

# Continental Divide National Scenic Trail Planning Handbook



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Prepared by Greg Warren

[NSTrail.org](http://NSTrail.org)

## Chapter I. Introduction

### Trails for America

The Secretary of the Interior in 1965 directed the Bureau of Outdoor Recreation to take the lead in conducting a nationwide trails study. This was in response to President Johnson's "Natural Beauty" message of February 1965 in which he called for development and protection of a balanced system of trails in cooperation with state and local government and private interests. In part, the President said, "we can and should have an abundance of trails for walking, cycling, and horseback riding, in and close to our cities. In the backcountry we need to copy the great Appalachian Trail in all parts of America."

The nationwide trails study led to publication of a report in 1966 entitled "Trails for America." The report called for federal legislation to foster the creation of a nationwide system of trails. Earlier that year the Secretary of the Interior had already proposed such legislation to Congress. The report and the legislation proposed three categories of trails for the nationwide system—National Scenic Trails and two other categories that were different from what eventually came to pass. The report heavily emphasized National Scenic Trails and the role that they should play in meeting the nation's needs for trail recreation. The Appalachian Trail was to be the first National Scenic Trail. The report proposed three other National Scenic Trails—Pacific Crest, Continental Divide, and Potomac Heritage—and identified five other routes that exhibited high potential—Lewis and Clark, Oregon, Santa Fe, Natchez Trace, and North Country. Congress passed the National Trails System Act and the president signed it into law on Oct. 2, 1968. The Act created two congressionally designated areas the Appalachian National Scenic Trail and the Pacific Crest National Scenic Trail.

As envisioned in "Trails for America," National Scenic Trails are to be very special: "A standard for excellence in the routing, construction, maintenance, and marking consistent with each trail's character and purpose should distinguish all National Scenic Trails. Each should stand out in its own right as a recreation resource of superlative quality and of physical challenge." According to the National Trails System Act of 1968, National Scenic Trails "will be extended trails so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of nationally significant scenic, historic, natural, and cultural qualities of the area through which such trails may pass." National scenic trails are located so as to represent desert, marsh, grassland, mountain, canyon, river, forest, and other areas, as well as landforms, which exhibit significant characteristics of the physiographic regions of the Nation. The corridor will be normally located to avoid established uses that are incompatible with the protection of a trail in its natural condition and its use for outdoor recreation.

Congress amended the National Trails Systems Act in 1978 to create the category of national historic trails. At the same time, it designated the Oregon, Mormon Pioneer, Lewis and Clark, and Iditarod (Alaska Gold Rush) trails as national historic trails. Like National Scenic Trails, National

Historic Trails can only be authorized and established by Congress and are assigned to either the Secretary of the Interior or the Secretary of Agriculture with most of the same administrative authorities as for National Scenic Trails. To qualify as a national historic trail, a route must have been established by historic use. It must be nationally significant as a result of that use—it must have had a far-reaching effect on broad patterns of American culture (including Native American culture). It must also have significant potential for public recreational use or historic interest based on historic interpretation and appreciation. National historic trails are extended trails which follow as closely as possible and practicable the original trails or routes of travel of national historic significance. National historic trails purpose is the identification and protection of the historic route and its historic remnants and artifacts.

Corridors associated with National Scenic Trails and the high priority potential sites and segments of national historic trails are protected to the degree necessary to ensure that the values for which each trail was established remain intact. National scenic and national historic trails may contain campsites, shelters, and related-public-use facilities.

### **Congressional Designated Areas**

Designated areas are specific areas or features within the plan area that have been given a permanent designation to maintain its unique special character or purpose. Certain purposes and restrictions are usually established for designated areas, which greatly influence management needs and opportunities associated with them.

A recurrent theme in designated area legislation has been the mandate to preserve areas for future generations and to keep the protected resource in a condition representative of the values or conditions for which it was designated.

Important land conservation legislation that is relevant to land management planning includes the National Trails System Act of 1968 (PL 90-543), which states that “National scenic trails, . . . will be extended trails so 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. . . . National scenic or national historic 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. . . . [T]o 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. . . (Sections 3(a) and 7(c)).”

