must be controlled to ensure that ROS setting desired conditions are protected. Additional plan components should be added to control the scale, extent, location, and duration of projects resulting in very few if any 5-year waivers in Semi-Primitive ROS settings.

Prescribed Low and Moderate Scenic Integrity Objectives are inconsistent and unacceptable with established Semi-Primitive Non-Motorized ROS settings (Landscape Aesthetics Handbook 701, page F-3). Examples of inappropriate established SIOs is found in the Forest Plan Alternative F allocation as displayed in **Appendix C** of this objection.

**Proposed Solution to Improve the Decision:** Modify ROS plan components to be consistent with the 1986 ROS Book and establish a High Scenic Integrity Objective for SPNM settings.

**Violation of Law, Regulation or Policy:** 36 CFR § 219.3 - Best Available Scientific information; FSH 1909.12 part 23.23f; FSM 2380.

**Connection with Comments:** Draft Plan and DEIS comments page 15. New information in plan.

## **D. Backcountry Areas**

**Forest Plan:** The plan on page 126 states, *“Desired Conditions (FW-DC-BCA) - 01 Natural processes play their role and human use leaves little permanent or long-lasting evidence.*

*Suitability (FW-SUIT-BCA) - 01 The backcountry areas are not suitable for timber production. Vegetation management, including timber harvest, is suitable for purposes such as fuels reduction, restoration, or wildlife habitat enhancement.”*

**Issue and Statement of Explanation:** The Plan Backcountry Areas desired conditions do not provide for integrated resource management. At a minimum, desired conditions for recreation settings and scenic character need to be established and correspond with plan maps. For example, the Lionhead Backcountry Area should include the following desired condition statements:

- The area is a natural-appearing landscape. Scenic integrity objective is High.
- Semi-Primitive Non-Motorized ROS setting is protected.

The extent and duration of the impacts must be controlled to ensure that established ROS setting desired conditions are not degraded by vegetation management actions. In SPNM ROS settings, permanent and temporary roads are inconsistent with desired conditions. A may be suitable determination for vegetation management projects should only be associate with Natural/Modified ROS settings and not Semi-Primitive ROS settings.

**Proposed Solution to Improve the Decision:** The exception for, *“Vegetation management, including timber harvest, is suitable for purposes such as fuels reduction, restoration, or wildlife habitat enhancement”* is too broad and should be deleted.

**Violation of Law, Regulation or Policy:** 36 CFR § 219.7 – Plan Components (where they apply), FSH 1909.12 part 22.1 – Plan Components, FSH 1909.12 part 23 – Resource Requirements for Integrated Plan Components

**Connection with Comments:** Draft Plan and DEIS comments pages 5-8.

## **E. Recreation Emphasis**

**Forest Plan:** The plan on page 127 states, *“Recreation emphasis areas [including Hebgen Winter] may have a high density of human activities and associated structures. There may be roads, utilities, and trails as well as signs of past and ongoing activities of managed forest vegetation. Opportunities for solitude and a primitive experience may be limited near roads or trails due to frequent contact with other users....”*

**Issue and Statement of Explanation:** The Hebgen Winter recreation emphasis area establishes human activities in the CDNST corridor that should only be approved subject to the CDNST unit plan decisions.

**Proposed Solution to Improve the Decision:** Exclude the CDNST management corridor from the Hebgen Winter Recreation Emphasis Area.

**Violation of Law, Regulation or Policy:** 16 U.S.C. § 1242(a)(2) – National Scenic Trail Purpose, 16 U.S.C. § 1244(f) – Comprehensive Planning, 16 U.S.C. § 1246(c) – Nature and Purposes, Avoid Incompatible Activities, Substantial Interference, Chapter IV.B.6. Motorized Use (74 FR 51125).

**Connection with Comments:** New information.

## **F. Madison, Henrys Lake, and Gallatin Mountains Geographic Area**

**Forest Plan:** The plan on page 165 states, *“Nationally designated trails include the Continental Divide National Scenic Trail, the Nez Perce National Historic Trail, and several National Recreation Trails, including the Two Top Loop Snowmobile Trail and the Big Sky Snowmobile Trail....”*

The Plan on page 167 states, *“Designated areas are specific areas or features within the Custer Gallatin that have been given a designation to maintain its unique character, purpose, or management emphasis. See chapter 2 for forestwide direction of designated areas. Table 62 and associated map(s) (appendix B) display the designated areas in this geographic area...”*

**Issue and Statement of Explanation:** Table 62 needs to include percentage of Geographic Area for the CDNST. The CDNST corridor in appendix B is not discernable.



Designated Area	Management Corridor Acres / Travel Route Miles	Percentage of GA
Continental Divide National Scenic Trail	11,000 acres / 28 miles	1.3

**Proposed Solution to Improve the Decision:** The plan needs to include a map that is like that displayed in **Figure 1** of this objection.

**Violation of Law, Regulation or Policy:** 16 U.S.C. § 1246(a)(2) – National Scenic and Historic Trail Rights-of-way; 36 CFR § 219.10(b)(1)(vi) – Designated Areas; CDNST Comprehensive Plan Chapter IV.B.2, Rights-of-Way Extent (74 FR 51116); 36 CFR § 219.7 – Plan Components (where they apply); FSH 1909.12 part 24.43 - National Scenic and Historic Trails; and FSM 2353.4 – National Scenic Trails – CDNST (74 FR 51125).

**Connection with Comments:** Draft Plan and DEIS comments page 7.

## **G. Continental Divide National Scenic Trail**

**Forest Plan:** The plan on page 174 states, *“The Continental Divide National Scenic Trail was designated by Congress in 1978. This 3,100-mile-long trail follows the Continental Divide and traverses nationally significant scenic terrain and areas rich in the heritage and life of the Rocky Mountain west. In entirety, the trail passes through portions of Montana, Idaho, Wyoming, Colorado, and New Mexico and is administered by the Forest Service in cooperation with the National Park Service, Bureau of Land Management, and Tribal, State, and local governments, and numerous partner groups. The vision for the Continental Divide National Scenic Trail is a primitive and challenging backcountry trail for the hiker and equestrian on or near the Continental Divide to provide people with the opportunity to experience the unique and incredibly scenic qualities of the area. A small segment on the Custer Gallatin National Forest is also open to mountain bikes. Management for the Continental Divide National Scenic Trail is outlined in the 2009 Continental Divide National Scenic Trail Comprehensive Management Plan and national policy. See scenery management maps in appendix B.*

*The 2009 Comprehensive plan provides this statement “The nature and purposes of the Continental Divide National Scenic Trail Care to provide for high-quality scenic, primitive hiking and horseback riding opportunities and to conserve natural, historic, and cultural resources along the Continental Divide National Scenic Trail corridor.”*

*Approximately 31 miles of the Continental Divide National Scenic Trail are located on the Custer Gallatin National Forest, all in the Madison, Henrys Lake, and Gallatin Geographic Area. The one-half mile foreground viewed from either side of the Continental Divide National Scenic Trail travel route must be a primary consideration in delineating the corridor. Therefore, the plan*

*components outlined below apply one half mile each side of the trail, when that boundary remains on the Custer Gallatin.”*

**Issue and Statement of Explanation:** The vision for the CDNST which informed the official *nature and purposes* description is, *“Complete the Trail to connect people and communities to the Continental Divide by providing scenic, high-quality, primitive hiking and horseback riding experiences, while preserving the significant natural, historic, and cultural resources along the Trail”* (74 FR 51117).

The plan fails to describe how the ROS planning framework was used to established ROS setting desired conditions that provide for the nature and purposes of the CDNST. In this regard and consistent with the programmatic integration requirements of the NFMA and the ROS planning framework, establishment of Primitive and Semi-Primitive Non-Motorized ROS settings would contribute to providing for the nature and purposes of this National Scenic Trail. The plan fails to establish plan components that address Scenic Integrity Objectives for the CDNST corridor. To be consistent with the Landscape Aesthetics Handbook, desired Scenic Character is Natural-Appearing, not Naturally Appearing.

The Forest Plan description is incomplete without recognizing the need to provide for the recreation setting and the conservation purposes of the CDNST. As summarized in Section I of this objection, the 2009 CDNST Comprehensive Plan – as described in 74 FR 51116 Continental Divide National Scenic Trail Comprehensive Plan; FSM 2350 – addressed more than defining the nature and purposes of the CDNST. The plan needs to be supplemented to describe that, *“The National Trails System Act of 1968, as amended, provides that the CDNST is administered to provide for the conservation and enjoyment of nationally significant scenic, historic, natural, or cultural qualities, which supports the 2009 Comprehensive Plan statement that, “The nature and purposes of the Continental Divide National Scenic Trail is to provide for high-quality scenic, primitive hiking and horseback riding opportunities and to conserve natural, historic, and cultural resources along the Continental Divide National Scenic Trail corridor. CDNST plan components apply one half mile each side of the trail, when that boundary remains on the Custer Gallatin National Forest. The CDNST management corridor is one mile in width for the purpose of encompassing the resources, qualities, values, and associated settings of the CDNST.”*

The statement that, *“A small segment on the Custer Gallatin National Forest is also open to mountain bikes”* is inappropriate and needs to be deleted. Otherwise, it should be modified to describe that the Forest Supervisor has accepted mountain bike use without first assessing and deciding if mountain bike use will substantially interfere with the nature and purposes of the CDNST as required by the CDNST Comprehensive Plan and FSM policy. Recognize that preferred trail parameters are described in FSM 2353.44b(9), and should be addressed in the CDNST resource plan (FSM 2353.44b(2)).

## **CDNST Management Corridor and Plan Components**

The CDNST management corridor extent and associated plan components to be adopted for purpose of resolving this objection are described in Section I Part C. Much of the Custer-Gallatin plan direction departs from the CDNST Comprehensive Plan, FSH 2353.4 and FSH 1909.12 24.43 guidance without providing a reasoned basis or a detailed justification for ignoring these previous findings and direction. The following observations and recommendations are specific to each of the presented Forest Plan components.

### **Desired Conditions (MG-DC-CDNST)**

**Desired Condition 01** *The Continental Divide National Scenic Trail is a well-defined trail that provides for high-quality, primitive hiking and horseback riding opportunities, and other compatible trail activities, in a highly scenic setting along the Continental Divide. The significant scenic, natural, historic, and cultural resources along the trail's corridor are present. Where possible, the trail provides visitors with expansive views of a naturally appearing landscape along the divide.*

**Issue and Statement of Explanation:** Desired conditions are the basis for the rest of the plan components; objectives, standards, guidelines, and suitability determinations must be developed to help achieve the desired conditions. I appreciate that the plan responded to comments to recognize the nature and purposes of the CDNST. However, instead of just being mentioned in the introduction to this part, it must also be the principal CDNST desired condition and have supporting standards and guidelines if the direction is to have a meaningful bearing on the management of the CDNST on the Custer-Gallatin National Forest as the plan is implemented.

To provide for *high-quality, primitive hiking and horseback riding opportunities*, recreation desired settings must be protected along the CDNST corridor. To address this need, the Custer-Gallatin Forest Plan must address the NFMA programmatic planning requirements following in part the 1982/1986 ROS planning framework protocols. Primitive and Semi-Primitive Non-Motorized settings would provide for desired user opportunities and conserve landscapes consistent with the nature and purposes of the CDNST.

The first part of Desired Condition 01 is fixated on the CDNST travel route and could imply that the CDNST is simply a path that is well signed, constructed following more developed trail design parameters, and has a high level of maintenance. However, since this direction is vague it should be deleted and instead be addressed through establishing trail design parameters and trail maintenance schedules in CDNST unit plan decisions.

The Forest Plan must protect the ROS setting, but adequate Trails Capital Improvement and Maintenance (CMTL) funds and volunteer services are also crucial to achieving CDNST travel route maintenance objectives that are essential to providing for high-quality, primitive hiking

and horseback riding opportunities through protected desired ROS settings. CDNST travel route sustainability should recognize that hazard tree mitigation is an integral part of trail maintenance.

Programmatic considerations for a highly scenic setting and expansive views should have been addressed through forest planning processes to review and establish the location of the CDNST corridor. A hard look at CDNST corridor locations may have resulted in the protection of a CDNST high-potential route segment<sup>32</sup> corridor from Reas Pass to Yellowstone National Park along the Continental Divide.

The principle desired condition must be to provide for the nature and purposes of the CDNST: CDNST Management Area (MA) (aka National Trail Management Corridor (NTMC)) provides high-quality scenic, primitive hiking and horseback riding opportunities and conserves natural, historic, and cultural resources along the CDNST corridor (CDNST Comprehensive Plan, Chapter IV.A). Omitting the CDNST nature and purposes results in the plan not fulfilling the integration requirements of the National Forest Management Act (16 U.S.C. § 1604(f)(1), 36 CFR § 219.10, FSH 1909.12 parts 23 and 24.43) and the comprehensive planning requirements of the National Trails System Act (16 U.S.C. § 1244(f)). The CDNST Comprehensive Plan direction strives to address the comprehensive planning requirements of the NTSA through staged decisionmaking whereas the revised Custer-Gallatin Forest Plan is critical in contributing to NTSA comprehensive planning requirements as outlined in Exhibit 1 of Draft Plan and DEIS comments on page 25.

Regarding *other compatible trail activities*, mountain bike use is addressed in the CDNST Comprehensive Plan in Chapter IV.B.5.b(2) and FSM 2353.44b(10). Motor vehicle use is addressed in the CDNST Comprehensive Plan in Chapter IV.B.6.b and FSM 2353.44b(11). Primary CDNST travel route design parameters are described in FSM 2353.44b(9).

Desired condition 01 should be restated as, *“The Continental Divide National Scenic Trail management corridor [aka Management Area] provides high-quality scenic, primitive hiking and horseback riding opportunities and conserves natural, historic, and cultural resources along the CDNST corridor (CDNST Comprehensive Plan, Chapter IV.A).”*

**[quote continues]**

**Desired Condition 02** *Viewsheds from the Continental Divide National Scenic Trail have high scenic values. The foreground as viewed from the trail is predominately naturally appearing. The potential to view wildlife is high, and evidence of ecological processes such as fire, insects, and diseases exist.*

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<sup>32</sup> 16 U.S.C. § 1244(f)(3)

**Issue and Statement of Explanation:** What is a high scenic value? Scenery desired conditions must be described as a Scenic Integrity Objective (FSH 1909.12 23.23f). The description should be modified to reference Natural-Appearing instead of Naturally Appearing to be consistent with the Landscape Aesthetics Handbook. To be consistent with the CDNST Comprehensive Plan, the Scenic Integrity Objective must be High or Very High.

**[quote continues]**

**Desired Condition 03** *The trail is accessible from access points that provide various opportunities to select the type of terrain, scenery and trail length, ranging from long-distance to day use, that best provide for the compatible outdoor recreation experiences being sought. Wild and remote, backcountry segments of the route provide opportunities for solitude, immersion in natural landscapes and primitive outdoor recreation. Front-country and more easily accessible trail segments complement local community interests and needs and help contribute to their sense of place.*

**Issue and Statement of Explanation:** The proposed desired condition is inconsistent with the CDNST Comprehensive Plan failing to support the nature and purposes of the CDNST. The described vision is vague that, *“Front-country and more easily accessible trail segments complement local community interests and needs and help contribute to their sense of place.”* This desired condition should be deleted.

**[quote continues]**

**Desired Condition 04** *Use conflicts amongst trail users are infrequent.*

**Desired Condition 05** *The trail is well maintained, signed, and passable. Alternate routes provide access to the trail in the case of temporary closures resulting from natural events, such as fire or flood, or land management activities.*

**Issue and Statement of Explanation:** The exception for land management activities is not a desired condition consistent with the nature and purposes of the CDNST. Management activities in the defined corridor are to be subject to the constraint of not substantially interfering with the nature and purposes of the CDNST utilizing in part the 1986 ROS and 1995 SMS protocols to make this determination.

**[quote continues]**

**Desired Condition 06** *Short side trails to the Continental Divide National Scenic Trail that encompass adjacent attractions enhance the experience along the main trail.*

**Issue and Statement of Explanation:** This plan component should be reworded or deleted, unless it is the intent to establish an official side trail (16 U.S.C. § 1245). Side trails should have plan components established.

[quote continues]

**Desired Condition 07** *Trailhead facilities support the uses of the trail (such as stock use).*

**Standards (MG-STD-CDNST)**

**01** *New motorized recreation events shall not be permitted on the Continental Divide National Scenic Trail.*

**Issue and Statement of Explanation:** This should be restated to describe that, “*Recreation events may not be permitted on the Continental Divide National Scenic Trail unless the event contributes to providing for the nature and purposes of the CDNST.*”

[quote continues]

**Standard 02** *New constructed, permanent overnight shelters shall not be allowed.*

**Standard 03** *Extraction of saleable mineral materials shall not be allowed.*

**Guidelines (MG-GDL-CDNST)**

**Guideline 01** *To retain or promote the character for which the trail was designated, road and motorized trail crossings and other signs of modern development should be avoided to the extent practicable.*

**Issue and Statement of Explanation:** The forest plan revision process is the appropriate planning stage to establish desired Primitive and SPNM ROS classes along the CDNST corridor, while addressing the management of ROS setting inconsistencies within those allocations. As such, this guideline is unnecessary and should be deleted.

[quote continues]

**Guideline 02** *To promote a nonmotorized setting, the Continental Divide National Scenic Trail should not be permanently relocated onto routes open to motor vehicle use.*

**Guideline 03** *To preserve or promote a naturally appearing setting, the minimum trail facilities necessary to accommodate the amount and types of use anticipated on any given segment should be provided in order to protect resource values and for health and safety, not for the purpose of promoting user comfort.*

**Issue and Statement of Explanation:** The plan should promote a natural-appearing setting to be consistent with the Scenery Management System. Facilities should complement the Semi-Primitive Nonmotorized ROS setting.

[quote continues]

**Guideline 04** *To retain the character for which the trail was designated, new linear utilities and rights-of-way should be limited to a single crossing of the trail unless additional crossings are documented as the only prudent and feasible alternative.*

**Issue and Statement of Explanation:** Utility corridors need to be identified and addressed in the revised plan or addressed through future amendment processes as necessary. Development actions are subject to not substantially interfering with the nature and purposes of the CDNST.

[quote continues]

**Guideline 05** *To provide for a naturally appearing setting and to avoid visual, aural, and resource impacts, use of the Continental Divide National Scenic Trail for landings or as a temporary road for any purpose should not be allowed.*

**Issue and Statement of Explanation:** Natural-Appearing is the correct Scenery Management system terminology.

**Guideline 06** *To provide for a naturally appearing setting and to avoid visual, aural, and resource impacts, hauling or skidding along the Continental Divide National Scenic Trail itself should be allowed only (1) where the Continental Divide National Scenic Trail is currently located on an open road or to address hazard tree removal, or (2) no other haul route or skid trail options are practicable. Design criteria should minimize impacts to the trail infrastructure, and any necessary post-activity trail restoration should be a priority for the project's rehabilitation plan.*

**Issue and Statement of Explanation:** The plan should promote a natural-appearing setting to be consistent with the Scenery Management System. Mixing pedestrians, equestrians, log trucks, and skidders on roads is a bad and unsafe idea with the probable outcome being that the routes are closed during timber operations. Any timber management action along the CDNST travel route need to be consistent with SPNM setting constraints and be only allowed when there is a determination that the action will not substantially interfere with the nature and purposes of the CDNST. To provide for a safe user experience, hauling and skidding must not be allowed on the CDNST travel route.

[quote continues]

### ***Suitability (MG-SUIT-CDNST)***

**Suitability 01** *The Continental Divide National Scenic Trail corridor is not suitable for timber production. Vegetation management, including timber harvest, is suitable for purposes such as fuels reduction, restoration, or wildlife habitat enhancement.*

**Issue and Statement of Explanation:** Other uses are only allowed if the use does not substantially interfere with the nature and purposes of the CDNST. Vegetation management

restoration activities must be limited and based on site-specific analyses that clearly demonstrate the need, especially if permanent or temporary roads are to be constructed.

I support the determination that the CDNST management corridor is not suitable for timber production. The second part of MG-SUIT-CDNST-01 needs to be deleted, since unconstrained fuels reduction, restoration, and wildlife habitat enhancement is not equivalent to providing for the nature and purposes of the CDNST. Rarely would permanent or temporary roads be consistent with protecting CDNST qualities and values.

**[quote continues]**

***Suitability 02*** *The Continental Divide National Scenic Trail is suitable for summer motorized transport only as necessary to meet emergencies, to provide for landowner access, or as allowed by administrative regulations at the time of designation, as long as such use does not substantially interfere with the nature and purpose of the trail. National Trail System Act (section 7c). Administrative trail maintenance equipment is authorized.*

**Issue and Statement of Explanation:** This suitability statement is not in compliance with the National Trails System Act, CDNST Comprehensive Plan, and FSM 2353.44b. Public motorized and mechanized use may only be allowed where such use is in accordance with the CDNST Comprehensive Plan, Chapter IV.B.6, FSM 2353.44b(11), and 74 FR 51125. To be consistent with the National Trails System Act, motor vehicle use by the general public is only allowed as described in Section I Part C of this objection. MG-SUIT-CDNST-02 needs to be deleted.

