



December 29, 2020

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Manti-La Sal National Forest Supervisor's Office
Attention: Plan Revision Team
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Re: Comments on the Manti-La Sal National Forest's Draft Forest Plan and Wild and Scenic River Report

Dear Interdisciplinary Team Members,

We respectfully submit the following comments on the Manti-La Sal National Forest's (MLSNF) Documentation of the *Wild and Scenic Rivers Eligibility Study and Report* and *Draft Forest Plan* during the pre-scoping phase of the Forest Plan Revision.¹ We appreciate this opportunity to present additional data, recommendations, and proposals regarding the Forest's Wild and Scenic eligibility inventory, and its important management of rivers streams, wetlands, washes and seeps.

American Rivers is a leading conservation organization working to protect and restore the nation's rivers and streams. Our mission is to protect wild rivers, restore damaged rivers, and conserve clean water for people and nature. Since 1973, we have conserved more than 150,000 miles of rivers through Wild and Scenic River (WSR) designations, dam removals, on-the-ground projects, and advocacy efforts. Our Colorado River Basin Program is headquartered in Denver, CO, and our new Southwest River Protection Program has locations in Durango, CO and Moab, UT. Stewardship of the Wild and Scenic Rivers System is at the core of our work as an organization, including eligible, suitable and designated rivers.

Overview

The Manti-La Sal National Forest is a special place, including a unique and important series of alpine islands and headwaters areas above the deep desert landscape of Central and Southeast Utah. It's home to a diversity of fish and wildlife species, some threatened or endangered, some endemic, and all making their homes in largely intact, public lands ecosystems. These same areas have been home to the Fremont, Ancestral Puebloan, Ute, Navajo, Zuni and other people since time immemorial. The region contains some of the highest density of Ancestral Puebloan archeological sites in the country, preserved by the dry air and deep canyons that follow intermittent and perennial streams across the landscape. Water is indeed life on the arid Colorado Plateau. As such, Forest planning carries a lot of weight, directing the management of

¹ Manti-La Sal National Forest Wild and Scenic Rivers Eligibility Study and Report, Final Eligibility Report, April 2018.

1.2 million acres of ecologically and culturally important public lands and rivers for the next 15-20 years.

The Forest has had, by our estimation, a complicated and checkered history regarding the inventory and management of Wild and Scenic eligible streams, as required under the Wild and Scenic Rivers Act of 1968, the 2012 Forest Planning Rule, and subsequent directives. We highlight this history below. The Forest's 2017-2020 Final Eligibility Study and Report proposes just one, 1.2-mile stream reach for Wild and Scenic eligibility out of hundreds of free-flowing streams on the Forest. We find this inadequate, contrary to the laws and policies governing such inventories, and flying in the face of the Congressional intent behind the study process in the Wild and Scenic Rivers Act. With the Notice of Intent to revise the Manti-La Sal Forest Plan expected in early 2021, there is still plenty of time to move forward in a way that adequately protects important, free-flowing streams on the Forest for the duration of the new plan. We suggest ways that the Forest can do so below.

History of the Wild and Scenic Rivers Act on the Manti-La Sal National Forest

- **1986 First MLSNF Forest Plan** - No Wild and Scenic eligible streams were either studied or inventoried, from what we can tell. The Forest also contained no designated Wild and Scenic rivers, and does not to this day.
- **2003 Wild and Scenic Eligibility Study** - Using 1996 planning direction, the MLSNF found 14 river systems to be eligible for designation under the Wild and Scenic Rivers Act using a HUC 5 level of evaluation, which was replaced with a new standard of evaluation in the 2012 Forest Planning Rule. Under this 2012 standard, all 14 of these stream systems are eligible in 2020.

Those 14 stream systems were:

1. Lower Left Fork of Huntington Creek
 2. Huntington Creek
 3. Fish Creek, including Lower Gooseberry Creek
 4. North Fork of Whiskers, including Whiskers Draw
 5. Hammond Canyon
 6. Notch Canyon
 7. Posey Canyon
 8. Chippean and Allen Canyons
 9. Butts Canyon, Arch Canyon, and Texas Canyon
 10. Upper Dark, including Drift Canyon, Horse Pasture Canyon, Rig Canyon, and Peavine and Kigalia Canyon
 11. Lower Dark Canyon, including Poison Canyon, Deadman Canyon, Trail Canyon, Warren Canyon, and Woodenshoe and Cherry Canyons
 12. Mill Creek Gorge
 13. Roc Creek
 14. Miners Basin
- **2006-2007 The MLSNF reevaluated these 14 streams, removing 4 because they were “ephemeral” even though this is contrary to direction in the Wild and Scenic Rivers Act and the Forest Service Handbook** (See: Chapter 80, 82.72)

- **2008 The MLSNF participated in a “Wild and Scenic River Suitability Study for National Forest System Lands in Utah,” which subsequently released all 14 previously eligible streams from eligibility and protective management.** The agency evaluated 86 Wild and Scenic eligible rivers (840 river miles) on USFS-managed lands across Utah for their “suitability” – essentially if the agency thought that they should be *designated* Wild and Scenic by Congress in 2008. Only 10 rivers (108 river miles) were found suitable across the entire state by the agency. The remaining 76 non-suitable rivers were released into multiple-use management. Zero rivers on the Manti-La Sal NF were found suitable for designation in 2008, eliminating administrative protections for all 14 eligible rivers.

A number of political and economic factors are included in a suitability determination, which can be thought of as a political snapshot, valid only in a particular slice of time. A lot has changed in the past 12 years though, including Forest leadership, recreational uses and impacts, invasive species proliferation, climate impacts, Threatened and Endangered species and designated habitat, science supporting the importance of water resources and river corridors, human population growth and development, local and state politics, and Tribal engagement in public lands management, including new sacred and cultural site information. Some examples as to why the Agency made the suitability decisions that it did can be found in the documents from 2008. An extreme and outdated overestimate of the “costs” of Wild and Scenic designation seemed to be one factor, in addition to deference to the local politics 12 years ago (citing even older data from 2001):

“The following information is based on 2001 data, which doesn’t account for inflation over the past six years, but is the best available data. If a river is designated as Wild, Scenic, or Recreational, the actual cost of preparing the comprehensive river management plan would average \$200,000 per plan for 86 segments, which would cost approximately \$17.2 million the first two to three years following designation. It was estimated that annual management costs for a high complexity river would be \$200,000; a moderate complexity river would be \$50,000; and a low complexity river at \$25,000. Using an average of complexity costs, it would cost the Forest Service around \$7.8 million annually for 86 segments. (Estimated Costs of Wild and Scenic Rivers Program - V. 091104)”

It strains credulity that the Forest Service evaluated the costs of designating *all 86* eligible rivers in the state as Wild and Scenic *at the same time*, rather than evaluating the administrative costs of managing eligible and suitable rivers (which are negligible). This is a flaw in the logic of the Suitability Determination that the MLSNF perpetuates today.