Primary Value – “The primary value of the Continental Divide Trail is its emphasis on conservation of the natural beauty of our environment, and on a wise use of our environment to give the greatest pleasure and health to our citizens. Under the proposed scheme, it is my understanding that . . . the environment of the Trail would be kept in its natural state as much as possible. Such an investment is prudent now, before the natural beauty can be eroded through overuse and expansion of communities into the area.” Statement of Honorable Peter Dominick, U.S. Senator from the State of Colorado

Enacted on the same day as the National Trails System Act, the Wild and Scenic Rivers Act of 1968 (PL 90-542), states that designated rivers, “with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other

similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations (Section 1(b)).”

Similarly, the Wilderness Act of 1964 (PL 88-577), requires managing agencies to administer wilderness areas “for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character...” (Section 2(a)).

This handbook addresses a National Scenic Trail (NST) offering guidance for understanding and preserving or enhancing the recreational, scenic, natural, and historical values of the Continental Divide National Scenic Trail (CDNST) through land management planning that provides for the nature and purposes of this NST. The information in this handbook supplements and clarifies agency planning processes.

## **Chapter II. Nature and Purposes of the CDNST**

The National Trails System Act<sup>1</sup> (NTSA) guidance for “nature and purposes” is foundational for shaping the activities and uses to be preferred and allowed along the CDNST corridor. The adopted nature and purposes of the CDNST emboldens the Senate’s vision for this NST: “Designed to accommodate riders and hikers, the Continental Divide Trail would pass through some of the most scenic areas in the country. The trail would span spectacular, wild mountain country, rich in the early history of the West. The route affords views of perpetual ice-fields and of awesome peaks. It passes hundreds of alpine lakes and streams teeming with native trout. The high mountains are home to many species of game, including the bighorn sheep, mule deer, and bear.... The designation of the Continental Divide Trail represents an attempt to make available by trail a stretch of country which has historical interest and charm and bisects the Western United States. The...committee believes that the trail should be regarded as calling attention to the grandeur and esthetic qualities of the Continental Divide, and that it will add significantly to the Nation's appreciation of its priceless natural heritage” *Senate Report No.1233, 1968*.

The establishment of the CDNST nature and purposes policy was formed by extrapolating from the Trails for America report, NTSA, associated Congressional Reports, CDNST Study Report, and with public involvement, as described in this section.

### **A. Trails for America**

Trails for America (1966), a report prepared by the Bureau of Outdoor Recreation in response to President Johnson’s Natural Beauty Message of February 8, 1965, describes that, “the entire length of each National Scenic Trail, together with sufficient land area on both sides to safeguard adequately and preserve its character, should be protected....” The [Trails for America](#) vision for the CDNST will be achieved by providing for the “nature and purposes” values of this designated National Trail.

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<sup>1</sup> 16 U.S.C. 1241-1251: Public Law 90-543 (October 2, 1968) and amendments.

## **B. National Trails System Act**

The National Parks and Recreation Act of November 10, 1978 authorized and designated the Continental Divide National Scenic Trail (CDNST) (Pub. L. No. 95-625, 92 Stat. 3467), which amended the NTSA of 1968 (16 U.S.C. 1241-1251).

NTSA Sec. 3. [16 U.S.C. 1242] (a) (2). “National scenic trails, established as provided in section 5 of this Act, which will be extended trails so 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.”

NTSA Sec. 5 [16 U.S.C. 1244] (f) ... “Within two complete fiscal years of the date of enactment of legislation designating... the Continental Divide National Scenic Trail, the... Secretary [of Agriculture] shall...submit...a comprehensive plan for the acquisition, management, development, and use of the trail, including but not limited to, the following items: (1) 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... and...an identified carrying capacity of the trail and a plan for its implementation.”

NTSA Sec. 7. [16 U.S.C. 1246] (c). “Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted...[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...”

## **C. Congressional Reports**

“The Act was intended to insure that long-distance, high-quality trails with substantial recreation and scenic potential were afforded Federal recognition and protection” (S.R. 95-636). “Title V establishes new units of the National Park and National Trail Systems which the committee believes to be essential additions to these national programs. Timely action to preserve portions of our heritage, both historical and natural, within the states and insular areas is needed to assure these resources are not lost through adverse actions by special interest groups” (H.R. 95-1165).

## **D. CDNST Study Report**

The Study Report of 1976, prepared by the Bureau of Outdoor Recreation in response to the identification of the CDNST, under the NTSA, as as a potential addition to the national trails system, describes that, “The primary purpose of this trail is to provide a continuous, appealing trail route, designed for the hiker and horseman, but compatible with other land uses... One of the primary purposes for establishing the Continental Divide National Scenic Trail would be to provide hiking and horseback access to those lands where man's impact on the environment has not been adverse to a substantial degree and where the environment remains relatively unaltered. Therefore, the protection of the land resource must remain a paramount consideration in establishing and managing the trail. There must be sufficient environmental controls to assure that the values for which the trail is established are not jeopardized...”