**[quote continues]**

***Suitability 03*** *The Continental Divide National Scenic Trail is suitable for winter motorized over-snow vehicle transport over and around the trail, as long as such use does not substantially interfere with the nature and purpose of the trail.*

**Issue and Statement of Explanation:** This suitability plan component and the programmatic Forest Plan FEIS analyses do not support this suitability determination. Public motorized use may only be allowed where such use is in accordance with the CDNST Comprehensive Plan. In other words, winter motorized over-snow vehicle transport over and around the CDNST travel route is not allowed until a determination is made that it is open following requisite substantial interference analyses. Clearly, the Hebgen Winter recreation emphasis area of high density of human activities and associated structures is not compatible with the desired conditions for any National Scenic Trail. The FEIS does not contain an analysis that supports a CDNST substantial interference determination and therefore it is not reasoned to declare that such use is suitable.

Winter motorized over-snow vehicle transport over and around the trail does not support CDNST nature and purposes desired conditions. Motor vehicle use is addressed in the CDNST Comprehensive Plan, Chapter IV.B.6 and FSM 2353.44b(11). Motor vehicle use is only allowed



or is dependent on the approval of a CDNST unit plan (FSM 2353.44b(2)). A key function of the CDNST unit plan is to identify carrying capacity for the CDNST and to establish a plan for its implementation.

The described vehicular use suitability determinations are not supported by an assessment that determined the consistency with supporting CDNST nature and purposes desired conditions and that the activities would not substantially interfere with the nature and purposes of the CDNST. The FEIS assessments are inconsistent with the requirements of the National Trails System Act, CDNST Comprehensive Plan, ROS planning framework, CEQ requirement for methodology and scientific accuracy, and related directives. MG-SUIT-CDNST-03 needs to be deleted.

**[quote continues]**

***Suitability 04*** *The Continental Divide National Scenic Trail is suitable for mountain biking, as long as such use does not substantially interfere with the nature and purpose of the trail.*

**Issue and Statement of Explanation:** This suitability determination and the programmatic Forest Plan FEIS analyses do not support this suitability determination. Mountain bike use of the CDNST is addressed in the CDNST Comprehensive Plan in Chapter IV.B.5.b(2) and FSM 2353.44b(10)— Bicycle use may be allowed on the CDNST (16 U.S.C. 1246(c)), using the appropriate trail design standards, if the use is consistent with the applicable CDNST unit plan and will not substantially interfere with the nature and purposes of the CDNST (FSM 2353.42). A key function of the CDNST unit plan is to identify carrying capacity for the CDNST and a plan for its implementation.

The allowance of mountain bike use on the CDNST is yet to be determined. The CDNST Comprehensive Plan and FSM 2353.44b(10) allow mountain bike use only if analyses determine the use will not substantially interfere with the nature and purposes of the CDNST. In other words, mountain bike (mechanized transport) on the CDNST travel route is not allowed by the Comprehensive Plan and policy until a determination is made that it is open following requisite substantial interference analyses. The FEIS does not contain such an analysis and therefore it is not reasoned to declare that such use is suitable. The rationale for the draft Recommended Wilderness decision demonstrates that mountain bike use substantially interferes with providing for the conservation and preservation purposes of the CDNST and therefore it is not reasoned to determine that the CDNST is suitable for mountain bikes in existing Recommended Wilderness areas. MG-SUIT-CDNST-04 needs to be deleted.

**Summary of Issues and Statements of Explanation for this Section:** CDNST plan components are not integrated, written clearly, concisely, and without ambiguity. The revised Plan direction for the CDNST is ambiguous, but provides enough information to ascertain that the plan components fail to provide for the nature and purposes of the CDNST. Plan components do not

provide for the appropriate management of the CDNST corridor consistent with applicable laws, regulations, and Executive Orders.

Plan components do not state and provide for the nature and purposes of the CDNST. Plan components are not compatible with the objectives and practices identified in the CDNST Comprehensive Plan for the management of this National Scenic Trail. Implementation of the plan with current and expected activities and uses will lead to actions and continued use that substantially interferes with the nature and purposes of the CDNST.

The identification of the suitability of areas for motor vehicle use, over snow vehicles, and bicycle use does not appropriately integrate resource management and uses, with respect to the requirements for plan components of 36 CFR §§ 219.8 through 219.11 and will lead to uses and activities that substantially interfere with the nature and purposes of the CDNST.

**Proposed Solution to Improve the Decision:** Appropriate CDNST plan components and the location of where to apply those components is described in Section I Part C of this objection.

**Violation of law, regulation or policy:** USDA DR 1074-001; 36 U.S.C. § 216; 16 U.S.C. §§ 1242(a)(2), 1244(f), 1246(a)(2), 1246(c); E.O. 13195; CDNST Comprehensive Plan Chapter III.E Land Management Planning (74 FR 51124), Chapter IV.A Nature and Purposes (74 FR 51124), Chapter IV.B.4 Scenery Management (74 FR 51124), Chapter IV.B.5, Recreation Management (74 FR 51125), and Chapter IV.B.6 Motorized Use (74 FR 51125); 16 U.S.C. 1604(f)(1); 36 CFR §§ 219.3, 219.7, 219.9(a)(1), 219.10(a), 219.10(b)(1)(vi); FSH 1909.12 23.11b; FSH 1909.12 Part 24.43; and 36 CFR §§ 212.80, 212.81.

**Connection with Comments:** Draft Plan and DEIS comments pages 18 through 25. Handbook page 25, 33-37.

## **H. Glossary**

The glossary does not contain important definitions to support proposed Forest Plan terms.

**Issue and Statement of Explanation:** National Scenic and Historic Trails are not described. ROS class definitions are incomplete. Additional definitions would facilitate consistent implementation of the Forest Plan.

**Proposed Solution to Improve the Decision:** National Scenic and Historic Trails should be described and nature and purposes defined. Consistent with the 1986 ROS Book, the definitions of ROS classes should be expanded to address Access, Remoteness, Naturalness/Evidence of Human, Facilities and Site Management, Social Encounters, Visitor Impacts, and Visitor Management of each class. Scenic (Landscape) Character and Scenic Integrity Objectives need to be defined as described in the Landscape Aesthetics Handbook as modified by the Planning Rule.

**Violation of law, regulation or policy:** 36 CFR § 219.3.

**Connection with Comments:** Draft Plan and DEIS comments page 25.

## **Section IV. Statement of Issues – FEIS**

The following are statements of the issues to which the objection applies and concise statements explaining the objection and suggestions on how the FEIS may be improved. Forest Service NEPA 36 CFR Part 220 regulations do not lessen the applicability of the CEQ 40 CFR § 1500 regulations—see 36 CFR § 220.1(b)).

### Background

The Council on Environmental Quality (CEQ) issued guidance in 2014 on effective use of programmatic National Environmental Policy Act (NEPA) reviews. CEQ states that, *“NEPA requires Federal agencies to consider the effects of a proposed action and any reasonable alternatives on the human environment. Those effects include, among others, impacts on social, cultural, economic, and natural resources. To implement NEPA, agencies undertake an assessment of the environmental effects of their proposed actions prior to making decisions. The NEPA review process is an integral and valuable tool for public engagement and thoughtful decisionmaking, a process that often produces more sound analysis and information that the federal government might otherwise overlook...”*

Forest Plan geographic bounded areas include a National Forest as a whole, Geographic Areas, Management Areas, and the extent of designated areas such as the area within a Wild and Scenic River established boundary (16 U.S.C. § 1274(b)) and a selected right-of-way (or defined National Trail Management Corridor) for National Scenic and Historic Trails (16 U.S.C. § 1246(a)(2)). Each agency zoned area has unique desired conditions and standards and guidelines that constraint use so that desired conditions are not degraded.

*“The agency is obligated to conduct a meaningful impact analysis in accordance with NEPA, and that analysis should be commensurate with the nature and extent of potential impacts of the decision being made. A programmatic NEPA review should contain sufficient discussion of the relevant issues and opposing viewpoints to enable the decisionmaker to take a “hard look” at the environmental effects and make a reasoned choice among alternatives. There should be enough detail to enable those who did not have a part in its compilation to understand and meaningfully consider the factors involved.”*

For each NEPA defined geographic area which includes the CDNST management corridor, NEPA reviews should describe the desired conditions for each area and how related standards and guidelines would constrain actions and prevent degradation. A NEPA document must contain sufficient information to foster informed decision-making and informed public participation. Otherwise, the decision would not be in conformance with 42 U.S.C. § 4332(2)(C) and would therefore not be in accordance with law under 5 U.S.C. § 706(2)(A) and not in be in observance of procedure required by law under 5 U.S.C. § 706(2)(D).

## A. Alternatives

**FEIS:** The FEIS, Part 1, on page 28 states, “*Alternative F is a new alternative that was not in the March 2019 draft revised plan. Alternative F is the preferred alternative and draws from alternatives B through E. It represents a mix of recommended wilderness areas, backcountry areas, recreation emphasis areas, and lands identified as suitable for timber production.*”

**Issue and Statement of Explanation:** Alternative F did not address issues and concerns that were presented in scoping and DEIS comments regarding CDNST plan components and ROS setting descriptions. The new alternative is not in compliance with the National Trails System Act and is inconsistent with the 1986 ROS Book.

**Proposed Solution to Improve the Decision:** See Section I Part C, Section II Part A, and Section III Part B of this objection.

**Violation of Law, Regulation or Policy:** 16 U.S.C. §§ 1242(a)(2), 1244(f), 1246(c); E.O. 13195; 42 U.S.C. § 4332(2)(C); 40 C.F.R. §§ 1502.1, 1502.14, 1502.16, 1508.7; 36 CFR § 219.3, USDA DR 1074-001.

**Connection with Comments:** New information.

## B. Canada Lynx

**FEIS:** The FEIS, Part 1, on page 358 states, “*the Madison, Henrys Lake, and Gallatin Mountains Geographic Area has the most acres and greatest proportion of potential snowshoe hare habitat.*”

On pages 382-386 the FEIS states, “*All revised plan alternatives also include land use allocations that would emphasize public recreation use, but the number, size, and location of these areas vary by alternative. Alternative D has the lowest acreage of recreation emphasis areas, while alternative F has the highest. Recreation emphasis areas currently have, and are expected to continue to receive relatively high levels of motorized and non-motorized recreation use, and may have a high density of recreation-related infrastructure relative to other parts of the Custer Gallatin... Recreation emphasis areas may further fragment habitat due to higher densities of access routes and other recreation-related infrastructure than found elsewhere on the Custer Gallatin National Forest... The largest recreation emphasis area (Hebgen winter) overlaps one entire lynx analysis unit and part of another, and occurs in all revised plan alternatives except for alternative D...*

*Alternatives B, C, E, and F identify two winter recreation emphasis areas—Cooke City and Hebgen. The expected high levels of concentrated winter use in these areas would likely result in substantial areas of snow compaction within and near occupied lynx habitat. Winter recreation emphasis areas are expected to receive increasing levels of winter use, commensurate with human population growth and increasing popularity of the Greater Yellowstone Area for*

*recreation opportunities. Such increased use could result in even larger areas of snow compaction, as numbers of recreationists increase and technology evolves. However, these areas are currently managed and heavily used, for winter recreation with limited geographic opportunities for expansion, and plan components adopted from the Northern Rockies Lynx Management Direction (Guideline HU G11) would limit new designated over-snow routes and designated play areas to consolidate use to improve lynx habitat. The Hebgen Winter Recreation Emphasis Area is the largest of all the recreation emphasis areas, and is located in the Madison, Henrys Lake, and Gallatin Geographic area, which is classified as secondary, occupied lynx habitat...*

*The Hebgen winter recreation emphasis area is currently, and has been for many years, a popular winter recreation area with groomed snowmobile and ski trails, as well as large areas open to dispersed winter recreation. Consequently, this area is subject to high levels of noise disturbance and snow compaction associated with human uses... The Lionhead area, Taylor-Hilgard area, and Lee Metcalf Wilderness Area to the northwest of the Hebgen winter recreation emphasis area would not allow snowmobile use under all alternatives...*

*The revised plan identifies a range of recreation experiences available on National Forest System lands, using a classification tool called the recreation opportunity spectrum. The recreation opportunity spectrum is consistent and highly correlated with land use designations and allocations in the revised plan, but also applies to non-designated areas of the national forest. Effects of recreation in designated areas and management plan allocations were addressed above. Under all revised plan alternatives, the recreation opportunity spectrum outside of designated areas and plan allocation areas tends to be in the roaded natural and semi-primitive motorized categories. These areas likely have higher levels of human use and noise that could have greater disturbance impacts on lynx, and more potential for snow-compaction from winter recreation use."*

**Issue and Statement of Explanation:** This discussion indicates that plan components do not protect the qualities and values for which the CDNST was designated resulting in negative effects to Canada lynx habitat in the CDNST corridor. In addition, changes to the 1986 definitions of Primitive and Semi-Primitive ROS settings do not provide the level of protection for Canada lynx habitat as previously provided by these ROS allocations.

**Proposed Solution to Improve the Decision:** Protection of the CDNST corridor as described in Section I would provide for Canada lynx, wolverine, and other carnivore dispersal. The extent of the CDNST corridor should be of substantial width to provide for carnivore connectivity through this section of the forest. The plan would then preserve significant natural, historical, and cultural resources; and protect the CDNST corridor to the degree necessary to ensure that the values for which the CDNST was established remain intact or are restored. The selection of Alternative D would improve the decision for Canada lynx and the CDNST.

**Violation of Law, Regulation or Policy:** 40 CFR § 1502.14, 40 CFR § 1502.16, 40 CFR § 1502.24; 16 U.S.C. §§ 1241(a), 1242(a)(2), 1244(f), 1246(c); 36 CFR §§ 219.9(a)(1), 212.80, 212.81.

**Connection with Comments:** Draft Plan and DEIS comments pages 4 and 5.

### **C. Timber**

**FEIS:** The FEIS, Part II, on page 137 states, *“Timber harvest is a tool used not only to provide timber products and contribute to the local economy, but also to achieve multiple resource objectives. These include reducing insect or disease impacts, improving wildlife habitat, increasing tree growth, improving timber productivity, lowering fuels and fire risk, and altering vegetation conditions to enhance forest resilience.”*

On page 142 the FEIS states, *“On lands not suitable for timber production, but where timber harvest is suitable (FW-SUIT-RECDEV-01, FW-SUIT-RECORGCAMP-01, FW-SUIT-DWSR-01, FW-SUIT-IRA-01, FW-SUIT-RNA-01, FW-SUIT-NNL-01, FW-SUIT-EWSR-01, FW-SUIT-BCA-01, PR-SUIT-WHT-01), timber harvest contributes to achieving desired conditions while providing economic and social services and benefits to people (FW-GDL-TIM-03). Timber harvest on these lands occurs for purposes such as salvage; fuels management; insect and disease mitigation; protection or enhancement of wildlife habitat; research or administrative studies; or recreation and scenic-resource management (FW-GDL-TIM-03). Timber harvest would have to be consistent with other management direction. Any timber harvest from these lands is not scheduled and would not occur on a rotation basis (FW-GDL-TIM-03).”*

On page 149 the FEIS states, *“The acres allocated to summer recreation opportunity settings (ROS) by alternative are shown in table 38 for lands suitable for timber production. All alternatives are similar in terms of the distribution of suitable timber acres across recreation opportunity settings. Recreation opportunity spectrum allocations regulate motorized and non-motorized recreation, the design of recreation facilities and may influence the design or the location of on-the-ground projects as described in the associated plan components (FW-ROS-DC, FW-ROS-STD, FW-ROS-GDL, and FW-ROS-SUIT). For example, the desired condition for semi-primitive non-motorized ROS classification is that vegetation management does not dominate the landscape or detract from the experience of visitors (FW-DC-ROS-07). Temporary roads for vegetation management projects, where otherwise not prohibited, may occur in semi-primitive non-motorized recreation opportunity spectrum classification (FW-STD-ROSSPNM-01). Management restrictions associated with recreation opportunity spectrum are accounted for in the PRISM model, and therefore their influence on expected timber outputs and harvest acres are expressed in the outputs shown previously...”*

*In all alternatives, the revised plan scenic integrity objectives (lowest scenic levels allowable) do not outright prohibit on-the-ground actions, but may influence the design or the location of on-the-ground projects that would be visible from any of the listed critical viewing platforms.*

*Design features or mitigations may be required to meet or exceed the assigned scenic integrity objective, which describes the maximum threshold of visual dominance and deviation from the surrounding scenic character.”*

**Issue and Statement of Explanation:** ROS settings to be established do not reflect the appropriate management of the CDNST. ROS plan components are incomplete and do not reflect the 1986 ROS Book descriptions. The CDNST corridor must be protected by establishing plan components that reflect the 1986 ROS descriptions for Primitive and Semi-Primitive Non-Motorized ROS settings.

The plan inappropriately describes that SPNM and SPM settings are suitable for timber production in some areas of the forest. A Plan should recognize that timber production and associated actions and activities are inconsistent with Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized ROS settings. Regulated forest structure conditions maintained by periodic forest harvest and regeneration is inconsistent with and unnecessary for achieving these ROS class desired conditions; these areas must not be classified as suitable for timber production, and harvest quantity projections must not be included in projected wood sale quantity and projected timber sale quantity calculations. The PRISM model should not estimate any timber being harvested from SPNM settings, since these harvests cannot be reliably predicted.

FEIS examples state, *“the desired condition for semi-primitive non-motorized ROS classification is that vegetation management does not dominate the landscape or detract from the experience of visitors (FW-DC-ROS-07).* The description of the SPNM setting should also describe that the natural setting may have subtle modifications that would be noticed but not draw the attention of an observer wandering through the area.

The direction that states *“temporary roads for vegetation management projects, where otherwise not prohibited, may occur”* does not constrain vegetation management projects to support SPNM desired conditions. Permanent and temporary roads would rarely if ever be appropriate in SPNM settings. This direction that supports the development of temporary roads needs to be deleted if the plan is to be consistent with the Recreation Opportunity Spectrum planning framework.

**Proposed Solution to Improve the Decision:** The established ROS settings map(s) need to be updated to reflect these considerations. See Section I of this objection.

**Violation of Law, Regulation or Policy:** 40 CFR § 1502.14, 40 CFR § 1502.16, 40 CFR § 1502.24

**Connection with Comments:** Draft Plan and DEIS comments pages 7, 8, 14, 15, 16, and 21.

## **D. Recreation Settings, Opportunities, and Access**

**FEIS:** The FEIS, Part II, on pages 195-212 states, “Recreation settings are the social, managerial, and physical attributes of a place that, when combined, provide a distinct set of recreation opportunities. Sustainable recreation is defined as the set of recreation settings and opportunities on the national forest that are ecologically, economically, and socially sustainable for present and future generations...”

*The desired recreation opportunity spectrum for summer and winter was mapped across the Custer Gallatin for each alternative. The methodology for this mapping follows Forest Service handbook direction. Each alternative was then analyzed for the total number of acres and percentage of the desired recreation opportunity spectrum settings on the Custer Gallatin...*

**Issue and Statement of Explanation:** The Forest Service does not have a Recreation Planning Handbook. For the purpose of addressing the recreation resource in Forest Plan revision, the Forest Service handbook is the 1986 ROS Book (**Attachment B**).

[quote continues]

*The final environmental impact statement has been supplemented with new information, clarifying language, minor edits, additional analysis of mountain biking suitability in semi-primitive non-motorizing recreation opportunity spectrum settings in alternatives B, C, D, and E, and analysis of alternative F...*

**Effects from Timber Management** - All revised plan alternatives establish location where timber production and timber harvest are suitable, not suitable, and available (FW-STD-TIM 01 and FW-GDL-TIM-03). No lands in the primitive recreation opportunity spectrum category are suitable for timber production. Between 6 and 11 percent of lands in the semi-primitive non-motorized recreation opportunity spectrum category are suitable for timber production. Timber production activities would be most noticeable in the semi-primitive motorized, roaded natural, and rural recreation opportunity spectrum settings. The sights and sounds of timber harvest and associated road building activities may temporarily impact non-motorized recreation settings. Areas of active timber sales may have an increase in road maintenance, which could mean less maintenance instead on road systems for specific recreation destinations...

**Issue and Statement of Explanation:** The plan inappropriately describes that SPNM and SPM settings are suitable for timber production in some areas of the forest. A Plan should recognize that timber production and associated actions and activities are inconsistent with Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized ROS settings. Regulated forest structure conditions maintained by periodic forest harvest and regeneration is inconsistent with and unnecessary for achieving these ROS class desired conditions; these areas must not be classified as suitable for timber production, and harvest quantity projections must not be included in projected wood sale quantity and projected timber sale quantity calculations. The



plan inappropriately establishes a Low Scenic Integrity Objective for some SPNM setting areas, which is inconsistent with the Scenery Management System.