Self-referential logic seemed to be a factor in the 2008 evaluation as well:

“The 1986 Forest Plan is inconsistent with designation in that it does not prohibit water uses or development.” (Page: A-281, WSR Suitability Report)

This logic essential states that the MLSNF should not protect its eligible rivers because the forest plan at the time (24 years old *then*, in 2008) did not prohibit water development? By this logic we should not develop a Covid-19 vaccine because nothing in our health regulations from 24 years ago prohibits the Covid-19 pandemic.

Nearly all opposing politicians quoted in the 2008 Suitability study have long since retired. Should future generations forever be beholden to decisions made years earlier,

by different people, in a different context? This is contrary to adaptive management principles, and the reasons that we update forest plans periodically. We strongly disagree with the findings of this study, the way in which it was completed, and the errors in policy and law that have been carried forward to 2020 in arbitrary and capricious ways.

- **2017-2020 Wild and Scenic Eligibility Inventory.** This Wild and Scenic study excluded all previously studied rivers (relying on outdated logic and planning direction from decades earlier) and failed to document a supposed lack of changed conditions since the 2003 inventory, now 17 years old. Changed conditions since 2003 include: Accelerating climate change and the scientific importance of cold-water refugia, changing recreation uses, new ESA listings, updated Species of Conservation Concern, proliferation of invasive species, Bears Ears National Monument designation and increased Tribal engagement in sacred sites and public lands management, oil and gas fracking boom(s), etc. According to MLSNF, the remaining unevaluated rivers across 1.2 million acres of land consisted of just 8 rivers in 2017-2020, covering only 8.9 river miles. From the data that we've been provided, this ignores the requirement under the 2012 Forest Planning Rule to evaluate all named streams on a 7.5" USGS Topographic Map and any streams suggested by the public.

Duck Fork Creek was also re-evaluated due to changed conditions – Colorado River cutthroat trout brood stock was found to exist in Duck Fork Reservoir by UT Division of Wildlife Resources since the 2003 study. These trout now spawn upstream from the reservoir.

It appears that under the new direction of the 2012 Forest Planning Rule, just 9 rivers in total were evaluated for Wild and Scenic eligibility in 2017-2020, covering only 10.1 river miles. If other streams were evaluated, the list of those streams and the evaluation methods used are unknown (though required to be included in an appendix). The regions of comparison the Forest used are also unknown. The Forest found just one river to be eligible, compared with many comparable forests that have found dozens of rivers to be eligible during recent plan revisions. It strains credulity that a 1.2-million-acre forest could only have 1.2 miles of valuable, free-flowing stream on it.

Found Eligible:

1. Duck Fork Creek – 1.2 miles, Scenic, Fish ORV – Colorado River cutthroat trout breeding ground

Found Not Eligible: (8.8 miles)

1. Gammett Creek – 1.0 mile
2. Japanese Creek – 2.3 miles
3. Kane Springs Creek – 0.8 mile
4. Link Canyon Wash – 0.8 mile
5. Salt Creek 2 – 1.0 mile
6. Serviceberry Creek – 0.4 mile
7. Spring Creek 4 – 0.3 mile
8. Wife Creek – 2.2 miles

While the 8 new rivers found not eligible may very well be warranted as such, there are dozens of other eligible streams on the Forest, including the original 14 eligible streams above and seemingly hundreds of waterways that were never evaluated for their Wild and Scenic eligibility as required by law. It should be noted that though this study has

been repackaged for 2020, both the evaluations and public comments were completed in 2017, over three years ago.

Wild and Scenic Eligibility Inventories

It is important to note that standards for stream eligibility under Wild and Scenic Rivers Act (WSRA) are straightforward: “A wild, scenic or recreational river area eligible to be included in the system is a free-flowing stream and the related adjacent land area that possesses one or more of the values referred to in Section 1, subsection (b) of this Act...”²

Contrary to the MLSNF’s strict .25-mile corridor for evaluation,³ the WSRA requires that all values be considered in the *adjacent area* if they owe their existence to the river, even if they are beyond .25 miles from the mean high-water line. Indeed, many features of canyons and valleys, owing their existence to flowing water – erosional forms, habitat communities, cultural sites – are farther than .25 miles from the mean high-water line. In fact, the WSRA only states that a river corridor *average* 320 acres per mile, making the Forest’s .25-mile criteria arbitrary and capricious.

The corresponding list of values in Section 1 to be considered in determining eligibility are

“...outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, *or other similar values*...”⁴

Restated, all named and nominated streams on the Forest *must* be inventoried as eligible under the Wild and Scenic Rivers Act, no matter their previous status, if they are:

1. Free-flowing, and...
2. Possessing at least one Outstandingly Remarkable Value (ORV), in combination with its adjacent land area, within a region of comparison.⁵

The *Forest Service Land Management Planning Handbook* provides guidance for the assessment of the “outstandingly remarkable” nature of a stream value, instructing that such value(s) must be river-related and “...must be a unique, rare, *or* exemplary feature that is significant when compared with similar values from other rivers at a regional or national scale.”⁶

All named streams on a 7.5” USGS topographic map, as well as any streams nominated for evaluation by local, state and federal agencies or the public, must be evaluated for their Wild and Scenic eligibility, unless conditions have not changed since a previous, comprehensive evaluation was completed for each stream. The outcome of such evaluations must be listed in an appendix to the report, including a list of all streams evaluated and the reason for their status.⁷ The MLSNF has only provided a partial list of evaluated rivers in its 2017-2020, and previous decisions carried forward appear to have relied on only Fish and Wildlife ORVs.⁸

² Wild and Scenic Rivers Act of 1968, Section 2(b)

³ Appendix D, Wild and Scenic and Scenic River Report for the Manti-La Sal National Forest, Sept 2020, p. 11.