The trail experience on or near the Divide is an intimate one, for one can walk or ride horseback across vast fields of wildflowers and contemplate a story dating from the dawn of earth's history. This story began when a portion of the earth was thrust upward, creating the sharp precipitous peaks that were sculptured into rich land forms leaving sparkling lakes, crystal-clear streams, and myriads of cascading waterfalls. Along the way, the tranquility of the alpine meadows, verdant forests and semi-desert landscape overwhelms everyone who passes that way. The trail would provide the traveler his best encounter with the Continental Divide — its serenity and pure air — and would supply for every trail traveler some of the world's most sublime scenes...

The basic goal of the trail is to provide the hiker and rider an entree to 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... The Continental Divide Trail would be a simple facility for foot and horseback use in keeping with the National Scenic Trail concept as seen in the Appalachian and Pacific Crest Trails.”

### **E. CDNST Leadership Council**

The CDNST Leadership Council established a Vision and Guiding Principles for the development and protection of the CDNST in 2004. The Vision for the CDNST 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.” The Council’s membership consists of senior Forest Service, Bureau of Land Management, and National Park Service responsible officials.



CDNST Leadership Council, Jackson, Wyoming

### **F. Public Involvement in the Formulation of Comprehensive Plan Policy**

The formulation of the nature and purposes direction for the CDNST was developed through a public process (36 CFR 216) and approved by Associate Chief Hank Kashdan as documented in Federal Register: October 5, 2009.<sup>2</sup> The following is the response to nature and purposes comments –

“The amendments to the 1985 CDNST Comprehensive Plan and corresponding directives are to ensure that the nature and purposes of the CDNST track those in the 1976 CDNST Study Report and 1977 CDNST Final Environmental Impact Statement, which were prepared pursuant to the NTSA (16 U.S.C. 1244(b)). The 1976 CDNST Study Report states:

The primary purpose of this trail is to provide a continuous, appealing trail route, designed for

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<sup>2</sup> <https://www.govinfo.gov/app/details/FR-2009-10-05/E9-23873>

the hiker and horseman, but compatible with other land uses. \* \* \* One of the primary purposes for establishing the Continental Divide National Scenic Trail would be to provide hiking and horseback access to those lands where man's impact on the environment has not been adverse to a substantial degree and where the environment remains relatively unaltered. Therefore, the protection of the land resource must remain a paramount consideration in establishing and managing the trail. There must be sufficient environmental controls to assure that the values for which the trail is established are not jeopardized. \* \* \* The basic goal of the trail is to provide the hiker and rider an entree to 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. \* \* \* The Continental Divide Trail would be a simple facility for foot and horseback use in keeping with the National Scenic Trail concept as seen in the Appalachian and Pacific Crest Trails.

Thus, the 1976 CDNST Study Report states that the primary purpose of the CDNST is to provide a high-quality recreation experience for hiking and horseback riding.

Consistent with the NTSA, the 1976 CDNST Study Report, and the 1977 CDNST Final Environmental Impact Statement, the amended CDNST Comprehensive Plan states that 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 CDNST Comprehensive Plan and final directives implementing the amendments to the CDNST Comprehensive Plan on National Forest System lands provide that 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.... The amendments to the CDNST Comprehensive Plan and directives ensure consistency with the nature and purposes of the CDNST in the context of right-of-way acquisition, land management planning, scenery management, recreation resource management, motor vehicle use, trail and facility standards, and carrying capacity.’ The 1983 amendment to the NTSA, which added 16 U.S.C. 1246(j), does not modify the nature and purposes of the CDNST. The added subsection simply lists uses and vehicles that may be permitted on National Trails generally.

The NTSA states that all National Scenic Trails must be so located to provide for maximum outdoor recreation potential and conservation of natural, historic, and cultural resources (16 U.S.C. 1242(a)(2)). This requirement is reflected in the nature and purposes statement in the amended CDNST Comprehensive Plan, which states that 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. Where possible, the CDNST will be located in primitive or semi-primitive non-motorized settings, which will further contribute to providing for maximum outdoor recreation potential and conservation of natural, historic, and cultural resources in the areas traversed by the CDNST....