Bicycles should not be allowed in Primitive ROS settings. Asymmetric impacts between bicyclists and traditional nonmotorized users will tend to displace hikers and equestrians from non-wilderness trails. The asymmetric or one-way nature of conflict suggests that active management is needed to maintain the quality of recreation for visitors who are sensitive to conflicting uses; however, such management to reduce conflict is yet to be demonstrated. Visitors who are sensitive to conflict are likely to be dissatisfied or ultimately displaced. Specific lands within a plan area are to be identified as suitable for various multiple uses or activities based on the desired conditions applicable to those lands. Primitive means “*of or relating to an earliest or original stage or state.*” Mountain bikes are not primitive in nature.

The EIS must disclose the effects of changes to ROS desired conditions for Semi-Primitive ROS settings. A Supplemental FEIS needs to include at least a minimal discussion of effects for the proposed action and alternatives resulting from these changed definitions such as describing that:

*Reasonable and foreseeable future actions and activities in SPNM and SPM ROS settings include an increase in mechanical treatment of vegetation and additional roads. Resulting forest conditions may resemble a Roded Modified ROS setting, which is used to describe these conditions on many other forests. For example, vegetation management activities such as harvesting within and adjacent to a Semi-Primitive ROS setting and associated road construction will increase the sights and sounds of logging equipment such as chainsaws and skidders. Scenery will be degraded, especially in areas deemed suitable for timber production resulting in scenic character that is unexpected from those areas with existing Semi-Primitive ROS settings designations. Natural settings where timber is harvested occurs and roads are constructed will be substantially modified and noticed to an observer wandering through the area. Semi-Primitive Non-Motorized ROS setting characteristics will strongly deviate from that which would be expected from implementing the Planning Rule as described in the Rule PEIS and the 1986 ROS Book.*

Consistent with the 1986 ROS Book, timber production is incompatible with achieving Semi-Primitive ROS setting desired conditions. The purpose of timber production is the purposeful growing, tending, harvesting, and regeneration of regulated crops of trees to be cut into logs, bolts, or other round sections for industrial or consumer use, which is in stark contrast and clearly incompatible with protecting the naturalness characteristics of Semi-Primitive Non-Motorized and Semi-Primitive Motorized ROS classes. The lasting effects of an activity (roads, timber harvest) as well as short-term effects (logging trucks, noise) degrade Semi-Primitive ROS characteristics. In areas of timber production, the spread of non-native vegetation (e.g., noxious weeds) and reoccurring harvests for timber purposes, stand tending, permanent and

temporary road construction and reconstruction, travel route closures, and other activities are incompatible with the desired Semi-Primitive ROS settings. In areas where timber harvest with road access is desired, the appropriate ROS class designation is a Roaded Natural/Roaded Modified setting.

ROS planning framework protocols must be consistent with the 1986 ROS Book and related research, which informed the Planning Rule. Forest Service directives must be consistent with the USDA Departmental Regulation 1074-001 scientific integrity policy that relates to the development, analysis, and use of data for decision-making. This DR is intended to instill public confidence in USDA research and science-based public policymaking by articulating the principles of scientific integrity, including reflecting scientific information appropriately and accurately.

FSM 2310 (WO Amendment 2300-2020-1) – Sustainable Recreation Planning, approved on April 23, 2020, is reviewed in **Appendix A** of this objection.

**Proposed Solution to Improve the Decision:** See Section I. In areas where timber production is desired, the forest should consider establishing a Roaded Modified ROS setting which allows for the effects of timber production.

A Supplemental FEIS needs to address an alternative or modify ROS plan components to exclude mechanized use in Primitive ROS settings. For the purpose of the revised Custer-Gallatin Forest Plan, I recommend that the Forest Plan be silent on whether bicycles are suitable in Primitive ROS settings and within the CDNST management corridor.

**Violation of Law, Regulation or Policy:** 40 CFR §§ 1502.14, 1502.24; 36 CFR § 216, 219.3; and USDA DR 1074-001.

**Connection with Comments:** Draft Plan and DEIS comments pages 7, 8, 11, 12, 14-16, and 21.

## **E. Scenery**

**FEIS:** The FEIS, Part II, on page 233 states, *“The scenic integrity objectives in each of the alternatives analyzed here were determined by following the process described by Forest Service Handbook 701, the Scenery Management System...*

*Viewing platforms that are recognized nationally for their outstanding scenery include the Beartooth National Forest Scenic Byway, also awarded All American Road status, and the Continental Divide National Scenic Trail. Topography plays an important role in how viewers experience the scenery of the Custer Gallatin National Forest...*

*Plan direction for scenery management for all land within the national forest, including special designations such as recreation emphasis areas, backcountry areas, the Continental Divide National Scenic Trail, the Beartooth Scenic Byway and segments of rivers determined to eligible for consideration as Wild and Scenic with an outstandingly remarkable values of scenery, is*

covered in the revised plan's scenery section along with the associated scenery management maps...."

**Issue and Statement of Explanation:** List the National Trails System Act of October 2, 1968 (Pub. L. 90-543, 82 Stat. 919, as amended). Scenic Integrity Objectives of Low and Moderate are not compatible with ROS SPNM settings.

**Proposed Solution to Improve the Decision:** See Section I Part C of this objection.

**Violation of Law, Regulation or Policy:** 36 CFR § 219.10(a) – Integrated Resource Management for Multiple Use; 40 CFR § 1502.24.

**Connection with Comments:** Draft Plan and DEIS comments pages 15 through 17.

## **F. Continental Divide National Scenic Trail**

### **Affected Environment**

**FEIS:** The FEIS, Part II, on pages 329-330 states, *"The Continental Divide National Scenic Trail, also known as the Continental Divide Trail, is a national scenic trail that runs 3,100 miles between Mexico and Canada. The trail was designated by Congress in 1978 and follows the Continental Divide of the Americas along the Rocky Mountains, traversing through five U.S. states: Montana, Idaho, Wyoming, Colorado, and New Mexico. Nationally, the trail is a combination of dedicated trails and roads. The Continental Divide National Scenic Trail is managed according to the National Trails Act, the Continental Divide National Scenic Trail Study Reports and final environmental impact statement, and the Continental Divide National Scenic Trail Comprehensive Plan (as amended) for the purpose of providing: A continuous, appealing trail route, designed for the hiker and horseman, but compatible with other land uses" and access for hikers and stock into the diverse country along the Continental Divide in a manner which will assure a high-quality recreation experience while maintaining a constant respect for the natural environment...*

*Approximately 31.6 miles of the Continental Divide National Scenic Trail is located within the Custer Gallatin National Forest on the Hebgen Ranger District in the Madison, Henrys Lake, and Gallatin Geographic Area abutting the Caribou-Targhee National Forest. The Continental Divide Trail on the Custer Gallatin is comprised of five trails: Two Top Divide 116, Lionhead Mountain Continental Divide National Scenic Trail 115, Mile Creek 214, Watkins Creek 215, and Mile Creek Face 219. The Continental Divide National Scenic Trail right-of-way is yet to be selected by the Chief of the Forest Service, but it is expected that the existing travel route location on Custer Gallatin National Forest will be contained within the selected corridor (FSM 2353.04b, part 4). Law requires selection of a "right-of-way" and publishing in the Federal Register. As that has yet to be done, the corridor mapped in forest plans would likely serve as the basis for the right-of-way.*

*The Continental Divide Trail is viewed as a stand-alone resource and opportunity that attracts visitors to the national forest who want to travel this trail. The trail provides for high-quality scenic, primitive hiking and horseback riding opportunities in the context of conserving the natural, historic, and cultural resources along its corridor.*

*The segment of trail on the Custer Gallatin is open to mountain bikes and the Gallatin Forest Travel Plan allows winter snowmobile use across and near the trail.”*

**Issue and Statement of Explanation:** The National Trails System Act of 1968, 82 Stat. 919, as amended, provides that the CDNST, “shall be administered” “by the Secretary of Agriculture” so located as to “provide for maximum outdoor recreation potential and for the conservation and enjoyment” of “nationally significant scenic, historic, natural, or cultural qualities.” It empowers and requires that the Secretary of Agriculture select the CDNST rights-of-way which informs the National Scenic Trail corridor location and width. The establishment of the CDNST thus constitutes an overlay on the management regime otherwise applicable to public areas managed by land management agencies. The NTSA and E.O. 13195 - Trails for America in the 21st Century - limits the management discretion the agencies would otherwise have by mandating the delineation and protection of the CDNST rights-of-way (aka National Trail Management Corridor) for the purpose of providing for the nature and purposes of the CDNST.

The affected environment fails to describe the environment of the area to be affected by the alternatives under consideration. The affected environment section must describe the degree to which CDNST qualities and values are being protected, including the protection of desired recreation settings, scenic integrity, and providing for the conservation purposes along the existing CDNST travel route within the presumed CDNST rights-of-way corridor. In general, “*The use of motorized vehicles by the general public along any national scenic trail shall be prohibited.*”

Regulatory framework should list the 2009 CDNST Comprehensive Plan.

**Proposed Solution to Improve the Decision:** Supplement the FEIS to described the CDNST corridor affected environment.

**Violation of Law, Regulation or Policy:** 40 CFR § 1502.15

**Connection with Comments:** Draft Plan and DEIS comments page 11-14. CDNST Planning Handbook, Chapter V Part D.

### **Environmental Consequences**

**FEIS:** The FEIS, Part II, on pages 330-333 states, “*Management Direction under the Current Plans - The 1987 Gallatin Plan only referred to this route as a proposed trail. Current forest direction*

*to manage the Continental Divide Trail is in accordance with the Continental Divide Trail Comprehensive Management Plan, as amended.*

**Issue and Statement of Explanation:** The 1987 plan states, “*The Continental Divide National Scenic Trail was established by Congress by P.L. 95-625. Final route location will be done under the direction of the Continental Divide National Scenic Trail Comprehensive Management Plan.*” The original CDNST Comprehensive Plan was approved in 1985 without selecting the rights-of-way. The statement the “*current forest direction to manage the Continental Divide Trail is in accordance with the Continental Divide Trail Comprehensive Management Plan, as amended*” is in error as already reviewed in this objection.

**[quote continues]**

*Effects of the Current Plans - The Custer Gallatin would continue following the guidance in the Continental Divide Trail Comprehensive Management Plan. A variety of experiences are available on the trail on the Custer Gallatin. The six miles of trail within recommended wilderness are managed for wilderness characteristics, providing a semi-primitive non-motorized recreation opportunity spectrum experience. However, mountain biking on this segment of trail is allowed. Outside the recommended wilderness area, winter snowmobile use is allowed near and over the trail.*

**Issue and Statement of Explanation:** Current Forest Plan direction is not in compliance with the 2009 CDNST Comprehensive Plan, FSM 2353.42 policy, and Federal Register Notice, October 5, 2009, 74 FR 51116. The current plan has allowed for developments and uses that are incompatible with the nature and purposes of the CDNST or are not allowed without requisite analyses that utilize Scenery Management System and Recreation Opportunity Spectrum assessment protocols (FSM 2353.44b(10) and (11)).

**[quote continues]**

***Effects of the Revised Plan Alternatives*** - *The plan components would manage the Continental Divide National Scenic Trail within the parameters reached through the coordination of multiple forests and jurisdictions that the route crosses, and consistent with the Continental Divide Trail Comprehensive Management Plan, as amended. The thirty-one miles of trail on this national forest would generally be reflective of overall Continental Divide trail management, with some of the allowed variations such as mountain bike use.*

*A portion of the trail is within a recommended wilderness area in alternative D and a portion is within a backcountry area in alternatives E and F. The trail is also included within the Hebgen Winter Recreation Emphasis Area (outside of the recommended wilderness area) in alternatives B, C, E, and F... It should be noted that the trail corridor is not identifiable on the ground while under snow in the winter. Mountain biking would continue to be suitable on the trail in*

*alternatives B, C, E and F. Mountain biking would no longer be a suitable use on the trail in alternative D within the recommended wilderness area.*

*Plan components provide guidance to protect the desired character of the Continental Divide National Scenic Trail in a manner consistent with the length of the trail corridor...*

**Issue and Statement of Explanation:** The revised plan is not in compliance with the National Trails System Act, 2009 CDNST Comprehensive Plan, FSM 2353.42 and 2353.44 policy, and Federal Register Notice, October 5, 2009, 74 FR 51116. The revised plan allows developments and use that are incompatible with the nature and purposes of the CDNST or will allow activities and use without requisite analyses that utilize Scenery Management System and Recreation Opportunity Spectrum assessment protocols (CDNST Comprehensive Plan Chapter IV.B parts 5 and 6 and FSM 2353.44b(10) and (11)).

It is not relevant that the CDNST travel route and management corridor boundary is not identifiable on the ground while under snow in the winter.

[quote continues]

***Effects from Vegetation and Timber Management*** - *The current plans' components call for timber harvest consistent with trail management. In all revised plan alternatives, the trail corridor would not be suitable for timber production and vegetation management, including timber harvest, may be suitable for purposes such as fuels reduction, restoration, or wildlife habitat enhancement (MG-SUIT-CDNST-01). Approximately 4,419 acres are within inventoried roadless area where timber production is not suitable. Outside of inventoried roadless area, another 6,618 acres within the 11,147-acre trail corridor would not be suitable for timber production due to the trail corridor plan component. The revised plan alternatives provide more specific trail protections for timber harvest than the current plans by providing plan components that limit use of the trail corridor as a road or landing, and limit hauling or skidding materials across or near the trail (MG-GDL-CDNST-06) ...*

**Issue and Statement of Explanation:** Concerns with MG-SUIT-CDNST-01 and MG-GDL-CDNST-06 were discussed in comments on the plan in this objection.

[quote continues]

***Effects from Access and Recreation Management*** - *In all alternatives, recreation opportunity spectrum sets guidance that is appropriate for the trail corridor (FW-GDL-ROS-01) ...*

***Effects from Scenery Management*** - *In revised plan alternatives, a scenic integrity objective of high would apply to one half mile on each side of the trail, except in alternatives where the trail is in recommended wilderness and the scenic integrity objective would be very high. In the Gallatin forest plan, scenery components state that the Continental Divide National Scenic Trail would follow whichever management area the trail is passing through.*

*In all alternatives, the revised plan scenic integrity objectives do not outright prohibit on-the-ground actions, but may influence the design or the location of on-the-ground minerals and energy projects that would be visible from any of the listed critical viewing platforms. Design features or mitigations may be required to meet or exceed the assigned scenic integrity objective, which describes the lowest maximum threshold of visual dominance and deviation from the surrounding scenic character...*

**Issue and Statement of Explanation:** Concerns with FW-GDL-ROS-01 was discussed in comments on the plan in this objection.

[quote continues]

**Cumulative Effects** - *The 31.6 miles of the Continental Divide National Scenic Trail on the Custer Gallatin contribute to the experience of the entire 3,100-mile trail, in coordination with other managers of the trail, as it traverses various jurisdictions across a five-state route. Most of the plan components resulted from previous coordination across the various national forests which the trail crosses.*

**Conclusion** - *Plan components are sufficient to provide for high-quality, scenic and primitive hiking and horseback riding opportunities and to conserve the natural, historic, and cultural resources for the designated Continental Divide National Scenic Trail, consistent with the Continental Divide Trail Comprehensive Management Plan, as amended.*

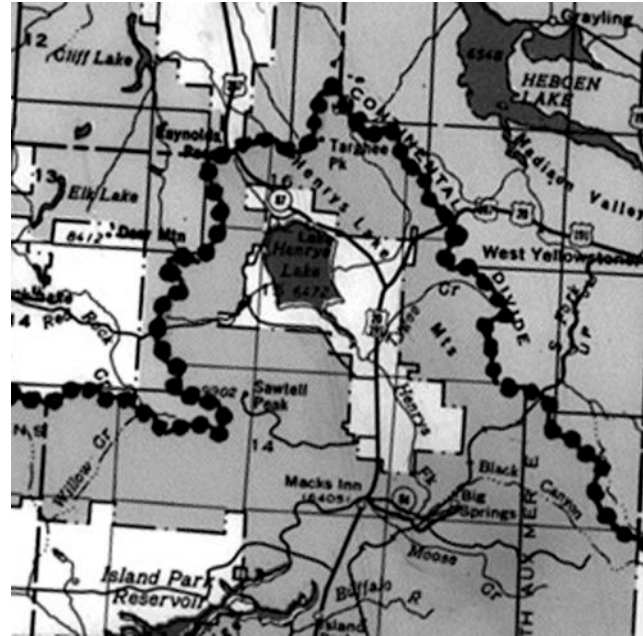
*The trail is partially within recommended wilderness area in alternative D and partially in backcountry area in alternatives E and F. Mountain biking would continue to be suitable on the trail in alternatives B, C, E, and F. Mountain biking would not be suitable on the trail in alternative D, in recommended wilderness area."*

**Issue and Statement of Explanation:**

The proposed revised Forest Plan CDNST plan components do not provide direction that is consistent with the NTSA and the CDNST Comprehensive Plan. The Forest Service relies on vague National Trails System Act direction for selecting the CDNST rights-of-way (16 U.S.C. § 1246(a)(2)) as an indicator that the management and protection of National Scenic and Historic Trails is subordinate to common multiple-use programs. This interpretation is inconsistent with the broad direction in the National Trails System Act. The National Trails System Act establishes National Scenic Trails (16 U. S. C. § 1244(a)), including the CDNST (16 U.S.C. § 1244(a)(5)). It also empowers and requires the Secretary of Agriculture to establish the CDNST location and width by selecting the National Scenic Trail "rights-of-way" (16 U. S. C. §§ 1246(a)(2), 1246(d), 1246(e)). A right-of-way is a type of easement limiting or burdening use. The Secretary must protect the nature and purposes of this National Scenic Trail (16 U.S.C. § 1246(c)), and to achieve the purposes for why the National Scenic Trail was designated, the Secretary is to

provide for the “protection, management, development, and administration” of the National Scenic Trail (16 U.S.C. § 1246(i)).

Similar constraints and burdens are true in related contexts, such as when the Endangered Species Act of 1973, 16 U.S.C. § 1531 et seq., would prohibit otherwise permissible land uses in a national forest if the activity would destroy a listed species or its critical habitat (16 U.S.C. § 1536(a)(2)) or where the Wilderness Act, (16 U.S.C. § 1131 et seq.) would prohibit roads, vehicles, and any commercial enterprise in a statutorily designated wilderness area within a National Forest (16 U.S.C. § 1133(c)). National Scenic Trails are established as provided in section 5 of



*CDNST 1977 EIS Corridor Map*

this Act and located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass (16 U.S.C. § 1242(a)(2)). National scenic and national historic trails are authorized and designated only by Act of Congress.

The revised Forest Plan CDNST plan components do not protect the qualities and values of this National Scenic Trail. The plan components do not address the National Trails System Act and CDNST Comprehensive Plan requirements to: (1) provide for high-quality scenic, primitive hiking and horseback riding opportunities that reflect ROS planning framework conventions, and (2) conserve scenic, historic, natural, or cultural qualities of the areas through which such trails may pass (16 U.S.C. § 1242(a)(2)). In addition, the plan does not establish direction to: (1) preserve significant natural, historical, and cultural resources (16 U.S.C. § 1244(f)(1)); and (2) protect the CDNST corridor to the degree necessary to ensure that the values for which the CDNST was established remain intact or are restored (E.O. 13195, FSM 2353.44b(1) and FSH 1909.12 24.43).

The revised Forest Plan direction is inconsistent with and not supportive of the 2009 CDNST Comprehensive Plan direction. CDNST plan component concerns are addressed in the Forest Plan section of these comments (Section III Part G). The identification and selection of the rights-of-way (16 U.S.C. § 1246(a)(2)) may lead to varying degrees of effects, but most often a National Scenic Trail management corridor would be the primary area for addressing the effects analysis. Effects on scenic integrity and ROS class conditions should be based on analysis of the effects of the allowable uses. Utilizing ROS and Scenery Management systems will help ensure



that NEPA assessments are systematic and accurately describe the affected environment and expected outcomes from each alternative.

Desired conditions MG-DC-CDNST-01 and 02 suggest that the CDNST is merely a travel route that is well defined, which should be addressed in the CDNST unit plan (resource plan) and not in the Forest Plan. To provide for the nature and purposes of the CDNST, plan direction must use the ROS planning framework to provide for the nature and purposes of the CDNST. The resulting ROS setting allocation for this segment of the CDNST would be to establish a Primitive or Semi-Primitive Non-Motorized ROS setting for the CDNST corridor. Programmatic considerations for a *highly scenic setting* and *expansive views* should have been addressed through forest planning processes to review and establish the location of the CDNST corridor.

Mountain bike use is addressed in the CDNST Comprehensive Plan in Chapter IV.B.5.b(2) and FSM 2353.44b(10). Motor vehicle use is addressed in the CDNST Comprehensive Plan in Chapter IV.B.6.b and FSM 2353.44b(11). Primary CDNST travel route design parameters are described in FSM 2353.44b(9). Much of this direction is most applicable to the development of the CDNST unit plan.