⁴ Emphasis added.

⁵ FSH 1909.12, Chapter 80, 87.2

⁶ FSH 1909.12, Chapter 80, 82.73. Emphasis added.

⁷ FSH 1909.12, Chapter 80, 82.2, 82.4, 82.9

⁸ MLSNF Wild and Scenic Eligibility Study and Report, Appendix A, April 2018.

In its 2020 Wild and Scenic Rivers Report for the Manti-La Sal National Forest, the Forest notes that it was advised in the past by the Intermountain Region to remove ephemeral streams from its inventory. This is contrary to direction in the Wild and Scenic Rivers Act, the 2012 Forest Planning Rule, and the Agency’s own handbook guidance:

“There are no specific requirements for minimum flows or for temporal or spatial continuity of flows for an eligible segment. Flows are considered sufficient for eligibility if they sustain or complement the outstandingly remarkable values for which the river would be designated.”⁹

On the contrary, in the arid West, free-flowing ephemeral and intermittent streams are incredibly important, supporting a multitude of ORVs.

The following comments will present information and justification for establishing additional ORVs, as allowed under Wild and Scenic Rivers Act.¹⁰ Examples of “other similar” ORVs that American Rivers documents include *ecosystem services* and *climate adaptation*, acknowledging changed conditions in the best available science over the past 20+ years. The Forest should carefully evaluate potentially eligible streams for these ORVs in addition to the others listed in the Act, as well as identifying the appropriate criteria for defining, locating, and protecting those values.

Regions of Comparison

The 2012 Planning Rule and Forest Service Handbook require the Forest to determine “regions of comparison” and to consult information from other sources, including other agencies, NGOs, and research institutions.

Use of regions of comparison should be flexible in order to err on the side of finding streams eligible, in accordance with the purpose and intent of the Wild and Scenic Rivers Act and the 2012 Forest Planning Rule, lest key values go unprotected. Determinations of whether river-related values are “outstandingly remarkable,” whether in a forest, regional, state or national context, should be based on the importance of streams, stream corridors, and their related values to the ecological and hydrological health of the Manti-La Sal National Forest and the surrounding areas bordering it.

It is important again to note that guidance specifies that ORVs are “...unique, rare, or exemplary...” features.¹¹ The presence of a particular stream-related value at one or more locations in a region of comparison does not disqualify that feature as an ORV for a stream reach being evaluated. A feature that appears in multiple locations may still be either rare, unique or exemplary at any or all of those locations.

Competing Uses, Eligibility and Suitability

The Forest Service Handbook provides that when evaluating a stream’s eligibility, consideration of supplemental information provided by other governmental entities and the public must be applied to only the two essential standards for measuring eligibility: Free-flowing character and the presence of at least one Outstandingly Remarkable Value.¹² Factors such as potentially competing uses, plans for development, comparison of alternative means of protection, non-

⁹ FSH 1909.12, Chapter 80, 82.72

¹⁰ Sections 1(b) and 2(b), and as described in FSH 1909.12, Chapter 80, 80.5, 82.73, and 82.73a7.

¹¹ Emphasis added.

¹² FSH 1909.12, Chapter 80, 81.2.

federal management plans or preferences, costs of management, support for or opposition to designation, etc. are not allowed during eligibility inventories.¹³

We support the Forest’s decision not to pursue a Wild and Scenic suitability evaluation as part of the current forest plan revision.¹⁴ Suitability analyses are only appropriate when in response to a congressional study mandate or in response to proposed projects that may harm an eligible stream or stream-related value.¹⁵

Transparency, Format, and Decision-making Data

The 2020 draft eligibility evaluation clearly presents the sequence of evaluation undertaken for the 9 streams considered. The evaluation document falls short, however, in providing information about streams studied but not proposed for eligibility. No list is provided representing streams evaluated but not proposed for eligibility, nor is information provided about river-related values that were evaluated along streams not proposed for eligibility, nor about the rationale used for determining those values not found to be “outstandingly remarkable.”

The eligibility evaluation should be expanded and improved in 2021 with the inclusion of individual narrative sections describing particulars of the river-related values evaluated, a detailed geographic map (the one provided is too small to identify individual streams), and the rationale used in evaluating potential ORVs for additional free-flowing stream segments, particularly for those streams proposed in comments and documentation from citizens and from other sources, including the comments included below. Under the National Environmental Policy Act (NEPA) and the Administrative Procedures Act (APA), these evaluations must then be presented for public review and comment next year.

Supplemental Data Sources Requiring Further Analysis

Data sources listed by the Forest’s contractor are inadequate. The draft eligibility evaluation does not provide detailed information about sources consulted for expertise and data regarding streams evaluated for eligibility, other than to generally list categorical sources.

We ask the Forest to retrieve and consider stream and habitat information available from the Bears Ears Intertribal Coalition, Utah Natural Heritage Program, U.S. Fish and Wildlife Service, Utah Fish and Game, and the Utah Department of Outdoor Recreation, to name just a few. The Forest should add to the eligibility evaluation any streams and stream corridors that include rare, unique, or exemplary values identified by these entities, and then evaluate those streams and those values for Wild and Scenic eligibility.

Climate Adaptation and Ecosystem Services

Wild and Scenic eligibility, and the corresponding interim protective management of eligible streams and stream corridors, can play important roles in a forest’s adaptation to climate change. Changing temperatures, stream flows, and precipitation patterns affect the survival and health of sensitive plant species, plant communities, fish, and wildlife, as well as human uses of stream resources for recreation, traditional cultural practices, irrigation and clean drinking water.

¹³ FSH 1909.12, Chapter 80, 83.2 and 83.3.

¹⁵ FSH 1909.12, Chapter 80, 83; and the 2012 Forest Planning Rule.