The Forest Service has removed the words ‘non-motorized’ and ‘recreational’ from the nature and purposes statement for the CDNST, as these words were redundant. ‘High-quality scenic, primitive hiking and horseback riding’ are non-motorized recreation opportunities. The Agency has not removed



the word ‘primitive’ from the nature and purposes statement, as it is not redundant and is not ambiguous. It means ‘of or relating to an earliest or original stage or state....’ Preferred recreation settings, including primitive or semi-primitive non-motorized categories, are delineated in the Forest Service’s Recreation Opportunity Spectrum system (FSM 2311.1) and described in the CDNST Comprehensive Plan, Chapter IV(B)(5).

The amendments to the 1985 CDNST Comprehensive Plan apply throughout the document to the extent applicable, not just to the provisions that are specifically referenced in the amendments. The Forest Service agrees that this intent should be expressly stated. Therefore, the Agency has added the following statement to the amendments:

To the extent there is any inconsistency between the foregoing revisions and any other provisions in the 1985 CDNST Comprehensive Plan, the foregoing revisions control.”

### **G. Nature and Purposes Policy**

In consideration of the language in the NTSA, Congressional Reports, CDNST Study Report and public comments, the nature and purposes policy for the CDNST is: “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” (CDNST Comprehensive Plan, FSM 2353.42, and 74 FR 51116).

## **Chapter III. Land Management Planning**

### **A. Introduction**

A National Scenic Trail, “is a continuous, long-distance trail located on the ground... along the congressionally designated route... A National Scenic Trail provides maximum compatible outdoor recreation opportunity and conservation and enjoyment of the nationally significant scenic, historic, natural, and cultural resources, qualities, values, and associated settings and the primary use or uses of the areas through which such trails may pass... National Scenic Trails include the tread, or the trail path, and the trail setting which is included within the National Trail Management Corridor...” (BLM MS-6280).

National Scenic Trails are administered as trail corridors. Managers should establish plan components that address (1) desired visitor experience opportunities and settings, and (2) the conservation of scenic, natural, historical, and cultural qualities of the corridor. Supporting standards and guidelines need to be established to achieve desired conditions and objectives, and monitoring methods are to be described.

The land management plan responsible official should work with adjacent landowners to establish and protect the Continental Divide National Scenic Trail (CDNST) corridor. However, recognize that Congress has set a limit on protecting a corridor where the CDNST crosses private land. The authority of the Federal Government to acquire fee title under the NTSA Section 5 is limited to an average of not more than 1/4 mile on either side of the trail.

The amended CDNST Comprehensive Plan (2009), FSM 2353.4 (2009), and FSH 1909.12 part 24.43 (2015) constituted new information (40 CFR 1502.9(c)). The responsible official must review the new information and determine its significance to environmental concerns and bearing on current Land Management Plan (LMP) direction and associated EIS (FSH 1909.15 - 18). In regards to environmental documents for enacted LMPs, determine if Management Area (MA) prescriptions and plan components along the CDNST travel route and corridor provide for the nature and purposes of the CDNST (FSM 2353.42 and FSM 2353.44b(1)). If not, the LMP should be amended or revised following the appropriate National Environmental Policy Act (NEPA) process to address the planning requirements of the NTSA (16 U.S.C. 1244(5)(f) and FSM 2353.44(b)(1)). The BLM has similar requirements for addressing new information (Land Use Planning Handbook, H-1601-1). Furthermore, project proposals may bring the CDNST into the scope of a NEPA process due to potential direct, indirect, and cumulative impacts of past actions and new proposals that may substantially interfere with the nature and purposes of the CDNST (40 CFR 1508.25(c)). This in turn could trigger the need for a land management plan amendment, and on National Forest System lands, the development of a CDNST unit plan. Land management plans are to protect CDNST Section 7(a)(2) potential rights-of-way<sup>3</sup> and high potential route segments<sup>4</sup> where the rights-of-way is yet to be selected and the travel route officially located (16 U.S.C. 1244(f)(3) and 1246(a)(2)). Until the CDNST rights-of-way is selected and the corridor is located, the Agencies must not undertake any major Federal action which (1) may adversely impact nature and purposes values of potential CDNST rights-of-way and corridor locations, (2) limit the choice of reasonable alternatives, and (3) prejudice ultimate rights-of-way and locations decisions (40 CFR 1506.1).