Desired condition MG-DC-CDNST-02 establishes direction for recreational uses, activities, and local community interests. However, recreational use should have been constrained by establishing a Primitive or SPNM ROS setting. The environmental consequence of this desired condition is that the CDNST is not protected which will lead to activities and use that substantially interfere with the nature and purposes of the CDNST.

Standard MG-STD-CDNST does not address existing activities and use. The environmental consequence of these standards is that the CDNST is not protected which will allow for incompatible activities and use to continue regardless of the impact on the nature and purposes of the CDNST.

Guideline MG-GDL-CDNST does not limit harvest-related activities such as temporary roads, skidding, hauling, and log landings. Hauling or skidding along the CDNST would substantially interfere with the nature and purposes of the CDNST. Establishment of Primitive and SPNM ROS settings as defined in the 1986 ROS Book would protect the CDNST nature and purposes.

Suitability MG-SUIT-CDNST-01 statement that, "*The Continental Divide National Scenic Trail corridor is not suitable for timber production*" is appropriate. The other suitability determinations do not support or constrain activities to provide for the nature and purposes of the CDNST and need to be deleted. Management direction for Semi-Primitive Motorized, Roaded Natural/Modified, Rural, and Urban ROS classes allow uses that would substantially interfere with the nature and purposes of the CDNST if the allocation desired conditions are realized. The environmental consequence of vehicular suitability determinations is that the

CDNST nature and purposes are not protected which will lead to activities and use that substantially interfere with the nature and purposes of the CDNST.

Asymmetric impacts between bicyclists and traditional nonmotorized users will tend to displace hikers and equestrians from non-wilderness trails. The asymmetric or one-way nature of conflict suggests that active management is needed to maintain the quality of recreation for visitors who are sensitive to conflicting uses. Visitors who are sensitive to conflict are likely to be dissatisfied or ultimately displaced. Mountain bike use within the CDNST corridor does not contribute to desired conditions and the FEIS analysis does not support a determination that the use is not substantially interfering with the nature and purposes of the CDNST. There is no evidence that mountain bike use is suitable within the CDNST management corridor. The CDNST unit plan must not be biased by a Forest Plan suitability determination that is not supported by any analysis and appropriate disclosure.

Over snow vehicles contrast with the principal purpose of a National Scenic Trail. The use of motorized vehicles by the general public along any national scenic trail shall be prohibited. On the other hand, other uses along the CDNST, which will not substantially interfere with the nature and purposes of the trail, and which, at the time of designation, are allowed by administrative regulations, shall be permitted.

Motor vehicle use within the CDNST corridor does not contribute to desired conditions and the FEIS analysis does not support a determination that the use is not substantially interfering with the nature and purposes of the CDNST. The forthcoming CDNST unit plan and OSV travel management analyses must not be biased by a Forest Plan suitability determination that is not supported by a rigorous analyses and appropriate disclosure.

Cumulative effects discussion is non-existent. Contributing to an experience is not an effects disclosure. Coordinating plan components is relevant, but only because it suggests that the effects of the application of the direction is resulting in a multi-region issue of not protecting the purposes for which the CDNST was established. A Supplemental FEIS needs to include at least a minimal discussion of cumulative effects for the proposed action and alternatives such as describing that:

*Cumulative effects are the past, present, and reasonably foreseeable future effects from management activities on the Custer Gallatin and adjacent lands. The nature and purposes of the CDNST are to provide for high-quality scenic, primitive hiking and horseback riding opportunities and to conserve natural, historic, and cultural resources along the CDNST corridor. In general, "the use of motorized vehicles by the general public along any national scenic trail shall be prohibited." Reasonable and foreseeable future actions and activities in the CDNST management corridor include increased motor vehicle and mountain bike use, and an increase in vegetation management with additional permanent and temporary*

*roads. These actions will likely substantially interfere with the CDNST nature and purposes qualities and values, since plan components do not limit impacts caused by this use and activities. Resulting forest conditions may resemble what is described in FSH 1909.12 23.23a as a Roaded Modified ROS setting. For example, vegetation management activities such as harvesting within and adjacent to the CDNST corridor and associated road construction will increase the sights and sounds of logging equipment such as chainsaws and skidders. Natural settings within the CDNST corridor where timber is harvested occurs and roads are constructed will be substantially modified and noticed to an observer wandering through the area. Vehicular recreational use that is allowed and promoted through plan components will substantially degrade the recreational experience of hikers and equestrians. The allowed uses and activities will degrade the conservation and preservation purposes of this National Scenic Trail, since secure wildlife habitat and connectivity will not be protected. Site-specific planning to determine the appropriateness of vehicular use and to determine carrying capacity as required by the CDNST Comprehensive Plan and FSM policy will be biased due to plan direction that supports and promotes vehicular use that has been allowed without meaningful impact analyses and taking a hard look at the effects. Vehicular and resource use effects will occur broadly across National Forest System lands along the CDNST corridor due to the cumulative effects of adopting the multi-regional CDNST plan components template that does not provide for the protection of the nature and purposes qualities and values of the CDNST.*

The cumulative effects discussion did not address the status of the Beaverhead-Deerlodge National Forest plan appeal and how the CDNST is impacted. The revised plan appeal decision states, *“One appeal contention regarding the Continental Divide National Scenic Trail (CDNST) was received and is addressed in Attachment 2: Issues Reviewed and Decisions Affirmed. However, on September 28, 2009, the CDNST Comprehensive Plan was amended, with an effective date of November 4, 2009. The Revised Plan referred to an amended Comprehensive Plan, which in fact had not been amended at the time the ROD was issued. No correction to that wording is required since the effective date of the amendment is imminent. However, subsequent to the effective date of the amendment, the Revised Plan direction should be reviewed to determine whether it is consistent with the Comprehensive Plan amendment (and related FSM 2350 direction), and appropriate action taken if necessary.”* The Beaverhead-Deerlodge plan does not establish and protect Primitive and SPNM ROS settings along the CDNST travel route on many areas of the forest. Along these segments of the CDNST, the nature and purposes of this National Scenic Trail are not protected.

The Caribou-Targhee National Forest has not amended or revised the Forest Plan to address the 2009 CDNST Comprehensive Plan amended management direction. The current location of the CDNST travel route on the Caribou-Targhee National Forest is on developed roads that traverse

lands that have been intensively managed, which is not suitable for the permanent location of the CDNST. A high potential CDNST route segment is along the Continental Divide from Reas Pass to Yellowstone National Park with one possible corridor location identified in **Appendix D** for this high potential route segment (16 U.S.C § 1244(f)(3)). The Custer-Gallatin identifies part of this area as being suitable for timber production, which does not support CDNST desired conditions. The plan resource allocation may make it more difficult to protect and complete the CDNST.

The CDNST effects analysis of the proposed action and alternatives should have included cross-tabular tables that explore and disclose the relationship between (1) the proposed CDNST travel route location and management corridor/rights-of-way extent and (2) the intersection and overlap with the proposed ROS classes and Scenic Integrity Objectives allocations. Utilizing the ROS and Scenery Management System helps ensure that NEPA assessments are systematic and accurately describe the affected environment and expected outcomes from each alternative. The following specific resource relationships should be described:

- Effects on CDNST nature and purposes from Timber Harvest, Vegetation Management, Livestock Grazing, Permanent Roads, Temporary Roads, Designated Trails and Areas, Fire Management, and Mineral Resource Activities.
- Effects of managing the CDNST corridor (aka rights-of-way) to provide for the nature and purposes of this National Scenic Trail on timber production, vegetation management, range management, recreation management, wildlife management, wilderness, recommended wilderness, and fire management.

In summary, the environmental consequence of the proposed action and alternatives is that the CDNST is not protected. Managing the CDNST corridor for Roded Natural and Semi-Primitive Motorized ROS settings as depicted in **Appendix F** of this objection would lead to management actions that substantially interfere with the nature and purposes of the CDNST. Where the allowed non-motorized activities reflect the purposes for which the National Trail was established, the establishment of Primitive and Semi-Primitive Non-Motorized ROS classes and Very High and High scenic integrity allocations would normally protect the nature and purposes qualities and values of the CDNST. This assessment is based on recreation research that supports FSM 2310 (WO Amendment 2300-90-1) policy and includes information found in General Technical Report PNW-98, The Recreation Opportunity Spectrum: A Framework for Planning, Management, and Research by Roger Clark and George Stankey.

**Proposed Solution to Improve the Decision:** See Section I Part C of this objection.

**Violation of law, regulation or policy:** 40 CFR §§ 1502.8, 1502.14, 1502.15, 1502.16, 1502.24, 1503.4(a) parts 1 and 2; 16 U.S.C. §§ 1242(a)(2), 1244(f)(1), 1246(a)(2), 1246(c); 36 CFR §§ 212.80, 212.81; 36 CFR 219.10; FSH 1909.12 24.43.

**Connection with Comments:** Draft Plan and DEIS comments pages 3 through 5. CDNST Planning Handbook Chapter V Parts D and E.

## **G. National Recreation Trail and the CDNST**

**FEIS:** The FEIS, Part II, on page 335 states, *“The Custer Gallatin National Forest has 12 national recreation trails, designated by the regional forester, as part of the national system of trails authorized by the National Trails Systems Act... Two Top Snowmobile National Recreation Trail, 28 miles, motorized transport allowed.”* The FEIS, Part II, on page 337 states, *“Management Direction under the Revised Plan Alternatives - One plan component is specific to national recreation trails in the revised plan alternatives and provides for public opportunities (such as interpretation and education) which do not impair the feature(s) or values for which the individual trail was established (FW-DC-NRT-01)...”*

*Effects of the Revised Plan Alternatives - Plan components do not vary by revised plan alternative, nor do the location of trails vary by alternatives. Under the revised plan alternatives, the national recreation trails would meet the purpose of the National Trails System Act, which is to promote the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas and historic resources of the Nation.”*

**Issue and Statement of Explanation:** The national system of trails shall be composed of the following: (1) National recreation trails, established as provided in section 4 of this Act, which will provide a variety of outdoor recreation uses in or reasonably accessible to urban areas (16 U.S.C. §1242(a)). The Two Top Snowmobile National Recreation Trail was designated on January 5, 1979. The NRT report states, *“The trail can be used for snowmobiling from late November to May during normal winters. The trail can also be utilized in the summer, but it is not as significant in the summer as in the winter. During the winter peak season, over 400 snowmachines use the trail per day. West Yellowstone is a destination for winter vacationers and weekday use is similar to weekend use.”* FSM 2353.51(4) states, *“Avoid overlapping a National Recreation Trail with a National Scenic Trail or National Historic Trail.”*

**Proposed Solution to Improve the Decision:** Recognize that the direction for an NRT is subordinate to protecting the nature and purposes of the CDNST.

**Violation of Law, Regulation or Policy:** 16 U.S.C. § 1242(a); FSM 2353.51(4); 40 CFR § 1502.16.

**Connection with Comments:** New information.

## **H. Recommended Wilderness**

**FEIS:** The FEIS, Part II, beginning on page 348 states, *“Mechanized transport such as mountain biking would continue to be suitable on 18 miles of trail in the Lionhead Recommended Wilderness Area... Mechanized transport (such as, bicycles) may affect the undeveloped nature (ecological characteristic) and primitive recreation (social characteristic) where recommended”*

*wilderness is essentially without permanent improvements or modern human occupation and social characteristics of primitive recreation..."*

*Alternative B - Mechanized transport would continue to be suitable on about 20 miles of trails; about 11 miles in the proposed Lionhead Recommended Wilderness Area and about 9 miles in the proposed Sawtooth Recommended Wilderness Area... Mechanized transport (such as, bicycles) and motorized transport may affect the undeveloped nature (ecological characteristic) and primitive recreation (social characteristic) where recommended wilderness is essentially without permanent improvements or modern human occupation and social characteristics of primitive recreation...*

*Alternative C - Alternative C boundaries for the Lionhead Recommended Wilderness Area excludes all but 1.5 miles of mountain bike trails; the spur trail to Coffin Lake would no longer be suitable for mountain bike use in this alternative...*

*Alternative D - The Lionhead Recommended Wilderness Area is 10,615 acres larger in alternative D than the current plans and includes the Continental Divide National Scenic Trail corridor... Alternative D has the largest number of acres no longer suitable to current motorized and mechanized transport on trails within recommended wilderness area...*

*Alternative E - There would be no change to the existing suitable uses of mechanized trails, wheeled motorized trails, motorized over-snow vehicle trails or areas, hiking and stock trails, rental cabins, or commercial communication uses as result of a recommended wilderness land allocation. Other land allocations may affect suitable uses in alternative E...*

*Alternative F - None of the Continental Divide National Scenic Trail corridor would be in recommended wilderness in alternative F..."*

*The FEIS, Appendix D, beginning on page 278 states, "The ability to protect and manage the area to preserve its wilderness characteristics - Much of the area has been managed as recommended wilderness since 1987. Under all alternatives, all or nearly all, of the area is within inventoried roadless area. All 18.02 miles of nonmotorized trail open to mechanized transport would still be suitable in alternative A. Mountain biking would continue to be a suitable use on 11.40 trail miles in alternative B. In alternative C, most of the trails used by mountain bikes have been excluded from the recommended wilderness area; mountain bike use would no longer be suitable on about 1.49 miles of trail to Coffin Lake. In alternative D, all-terrain vehicle use would no longer be suitable on about 5.22 miles of trail, and mountain bike use would no longer be suitable on about 30.04 miles of trail..."*

*Summary of the factors considered and the process used in evaluating the area and developing the alternatives - Much of this area was previously included as a recommended wilderness area in the 1987 Gallatin Forest Plan. There were public comments received in favor of recommended*

*wilderness area designation for this area; the topic of existing mountain bike use on trails in the area was discussed by many public commenters.”*

**Issue and Statement of Explanation:** The FEIS fails to recognize the compatibility of recommended wilderness with the nature and purposes of the CDNST. Instead, the discussions suggest that current mountain bike use on the CDNST travel route trump providing for the conservation purposes of the CDNST corridor. The FEIS states that mountain bike use is allowed on the CDNST; however, the FEIS should disclose that this use is inconsistent with the direction in the CDNST Comprehensive Plan and FSM 2353.44b where mountain bike use is not allowed unless addressed and approved in a CDNST unit plan (FSM 2353.44b(10)).

Wilderness evaluations (FSM 1923.03) and NEPA assessments should describe the positive CDNST benefits if roadless areas along the CDNST corridor are recommended for wilderness designation. Protecting wilderness values would include establishing plan components that identifies recommended wilderness as not being suitable for motor vehicle use and mechanized transport. Management of recommended wilderness to protect wilderness characteristics support the conservation purposes of this National Scenic Trail and is harmonious with providing for the CDNST nature and purposes.

**Proposed Solution to Improve the Decision:** Adopt Alternative D direction for a Lionhead Recommended Wilderness Area in the Final ROD.

**Violation of Law, Regulation or Policy:** 40 CFR §§ 1502.16, 1502.24.

**Connection with Comments:** Draft Plan and DEIS comments pages 11 and 31. CDNST Planning Handbook page 75.

## **I. Backcountry Areas**

**FEIS:** The FEIS, Part II, beginning on page 379 states, *“Backcountry area is a management plan land allocation. Backcountry areas are generally undeveloped or lightly developed, either are unroaded or have few, primitive roads. Some have neither roads nor trails. Backcountry areas provide for more remote, semi-primitive recreation opportunities, both motorized and non-motorized, depending on the area....”*

**Issue and Statement of Explanation:** Vegetation management need to be constrained to achieve Primitive or Semi-Primitive ROS setting desired conditions.

**Proposed Solution to Improve the Decision:** The management prescription should be modified to state that vegetation management and permanent and temporary road construction is constrained by established SPNM and SPM ROS settings plan components.

**Violation of Law, Regulation or Policy:** 36 CFR § 219.10(a) – Integrated Resource Management for Multiple Use, 36 CFR § 219.10(b)(1)(i) – Sustainable recreation, 40 CFR § 1502.24 – Methodology and Scientific Accuracy, FSM 2353.44b(10).

**Connection with Comments:** New information.

## **J. Recreation Emphasis Areas**

**FEIS:** The FEIS, Part II, beginning on page 394 states, *“Recreation emphasis areas may have a high density of human activities and associated structures. There may be roads, utilities, and trails as well as signs of past and ongoing activities of managed forest vegetation. Opportunities for solitude and a primitive experience may be limited near roads or trails due to frequent contact with other users...”*

*Plan components prohibit new motorized trail construction in the Main Fork Rock Creek Recreation Emphasis Area (AB-STD-RCREA-01), and address the groomed trail surface of the Rendezvous Ski trail in the Hebgen Winter Recreation Emphasis Area (MG-STD-HWREA-01 and MG-GDL-HWREA-01) ....”*

**Issue and Statement of Explanation:** Effects on the CDNST is not addressed. The CDNST corridor should be excluded from the Hebgen Winter Recreation Emphasis Area, since the described desired conditions are inconsistent with the nature and purposes of the CDNST.

**Proposed Solution to Improve the Decision:** See Section I Part C of this objection.

**Violation of Law, Regulation or Policy:** 16 U.S.C. § 1246(c) – Nature and Purposes, Avoid Incompatible Activities, Substantial Interference; CDNST Comprehensive Plan Chapter IV.B.5, Recreation Management (74 FR 51125); 36 CFR § 219.10(a) – Integrated Resource Management for Multiple Use; 40 CFR §§ 1502.16, 1502.24, 1508.7, and 1508.8.

**Connection with Comments:** Draft Plan and DEIS comments page 7.

## **K. Glossary and References Cited**

**FEIS:** The FEIS, Part II, on page 421, includes a glossary of terms and references.

**Issue and Statement of Explanation:** The FEIS is missing key terms. See the glossary terms provided in Draft Plan and DEIS comments.

**Proposed Solution to Improve the Decision:** Add key terms to the glossary.

**Violation of Law, Regulation or Policy:** 40 CFR 1503.4(a)

**Connection with Comments:** Draft Plan and DEIS comments page 25.

## **L. Responses to Comments – Continental Divided National Scenic Trail**

**FEIS:** The FEIS, Appendix F, beginning on page 21 states, *“Concern: Comment requested additional or modified plan direction to protect scenic, natural, cultural, and historic resources, such as changing desired conditions and guidelines to standards, adding objectives to complete the trail and use volunteers, establishing and mapping a 1-mile minimum Continental Divide National Scenic Trail management area corridor, assigning primitive or semi-primitive*



*nonmotorized recreation opportunity spectrum settings, making motorized transport non-suitable, allowing mountain bike use only where consistent with the direction described in Forest Service Manual (FSM) 2353.44b (10), addressing the Northern Rockies Lynx Management Direction and wildlife linkage. Comment also requested that the trail corridor be suitable for timber production, varying plan components by alternative, revising management approaches, and establishing trail monitoring.*

*Comment favored or opposed mechanized and motorized transport on the portion of the trail in the Lionhead Area; favored or opposed a recommended wilderness allocation for the Lionhead portion of the trail; and stated that the Forest Service should prohibit mechanized or motorized travel on the Continental Divide National Scenic Trail when the trail is within a recommended wilderness area.*

*Comment related to the draft environmental impact statement stated the organization of regulatory guidance is confusing, additional guidance should be cited from the 2009 Continental Divide National Scenic Trail Comprehensive Plan, amendments and final directives, the phrase "trail buffer" should be replaced with "trail corridor," and the analysis of cumulative effects and of uses along the Continental Divide National Scenic Trail corridor are inadequate.*

*FS Response: The Custer Gallatin National Forest manages approximately 31.6 miles (1 percent) of the Continental Divide National Scenic Trail. Plan components closely follow those suggested in the November 16, 2017 Continental Divide National Scenic Trail Recommended Forest Plan Components, which incorporated information included in the 2009 Comprehensive Plan. As that document states "Individual units may develop additional plan components, remove those that are not applicable, adjust them to*

*"Introduction" is not recognized as a plan component and is not a rational substitute to the establishment of a CDNST management corridor desired condition that addresses the CDNST nature and purposes. A result of this inaction is that the plan does not address the integration requirement of the National Forest Management Act and the comprehensive planning requirements of the National Trails System Act.*

*respond to local conditions and public input, and edit to suit different writing styles. Any resulting variation must be consistent with the legislation and policy for managing the CDT." The introduction to the Continental Divide National Scenic Trail section has been revised in the final plan to add "The 2009 Comprehensive Plan provides this statement "The nature and purposes of the Continental Divide National Scenic Trail are to provide for high-quality scenery, primitive hiking and horseback riding opportunities, and to conserve natural, historic, and cultural resources along the Continental Divide National Scenic Trail corridor."*

*Plan components provide for the trail corridor to maintain the nature and purposes of the trail and are compatible with other agency direction for the Continental Divide National Scenic Trail. Components are both forestwide and trail corridor-specific for the Continental Divide National*

*Scenic Trail. When forestwide plan components are combined with components for the trail corridor, the wide variety of protections are accomplished by this plan. The requested objectives were not necessary as the trail construction is complete on the 31-mile segment of the trail on the Custer Gallatin. Working with trail volunteers is an established practice on the national forest, and plan goals encourage the ongoing relationships (FW-GO-REC-02).*

*Some of the suggested components are not consistent with plan component requirements, for example, forest plans do not specify the development of tactical plans or set a deadline for future plans. Some of the suggested components are not addressed in the plan, for instance oil and gas availability. Plan components for the Continental Divide National Scenic Trail corridor use coordinated components that assure continuity across multiple forests for management of activities on the trail. Comments provided no rationale why the Continental Divide National Scenic Trail guidelines should be standards, or desired conditions should be standards. This Custer Gallatin used inter-regional guidance for standards and guidelines. Altering wording, such as by having guidelines become standards, would have a discontinuity of coordinated management for the short 31-mile segment on the Custer Gallatin, compared to all the national forests where the Continental Divide National Scenic Trail passes.*

**Issue and Statement of Explanation:** The National Trails System Act of 1968, 82 Stat. 919, as amended, provides that the CDNST, “shall be administered” “by the Secretary of Agriculture” to be so located to “provide for maximum outdoor recreation potential and for the conservation and enjoyment” of “nationally significant scenic, historic, natural, or cultural qualities.” It empowers and requires that the Secretary of Agriculture select the CDNST rights-of-way which informs the National Scenic Trail corridor location and width. The establishment of the CDNST thus constitutes an overlay on the management regime otherwise applicable to public areas managed by land management agencies. The NTSA and E.O. 13195 limits the management discretion the agencies would otherwise have by mandating the delineation and protection of the CDNST rights-of-way (aka National Trail Management Corridor) for the purpose of providing for the nature and purposes of the CDNST. In general, “the use of motorized vehicles by the general public along any national scenic trail shall be prohibited.”