Among many similar sources, *Adaptation Partners*, the interagency research service funded by the U.S. Forest Service to coordinate resources and scientific data toward “science-based management partnerships focused on climate change adaptation in the western United States,” notes that sensitivities to climate change include:

- Shifts in hydrologic regimes involving changes in timing and magnitude of flows. Anticipated changes include lower summer flows and higher, more frequent winter flows.
- Reduction in size and hydroperiod of wetlands and changes in nutrient availability, productivity, and species composition, including riparian obligates.
- Climate change stressors cross boundaries, forcing agencies to coordinate and work across boundaries.
- Higher temperature and increased disturbance will cause shifts in species’ ranges and loss of species’ functional types.
- Areas of summer range for ungulate species will decrease.
- Increased flooding will alter riparian habitats.
- Decreased stream flow reduces riparian vegetation and affects food supply and habitat structure, causing increased animal mortality.¹⁶

A common form of adaptation extensively documented for many species involves a general shifting of overall or seasonal ranges. Most frequently, these shifts move upstream and otherwise up in elevation. As such, additional consideration should be given to the potential eligibility of free-flowing, connected headwaters regions in order to anticipate and accommodate those upward-moving adaptations of sensitive species. These regions are plentiful on the MLSNF.

As climate change continues to impact water volumes and seasonal flow variability for forest ecosystems, agricultural irrigation, and municipal drinking water supplies, Wild and Scenic eligibility and management should be applied to important headwaters regions and intact stream segments in order to help to minimize, mitigate and manage those impacts. Intact headwaters regions and riparian areas not only mitigate floods and maintain the highest levels of water quality, but also increase water residency – natural water storage – during times of drought. ORVs recognizing these functions are needed. “Climate Adaptation,” “Ecosystem Services,” or “Ecological” ORVs (with explanations attached) could all fill this role.

An Updated Wild and Scenic Eligibility Inventory is Required

The Manti-La Sal National Forest includes numerous free-flowing streams with at least one Outstandingly Remarkable Value (ORV) that warrant protection under the provisions of the Wild and Scenic Rivers Act of 1968.¹⁷ These streams provide essential habitat conditions for riparian vegetation, including rare plant communities; habitat for diverse wildlife, including big game, birds, rare and common fish species, invertebrates, and insects, all essential to the dynamic ecological health of the Forest; the aquatic essence and geological carving of the Dark Canyon Wilderness area and other specially designated lands; clean water for municipal and agricultural uses downstream; migratory corridors and cold water refugia for climate adaptation; unique and diverse outdoor recreation opportunities; archeological sites; sacred and cultural sites for many indigenous people, and inherent scenic and natural values.

¹⁶ See: <https://associationpartners.org/library.php>.

¹⁷ P.L. 90-542: 16 U.S.C. 1271-1287

As noted in the 2012 Forest Planning Rule, the Manti-La Sal National Forest is required by the Wild and Scenic Rivers Act to consider, as part of the current overall forest plan revision process, the Wild and Scenic eligibility of *all* named and suggested streams on the forest. Since the new forest plan will provide, for perhaps two decades or longer, important administrative management and protections for Wild and Scenic eligible streams and stream-related values, it is essential that every qualified stream be included in a new, Final Eligibility Inventory.

Identify the eligibility of rivers for inclusion in the National Wild and Scenic Rivers System, unless a systematic inventory has been previously completed and documented and there are no changed circumstances that warrant additional review.¹⁸

The word “systematic” is important, interpreted in the planning directives as:

When conducting an eligibility study of Forest Service-identified rivers (sec. 5(d)(1) of the Act) during land management plan development or revision, the Interdisciplinary Team shall include all potential wild, scenic, and recreational rivers flowing wholly or partially on National Forest System lands as identified in the Nationwide Rivers Inventory and by other sources. The rivers to be studied for eligibility include all rivers named on a standard U. S. Geological Survey 7.5-minute USGS quadrangle map.¹⁹

American Rivers lists 60 streams and stream systems below that the MLSNF should either add or retain as Wild and Scenic eligible, or that require a new evaluation by the Forest as to their eligibility: A) Streams previously found eligible, B) Streams found eligible by American Rivers, and C) Streams likely eligible for Fish and Climate Adaptation ORVs due to genetically pure populations of Colorado cutthroat trout predicted to persist in cold-water refugia through at least 2040.²⁰

A. Streams previously found Eligible that retain Wild and Scenic eligibility, some with added ORVs due to changed conditions. All streams listed below were found eligible by the Forest in the past, but 14 were released in 2008. Under the 2012 Planning Rule, these streams must be re-evaluated and/or retained for eligibility since they are free-flowing and contain at least one ORV, including ORVs based upon new information. The Forest’s original groupings, reaches, and mileages have been retained in this category.

1. **Lower Left Fork of Huntington Creek**, Miller Flat Creek to Huntington Creek, 4.49 miles, ORVs:
 - a. Scenery – Waterfalls, spruce and fir stands, sage flats in lower section.
 - b. Recreation- Rare and unique, difficult whitewater paddling including runnable waterfalls; exemplary fishing; hunting and backpacking.
2. **Huntington Creek**, Electric Reservoir to USFS boundary, 19 miles, ORVs:
 - a. Recreation - The whitewater on the main stem Huntington Creek is known to have been “rediscovered” in 2011 and would not have been recognized in the 2003 eligibility evaluation or 2008 suitability determination. From the

¹⁸ 2012 Forest Planning Rule, 219.7(c)(2)(b)(vi)

¹⁹ FSH 1909.12, Chapter 80, 82.2

²⁰ See Climate Shield data:

<https://usfs.maps.arcgis.com/apps/webappviewer/index.html?id=a64ca6b777f44633bb036b5bfeb9ad7d>

Last visited: 12/28/2020.

confluence with the Left Fork to downstream of the USFS boundary is an established whitewater kayaking segment that has unique water slides and rapids. There is also popular fly-fishing recreation on this river segment. The fly fishing is known to be excellent and it is the only stream in Utah regulated as “fly fishing only”, making the recreation opportunity particularly unique and special.