The 2009 CDNST Comprehensive Plan has been mistakenly characterized as being contemporary policy, which may suggest for an early era that the 1985 CDNST Comprehensive Plan was consistent with the NTSA. Unfortunately, the 1985 CDNST Comprehensive Plan was fundamentally flawed being inconsistent with the NTSA from its inception. The 2009 Comprehensive Plan and corresponding FSM 2353 corrected the 1985 direction by establishing baseline policy and appropriate guidance for “nature and purposes,” “visual resource management,” “recreation resource management,” “motor vehicle use,” and “carrying capacity.” In addition, the 2009 Comprehensive

Primacy of Congressional Designations – As a general rule, if the NTSA conflicts with NFMA’s or FLPMA’s multiple use mandate, the NTSA designating guidance will apply. Land management planning decisions for each unit must be consistent with the purposes and objectives of the designating Act of Congress. Where multiple Congressional designations overlap, the agency must comply with all applicable statutes. In order to do so, the more protective management requirements will likely apply. The establishment of the comprehensive plan for the CDNST 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 of the CDNST corridor and protection of the nature and purposes of the CDNST.

<sup>3</sup> A land use allocation pursuant to Section 7(a)(2) of the National Trails System Act (“rights-of-way”) for a public land area of sufficient width within which to encompass National Trail resources, qualities, values, and associated settings and the primary use or uses that are present or to be restored.

<sup>4</sup> The term "high potential route segments" means those segments of the North Country and Continental Divide NSTs which would afford high quality recreation experience in a portion of the route having greater than average scenic values (16 U.S.C 1251(2)).

Plan and associated FSM policy recognize the role of substantial interference assessments and determinations when addressing other uses along the CDNST corridor.

The FR Notice of final amendments to the Comprehensive Plan and final directives states, “The final amendments to the CDNST Comprehensive Plan and corresponding directives will provide guidance to agency officials implementing the National Trails System Act. 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” (Federal Register, October 5, 2009 (74 FR 51116)).

The CDNST is administered by the Secretary of Agriculture. Delegation of those responsibilities to Forest Service officials is found in FSM 2353.04. The lead Forest Service official for coordinating matters concerning the study, planning, location, and operation of the CDNST is the Regional Forester for the Rocky Mountain Region (FSM 2353.04(5)(b)). The Secretary of Agriculture has not transferred the management of any specified trail segment of the CDNST to the Secretary of Interior pursuant to a joint memorandum of agreement. (NSTA Sec. 7(a)(1)(B)).

## **B. Rights-of-Way and National Trail Management Corridor**

The NTSA states in Section 7(a)(2), “Pursuant to section 5(a), the appropriate Secretary shall select the rights-of-way for national scenic and national historic trails and shall publish notice thereof of the availability of appropriate maps or descriptions in the Federal Register; Provided, That in selecting the rights-of-way full consideration shall be given to minimizing the adverse effects upon the adjacent landowner or user and his operation....” Other sections of the Act provide additional important guidance that is associated with the selection of the rights-of-way, planning, and management of the CDNST, including direction stating: (1) Locating the National Trail corridor, “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;” (2) “Avoiding, to the extent possible, activities along the National Scenic Trail that would be incompatible with the purposes of the CDNST for which it was established;” and (3) “National scenic or national historic 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.” The selection of the rights-of-way should occur soon after a NST is authorized and designated by Congress, or as in integral part of the timely preparation of the NST Comprehensive Plan. In addition, the selection of the rights-of-way must be consonant of the implications of guidance found in NTSA Section 7(b), 7(d), 7(e), and 7(f).

The CDNST corridor, also known as a National Trail Management Corridor (NTMC),<sup>5</sup> is to be

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<sup>5</sup> BLM MS-6280 - National Trail Management Corridor. Allocation established through the land management planning process, pursuant to Section 202 of Federal Land Policy and Management Act and Section 7(a)(2) of the National Trails System Act (“rights-of-way”) for a public land area of sufficient width within which to encompass National Trail resources, qualities, values, and associated settings and the primary use or uses that are present or to be restored.