The Regional Foresters’ and Custer-Gallatin revised Forest Plan CDNST plan components are without legal basis. The Forest Service relies on vague rights-of-way (16 U.S.C. § 1246(a)(2)) direction in the National Trails System Act as an indicator that the management and protection of National Scenic and Historic Trails is subordinate to common multiple-use programs. This interpretation is inconsistent with the whole of the direction in the National Trails System Act and the integration requirements of NFMA. This improper interpretation of the rights-of-way guidance in the NTSA often goes as follows: “The National Trails System Act at 16 U.S.C. § 1246(a)(2) indicates that management in the vicinity of the CDNST while it traverses management areas that are subject to development or management is acceptable, but should

*be designed to harmonize with the CDNST as possible. Development and management of each segment of the National Trails System shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land. The wording recognizes multiple uses and seeks to moderate impacts on the trail from resource management to the extent feasible while meeting resource management objectives.”*<sup>33</sup>

Reviewed in Custer-Gallatin Draft Plan and DEIS comments, the 1968 guidance “*to be designed to harmonize with and complement any established multiple-use plans for that specific area*” was to some extent addressed in 1980 directives by Chief Max Peterson: “*Development and administration of a National Scenic Trail or National Historic Trail will ensure retention of the outdoor recreation experience for which the trail was established. Each segment of a trail should be designed to harmonize with and complement any established land management plans for that specific area in order to ensure continued maximum benefits from the land. Decisions relating to trail design and management practices should reflect a philosophy of perpetuation the spectrum of recreation objectives envisioned for the trail users. Land management planning should describe the planned actions that may affect that trail and its associated environments. Through this process, resource management activities prescribed for land adjacent to the trail can be made compatible with the purpose for which the trail is established. The objective is to maintain or enhance such values as esthetics, natural features, historic and archeological resources, and other cultural qualities of the areas through which a National Scenic or National Historic Trail goes.*”

The statement, “*to insure continued maximum benefits from the land*” reinforces the phrase, “*shall be designed to harmonize with and complement any established multiple-use plans.*” This guidance is vague since “*maximum benefits of the land*” is not found in the definition of multiple-use as described in the Multiple-Use Sustained-Yield Act of 1960.

The National Forest Management Act requires that a Land Management Plan address the comprehensive planning and other requirements of the NTSA in order to form one integrated Plan. As such, the NTSA guidance that a National Trails System segment be, “*designed to harmonize with and complement any established multiple-use plans for that specific area,*” is not applicable to a land management plan approved after the passage of the NFMA in 1976 and as addressed in the 1982 implementing planning regulations. Furthermore, the NTSA was amended in 1978 to in part designate the CDNST and require comprehensive planning for National Scenic and Historic Trails, which the Forest Service is completing through staged decisions for the CDNST whereas the revised Custer-Gallatin Forest Plan is critical in completing NTSA comprehensive planning requirements.

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<sup>33</sup> Medicine Bow Landscape Vegetation Analysis Project, Reviewing Officer’s Instructions, June 10, 2020.

The CDNST rights-of-way is yet to be selected, which has confounded the planning and management of this National Scenic Trail. When selecting the rights-of-way, the Secretary should recognize that harmonizing and complementing benefits of a National Scenic Trail include providing for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas; preserving significant natural, historical, and cultural resources; and contributing to achieving non-motorized outdoor recreation opportunities, watershed, and wildlife multiple-use benefits.

The Regional Foresters' and Custer-Gallatin proposed revised Forest Plan CDNST plan components do not protect the qualities and values of this National Scenic Trail. The Custer-Gallatin plan components do not address the National Trails System Act and CDNST Comprehensive Plan requirements to: (1) provide for high-quality scenic, primitive hiking and horseback riding opportunities that reflect ROS planning framework conventions, and (2) conserve scenic, historic, natural, or cultural qualities of the areas through which such trails may pass. In addition, the regional guidance and Custer-Gallatin plan does not establish direction to: (1) preserve significant natural, historical, and cultural resources; and (2) protect the CDNST corridor to the degree necessary to ensure that the values for which the CDNST was established remain intact or are restored.

The Custer-Gallatin Plan components do not provide for the management of the CDNST corridor to maintain the nature and purposes of the trail that is compatible with other agency direction for the Continental Divide National Scenic Trail. The Regional and Forest plan components are inconsistent with the BLM National Scenic Trail planning direction that is found in MS-6280, Chapter 4, Congressionally Designated Trails - Land Use Planning.

The Regional Foresters' formulation and adoption of CDNST plan component guidance was not in compliance with section 14(a) of the FRRRPA and 36 CFR 216 public involvement processes. The Regional Forester policy direction is inconsistent with the USDA Departmental Regulation 1074-001 scientific integrity policy that relates to the development, analysis, and use of data for decision-making.

**[quote continues]**

*The boundary of the Continental Divide National Scenic Trail corridor is described in the comprehensive plan as one-half mile on each side of the trail. The Continental Divide National Scenic Trail is essentially a management area, even though the revised plan is using the terms "Designated Areas" and "Forest Plan Allocations."*

*The Continental Divide National Scenic Trail recreation opportunity spectrum classifications follow the various settings that it crosses. As stated in the Continental Divide National Scenic Trail Comprehensive Plan, "where possible, locate the CDNST in primitive or semi-primitive non-motorized ROS classes, provided that the CDNST may have to traverse intermittently through*

*more developed ROS classes to provide for continuous travel.” The comprehensive plan wording “to retain or promote the character for which the trail was designated, new or relocated trail segments should be located primarily within settings consistent with or complementing primitive or semi-primitive non-motorized recreation opportunity spectrum classes” is specific to new sections of trails, not the established existing routes.*

*Since the Continental Divide National Scenic Trail route is already constructed on the Custer Gallatin, guidance promoting a preferred selection of trail locations to focus on semi-primitive non-motorized and primitive recreation opportunity spectrum is not applicable. Continental Divide National Scenic Trail direction acknowledges that as the trail crosses various national forests, there will be road crossings and segments that include recreation opportunity spectrum classifications other than the more primitive end of the spectrum. The trail will not be relocated because it passes through various recreation opportunity spectrum classifications on the ground. The revised plan includes forestwide plan components for each recreation opportunity spectrum class.*

**Issue and Statement of Explanation:** The revised plan did not establish sound plan components to provide for the CDNST nature and purposes. The CDNST Comprehensive Plan states, “Use the ROS system in delineating and integrating recreation opportunities in managing the CDNST. Where possible, locate the CDNST in primitive or semi-primitive non-motorized ROS classes; provided that the CDNST **may have to** (emphasis added) traverse intermittently through more developed ROS classes to provide for continuous travel between Canada and Mexico borders.” The intent of “may have to” is to address situations that are outside of authority of the Forest Service to remedy through normal planning processes.

I recognize that the CDNST travel route on the Custer-Gallatin National Forest currently passes through Roded Natural ROS, Semi-Primitive Motorized, and Semi-Primitive Non-Motorized settings; however, these existing settings do not control revised plan allocations. ROS settings to be established is not restricted to existing inventoried setting characteristics.

Following the guidance in the 1986 ROS planning framework, the revised plan should establish a Semi-Primitive Non-Motorized ROS setting for the CDNST corridor as shown in **Figure 1**, while accepting the highway and other existing permanent developments as accepted inconsistencies. The established SPNM setting should restrict activities that degrade CDNST values and should lead to actions that would help restore the SPNM setting. The Forest Plan should recognize, in areas previously managed for timber production and harvest, that road restoration and decommissioning actions may be necessary.

**[quote continues]**

*The use of winter snowmobiling was pre-existing the trail’s designation and acknowledged as an allowed use in the designation of this segment. The Continental Divide National Scenic Trail is*

*snow-covered and not discernable in the winter in the area where snowmobiling occurs. The revised plan was edited to include the wording “The Continental Divide National Scenic Trail is suitable for mountain biking, as long as such use does not substantially interfere with the nature and purpose of the trail.”*

**Issue and Statement of Explanation:** The Plan inappropriately addresses site-specific determinations without appropriate analyses for motor vehicle, snowmobile, and bicycle use within the CDNST corridor. Mountain bike use of the CDNST is addressed in the CDNST Comprehensive Plan in Chapter IV.B.5.b(2) and FSM 2353.44b(10)— Bicycle use may be allowed on the CDNST (16 U.S.C. 1246(c)), using the appropriate trail design standards, if the use is consistent with the applicable CDNST unit plan and will not substantially interfere with the nature and purposes of the CDNST (FSM 2353.4). Winter motorized over-snow vehicle transport over and around the trail does not support CDNST nature and purposes desired conditions. MG-SUIT-CDNST-03 needs to be deleted. Motor vehicle use is addressed in the CDNST Comprehensive Plan, Chapter IV.B.6 and FSM 2353.44b(11)—Motor vehicle use by the general public is prohibited on the CDNST, unless that use is consistent with the applicable CDNST unit plan.

**[quote continues]**

*Scenery is addressed within the desired condition statement “Viewsheds from the Continental Divide National Scenic Trail have high scenic values. The foreground as viewed from the trail is predominately naturally appearing. The potential to view wildlife is high, and evidence of ecological processes such as fire, insects, and diseases exist.” However, scenery management direction is within its own section’s heading. Scenery management objective for the Continental Divide National Scenic Trail is either high or very high, depending on alternative (see Scenery section of the plan). The scenery management system adequately protects the values of the Continental Divide National Scenic Trail.*

**Issue and Statement of Explanation:** The above statement regarding scenic integrity objective is incorrect. The plan does not establish as plan components a Scenic Character of Natural-Appearing or a Scenic Integrity Objective of High.

**[quote continues]**

*The Continental Divide National Scenic Trail (on the Custer Gallatin National Forest) passes through lynx habitat, but is not located in “designated critical habitat” for lynx (a USFWS designation). The trail is not in plan key linkage areas.*

**Issue and Statement of Explanation:** I agree that the plan did not identify the CDNST corridor as a linkage area. This decision does not support the conservation purposes of the CDNST. Linkage areas should include the CDNST corridor as described in the Canada Lynx Amendment analyses.

**[quote continues]**

*In keeping with the desired conditions for the trail, the Continental Divide National Scenic Trail corridor would not be suitable for timber production. Vegetation management, including timber harvest, would be suitable for purposes such as fuels reduction or restoration.*

**Issue and Statement of Explanation:** Unconstrained fuels reduction and restoration actions do not support the nature and purposes of the CDNST. Limits on these activities should be addressed by standards or guidelines.

**[quote continues]**

*It is not necessary for all plan components to vary by alternative. Land allocations varied for the Lionhead portion of the Continental Divide National Scenic Trail, as did suitability of mechanized and motorized transport in recommended wilderness in the Lionhead area...”*

**Issue and Statement of Explanation:** CDNST plan components do not provide for the protection of the CDNST following accepted ROS and SMS planning protocols resulting in a plan that is inconsistent with law and regulation.

**Summary of Issues and Statements of Explanation for this Section:** National Forest System lands has an overlay of management regimes within the CDNST management corridor. The Forest Service discretion to implement the general provisions of the Multiple Use and Sustained Yield Act is curtailed by provisions of the National Trails System Act within a selected CDNST right-of-way.

The revised plan did not provide for the nature and purposes of the CDNST by establishing plan components that reflects the nature and purposes as a desired condition with supporting scenery, recreation, and conservation considerations addressed as standards and guidelines. The revised plan did not establish a scenic integrity objective of high or very high, depending on the trail segment. The revised plan did not establish plan components to provide high-quality scenic, primitive hiking and pack and saddle stock opportunities consistent with the ROS planning framework. The revised plan did not use the Recreation Opportunity Spectrum in delineating and integrating recreation opportunities in managing the CDNST to provide for the nature and purposes of this National Scenic Trail.

The ROS Book on page II-34 states, *“Use of the Recreation Opportunity Spectrum classes in the formulation of Land and Resource management prescriptions provides the primary recreation framework for:*

- 1. Establishing outdoor recreation management emphasis, standards, and guidelines for specific management areas.*
- 2. Trade-off analyses of available recreation opportunities as environmental characteristics might be changed by other proposed resource management actions.*

3. *Monitoring outputs in terms of established Recreation Opportunity classes.*”

The NTSA establishment and designation of the CDNST provides for the Secretary of Agriculture to manage the CDNST under existing agencies authorities, but subject to the overriding direction of providing for the nature and purposes of this National Scenic Trail. The establishment of the CDNST thus constitutes an overlay on the management regime otherwise applicable to public areas managed by land management agencies. The NTSA (and E.O. 13195 - Trails for America in the 21st Century) limits the management discretion the agencies would otherwise have by mandating the delineation and protection of the CDNST corridor.

**Proposed Solution to Improve the Decision:** See Section I Part C.

**Violation of Law, Regulation or Policy:** 40 CFR 1503.4(a).

**Connection with Comments:** New information in response to comment.

### **M. Recreation Opportunity Spectrum**

**FEIS:** The FEIS, Appendix F, on page 81 states, “**Concern:** *Comments requested specific changes to recreation opportunity spectrum allocations. Reasons included accommodating losses of other recreation opportunity spectrum classifications, to increase semi-primitive motorized areas to reflect increasing demand, or to consider potential groomed Nordic ski areas in formulation of recreation opportunity spectrum allocations. Another comment supported the recreation opportunity spectrum mapping of various areas and alternatives.*

*Comment stated the recreation opportunity spectrum maps do not provide flexibility to add new motorized routes. The public is unaware of these maps because viewing technology is required and the commenter asked whether the Summer Percent of Forest column for alternatives B and E should be identical.*

**Response:** *The National Recreation Opportunity Spectrum Inventory Mapping Protocol, April 2018, provides guidance for not only how recreation opportunity spectrum categories are mapped but also what management actions are appropriate in each recreation opportunity spectrum setting... Per the Forest Service national protocol, mountain bikes are suitable in all recreation opportunity spectrum settings, unless those areas are specifically found not suitable due to legislative action, such as congressionally designated wilderness, or by closure order at the national forest or district levels. In the revised plan (alternative F), all primitive recreation opportunity spectrum coincides with congressionally designated wilderness, which is not suitable for mountain bikes. Glading would be addressed at the project level; land management plan-level language is not needed...*

*The recreation opportunity spectrum is a tool for expressing the recreation opportunities provided by an area. The recreation opportunity spectrum is not an appropriate tool to achieve*



*management goals for other types of management, such as wildlife habitat or timber harvest limits, by declaring an area a certain recreation opportunity spectrum class...*

*Because the revised plan is not conducting travel planning, recreation opportunity spectrum varies by alternative only in concert with suitability of motorized transport in alternative land allocations. For instance, if motorized transport would no longer be suitable in an alternative in recommended wilderness areas, then the recreation opportunity spectrum class would be consistent with a non-motorized class in that alternative.”*

**Issue and Statement of Explanation:** The National Recreation Opportunity Spectrum Inventory Mapping Protocol agency internal guidance appears to be inconsistent with the 1986 ROS Book protocols in several instances as previously described in this objection. For the purpose of the Custer-Gallatin Forest Plan, the 1982 ROS User Guide and 1986 ROS Book are controlling. Furthermore, the Forest Service does not provide a reasoned basis or a detailed justification for modifying the 1982 ROS User Guide and 1986 ROS Book Recreation Opportunity Spectrum setting definitions and disclosing the consequences of those changes to recreationists seeking Primitive and Semi-Primitive ROS settings, including those seeking high-quality scenic, primitive hiking and horseback riding experiences along the Continental Divide National Scenic Trail. The formulation and issuance of the National Recreation Opportunity Spectrum Inventory Mapping Protocol, April 2018, is not in compliance with the Public Participation requirement of FRRRPA and the Public Notice and Comment for Standards, Criteria, and Guidance Applicable to Forest Service Programs (16 U.S.C. § 1612(a), 36 CFR § 216). The protocol appears to be inconsistent with the 36 CFR § 219 forest planning regulations and the Planning Rule PEIS.

The statement that, *“The recreation opportunity spectrum is not an appropriate tool to achieve management goals for other types of management, such as wildlife habitat or timber harvest limits, by declaring an area a certain recreation opportunity spectrum class”* is confusing at best and should be deleted. This statement is inconsistent with the guidance in the 1986 ROS Book, which was reviewed earlier in these comments. ROS class setting established in the revised plan must provide for compatible integrated resource planning and management.

NFMA integration requirements are reviewed in FSH 1909.12 part 22. Clearly, the recreation resource is not inferior to other multiple use resources. For example, Forest Plan allocations of Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized ROS settings without a timber resource purpose would be consistent with the Multiple Use and Sustained Yield Act.

The Landscape Aesthetics Handbook states, *“The Scenery Management System and ROS serve related, but different, purposes that affect management of landscape settings. In some cases, ROS provides stronger protection for landscape settings than does the Scenery Management System. This is similar to landscape setting protection provided by management of other resources, such as cultural resource management, wildlife management, and old-growth*

*management. In all these examples, there may be management directions for other resources that actually provide higher scenic integrity standards than those reached by the Scenery Management System. Different resource values and systems (the Scenery Management System, the ROS System...) are developed for differing needs, but they are all systems that work harmoniously if properly utilized. In all these examples, there are management decisions made for other resources that result in protection and enhancement of landscape settings.”*

Primitive and Semi-Primitive ROS classes will constrain some management actions such as mechanical treatments of vegetation that utilize heavy equipment and permanent or temporary roads if these desired ROS class opportunities as described in the 1986 ROS Book are to be protected. Since its inception, the recreation opportunity setting has been composed of other natural features in addition to the six factors. Landform types, vegetation, scenery, water, and wildlife are all important elements of recreation environments; they influence where people go and the kinds of activities possible.

Bicycles should not be allowed in Primitive ROS settings. Asymmetric impacts between bicyclists and traditional nonmotorized users will tend to displace hikers and equestrians from non-wilderness trails. The asymmetric or one-way nature of conflict suggests that active management is needed to maintain the quality of recreation for visitors who are sensitive to conflicting uses. Visitors who are sensitive to conflict are likely to be dissatisfied or ultimately displaced. The formulation of the national policy on bicycle suitability was not in compliance with law and regulation.

Making choices between competing resource priorities is often the nature of integrated resource management planning as required by the National Forest Management Act (16 CFR § 1604(f)(1), 36 CFR § 219.10(a), FSH 1909.12 Part 22). The Forest Plan must make these choices and provide for integrated resource management.

**Proposed Solution to Improve the Decision:** See Section I Part C, Section II Part A, and Section III Part B.

**Violation of Law, Regulation or Policy:** 40 CFR 1503.4(a)

**Connection with Comments:** New information in response to comment.

## **Section V. Statement of Issues Draft ROD**

The following are statements of the issues to which the objection applies and concise statements explaining the objection and suggestions on how the proposed decision may be improved.