- b. Fish – Huntington Creek is a designated “Blue Ribbon trout fishery,” and bluehead sucker populations have been documented in upper reaches, a Utah Sensitive Species.
3. **Fish Creek, including Lower Gooseberry Creek**, 21.01 miles, ORVs:
 - a. Wildlife – The Fish Creek system contains the largest breeding population of Southwestern willow flycatchers in state, and large populations of other birds as well - 54 species of birds have been observed during breeding season. Excellent riparian habitat, which is less than 1% of land cover in Utah (USFS). Upper Fish Creek also contains numerous mammal species including beavers, black bear, mule deer, and elk. The variety of vegetation, remoteness and large size of the Fish Creek area provides excellent habitat for elk parturition and rearing. The area also provides very high quality, relatively undisturbed, summer and fall habitat for mule deer and elk, including habitat for fawning, calving and rearing. Beaver utilize the riparian habitat, and bear frequent the creek corridors of the watercourses.
 - b. Ecology – Rare and exemplary example of riparian habitat (see above).
 - c. Recreation – Fly fishing, hunting, backpacking in an intact, riparian ecosystem.
 4. **North Fork of Whiskers, including Whiskers Draw**, 8 miles, ORVs:
 - a. Cultural and Archeological – Unique archaic and Ancestral Puebloan cliff structures, rock shelters and rock art within canyons and tributaries. These are extremely high quality and high importance archeology sites owing their existence to the watercourse. Part of Bears Ears National Monument designation under the Antiquities Act, proposed by the Bears Ears Intertribal Coalition and Proclaimed by the President of the United States in 2016.
 - b. Scenery – Exemplary, towering, sandstone walls, alcoves and archeological sites.
 - c. Wildlife – Important elk habitat in the headwaters region.
 5. **Hammond Canyon**, 10.4 miles, ORVs:
 - a. Geology – Unique sandstone spires and escarpments, deep gorges.
 - b. Scenery - Deciduous trees and lush, low shrubs, to dry conifers, expansive views of sandstone spires, arches, escarpments and gorges.
 - c. Cultural – Unique Archaic and Ancestral Puebloan cliff structures, rock shelters, granaries and rock art. White Mesa Ute Tribe and Navajo Nation consider the canyon to be culturally important. Part of Bears Ears National Monument designation under the Antiquities Act, proposed by the Bears Ears Intertribal Coalition and Proclaimed by the President of the United States in 2016.
 - d. Recreation – Nationally popular backpacking, sandstone arch viewing, viewing of Ancestral Puebloan structures and rock art.
 - e. Wildlife – Mexican spotted owl population and habitat, a species listed as *threatened* under the ESA.

6. **Notch Canyon**, 4.8 miles, ORVs:
 - a. Scenery – Unique steep-walled canyon emanating from “The Notch” on Elk Ridge, containing multi-hued rock and unique Ancestral Puebloan structures.
 - b. Geology – Exemplary sandstone spires, escarpments and erosional sinuosity.
 - c. Cultural – Unique Archaic and Ancestral Puebloan cliff structures, rock shelters, granaries and rock art. Part of Bears Ears National Monument designation.

7. **Posey Canyon**, 3 miles, ORVs:
 - a. Scenic - Expansive views and features.
 - b. Geologic - Large erosional features, alcoves, sandstone outcrops. Narrow gorges.
 - c. Cultural – Unique Archaic and Ancestral Puebloan cliff structures, rock shelters, granaries and rock art. Members of the White Mountain Ute Nation and Navajo Nation currently use the canyon and surrounding areas for hunting and traditional uses. Part of Bears Ears National Monument designation.

8. **Chippean and Allen Canyons**, 21.3 miles, ORVs:
 - a. Cultural - Archaic and Ancestral Puebloan cliff structures, rock shelters, granaries and rock art. Part of Bears Ears National Monument designation.
 - b. Recreation – exemplary solitude, backpacking, night sky and archeological viewing

9. **Butts Canyon, Arch Canyon, and Texas Canyon**, 28 miles, ORVs:
 - a. Cultural – Unique Archaic and Ancestral Puebloan cliff structures, rock shelters, granaries and rock art, drawing visitors from across the country. Part of Bears Ears National Monument designation.
 - b. Recreation – solitude, backpacking, night sky

10. **Upper Dark, including Drift Canyon, Horse Pasture Canyon, Rig Canyon, and Peavine and Kigalia Canyon**, 26.2 miles, ORVs:
 - a. Geologic - Expansive views, cliffs, out crops, arches, spires and other rare, unique and varied landscapes from rim to stream bed
 - b. Cultural – Unique Archaic and Ancestral Puebloan towers, cliff structures, rock shelters, granaries, and rock art – some of the most intact in the region (along with Lower Dark Canyon). Part of Bears Ears National Monument designation.
 - c. Recreation – Nationally renowned (in recent years) backpacking, big game hunting, arch viewing; part of the Dark Canyon Wilderness
 - d. Ecological and Climate Adaptation - Sensitive, perennial springs and seeps feed key desert water sources for flora and fauna.
 - e. Wildlife - Habitat included in California condor management plan, an ESA-listed species. Rare “alpine island” habitat for black bears, elk, mule deer, mountain lion, bobcat and other species.

11. **Lower Dark Canyon, including Poison Canyon, Deadman Canyon, Trail Canyon, Warren Canyon, and Woodenshoe and Cherry Canyons**, 41.4 miles, ORVs:

- a. Cultural – Rare, extensive, well-preserved Ancestral Puebloan archeological sites including granaries, towers and dwellings. Part of Bears Ears National Monument designation.
- b. Recreation – Arch viewing, backpacking, horseback riding, archeological tourism and hunting; part of the Dark Canyon Wilderness.
- c. Scenic - Expansive views, cliffs, outcrops, arches
- d. Geologic - Steep narrow canyons cut through the primary rock formations in the region, descending to alluvial deposits
- e. Ecological and Climate Adaptation - Rare, perennial streams, critical for desert fish, amphibians, birds and wildlife.
- f. Wildlife - Habitat included in California condor management plan, an ESA-listed species. Rare “alpine island” habitat for black bears, elk, mule deer, mountain lion, bobcat and other species.

12. Mill Creek Gorge, 2.57 miles, ORVs:

- a. Scenic – La Sal Mountains tower above sheer cliffs and jagged rock formations, silhouetting a gorge filled with cascading waterfalls, deep pools and lush vegetation above a red rock desert landscape – one the classic Colorado Plateau vistas.
- b. Geologic/Hydrologic – Perennial, cold-water stream with high groundwater flow.
- c. Botany – Designated Research Natural Area (RNA).
- d. Wildlife – Important riparian habitat for upland big game and carnivore species, rare in an arid region.
- e. Fish – Conservation population of genetically pure Greenback cutthroat trout.
- f. Recreation - Regionally significant rock climbing and fishing, hunting in upper reaches, swimming and camping.
- g. Ecological and Climate Adaptation – Rare cold-water refugia predicted to persist until at least 2080 (USDA Climate Shield Data)

13. Roc Creek, 9.4 miles, ORVs:

- a. Scenery - Bright red walls contrasted with dark green evergreen forests. Varied rock formations, including faulting and erosion. Sinbad ridge is north wall of canyon.
- b. Geologic/hydrologic – Perennial groundwater surfacing in a faulting, deep, red rock canyon.
- c. Cultural – Unique rock art panel in canyon.
- d. Wildlife - Critical winter elk habitat and migration corridor. Serves the threatened elk herds of southwest Colorado.
- e. Recreation - Hunting, fishing, hiking, and camping.
- f. Fish - Genetically pure Colorado cutthroat trout conservation population.
- g. Ecological and Climate Adaptation – Rare cold-water refugia predicted to persist until at least 2040 (USDA Climate Shield Data).