described through the delineation of a Management Area (MA) or NTMC with plan components that provide for the nature and purposes values of this designated NST. To provide for the nature and purposes of the National Trail, several location and management factors should be considered; such as and where reasonable to do so, the MA or NTMC should be located in more primitive Recreation Opportunity Spectrum (ROS) classes; once located the management of the MA or NTMC should provide for a Primitive or Semi-Primitive Non-Motorized experiences. In addition, the CDNST travel route is a concern level-1 travel route and scenic management objectives of high or very high must be met. The boundary of the MA should follow topographic features to the extent possible, while being at least one-half mile wide on each side of the established and potential locations of the National Trail travel routes. This recommendation is based on ROS criteria that identifies remoteness for a Semi-Primitive Non-Motorized setting as: An area at least 1/2-mile but not further than 3 miles from all roads, railroads or trails with motorized use. More than 3 miles would tend to classify the area as Primitive<sup>6</sup> another desirable setting. The Forest Service Scenery Management System identifies that the middleground begins at 1/2-mile of the travel route.<sup>7</sup>

The extent of the NTMC may reflect the unique qualities of the linear landscape of the area along the National Trail travel route. National Scenic Trails are so 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 (NTSA Section 3(a)(2)) and significant natural, historical, and cultural resources are to be preserved (NTSA Section 5(f)). Protection of scenic landscapes and unique wildlife habitat may warrant establishing a corridor of a greater breadth than that normally provided by a semi-primitive non-motorized ROS setting. Forest plans are expected to provide for ecological conditions to contribute to the recovery of threatened and endangered species and to conserve species that have been proposed for listing under the Endangered Species Act.

### **C. Development and Management**

The development and management of National Scenic and Historic Trails (NSHT) must be based on many facets of the NTSA, a Comprehensive Plan, other applicable laws, Executive Orders, regulations, and policies. Although, the most important amendment to the NTSA for the CDNST occurred as part of the National Parks and Recreation Act of 1978, which authorized and designated this NST. Planning guidance for the National Trails System and the CDNST has been modified several times since the legislation was enacted in 1968. In 1976, the National Forest Management Act (NFMA) and Federal Land Policy and Management Act (FLPMA) were enacted requiring integrated plans; as such, new and revised NFMA and FLPMA directed land management plans, and the comprehensive planning for NSHTs, are not predisposed by the 1968 NTSA vague statement to, "...be designed to

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<sup>6</sup> FSM 2310.3 – Policy. 1. Use the ROS to establish planning criteria, generate objectives for recreation, evaluate public issues, integrate management concerns, project recreation needs and demands, and coordinate management objectives. 2. Use the ROS system to develop standards and guidelines for proposed recreation resource use and development. 3. Use the ROS system guidelines to describe recreation opportunities and coordinate with other recreation suppliers.... [Policy has been in effect from 1986 to present.] FSM 2311.1 – Reference: ROS User Guide.

<sup>7</sup> [Landscape Aesthetics, A Handbook for Scenery Management, Agricultural Handbook Number 701](#)

harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land.”

Development and management guidance found in the NTSA is summarized below and related to other laws and the CDNST:

(1) The NTSA, as amended, is the principal legislation that influences the development and management of the CDNST. The NTSA Statement of Policy describes the purpose of the legislation in Section 2(a), “In order to provide for the ever-increasing outdoor recreation needs of an expanding population and in order 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, trails should be established... and (ii) secondarily, within scenic areas and along historic travel routes of the Nation which are often more remotely located.”

(2) The NTSA, Section 3(a)(2) describes location criteria as, “National scenic trails, established as provided in section 5 of this Act, which will be extended trails so 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...” This provision is partially addressed in the Study Report through statements such as, “The primary purpose of this trail is to provide a continuous, appealing trail route, designed for the hiker and horseman, but compatible with other land uses... One of the primary purposes for establishing the Continental Divide National Scenic Trail would be to provide hiking and horseback access to those lands where man's impact on the environment has not been adverse to a substantial degree and where the environment remains relatively unaltered. Therefore, the protection of the land resource must remain a paramount consideration in establishing and managing the trail. There must be sufficient environmental controls to assure that the values for which the trail is established are not jeopardized.”

(3) The NTSA, Section 5(a)(5) states, “Notwithstanding the provisions of section 7(c), the use of motorized vehicles on roads which will be designated segments of the Continental Divide National Scenic Trail shall be permitted in accordance with regulations prescribed by the appropriate Secretary.” This provision is addressed in the Comprehensive Plan: “Motor vehicle use by the general public is prohibited on the CDNST, unless that use is consistent with the applicable land management plan and: ... (5) Is designated in accordance with 36 CFR Part 212, Subpart B, on National Forest System lands or is allowed on public lands and: ... (b) That segment of the CDNST was constructed as a road prior to November 10, 1978...” (Comprehensive Plan, Chapter IV(B)(6)). Forest Service policy describes, “Locate a CDNST segment on a road only where it is primitive and offers recreational opportunities comparable to those provided by a trail with a Designed Use of Pack and Saddle Stock...” (FSM2353.44 (b)(2)(8)). CDNST related regulations to address the guidance for motorized vehicles on roads are yet to be prescribed.