### **A. Rationale for the Decision – Backcountry Areas**

**Draft ROD:** The DROD on page 12 states, *“Backcountry areas are generally undeveloped or lightly developed, and the intent of this allocation is to maintain the existing backcountry*

*character while allowing management flexibility, particularly for vegetation management. Existing motorized and mechanized recreation use would continue in 12 of the 13 backcountry areas on existing system routes and areas designated for these uses.” On page 16 the DROD states, “I gave considerable thought to the decision for the Lionhead area. It has been managed under the 1987 Gallatin plan as a recommended wilderness area for more than 30 years. During this time, it also contains about 18 miles of mountain bike trails into the core of the area. Lionhead is valued by wilderness advocates and enthusiasts of both quiet recreation and mountain biking. In general, the wilderness characteristics of the place have been retained through the years, even with this use. Given my decision that continued mechanized uses would not be suitable in recommended wilderness areas and the desire to retain the longstanding and popular, though not heavily used, mountain bike trails in Lionhead, I have decided to manage this as a 27,266-acre backcountry area. This will protect the current character of the area and will allow existing uses to continue as long as they do not degrade the character of the area. No new uses that would detract from the area’s character would be allowed.”*

**Issue and Statement of Explanation:** The allowance of mountain bike use on the CDNST is yet to be determined following processes that are required in the CDNST Comprehensive Plan and FSM 2353.44b(10). Establishing Lionhead as Recommended Wilderness would have contributed to the conservation purposes of the CDNST. The decision should not have relied on unmanaged bicycle use that should not be allowed until and if approved in a CDNST unit plan after requisite analyses.

**Proposed Solution to Improve the Decision:** The final ROD should establish Lionhead as Recommended Wilderness (Alternative D or A).

**Violation of Law, Regulation or Policy:** USDA DR 1074-001; 16 U.S.C. §§ 1242(a)(2), 1246(c); 40 CFR § 1502.24.

## **B. Rationale for the Decision – Recreation**

**Draft ROD:** The DROD on page 16 states, *“The plan supports recreation demands and contributes to the recreation economy while addressing desired ecological conditions for soils, water, fish, and wildlife. Forestwide plan components guide the national forest’s sustainable recreation, including recreation settings, opportunities, access, and scenic character. The plan establishes objectives for increasing and enhancing recreational opportunities and establishes focused recreation emphasis areas (plan components for recreation settings, opportunities and access, and for recreation emphasis areas). Sustainable recreation is partly derived by the mapping of desired recreation opportunity spectrum classes that range from primitive to rural settings as well as through forestwide recreation management plan components (maps in plan appendix B). This integrated direction contributes to social, economic, and ecological sustainability....”*

The FEIS, Part II, on page 149 states, *“The acres allocated to summer recreation opportunity settings (ROS) by alternative are shown in table 38 for lands suitable for timber production. All alternatives are similar in terms of the distribution of suitable timber acres across recreation opportunity settings. Recreation opportunity spectrum allocations regulate motorized and non-motorized recreation, the design of recreation facilities and may influence the design or the location of on-the-ground projects as described in the associated plan components... For example, the desired condition for semi-primitive non-motorized ROS classification is that vegetation management does not dominate the landscape or detract from the experience of visitors. Temporary roads for vegetation management projects, where otherwise not prohibited, may occur in semi-primitive non-motorized recreation opportunity spectrum classification...”*

*In all alternatives, the revised plan scenic integrity objectives do not outright prohibit on-the-ground actions, but may influence the design or the location of on-the-ground projects that would be visible from any of the listed critical viewing platforms. Design features or mitigations may be required to meet or exceed the assigned scenic integrity objective, which describes the maximum threshold of visual dominance and deviation from the surrounding scenic character.”*

In response to comments, the Forest Service states, *“The recreation opportunity spectrum is not an appropriate tool to achieve management goals for other types of management, such as wildlife habitat or timber harvest limits, by declaring an area a certain recreation opportunity spectrum class.”*

**Issue and Statement of Explanation:** A Forest Plan provides for opportunities for specific recreation activities in defined recreation settings. Recreation settings include the social, managerial, and physical attributes of a place that, when combined, provide a distinct set of recreation opportunities. The Forest Service uses the recreation opportunity spectrum to define recreation settings and categorize them into six distinct classes. The Forest Service uses the 1986 ROS Book in developing Forest Plans. The revised plan must include plan components to provide for sustainable recreation; including recreation settings, opportunities, and access; and scenic character. The revised plan must include desired conditions for sustainable recreation using mapped desired recreation opportunity spectrum classes. The plan should include specific standards or guidelines where restrictions are needed to ensure the achievement or movement toward the desired recreation opportunity spectrum classes. Restrictions are needed in Primitive and Semi-Primitive ROS settings to ensure that desired conditions are realized. The 1986 ROS Book describes desired conditions for each ROS setting or class. For example, a SPNM setting is a natural setting that may have subtle modifications that would be noticed but not draw the attention of an observer wandering through the area.

The Custer-Gallatin Plan definitions of ROS setting plan components do not include ROS class descriptions that address Evidence of Humans desired conditions. For example, the SPNM ROS setting no longer describes that, *“Natural setting may have subtle modifications that would be*

*noticed, but not draw the attention of an observer wandering through the area.”* On the other hand, a vague revised plan SPNM standard describes that temporary roads for vegetation management projects, where otherwise not prohibited, may occur. The plan also designates some SPNM areas for timber production, which demonstrates that there is a need to restrict actions that degrade SPNM desired conditions. The FEIS fails to disclose the competing nature of the desire to maintain a natural setting with little evidence of management with the negative effects of mechanical treatment of vegetation and associated permanent and temporary roads.

The statement that, *“the recreation opportunity spectrum is not an appropriate tool to achieve management goals for other types of management, such as wildlife habitat or timber harvest limits, by declaring an area a certain recreation opportunity spectrum class”* is without basis. This statement is inconsistent with the guidance in the 1986 ROS Book, which was reviewed earlier in these comments. The Scenery Management System and Recreation Opportunity Spectrum frameworks were specifically designed to be compatible for NFMA planning requirements.

*“The recreation opportunity spectrum has been an effective land management planning tool since 1982. The recreation opportunity spectrum is a framework for identifying, classifying, planning, and managing a range of recreation settings. The setting, activity, and opportunity for obtaining experience are arranged along a spectrum of classes from primitive to urban. In each setting, a range of activities is accommodated. For example, primitive settings accommodate primarily non-motorized uses, such as backpacking and hiking; whereas roaded settings (such as roaded natural) or rural settings accommodate motorized uses, such as driving for scenery or access for hunting. Through this framework, planners compare the relative tradeoffs of how different patterns of settings across the landscape would accommodate (or not accommodate) recreational preferences, opportunities, and impacts (programmatic indirect environmental effects) with other multiple uses”* (Planning Rule PEIS, page 209).

Established Scenic Integrity Objective and ROS setting desired conditions may constrain management actions. Under the 2012 Rule, *“plan components”* are the decisions made in a forest plan that are enforceable. They are enforceable because the Planning Rule requires all future management actions to be *“consistent with the applicable plan components.”* Desired conditions are the basis for the rest of the plan components; objectives, standards, guidelines, and suitability determinations must be developed to help achieve the desired conditions.

ROS settings is an appropriate and efficient management tool to provide for integrated resource management where compatible multiple use benefits accrue in an established ROS setting. However, Primitive and Semi-Primitive ROS classes will constrain some management actions such as mechanical treatments of vegetation that utilize heavy equipment and permanent or temporary roads if these desired ROS class opportunities as described in the 1986 ROS Book are to be protected.

The APA ensures that agencies do not change course based on the “*whim and caprice of the bureaucracy,*” and prevents agencies from subverting the rule of law by making policy based on shifting “*political winds and currents.*” When reversing a prior policy that “*has engendered serious reliance interests,*” the agency must “*provide a more detailed justification than what would suffice for a new policy created on a blank slate.*” This requires a “*reasoned explanation... for disregarding the facts and circumstances that underlay or were engendered by the prior policy.*”

The Forest Service did not provide a reasoned basis or a detailed justification for modifying the 1982 ROS User Guide and 1986 ROS Book Recreation Opportunity Spectrum setting definitions and disclosing the consequences of those changes to recreationists seeking Primitive and Semi-Primitive ROS settings, including those seeking high-quality scenic, primitive hiking and horseback riding experiences along the Continental Divide National Scenic Trail.

Making choices between competing resource priorities is often the nature of integrated resource management planning as required by the National Forest Management Act (16 CFR § 1604(f)(1), 36 CFR § 219.10(a), FSH 1909.12 Part 22). The ROD decision must make choices between competing resources, including establishing desired ROS settings to accurately reflect integrated resource decisions for each ROS class mapped area.

**Proposed Solution to Improve the Decision:** See Section I of this objection.

**Violation of Law, Regulation or Policy:** USDA DR 1074-001; 16 U.S.C. § 1612(a); 36 U.S.C. §§ 216, 219.3, 219.10(b)(1)(i); 40 CFR § 1502.24.

### **C. Requirements of the 2012 Planning Rule – Multiple Use**

**Draft ROD:** The DROD on page 22 states, “*The plan provides integrated resource management for multiple uses (219.10(a)) by including plan components at the forestwide level and the geographic-area scale that establish suitability for a variety of compatible uses. Each geographic area has unique characteristics, and specific plan components provide for and manage multiple uses within that area....*”

**Issue and Statement of Explanation:** The structure of the Planning Regulations and Directives provide for the integration of statutorily designated areas as a multiple use component. Alternatives in the FEIS do not protect CDNST nature and purposes qualities and values with supporting plan components failing to produce an integrated plan. Due to this lack of integration of protecting the CDNST for the purposes for which it was established, it is not reasoned to declare that the plan is fully compliant with the Multiple-Use Sustained-Yield Act. The plan must contain plan components that provide for the nature and purposes of the CDNST presumed rights-of-way.

**Proposed Solution to Improve the Decision:** See Section I Part C of this objection.

**Violation of Law, Regulation or Policy:** 36 CFR 219.10(b)(1)(vi); 16 U.S.C. § 1604(f)(1); 40 CFR §§ 1502.14, 1502.24, Planning Rule PEIS.

#### **D. Preliminary Administrative Recommendations – Recommended Wilderness**

**Draft ROD:** The DROD on pages 26-27 states, *“I considered the current allowable uses and protections afforded by other management overlays. In most areas, I felt that existing recreational uses should continue. Therefore, I decided on a recommended wilderness designation for those areas that are manageable, currently have few to no uses inconsistent with wilderness designation, and would truly add value if they were designated wilderness through a congressional decision in the future. Other protective management designations and direction, specifically the backcountry area designation, recreation opportunity spectrum guidance, key linkage area direction in the Bridger and Gallatin Mountains, and application of the Roadless Rule afford high levels of protection for the vast majority of these currently undeveloped lands...*

*The areas I have recommended do not currently have extensive existing mechanized transport use; of the approximately 10 affected miles of bicycle trails, almost 9 miles are not accessible to mountain bikers. Based on recreation opportunity spectrum mapping, about 10,128 acres would no longer be suitable for motorized over-snow vehicle use, but this mapping did not assess current legal access, suitable topography, or consistent snow. However, I will initiate site-specific planning per the plan’s suitability direction as soon as practicable from the date of this decision.”*

**Issue and Statement of Explanation:** The allowance of mountain bike use on the CDNST is yet to be officially determined. The CDNST Comprehensive Plan and FSM 2353.44b(10) allow mountain bikes only if analyses determine the use will not substantially interfere with the nature and purposes of the CDNST. In other words, the CDNST is now closed to bicycles by policy.

This rationale for the draft decision demonstrates that mountain bike use substantially interferes with the protection of the nature and purposes of the CDNST. Establishing Lionhead as Recommended Wilderness would have contributed to the maintaining high quality hiking and equestrian experiences and to the conservation purposes of the CDNST. The decision should not have relied on bicycle use that is not allowed until the use is approved following requisite site-specific analyses.

**Proposed Solution to Improve the Decision:** The Lionhead area has long been proposed for wilderness to protect the critical linkage as a migration corridor for wildlife. Grizzly bear, wolverine, wolves, moose, elk, among other species are known to use the Lionhead as a movement area. It is an important corridor connecting to the Centennial Range and the

Continental Divide other large wild areas further west in Central Idaho. The final ROD should establish Lionhead as Recommended Wilderness (Alternative D or A).

**Violation of Law, Regulation or Policy:** 16 U.S.C. § 1242(a)(2), 36 CFR § 219.7(c)(2)(v); 40 CFR §§ 1502.14, 1502.24.

## **E. Alternatives Considered**

**Draft ROD:** The DROD beginning on page 32 states, *“Designations and plan components would remain constant for designated wilderness; the designated East Rosebud Wild and Scenic River; Pryor Mountain Wild Horse Territory; research natural areas; special areas including national natural landmarks; Earthquake Lake Geologic Area; national scenic, historic, and recreation trails; and the Beartooth Highway...”*

*Federal agencies are required by the National Environmental Policy Act to rigorously explore and objectively evaluate all reasonable alternatives and to briefly discuss the reasons for eliminating any alternatives that were not developed in detail (40 CFR 1502.14). Public comments received in response to the proposed action and the draft environmental impact statement provided suggestions for alternative methods of achieving the purpose and need. Some of these may have been outside the scope of what can be included in the plan, or duplicative of the alternatives considered in detail.”*

**Issue and Statement of Explanation:** The CDNST corridor and plan components presented in Draft Plan and DEIS comments should have been rigorously explored and objectively evaluated, since the submitted proposed alternative/modified plan components is a reasonable approach to protecting the nature and purposes of the CDNST.

Response to comments requires the agency to assess and consider comments both individually and collectively, and shall respond by modifying alternatives including the proposed action or develop and evaluate alternatives not previously given serious consideration by the agency to address substantive concerns. Preferably, as described in Section I of this objection, alternatives would have been modified to (1) establish a CDNST management corridor with supportive plan components and (2) supplemented ROS definitions to reflect the guidance in the 1986 ROS Book. Otherwise, these proposed changes that were not previously given serious consideration should have been addressed in a new alternative.

Past travel management resource plan and decisions should not have constrained FEIS alternatives. Establishing the CDNST corridor with supporting plan components will likely require the revision of summer and winter travel plans.

NEPA requires agencies to consider a reasonable range of alternatives (43 U.S.C. § 4332(2)(C); 40 C.F.R. §§ 1500.2, 1502.2, 1502.14, 1505.1). Agencies must, to the fullest extent possible, include *“reasonable alternatives to proposed actions that will avoid or minimize adverse effects*



of these actions upon the quality of the human environment” (40 C.F.R. § 1500.2(e)). The EIS must also state how the alternatives considered will meet both NEPA and other environmental laws and policies, including the National Trails System Act, and must discuss the reasons for eliminating any alternatives from detailed study (40 CFR §§ 1502.2(d), 1502.14(a)).

The Forest Service did not consider a reasonable range of alternatives in the FEIS because the Forest Service failed to consider an alternative or alternatives that had the potential to reduce the adverse effects on the Continental Divide National Scenic Trail and better protect the purposes for which this National Scenic Trail was established. Viable, unconsidered alternatives or components of alternatives include, but are not limited to establishing a CDNST Management Area with plan components that protect the nature and purposes of the CDNST as described in comments and in Section I of this objection.

The Forest Service did not adequately explain its failure to consider viable alternatives that would reduce the impacts to the CDNST corridor. To the extent Forest Service provided any explanation for failing to consider viable alternatives, that explanation was arbitrary and capricious.

For each of the above reasons, Forest Service failed to consider a reasonable range of alternatives, including viable alternatives proposed in comments, and if approved as presented, rendering the final EIS and ROD arbitrary, capricious, and not in accordance with the law. In addition, the adoption of the Final EIS and ROD if not modified would be done without observance of the procedures required by NEPA, its implementing regulations, and the APA (5 U.S.C. § 706(2)).

**Proposed Solution to Improve the Decision:** See Section I of this objection for a proposed solution for improving the decision.

**Violation of Law, Regulation or Policy:** 16 U.S.C. §§ 1242(a)(2), 1244(f), 1246(c); E.O. 13195; 42 U.S.C. § 4332(2)(C); 40 C.F.R. §§ 1502.1, 1502.14, 1502.16, 1503.4(a), 1508.7; 36 CFR § 219.3; USDA DR 1074-001.

## **F. Best Available Scientific Information**

**Draft ROD:** The DROD on page 37 states, *“The 2012 Planning Rule (36 CFR 219.6(a)(3) and 219.14(a)(4)) requires the responsible official to use the best available scientific information to inform the development of the assessment, proposed plan, including plan components, the monitoring program, and plan decisions...*

*The interdisciplinary team utilized and updated a geographic information system database to evaluate complex spatial effects resulting from implementation of the alternatives (such as the recreation opportunity spectrum and effects to wildlife habitat by species). The interdisciplinary team used an optimization model to estimate the long-term flow of timber from the plan area.*

*This type of model is widely used by private and State land managers and is widely accepted as an accurate way of modeling timber harvest schedules.”*

**Issue and Statement of Explanation:** Best available scientific information analyses would have required using ROS plan components that were consistent with the 1986 ROS Book, which the plan did not use in its formulation.

The Plan definition of the ROS Class desired conditions must include ROS Class characteristics descriptors that address, “Evidence of Humans,” “Non-Recreation Uses,” and “Naturalness” characteristics, and to make other changes that support providing for the integration of the recreation resource in natural resources planning processes.

The 1986 ROS Book indicators for Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized ROS classes provide for greater protection of wildlife corridors than that described for ROS classes in the Forest Plan. The established ROS classes and timber suitability for portions of the CDNST do not provide for the nature and purposes of this National Scenic Trail, which also affects modelling. I appreciate the modelling efforts, but the modelling outputs are not reliable, since the input data was flawed.

Sustainable Recreation Planning direction must be consistent with the 1986 ROS Book and related research, which informed the Planning Rule. Forest Service directives (and policy by correspondence) must be consistent with the USDA Departmental Regulation 1074-001 scientific integrity policy that relates to the development, analysis, and use of data for decision-making. This DR is intended to instill public confidence in USDA research and science-based public policymaking by articulating the principles of scientific integrity, including reflecting scientific information appropriately and accurately.

Modifying ROS characterizations to facilitate development of unroaded areas without demonstrating a clear basis for deviating from the 1986 ROS Book is unreasonable, arbitrary, and capricious and is inconsistent with the MUSYA, NFMA, and NEPA.

**Proposed Solution to Improve the Decision:** See Section I Part C and Section III Part A of this objection.

**Violation of Law, Regulation or Policy:** USDA DR 1074-001, 16 U.S.C. § 1612(a), 36 U.S.C. § 216, 36 CFR § 219.3, 40 CFR § 1502.24, Planning Rule PEIS.

### **G. Findings Required by Other Laws – Multiple-Use Sustained-Yield Act**

**Draft ROD:** The DROD on page 43 states, *“The Forest Service manages National Forest System lands to sustain the multiple use of its renewable resources in perpetuity while maintaining the long-term health and productivity of the land. Resources are managed through a combination of approaches and concepts for the benefit of human communities and natural resources. As demonstrated in the final environmental impact statement and as required by the Multiple-Use*

*Sustained-Yield Act of 1960 (16 U.S.C. 528-531), the plan guides sustainable and integrated management of Forest resources in the context of the broader landscape, giving due consideration to the relative values of the various resources in particular areas. Therefore, I find that the plan is compliant with the Multiple-Use Sustained-Yield Act.”*

**Issue and Statement of Explanation:** The structure of the Planning Regulations and Directives provide for the integration of statutorily designated areas as a multiple use component. CDNST and ROS plan components are not integrated, written clearly, concisely, and without ambiguity.

Alternatives in the FEIS do not protect CDNST nature and purposes qualities and values with supporting plan components failing to produce an integrated plan. Due to this lack of integration of protecting the CDNST for the purposes for which it was established, it is not reasoned to declare that the plan is fully compliant with the Multiple-Use Sustained-Yield Act. The plan must contain plan components that provide for the nature and purposes of the CDNST.

The characterizations of ROS classes in most cases are a significant deviation from established Physical Setting descriptions. “Evidence of Humans,” “Non-Recreation Uses,” and “Naturalness” setting indicators are improperly omitted in the narratives for Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized ROS settings. The proposed ROS plan components must be consistent with the 1986 ROS Book, which supported the planning rule as informed by the PEIS.

Scenery plan components do not constrain actions to provide for desired scenic character. The plan allows for degradation of the desired scenic character objective for up to five years after a project is completed which no completion deadline constraint. Scenic integrity is degraded by vegetation management projects and associated actions such as the development of permanent and temporary roads. This guideline should be restricted to only Roaded Natural/Modified ROS settings with low Scenic Integrity Objectives. In Semi-Primitive ROS settings, where vegetation management occurs for resource benefit, the extent and duration of the impacts must be carefully controlled to ensure that ROS setting desired conditions as described in the 1986 ROS Book are protected resulting in very limited 5-year scenic integrity objective waivers.

**Proposed Solution to Improve the Decision:** See Section I Part C and Section III Part B of this objection.

**Violation of Law, Regulation or Policy:** 36 CFR §§ 219.3, 219.10(a), 219.10(b)(1)(i), 219.10(b)(1)(vi); 40 CFR § 1502.24.

## H. Findings Required by Other Laws – National Environmental Policy Act

**Draft ROD:** The DROD on page 43 states, *“The National Environmental Policy Act requires that Federal agencies prepare detailed statements on proposed actions that may significantly affect the quality of the human environment...”*

**Issue and Statement of Explanation:** Specific to CEQ NEPA requirements, the ROD cannot attest to meeting the requirements of 40 CFR 1502.24 Methodology and Scientific Accuracy.