14. Miners Basin, 1.74 miles, ORVs:

- a. Historic – Ghost town with significant evidence of turn of 1900's mining operations.

15. Duck Fork, 1.2 miles, ORVs:

- a. Fish - Colorado River cutthroat trout spawning and rearing habitat since 2003 reintroduction.

B. Additional Streams that American Rivers finds Wild and Scenic Eligible

1. **Beaver Creek**, Forest Boundary to Forest Boundary, 4.7 miles, ORVs:
 - b. Scenery – Rare extensive stands of deciduous tree-dominated communities with cottonwoods, boxelder, gray alder, and other woody species. Unique, primitive, wooded gorge that winds between convoluted slickrock walls.
 - c. Recreation - Hiking, fishing
 - d. Wildlife - Bald eagle habitat, and important elk wintering range.
 - e. Fish - Genetically pure conservation population of Colorado cutthroat trout.
 - f. Ecological and Climate Adaptation – Coldwater refugia persisting past 2040 (USDA Climate Shield).

2. **Beef Basin Wash**, Headwaters to Forest Boundary, 3.25 miles, ORVs:
 - a. Cultural and Archeological - Ancestral Puebloan structures, towers, kivas, granaries and petroglyphs. Part of Bears Ears National Monument.
 - b. Recreation - Hiking, mountain biking, horseback riding, motorcycle trail riding, and off-highway vehicle (OHV) travel to see archeological sites and camp in the basin.
 - c. Scenic – Archeological sites, ponderosa pine forest among sandstone walls.

3. **Bull Canyon (La Sals)**, Headwaters to Forest Boundary, 3.64 miles, ORVs:
 - a. Paleontological – Dinosaur (therapod) trackway dating back to the Jurassic Period, 145-200 million years ago.
 - b. Recreation - Hiking, horseback riding, dinosaur track viewing, and overlook seeking.
 - c. Scenic – Ponderosa pine canyon beneath the La Sal Mountains, overlooking the desert.
 - d. Ecological and Climate Adaptation – Perennial Crystal Spring sits at headwaters of the canyon.

4. **Brumley Creek**, Headwaters to Forest Boundary, 5 miles, ORVs:
 - a. Recreation – Hiking, cooling off, arch and waterfall viewing.
 - b. Scenery – Popular scenic waterfall shooting out of a slot canyon, and large, sandstone, Brumley Arch after a shaded, aspen and wildflower strewn hike.

5. **Calf Canyon**, Headwaters to Forest Boundary, 1.42 miles, ORVs:
 - a. Recreation – Hiking, backpacking, solitude

6. **Cottonwood Creek (Abajos)**, Headwaters to Forest Boundary, 2.8 miles, ORVs:
 - a. Scenery - Stunning canyons and alcoves framed by Elk Ridge and the Abajo Mountains.
 - b. Cultural and Archeological - Pictographs, petroglyphs, and alcoves with Ancestral Puebloan structures. Part of Bears Ears National Monument designation under the Antiquities Act, proposed by the Bears Ears Intertribal Coalition and Proclaimed by the President of the United States in 2016.
 - c. Ecological - Exemplary ephemeral stream providing flora and fauna habitat, and a migration corridor for wildlife.
 - d. Recreation – Hiking, archeological site viewing

7. **Cottonwood Creek (Wasatch Plateau)**, Joe's Valley Reservoir to USFS Boundary, 2.8 miles, ORVs:
 - a. Recreation – Unique and exemplary fishing, rock climbing, and paddling opportunities support a Recreation ORV on Cottonwood Creek. The stunning turquoise waters support brown trout, cutthroat trout, and rainbow trout, and the canyon has been acknowledged as one of the top-five fall fishing destinations in Utah. Rock climbing on boulders directly within the river corridor has gained national attention in recent years. The boulder problems have been carved by the river and provide a very unique experience of bouldering next to and above the river. The area has been featured in the Reel Rock film series and the national revolution of bouldering as a sport has been attributed to the boulder problems found in and around Cottonwood Creek. The Creek provides unique paddling opportunities for a diversity of crafts, including whitewater canoes, packrafts, and kayaks. Whitewater paddling opportunities are rare on the MLSNF, and paddling Cottonwood Creek has been featured on multiple online forums and in American Whitewater's National Whitewater Inventory. The unique, turquoise-colored water elevates the popularity and unique value of the river for all types of river-dependent recreation.
 - b. Scenery - Cottonwood Creek's rare, turquoise-colored water contrasts with the other muddy rivers of Utah, attracting paddlers, sightseeing tourists, rock climbers, and other visitors. While the river is in the vicinity of a state highway, the canyon walls hide the road from view and provide a remote-feeling viewscape that is easily accessible.
 - c. Archeology - Pictographs and petroglyphs exist in the river corridor.
 - d. Ecology - The river and its corridor provide perennial habitat for exemplary flora and fauna. The river supports multiple trout fisheries, including brown trout, cutthroat trout, and rainbow trout.

8. **Dry Wash**, Headwaters to Forest Boundary, 3.8 miles, ORVs:
 - a. Cultural and Archeological – Rare, well-preserved Ancestral Puebloan archeological sites including granaries, dwellings and shelters - these are some of the highest elevation ruins in the region. Part of Bears Ears National Monument designation.
 - b. Recreation - Hiking, archeological site viewing, dark skies and solitude.