The FEIS did not use the Scenery Management System to establish Scenic Integrity Objectives to provide for the nature and purposes of the CDNST. The CDNST route is a concern level 1 travel route and the scenic integrity objective is to be high or very high.

The FEIS did not use the 1982/1986 ROS planning framework to establish ROS settings to provide for the nature and purposes of the CDNST. Definitions of ROS Classes desired conditions must include ROS Class Characteristics descriptors that address, *“Evidence of Humans,” “Non-Recreation Uses,”* and *“Naturalness”* characteristics, and to make other changes that support providing for the integration of the recreation resource in natural resources planning processes.

Sustainable Recreation plan components must be consistent with the 1986 ROS Book guidance and related research, which informed the Planning Rule. Forest Service directives must be consistent with the USDA Departmental Regulation 1074-001 scientific integrity policy that relates to the development, analysis, and use of data for decision-making.

NEPA requires that the responsible official make a reasoned decision, which must be dependent on clear methodologies and scientific information. To informed decision-making and informed public participation the plan direction must follow accepted methodology and scientific processes, use common definitions, and use plain writing to establish and present the Plan direction. The CDNST plan components presented in the Plan and referred to in the FEIS do not meet these NEPA standards.

A NEPA document must contain sufficient information to foster informed decisionmaking and informed public participation. Otherwise, the decision would not be in conformance with 42 U.S.C. § 4332(2)(C) and would therefore not be in accordance with law under 5 U.S.C. § 706(2)(A) and not in be in observance of procedure required by law under 5 U.S.C. § 706(2)(D).

For the reasons laid out in this objection, it is not reasoned to conclude that the, *“environmental analysis and public involvement process that the environmental impact statement is based on complies with each of the major elements of the requirements set forth by the Council on Environmental Quality regulations for implementing the National Environmental Policy Act (40 CFR 1500-1508).”*

**Proposed Solution to Improve the Decision:** See Section I of this objection.

**Violation of Law, Regulation or Policy:** USDA DR 1074-001; 16 U.S.C. § 1612(a); 36 U.S.C. § 216, 40 CFR §§ 1502.14, 1502.24; Planning Rule PEIS.

## **I. Findings Required by Other Laws – National Forest Management Act**

**Draft ROD:** The DROD on page 44 states, *“The National Forest Management Act requires the development, maintenance, amendment, and revision of land management plans for each unit of the National Forest System. Because these land management plans help create a dynamic management system, an interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences will be applied to all future actions on the unit. Under the Act, the Forest Service is to ensure coordination of the multiple uses and sustained yield of products and services of the National Forest System.”*

**Issue and Statement of Explanation:** The DROD did not address and could not factually describe that management area direction in the land management plan provides protection for the nature and purposes for which the CDNST was established. The plan direction does not provide for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of this National Scenic Trail.

The Plan did not use the ROS planning framework to establish ROS settings to provide for the nature and purposes of the CDNST. The Plan did not use the Scenery Management System to establish Scenic Integrity Objectives that provide for the nature and purposes of the CDNST.

The Plan ROS class descriptions do not include ROS Class characteristics that describe, *“Evidence of Humans,” “Non-Recreation Uses,”* and *“Naturalness”* characteristics, and to make other changes that support providing for the integration of the recreation resource in natural resources planning processes.

Forest Plan sustainable recreation direction must be consistent with the 1986 ROS Book and related research, which informed the Planning Rule. Forest Service sustainable recreation direction must be consistent with the USDA Departmental Regulation 1074-001 scientific integrity policy that relates to the development, analysis, and use of data for decision-making.

**Proposed Solution to Improve the Decision:** See Section I of this objection.

**Violation of Law, Regulation or Policy:** USDA DR 1074-001, 36 CFR §§ 219.7, 219.10(a), 219.10(b)(1)(i), 219.10(b)(1)(vi); 40 CFR § 1502.24.

## **J. Findings Required by Other Laws – National Trails System Act**

**Draft ROD:** The Draft ROD does not review the National Trails System Act. The National Trails System Act of 1968, as amended, provides that the CDNST, *“shall be administered” “by the Secretary of Agriculture”* to be so located to *“provide for maximum outdoor recreation potential and for the conservation and enjoyment”* of *“nationally significant scenic, historic, natural, or cultural qualities.”* In general, *“The use of motorized vehicles by the general public along any*

*national scenic trail shall be prohibited.*” The Act empowers and requires that the Secretary of Agriculture select the CDNST rights-of-way which informs the National Scenic Trail corridor location and width. The establishment of the CDNST thus constitutes an overlay on the management regime otherwise applicable to public areas managed by land management agencies.

**Issue and Statement of Explanation:** National Forest System lands has an overlay of management regimes within the CDNST management corridor. The Forest Service discretion to implement the general provisions of the Multiple Use and Sustained Yield Act is curtailed by provisions of the National Trails System Act within a selected CDNST right-of-way.

The National Trails System Act establishes National Scenic Trails (16 U. S. C. § 1244(a)), including the CDNST (16 U. S. C. § 1244(a)(5)). It empowers and requires the Secretary of Agriculture to establish the CDNST location and width by selecting the National Scenic Trail “rights-of-way” (16 U.S.C. §§ 1246(a)(2), 1246(d), 1246(e)). The revised plan should clearly establish a CDNST Management Area (aka National Trail Management Corridor) with an extent of at least one-half mile on both sides of the CDNST travel route and along high-potential route segments.

The Record of Decision must address providing for the integrated management of statutorily designated areas. Statutorily designated areas must be managed to achieve the purposes for which they were established. The draft ROD decision is not based on a reasonably thorough discussion of...significant aspects of the probable environmental consequences on CDNST nature and purposes. The ROD is not in compliance with the requirement of 40 CFR 1505.2(b), since the draft ROD did not identify and discuss all such factors including the protection of National Scenic and Historic Trail qualities and values.

The proposed decision does not include the CDNST nature and purposes as a desired condition plan component for the CDNST corridor. This decision alone would result in a plan that does not address the integration requirement of the National Forest Management Act and fulfil the requirements of the National Trails System Act.

The CDNST is a concern level 1 route, with a scenic integrity objective of high or very high, depending on the trail segment... Manage the CDNST to provide high-quality scenic, primitive hiking and pack and saddle stock opportunities. Backpacking, nature walking, day hiking, horseback riding, nature photography, mountain climbing, cross-country skiing, and snowshoeing are compatible with the nature and purposes of the CDNST... Use the Recreation Opportunity Spectrum in delineating and integrating recreation opportunities in managing this National Scenic Trail.

The NTSA establishment and designation of the CDNST provides for the Secretary of Agriculture to manage the CDNST under existing agencies authorities, but subject to the overriding

direction of providing for the nature and purposes of this National Scenic Trail. The establishment of the CDNST thus constitutes an overlay on the management regime otherwise applicable to public areas managed by land management agencies. The NTSA and E.O. limits the management discretion the agencies would otherwise have by mandating the delineation and protection of the CDNST corridor. The draft decision fails to act on addressing the requirements of the National Trails System Act to describe the CDNST rights-of-way and approve plan components that protect the nature and purposes of the CDNST.

For the purpose of addressing CDNST issues and concerns, the FEIS does not contain sufficient accurate information to foster informed decision-making or informed public participation. A Supplemental FEIS should be prepared to address the requirements of the CEQ NEPA regulations as found in 40 CFR Parts 1500-1508 (2005). Land use planning associated NEPA must (1) rigorously explore and objectively evaluate all reasonable alternatives, and (2) take a hard look at the effects of the alternatives. A Supplemental FEIS must also address whether proposed activities and use substantially interferes with the nature and purposes of the CDNST, which did not occur in the FEIS that supports the draft ROD.

Much of the Custer-Gallatin CDNST plan direction departs from the CDNST Comprehensive Plan, FSH 2353.44b, and FSH 1909.12 24.43 guidance without providing a reasoned basis or a detailed justification for ignoring these previous findings and direction. The APA ensures that agencies do not change course based on the *"whim and caprice of the bureaucracy,"* and prevents agencies from subverting the rule of law by making policy based on shifting *"political winds and currents."* When reversing a prior policy that *"has engendered serious reliance interests,"* the agency must *"provide a more detailed justification than what would suffice for a new policy created on a blank slate."* This requires a *"reasoned explanation... for disregarding the facts and circumstances that underlay or were engendered by the prior policy."*

The draft ROD did not and could not factually describe how the plan provides for the nature and purposes of the CDNST through established plan components that reflect the nature and purposes as a desired condition with supporting scenery, recreation, and conservation considerations addressed as standards and guidelines. The plan encourages activities and use that if implemented will degrade CDNST qualities and values and substantially interfere with the nature and purposes of this National Scenic Trail which is not allowed by the National Trails System Act.

**Proposed Solution to Improve the Decision:** See Section I Part C of this objection. In brief, the CDNST nature and purposes description should be the principal desired condition for the CDNST management corridor. Standards or guidelines should clearly describe providing for a Semi-Primitive Non-Motorized ROS setting and a High Scenic Integrity Objective. Suitability should describe that corridor is not suitable for timber production. Suitability should be silent on motor vehicle use including over snow vehicles; otherwise, the evidence in the FEIS suggests

that the CDNST corridor is not suitable for motor and over snow vehicles. Suitability should be silent on mountain bike use; otherwise, the evidence in the FEIS suggests that the CDNST corridor is not suitable for mountain bike use.

**Violation of Law, Regulation or Policy:** 16 U.S.C. § 1604(f)(1); 16 U.S.C. §§ 1242(a)(2), 1244(f), 1246(c); E.O. 13195; 36 CFR §§ 219.10(b)(1)(vi), 212 Subparts B and C; CDNST Comprehensive Plan – 74 FR 51116-51125; FSM 2353.44b; 40 CFR §§ 1502.14, 1502.24.

## **Section VI. CDNST Regulatory Planning Framework**

The planning and management of National Scenic Trails is addressed by many interrelated laws, regulations, and policies. The following summarizes regulatory framework provisions that are important to Forest Plan decisions and the CDNST designated area:

- USDA DR 1074-001 – Scientific Integrity in policymaking that relates to the development, analysis, and use of data for decision-making.
- 36 U.S.C. § 216 (16 U.S.C. § 1612(a)) – To give adequate notice and an opportunity to comment upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs.
- 16 U.S.C. § 1242(a)(2) – National Scenic Trail Purpose is ... for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass.
- 16 U.S.C. § 1244(f) – The responsible Secretary shall ... submit ... a comprehensive plan for the acquisition, management, development, and use of the trail, including but not limited to, the following items: Specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved ... an identified carrying capacity of the trail and a plan for its implementation....
- 16 U.S.C. § 1246(c) – National scenic trails may contain campsites, shelters, and related-public-use facilities. Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted by the Secretary charged with the administration of the trail... To the extent practicable, efforts be made to avoid activities incompatible with the purposes for which such trails were established. The use of motorized vehicles by the general public along any National Scenic Trail shall be prohibited... Other uses along the historic trails and the Continental Divide National Scenic Trail, which will not substantially interfere with the nature and purposes of the trail, and which, at the time of designation, are allowed by administrative regulations, including the use of motorized vehicles, shall be permitted.”
- E.O. 13195 – Trails for America in the 21st Century – Federal agencies will ... protect, connect, promote, and assist trails of all types throughout the United States. This will be accomplished by: ... (b) Protecting the trail corridors associated with national scenic



trails...to the degrees necessary to ensure that the values for which each trail was established remain intact....

- Executive Order 11644 and 11989 – Use of off-road vehicles on the public lands.
- 36 CFR 212 Subpart B - Designation of Roads, Trails, and Areas for Motor Vehicle Use (§§ 212.50 - 212.57)
- 36 CFR § 212 Subpart C - Over-Snow Vehicle Use (§§ 212.80 - 212.81)
- CDNST Comprehensive Plan
  - Chapter III.E, Land Management Plans (74 FR 51124) – The final amendments are consistent with the nature and purposes of the CDNST identified in the 1976 CDNST Study Report and 1977 CDNST Final Environmental Impact Statement adopted by the Forest Service in 1981 (40 FR 150). The final amendments and directives will be applied through land management planning and project decisions following requisite environmental analysis.
  - Chapter IV.A, Nature and Purposes (74 FR 51124) – Administer the CDNST consistent with the nature and purposes for which this National Scenic Trail was established. The CDNST was established by an Act of Congress on November 10, 1978 (16 USC 1244(a)). The nature and purposes of the CDNST are to provide for high-quality scenic, primitive hiking and horseback riding opportunities and to conserve natural, historic, and cultural resources along the CDNST corridor.
  - Chapter IV.B.2, Rights-of-Way Extent (74 FR 51119) – The rights-of-way for the trails will be of sufficient width to protect natural, scenic, cultural, and historic features along the trails and to provide needed public use facilities....
  - Chapter IV.B.4, Scenery Management (74 FR 51124) –The CDNST is a concern level 1 route, with a scenic integrity objective of high or very high.
  - Chapter IV.B.5, Recreation Management (74 FR 51125) – Manage the CDNST to provide high-quality scenic, primitive hiking and pack and saddle stock opportunities. Backpacking, nature walking, day hiking, horseback riding, nature photography, mountain climbing, cross-country skiing, and snowshoeing are compatible with the nature and purposes of the CDNST. Bicycle use may be allowed on the CDNST (16 U.S.C. 1246(c)) if the use is consistent with the applicable land and resource management plan and will not substantially interfere with the nature and purposes of the CDNST.
  - FSM 2353.44b(10) – Bicycle use may be allowed on the CDNST (16 U.S.C. 1246(c)), using the appropriate trail design standards, if the use is consistent with the applicable CDNST unit plan (FSM 2353.44b(2)) and will not substantially interfere with the nature and purposes of the CDNST (FSM 2353.42).
- Chapter IV.B.6. Motorized Use (74 FR 51125) – Motor vehicle use by the general public is prohibited by the National Trails System Act unless that use:
  - Is necessary to meet emergencies;
  - Is necessary to enable adjacent landowners or those with valid outstanding rights to have reasonable access to their lands or rights;
  - Is for the purpose of allowing private landowners who have agreed to include their

- lands in the CDNST by cooperative agreement to use or cross those lands or adjacent lands from time to time in accordance with Forest Service regulations; or
- Is on a motor vehicle route that crosses the CDNST, if that use will not substantially interfere with the nature and purposes of the CDNST;
  - Is designated in accordance with 36 CFR Part 212, Subpart B, on National Forest System lands or is allowed on public lands and:
    - The vehicle class and width were allowed on that segment of the CDNST prior to November 10, 1978, and the use will not substantially interfere with the nature and purposes of the CDNST or
    - That segment of the CDNST was constructed as a road prior to November 10, 1978; or
  - In the case of over-snow vehicles, is allowed in accordance with 36 CFR Part 212, Subpart C and the use will not substantially interfere with the nature and purposes of the CDNST.
  - FSM 2353.44b(11) – Motor vehicle use by the general public is prohibited on the CDNST, unless that use is consistent with the applicable CDNST unit plan and: [repeats Comprehensive Plan Chapter IV.B.6 list and refers to CDNST unit plan].
- 16 U.S.C. § 1604(f)(1) – Form one integrated plan
  - 36 CFR § 219.3 – Best Available Scientific information
  - 36 CFR § 219.7 – Plan Components (where they apply)
  - 36 CFR § 219.9(a)(1) - Ecosystem Integrity
  - 36 CFR § 219.10(a) – Integrated Resource Management for Multiple Use.
  - 36 CFR § 219.10(b)(1)(i) – Sustainable recreation
  - 36 CFR § 219.10(b)(1)(vi) – Management of other designated areas
    - FSH 1909.12 part 22 – Requirements for an Integrated Plan
    - FSH 1909.12 part 22.1 – Plan Components
    - FSH 1909.12 part 23 – Resource Requirements for Integrated Plan Components
    - FSM 2310.3 (WO Amendment 2300-90-1) – Recreation Planning
    - FSM 2382.1 – Scenery Management System
    - FSH 1909.12 part 23.23a – Sustainable Recreation Resources
    - FSH 1909.12 part 23.23f – Scenery, Aesthetic Values, and Viewsheds
    - FSM 2353.4 – National Scenic Trails – CDNST (74 FR 51125)
    - FSH 1909.12 part 24.43 - National Scenic and Historic Trails
  - 40 CFR § 1502.14 – Proposed Action and Alternatives
  - 40 CFR § 1502.15 – Affected Environment
  - 40 CFR §§ 1502.16, 1502.24, 1508.7, 1508.8 – Environmental Consequences
  - 40 CFR § 1502.24 – Methodology and Scientific Accuracy
  - 40 CFR § 1503.4(a) – Response to Comments

## Section VII. Specialized and Expert Knowledge

My professional expertise is in dispersed recreation and designated area management and natural resources planning.<sup>34</sup> I was the principal resource specialist in of the development and considerations of the final amendments to the CDNST Comprehensive Plan and final directives (Federal Register, October 5, 2009, 74 FR 51116). I coauthored a Recreation Opportunity Spectrum Technical Guide with Warren Bacon and George Stankey. My academic experience includes receiving a M.S. in Wildland Recreation Management and a B.S. in Wildlife Biology.

My assessment and objection of the Proposed Plan, FEIS, and Draft ROD is also based on recreation research and handbooks including information found in:

1. The Recreation Opportunity Spectrum: A Framework for Planning, Management, and Research, General Technical Report PNW-98,<sup>35</sup> 1979, by Roger Clark and George Stankey;
2. ROS Users Guide 1982 (and ROS Book 1986) (U.S. Department of Agriculture, Forest Service. ROS Users Guide. Washington, DC: U.S. Department of Agriculture, Forest Service);
3. Recreation Opportunity Setting as a Management Tool Technical Guide,<sup>36</sup> 1986, by George Stankey, Greg Warren, and Warren Bacon;
4. Landscape Aesthetics, A Handbook for Scenery Management, Agricultural Handbook Number 701, 1995;
5. Studies in Outdoor Recreation: Search and Research for Satisfaction. Studies in Outdoor Recreation: Search and Research for Satisfaction by Robert Manning, 2010, and
6. Other similar publications and papers.<sup>37</sup>

My most recent CDNST Planning Handbook is posted online at NStrail.org.

Thank you for accepting and considering this objection and proposed resolution as described in Section I Part C.

*Greg Warren*<sup>38</sup>

Greg Warren

Attachment A – Draft Plan and DEIS Comments

Attachment B – 1986 ROS Book

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<sup>34</sup> [http://nstrail.org/gwarren\\_experience.htm](http://nstrail.org/gwarren_experience.htm)

<sup>35</sup> [http://nstrail.org/carrying\\_capacity/gtr098.pdf](http://nstrail.org/carrying_capacity/gtr098.pdf)

<sup>36</sup> [http://nstrail.org/carrying\\_capacity/ros\\_tool\\_1986.pdf](http://nstrail.org/carrying_capacity/ros_tool_1986.pdf)

<sup>37</sup> <http://nstrail.org/references.htm>

<sup>38</sup> Signature provided upon request

## **Appendix A – FSM 2310 Sustainable Recreation Planning Review.**

**FSM 2310** (2300-2020-1) – Sustainable Recreation Planning, approved by Tina Terrell, Associate Deputy Chief on April 23, 2020.

The amended policy makes substantial changes to the recreation planning direction without the benefit of 36 CFR § 216 public involvement processes. This policy replaces FSM 2310 (WO Amendment 2300-90-1) that required the use of the ROS planning framework: *“FSM 2311.1 - Recreation Opportunity Spectrum (ROS). Use the Recreation Opportunity Spectrum (ROS) system and the ROS Users Guide (U.S. Department of Agriculture, Forest Service. ROS Users Guide. Washington, DC: U.S. Department of Agriculture, Forest Service; 1982. 37p.) to delineate, define, and integrate outdoor recreation opportunities in land and resource management planning.”*

Amended **FSM 2310.2** objectives states, *“The overarching objective of sustainable recreation planning is to inform decisions that result in sustainable recreation outcomes. To be sustainable, recreation settings, opportunities, and benefits must: ... 1. Be compatible with other multiple uses....”*

**Observation:** The intent of this objective is unclear; however, a literal reading of the guidance would indicate that the objective is inconsistent with *“multiple use”* as defined by the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. § 531). NFMA integration requirements are reviewed in FSH 1909.12 part 22. Clearly, the recreation resource is not inferior to other multiple use resources. For example, Forest Plan allocations of Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized ROS settings without a timber resource purpose would be consistent with the Multiple Use and Sustained Yield Act.

Primitive and Semi-Primitive ROS classes will constrain some actions such as mechanical treatments with heavy equipment and road development if these desired ROS class opportunities are to be available to recreationists seeking these experiences. The recreation opportunity setting since its inception has been composed of other natural features in addition to the six factors. Landform types, vegetation, scenery, water, and wildlife are all important elements of recreation environments; they influence where people go and the kinds of activities possible. Making choices between competing resource priorities is often the nature of integrated resource management planning as required by the National Forest Management Act (16 CFR § 1604(f)(1), 36 CFR § 219.10(a), FSH 1909.12 Part 22).

This objective should be deleted, but could be restated describing that, *“Be derived through integrated planning processes”* (36 CFR § 219.10(a)). The Multiple-Use Sustained-Yield Act makes that principle clear by explaining that *“multiple use”* means management to make *“judicious use of the land for some or all”* of the renewable resources thereon, with some land *“used for less than all of the resources”* (16 USC 531).

Amended **FSM 2310.2** also describes, *“These ecological and socio-economic outcomes are not only important to the sustainability of recreation, but also contribute to the sustainability of the unit and Agency as a whole....”*

**Observation:** The direction in parts 1 through 7 improves on the prior FSM 2310 direction and provides for important integration considerations that are also found in the planning directives (FSH 1909.12). The statement, *“contribute to the sustainability of the unit and Agency as a whole”* is out of place and should be deleted.

Amended **FSM 2310.2 part 8** states, *“Resource program plans (such as, travel management plans, and so forth), area plans (for example, Comprehensive River Management Plans, and so forth) and project decisions implement, support, and are consistent with relevant land management plan(s) decisions. FSH 1909.12, sec. 24.”*

**Observation:** Comprehensive River Management Plans and National Scenic and Historic Trail Comprehensive Plans should be consistent with the relevant Forest Plan, but this statement would suggest that designated area plan decisions are subordinate to Forest Plan decisions regardless of the Forest Plan direction. FSM 2310.2 part 8 should be redrafted plainly stating that NFMA, W&SR, and National Scenic and Historic Trail plan decisions must provide for the purposes for which an area is designated. In addition, FSM 2310 should clearly state that, *“Comprehensive Plans developed in response to the requirements of the National Trails System Act (16 U.S.C. §§ 1244(e), 1244(f)), and the Wild and Scenic Rivers Act (16 U.S.C. § 1274(d)) are not resource plans as defined by the NFMA (16 U.S.C. §1604(i) and 36 CFR §219.15(e)).* The phrase, *“and so forth”* is not helpful and should be deleted.

National Scenic Trails, Wild and Scenic Rivers, and Wilderness legislation keeps the management of the federal land under the agencies existing authorities, but subject to the overriding purpose of protecting qualities and values described by the designated area legislation. The establishment of these designated areas thus constitutes an overlay on the management regime otherwise applicable to lands managed by the agency. By eliminating activities and uses incompatible with the purposes for which an area is designated, the designated area limits the management discretion that the agency might otherwise have.

Amended **FSM 2310.3** policy begins by describing that, *“1. Units shall review and use relevant land management plan decisions to guide and inform smaller-scale planning decisions. To ensure attainment of sustainable recreation, all projects and activities must be consistent with the applicable plan components of the land management plan (36 CFR 219.15 (d)).”*

**Observation:** An element that is missing from the direction is to describe policy that responsible officials are to ensure that land management plans are prepared through NEPA interdisciplinary processes that address the integration of the recreation resource in planning

analyses and decisions (16 U.S.C. 1604(f), 36 CFR 219.10). In addition, Forest Plans must provide for the purposes for which designated areas were established.

Amended **FSM 2310.5** defines Resource Programs and Area Plans as, *“Plans that address a specific multiple use or resource program on the forest or grassland, or portion of one or more forests or grasslands. The plan area can be delineated by ecological units (such as, watersheds, wildlife habitat areas, riparian areas, geological formations or features, and so forth), and/or by socio-economic considerations (such as, market area, designated area, urban interface area, administrative units such as a ranger district, and so forth). Common examples of recreation-related resource program plans include: facilities plans, travel management plans, interpretive plans, etc. Area-specific plans include: National Scenic or Historic Trail Plans, National Monument Plans, Comprehensive River Management Plans, National Recreation Area Plans, etc. Resource program and area plans must be consistent with land management plan direction. Reference 36 CFR 219.15.”*

**Observation:** FSM 2310 needs to describe that planning processes must provide for the purposes for which an area was designated. FSM 2310 should clearly state that, *“Comprehensive Plans developed in response to the requirements of the National Trails System Act (16 U.S.C. §§ 1244(e), 1244(f)) and the Wild and Scenic Rivers Act (16 U.S.C. § 1274(d)) are not resource plans as defined by the NFMA (16 U.S.C. §1604(i) and 36 CFR §219.15(e)).”*

Amended **FSM 2310.5** defines Recreation Opportunity Spectrum classes. The characterizations of ROS classes are a significant deviation from established Physical Setting descriptions. *“Evidence of Humans,” “Non-Recreation Uses,”* and *“Naturalness”* setting indicators are improperly omitted in the narratives for Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized ROS settings.

**Observations:** Primitive settings allow for mechanized use outside of wilderness in the amended FSM 2310 direction. Bicycles should not be allowed in Primitive ROS settings. Primitive means *“of or relating to an earliest or original stage or state.”* Mountain bikes are not primitive in nature. Asymmetric impacts between bicyclists and traditional nonmotorized users will tend to displace hikers and equestrians from non-wilderness trails. Manning states, *“The asymmetric or one-way nature of conflict suggests that active management is needed to maintain the quality of recreation for visitors who are sensitive to conflicting uses. Visitors who are sensitive to conflict are likely to be dissatisfied or ultimately displaced.”* FSM 2310 should describe that the trail class norm is Pack and Saddle Stock Class 2 and 3 (FSH 2309.18 23.12 – Exhibit 01).

Semi-Primitive Non-Motorized settings exempts open roads stating that, *“occasional administrative use occurs on these roads for the purpose of natural and cultural resource protection and management.”* This ROS setting does not allow for new administrative or public

use roads except in very limited situations – closed roads may be present, but are managed to not dominate the landscape or detract from the naturalness of the area. The statement that, *“occasional administrative use occurs on these roads for the purpose of natural and cultural resource protection and management”* should be deleted.

Exhibit 01, Vegetation states that, *“Treatments enhance forest health and mimic natural vegetation patterns.”* This is a significant change from the original intent of this ROS class. Desired conditions must stress the need to reflect the constraints described for *“Evidence of Humans,” “Non-Recreation Uses,”* and *“Naturalness”* setting indicators for this ROS setting. Specifically, the statement that treatments are to enhance forest health is vague and could lead to actions that benefit timber programs over allowing for natural processes to unfold. Treatments are to mimic natural vegetation patterns is also vague and should be deleted. Forest health is an increasingly important concept in natural resource management. The definition of forest health is difficult and dependent on desired conditions. From an ecosystem-centered perspective, forest health has been defined by resilience, recurrence, persistence, and biophysical processes which lead to sustainable ecological conditions. Most important, to minimize the evidence of humans, vegetation management actions need to avoid restoration actions that require the construction of permanent and temporary roads within SPNM areas.

Semi-Primitive Motorized settings allows for maintenance level 2 roads, which are not primitive roads as described in the 1982 ROS direction. Some revised forest plans are establishing SPM settings for timber production areas, which is inconsistent with the intent of this ROS class as used in the Planning Rule. Possibly, FSM 2310 could describe that, *“Motorized routes are typically designed as motorized trails (FSH 2309.18 part 23.21, Trail Class 2, No Double Lane) and Four-Wheel Drive Vehicles routes (FSH 2309.18 part 23.23, Trail Class 2, No Double Lane), offering a high degree of self-reliance, challenge, and risk in exploring these backcountry settings.”* These trail classes would provide for the desired motorized experiences, while protecting soil and water resources through design parameters.

**FSM 2310.5** defines ROS Class Characteristics as, *“The physical, social, and managerial features that function collectively to define a specific recreation opportunity spectrum setting (ROS class) ... Both summer and winter setting characteristics for each of the six primary ROS classes are summarized in section 2311, exhibit 01.”*

**Observation:** Exhibit 01 describes ROS characteristics as *“themes,”* which is not defined nor recognized as a plan component in forest planning processes (36 CFR § 219 and FSH 1909.12 directives). Failing to identify desired conditions and other plan components in the definition reduces the importance and effectiveness of the planning directives requirement that states, *“The plan must include plan components, including standards or guidelines, to provide for sustainable recreation integrated with other plan components as described in 23.21a. To meet*

*this requirement the plan: ... (a) Must include desired conditions for sustainable recreation using mapped desired recreation opportunity spectrum classes...* (FSH 1909.12 23.23a).

**Discussion:** Desired conditions are the basis for the rest of the plan components; objectives, standards, guidelines, and suitability determinations must be developed to help achieve the desired conditions. If forest plans contain specific, measurable desired conditions, this should focus the process of identifying locations where projects are needed, and thereby increase the efficiency of project planning. General Technical Report PNW-98 December 1979 states, *“The ROS is a helpful concept for determining the types of recreational opportunities that should be provided. And after a basic decision has been made about the opportunity desirable in an area, the ROS provides guidance about appropriate planning approaches—standards by which each factor should be managed.”*

The 1986 ROS Book states, *“The physical setting is defined by the absence or presence of human sights and sounds, size, and the amount of environmental modification caused by human activity. The physical setting is documented on an overlay by combining these three criteria as described below. Physical Setting - The physical setting is best defined by an area's degree of remoteness from the sights and sounds of humans, by its size, and by the amount of environmental change caused by human activity. Human Developments – The apparent naturalness of an area is highly influenced by the evidence of human developments. If the landscape is obviously altered by roads, railroads, reservoirs, power lines, pipe lines, or even by highly visual vegetative manipulations, such as clearcuttings, the area will not be perceived as being predominately natural. Even if the total acres of modified land are relatively small, "out of scale" modifications can have a negative impact.”*

The 2012 Planning Rule Programmatic Environmental Impact Statement states the analysis of the recreation resource is based on the 1986 ROS Book, Scenery Management System, and Recreation facility analysis. Furthermore, the Planning Rule PEIS states, *“These tools are used to define existing conditions, describe desired conditions, and monitor change. These tools, along with overarching guidance at the national, Department, and Agency levels, serve as the context by which individual national forests and grasslands engage with their communities. In doing so, the unit's recreation-related and amenity-based assets are considered and integrated with a vision for the future that is sustainable and that the unit is uniquely poised to provide. As the current planning rule procedures related to recreation are quite general, these tools contribute to consistency in recreation planning across NFS units.*

*The recreation opportunity spectrum has been an effective land management planning tool since 1982. The recreation opportunity spectrum is a framework for identifying, classifying, planning, and managing a range of recreation settings... In each setting, a range of activities is accommodated. For example, primitive settings accommodate primarily non-motorized uses, such as backpacking and hiking; whereas roaded settings (such as roaded natural) or rural*



*settings accommodate motorized uses, such as driving for scenery or access for hunting. Through this framework, planners compare the relative tradeoffs of how different patterns of settings across the landscape would accommodate (or not accommodate) recreational preferences, opportunities, and impacts (programmatic indirect environmental effects) with other multiple uses. The scenery management system provides a vocabulary for managing scenery and a systematic approach for determining the relative value and importance of scenery in an NFS unit. The system is used in the context of ecosystem management to inventory and analyze scenery, to assist in establishment of overall resource goals and objectives, to monitor the scenic resource, and to ensure high-quality scenery for future generations” (Forest Service Planning Rule, PEIS, page 209).*

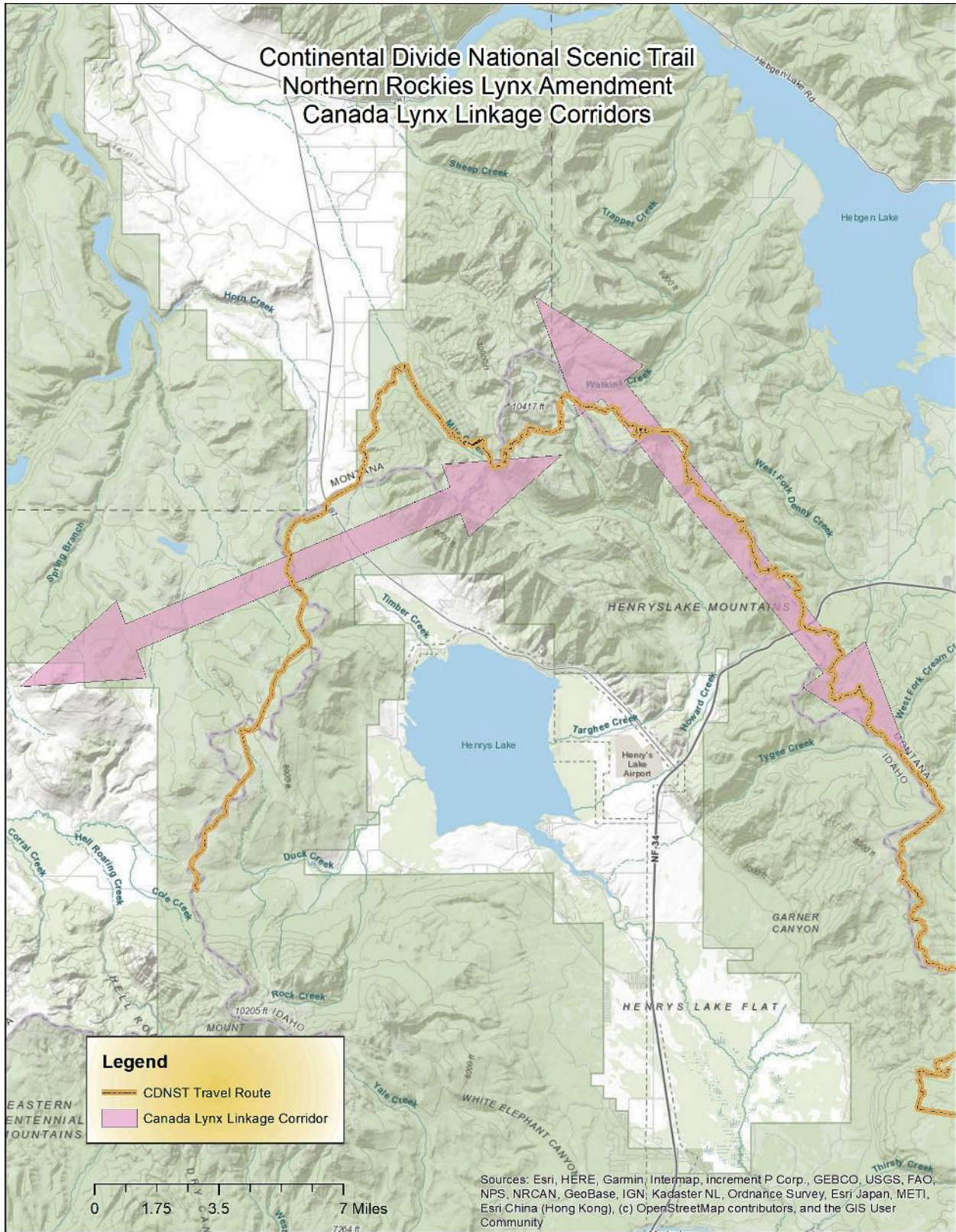
An example of a consequence if FSM 2310 (2300-2020-1) definitions are applied to plan components is that an established Semi-Primitive Non-Motorized ROS setting would no longer protect CDNST nature and purposes, since resource and road development management actions could result in a setting similar to that expected in a Roaded Modified ROS setting (FSH 1909.12 23.23a). The ROS class protection standard for the CDNST corridor should be restricted to the establishment of a Primitive ROS setting if FSM 2310 (2300-2020-1) is not rescinded.

The Forest Service did not provide a reasoned basis or a detailed justification for modifying the 1982 ROS User Guide and 1986 ROS Book Recreation Opportunity Spectrum setting definitions and disclosing the consequences of those changes to recreationists seeking Primitive and Semi-Primitive ROS settings, including those seeking high-quality scenic, primitive hiking and horseback riding experiences along the Continental Divide National Scenic Trail. The formulation and issuance of FSM 2310 (2300-2020-1) is not in compliance with the Public Participation requirement of FRRRPA and the Public Notice and Comment for Standards, Criteria, and Guidance Applicable to Forest Service Programs (16 U.S.C. § 1612(a), 36 CFR § 216). The amended policy (2300-2020-1) is inconsistent with the 36 CFR § 219 forest planning regulations and the Planning Rule PEIS.

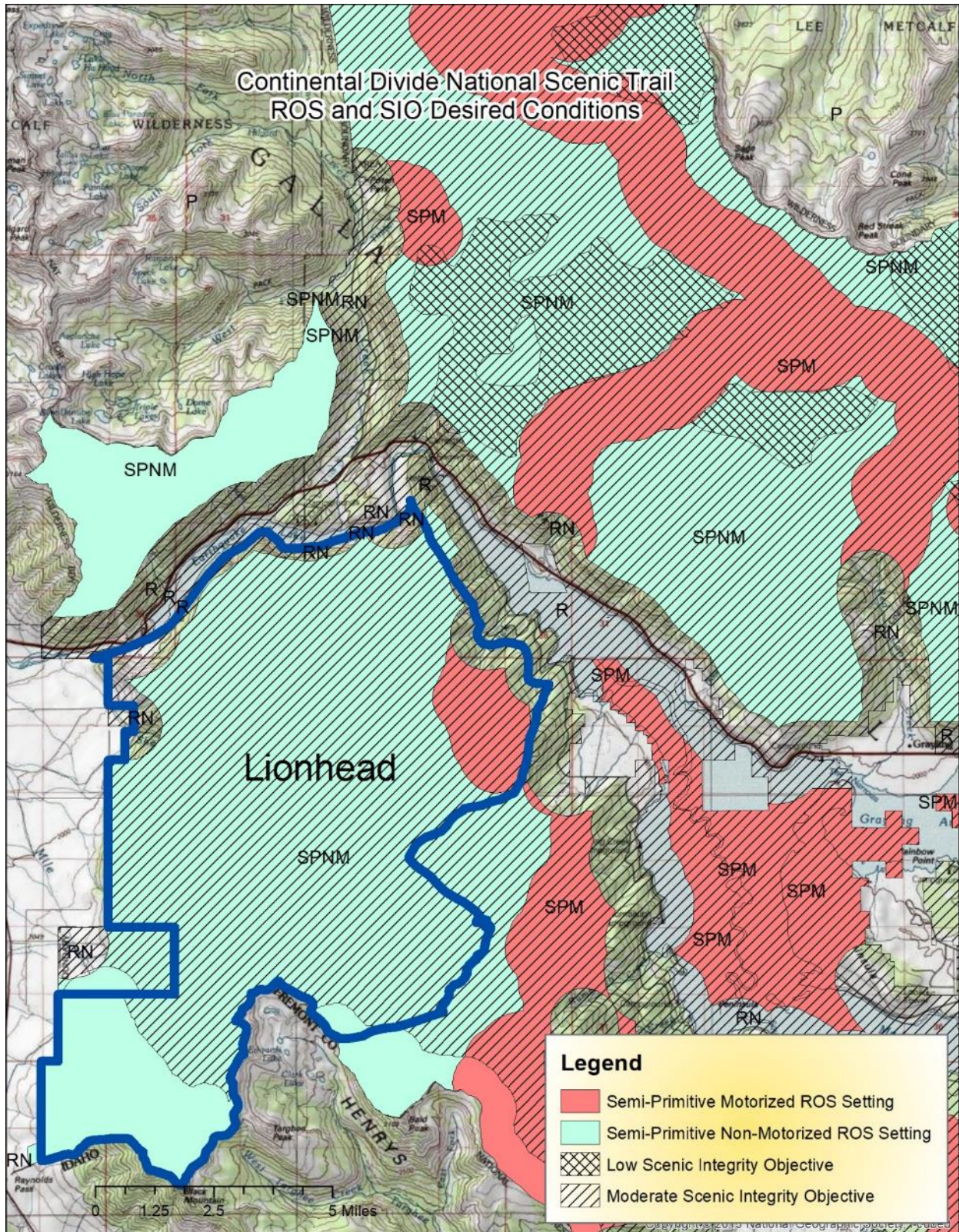
FSM 2310 (2300-2020-1) policy should be reissued following 36 CFR § 216 public involvement processes to define the ROS Classes as desired conditions, to include ROS Class Characteristics descriptors that address, in part, “*Evidence of Humans*,” “*Non-Recreation Uses*,” and “*Naturalness*” characteristics, and to make other changes that support providing for the integration of the recreation resource in natural resources planning processes. In addition, the formulation and issuance of any Recreation Planning Handbook should follow 36 CFR § 216 public involvement processes.

Sustainable Recreation Planning directives must be consistent with the 1986 ROS Book guidance and related research, which informed the Planning Rule. Forest Service directives must be consistent with the USDA Departmental Regulation 1074-001 scientific integrity policy that relates to the development, analysis, and use of data for decision-making.

Appendix B – Canada Lynx Linkage Area along the CDNST.



**Appendix C – Alternative F establishes inconsistent and unacceptable Moderate and Low Scenery Integrity Objective allocations in Semi-Primitive Non-Motorized ROS settings.**



**Appendix D.** Reas Pass to Yellowstone National Park CDNST high potential route segment that is not protected through provisions of the Custer-Gallatin and Caribou-Targhee Forest Plans.