9. **Ferron Creek**, Stevens Creek to Forest Boundary, 3.5 miles, ORVs:
 - a. Recreation - Whitewater recreation on the MLSNF is very rare, with only three other river segments supporting regular whitewater recreation. Regionally known, Ferron Creek provides the easiest paddling of the four reaches, making it accessible to a greater diversity of recreationists.
 - b. Fish - Genetically pure conservation population of Colorado cutthroat trout. Bluehead sucker are also found in creek.
 - c. Ecological and Climate Adaptation – Coldwater refugia persisting past 2040 (USDA Climate Shield).
 - d. Cultural and Archeology - The Ferron Box petroglyphs left by the Fremont people are thought to be older than 1200 C.E./A.D. The petroglyphs are a regional attraction for visitors and complement the existing recreation opportunities in the river corridor.

10. **North Cottonwood Creek (Elk Ridge)**, Headwaters to Forest Boundary, 8.0 miles, ORVs:
 - a. Cultural and Archeological – Well-preserved Ancestral Puebloan archeological sites including a tower, dwellings, granaries, pictographs and petroglyphs. Part of Bears Ears National Monument designation.
 - b. Scenic - Pine forest-lined sandstone canyon with sagebrush step lands.
 - c. Recreation – Hiking North Cottonwood Rim Trail, camping, archeological site viewing and solitude.
 - d. Historic - North Cottonwood Guard Station

11. **North Fork Quitcupah Creek**, Headwaters to Forest Boundary, ORVs:
 - a. Archeological – More than two dozen, regionally significant Fremont and Barrier Canyon style rock art panels, containing both pictographs and petroglyphs.

12. **Ruin Canyon**, Headwaters to Forest Boundary, 3.56 miles, ORVs:
 - a. Cultural and Archeological – Well-preserved Ancestral Puebloan archeological sites including dwellings, granaries, pictographs and petroglyphs. Part of Bears Ears National Monument designation.
 - b. Recreation - Hiking, horseback riding, and camping surrounded by archeological sites.
 - c. Scenic – Exemplary ponderosa pine forest and sandstone canyon.
 - d. Wildlife – Home to rare bat species, including Townsend's big-eared bat and fringed myotis.
 - e. Botanical – Species of Conservation Concern plant species including *Allium geyeri* var. *chatterleyi* and *Plantanthera zothecina* (alcove bog-orchid).

13. **Twelvemile Creek**, Headwaters to Forest Boundary, 6.7 miles, ORVs:
 - a. Geology - Unique landslides
 - b. Fish - Genetically pure conservation population of Colorado cutthroat trout.
 - c. Ecological and Climate Adaptation – Coldwater refugia persisting past 2040 (USDA Climate Shield).

14. **Vega Creek**, Headwaters to Confluence with North Cottonwood Creek, 4.17 miles, ORVs:
 - a. Recreation – Regionally popular Vega Canyon Trail, including mountain biking, hiking, horseback riding
 - b. Scenic – Exemplary ponderosa pine forest descending into low desert country

C. Potentially eligible streams with evidence of a Fish ORV that require a new, hard look by the Forest – All streams listed below contain a genetically pure population of Colorado River or Bonneville cutthroat trout, Utah State Sensitive Species and MLSNF Species of Conservation Concern, and are predicted to harbor cold-water refugia until at least 2040 according to the USDA Forest Service's Climate Shield Project at the Rocky Mountain Research Station.²¹ All streams warrant a Fish, Ecological, and Climate Adaptation ORV.

1. Beaver Creek (Wasatch Plateau)

²¹ See: <https://www.fs.usda.gov/rmrs/projects/climate-shield-cold-water-refuge-streams-native-trout> Last visited: 12/28/2020.

2. Big Bear Creek
3. Canal Creek
4. Cove Creek
5. Currant Creek
6. Huntington Creek Headwaters
7. Jump Creek
8. Georges Fork
9. Horse Creek
10. Lake Creek
11. Lake Fork, Georges Fork
12. Little Bear Creek
13. Littles Creek
14. Little Horse Creek
15. Lowry Water Headwaters
16. Manti Canyon
17. Mill Stream
18. Miller Flat Creek
19. North Fork Coal Fork
20. North Fork Muddy Creek
21. North Fork Sixmile Creek
22. Oak Creek Headwaters
23. Reeder Canyon
24. Rilda Canyon
25. San Pitch Headwaters
26. South Creek
27. South Fork Muddy Creek
28. South Fork Sixmile Creek
29. South Fork Willow Creek
30. Straight Canyon
31. Upper Salina Creek

A Note on Sensitive, Threatened and Endangered Fish Recovery

American Rivers is committed to supporting the continued restoration and recovery of the sensitive, threatened and endangered native fish in the Colorado River Basin. Not only should eligible streams providing critical habitat in the Manti-La Sal National Forest for Colorado cutthroat trout and Bonneville cutthroat trout qualify for a Fish ORV under the Wild and Scenic Rivers Act,²² but such streams should also be prioritized for continued recovery work by the U.S. Fish and Wildlife Service and Utah Department of Game and Fish under the Act's "maintain or enhance" standard for ORVs.

The federal Interagency Wild & Scenic Rivers Coordinating Council (IWSRCC) gives guidance on the construction and placement of native fish habitat structures on Wild and Scenic Rivers. Generally, structures to enhance fish and wildlife habitat are allowed, provided that they:

1. Allow the area to remain natural in appearance;
2. Are compatible with the river's classification (wild/scenic/recreational); and
3. Harmonize with the surrounding environment.

²² A number of streams emanating from the Wasatch Plateau and the La Sal Mountains contain genetically pure populations of cutthroat trout.

Even some structures that may affect the free-flowing nature of the river are sometimes allowed, provided they:

1. Mimic naturally occurring events (such as trees falling in/across the river, beaver dams, rock outcrops, opening or closing of existing secondary channels, etc.);
2. Do not create unusual hazards for recreation; and
3. Do not prevent naturally occurring events such as bank erosion or debris movement.

Structures should be made of native materials (logs, boulders, etc.) placed in locations, positions or quantities that mimic natural conditions, and anchoring materials such as cables and rebar should be installed in such a manner as to be visually acceptable. We believe that warranted, well-sited structures using “minimum tool” standards can be constructed to preserve other ORVs, free-flowing character, and recreational uses while aiding in the recovery of endangered fish.

Interim Management for Eligible Streams

Specific policies, management prescriptions, and project proposal decisions must preserve the free-flowing condition of these streams and the ORVs for which they were found eligible, consistent with the interagency interim protective guidelines, as described in the Forest Service Handbook.²³

Unless specific and measurable changed circumstances occur affecting the free-flowing condition of an eligible stream and/or the ORVs of an eligible stream corridor, those features continue to exist and must be managed to preserve the conditions and features for which a stream and stream corridor were found eligible. A river found Wild and Scenic eligible, even if later found to be not suitable, must retain eligibility, consistent with the 2012 Forest Planning Rule.

Summary of Recommendations and Conclusion

We appreciate the opportunity to submit these detailed comments on the MLSNF’s Draft Forest Plan, and Wild and Scenic Eligibility Study and Report. In summary, our comments and recommendations are:

1. **Amended Wild and Scenic Eligibility Inventory Needed** - The 2017-2020 Wild and Scenic Eligibility Report falls short of the direction and intent contained in the Wild and Scenic Rivers Act, the 2012 Forest Planning Rule and Chapter 80 of the Forest Service Handbook, relying on expired methodology in past inventories and determinations, incomplete data, and conditions that have since changed. Likewise, the 2008 Statewide Suitability determination rests upon the opinions of politicians who have since left office, data that has expired, and guidance (1982 Planning Rule) that has since been replaced – one of the reasons that we update forest plans in the first place. A new, 2021 amended Wild and Scenic eligibility inventory is needed, inclusive of stream previously found eligible that have retained their free-flowing conditions and ORVs. It strains credulity that a 1.2-million-acre forest could only have 1.2 miles of valuable, free-flowing stream on it.
2. **Regions of Comparison** - The Forest needs to communicate the regions of comparison that it used in its evaluations. Overall, when considering regions of comparison, the Forest should employ multiple lenses that seek to recognize ORVs rather than to exclude them. For example, if an ORV is not rare, unique or exemplary

²³ FSH 1909.12, Chapter 80, 84.3

within the identified region of comparison, then the Forest should evaluate the ORV relative to the Forest, State of Utah, Colorado Plateau, Southwest Region, and/or the nation. For example, Recreation ORVs often warrant a larger state, region or national region of comparison.

3. **Ephemeral and Intermittent Streams must be Evaluated** – Ephemeral and intermittent streams and washes must be considered if they are free of impoundments.
4. **ORVs can and do occur more than .25 miles from the river** – The .25-mile corridor requirement for ORVs proposed by the Forest would be arbitrary and capricious, considering that the WSRA clearly designates a river corridor as *averaging* 320 acres per mile, and allows for ORVs to occur outside of that corridor if they are related to or owing their existence to the stream in question.
5. **Species of Conservation Concern and T&E Species** - The high-value habitats of Species of Conservation Concern, including ESA-listed species, along stream corridors should be documented and considered when making decisions regarding the presence of Fish, Wildlife and Botany ORVs. The Forest has a good, updated list of Species of Conservation Concern. We'd like to see where these species overlap with free-flowing rivers on the Forest, and those values inventoried as Fish, Wildlife, and Botany ORVs.
6. **ORV documentation is incomplete** - We ask the Forest to document more than its evaluation of the potential presence of Fish and Wildlife ORVs for streams previously found not eligible in its 2017-2020 Wild and Scenic Eligibility Study and Report. Relying on previously made decisions and data, completed prior to the 2012 Forest Planning Rule, is not valid.
7. **Increased Transparency and Review Needed** - The Wild and Scenic Eligibility Report and Study should be expanded to describe river-related values evaluated for individual free-flowing streams not proposed for eligibility, and rationale used in that draft finding, and then presented for additional public review and comment.
8. **More Outside Sources Needed** - Additional information from outside sources on biological and cultural details as well as ecological functions should be employed in the eligibility evaluation. Meaningful consultation with the Bears Ears Intertribal Coalition, Utah Natural Heritage Program, U.S. Fish and Wildlife Service, Utah Fish and Game, and the Utah Department of Outdoor Recreation are necessary, though this is not an exhaustive list. Likewise, all outside recommendations require a new, hard look using the most up-to-date data and policy directions available to the Forest. Relying on outdated, previously completed inventories, decisions and guidance is not sufficient.
9. **Addressing Climate Change** - Climate adaptation is an important function of healthy, connected rivers, particularly headwaters in headwaters regions, and should be considered and prioritized when evaluating eligibility. Water volume, water quality and water residency through functioning riparian areas and floodplains are important functions of healthy rivers, and these ecosystem services should be considered when evaluating eligibility, in part through ORVs. Furthermore, climate impacts on the ground, particularly to water resources, and our understanding of them, increases each year. This alone warrants a new, hard look at all streams not evaluated anew in the 2017-2020 report.
10. **Previously Eligible Streams are Still Eligible** - The 14 stream systems found eligible by the Forest in 2003 should be carried forward as eligible in 2021, incorporating the additional ORVs and segments detailed above. Changed conditions necessitating this include a very different political landscape since the 2008 Suitability Determination, accelerating climate impacts on the ground, changed and increasing recreation trends on the ground, new information regarding the cultural landscape on the ground via the Bears Ears Intertribal Coalition and Bears Ears National Monument designation, new Species of Conservation Concern designations requiring new riparian and river habitat

protections, new habitat designations for Threatened and Endangered Species under the ESA, increasing development threats including the oil and gas boom in the region, and new science showing the importance of perennial and ephemeral water sources and cold-water refugia in an increasing warmer and drier Colorado Plateau.

11. **Additionally Eligible Streams from American Rivers** - 14 additional streams should be evaluated or reevaluated by the Forest, carefully documented, and found eligible, based upon the comments and ORVs that we provide above.
12. **Streams Requiring Evaluation for Fish and Ecological ORVs** - The 31 streams documented above as home to genetically pure populations of Colorado River cutthroat trout and Bonneville cutthroat trout, Utah State Sensitive Species and MLSNF Species of Conservation Concern, and predicted to maintain cold-water refugia in that face of climate change until at least 2040, warrant careful evaluation for a Fish ORV and a Climate Adaptation/Ecological/Ecosystem Services ORV.

Thank you for carefully considering these comments, even though they have run longer than expected. Regarding next steps, we request a meeting in early 2021 with the Forest - via phone or videoconference – to discuss our comments and any next steps that the Forest will take. We thank you for your stewardship of our public lands, hope that you all are staying healthy, and we look forward to continuing to work with you during the Forest Plan Revision.

Sincerely,



Michael Fiebig
Director, Southwest River Protection Program