(4) The NTSA, Section 7(a)(2) is important for it directs the establishment of the CDNST designated area. “The appropriate Secretary shall select the rights-of-way for national scenic and national historic trails and shall publish notice thereof of the availability of appropriate maps or descriptions in the Federal Register.” This is an essential task that needs to be completed for the CDNST

and many other National Scenic and Historic Trails. The term rights-of-way can be confusing, so the BLM has provided the following clarifying definition:

*“National Trail Right(s)-of-Way.* Term used in Section 7(a)(2) of the National Trails System Act to describe the corridor selected by the National Trail administering agency,... which includes the area of land that is of sufficient width to encompass National Trail resources, qualities, values, and associated settings. The National Trail Right-of-Way, in the context of the National Trails System Act, differs from a Federal Land Policy and Management Act (FLPMA) Title V right-of-way, which is a grant issued pursuant to FLPMA authorities. It becomes a key consideration in establishing the National Trail Management Corridor in a Resource Management Plan” (BLM MS-6280).

The NTSA Section 7(a) requirement to select a National Scenic Trail rights-of-way is similar to the Wild and Scenic River Act Section 3(b) requirement to establish a W&SR boundary. Establishing NST rights-of-way (boundary) that includes identified NST-related values is essential as a basis from which to provide necessary protection. Where private lands are involved, the boundary marks the area within which the manager will focus work with local communities and landowners in developing effective strategies for protection of the NST corridor.

(5) The NTSA Section 7(a)(2) further expresses that, “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 following examines this Section 7(a)(2) sentence, and reviews other planning requirements, to try to better understand the intent and legal requirements of the guidance:

(a) What is a “segment of the National Trails System?” To place this in context, it is important to recognize that the components of the “National Trails System,” includes National Recreation Trails (NRTs), National Scenic Trails (NSTs), National Historic Trails (NHT), and Side or Connecting Trails. A simple definition of a segment is, “one of the parts into which something can be divided.” The parts of the National Trails System would be each congressionally and administratively designated National Trail component as established per the requirements of the NTSA.

(b) What is intended by the 1968 guidance to, “be designed to harmonize with and complement any established multiple-use plans for that specific area?” Forest Service policy approved by Chief J. Max Peterson interpreted the direction to be as follows: “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” (FSM 2353.4(1)(d) – Administration (FSM 1/80 Amend 85 – expired).

Harmonizing and complementing benefits of an optimum location design of a National Scenic Trail corridor would include the recreation and conservation benefits resulting from: (1) locating the National Trail corridor “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...” (16 U.S.C. 1242(a)(2); (2) avoiding, to the extent possible, activities that would be incompatible with the purposes of a NST for which it was established (16 U.S.C. 1246(c)); (3) contributing to achieving historic, outdoor recreation, watershed, and wildlife and fish multiple-use benefits (16 U.S.C. 528); and (4) locating, protecting, and providing for the connectivity of a section of a congressionally designated National Scenic Trail.

Specific to the National Forest System, the NFMA of 1976 established that Land Management Plans were to provide for one integrated plan. The 1982 NFMA planning regulations directed that, “...requirements for additional planning for special areas shall be met through plans required under this subpart” (36 CFR 219.2(a) [1982], and 36 CFR 219.1 and 219.10 [2012]). By no later than 1982 with the establishment of regulations, NFMA controlled processes for integrated forest planning superseded the 1968 NTSA guidance to, “harmonize with and complement any established multiple-use plans.”

(c) What is intended by the guidance, “to insure continued maximum benefits from the land?” This statement reinforces the phrase, “shall be designed to harmonize with and complement any established multiple-use plans.” However, 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 (MUSYA) of 1960.<sup>8</sup> As stated above, benefits of establishing a National Trail corridor would include the recreation and conservation benefits resulting from: (1) locating the National Trail corridor “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...” (16 U.S.C. 1242(a)(2); (2) avoiding, to the extent possible, activities along the NST that would be incompatible with the purposes of the CDNST for which it was established (16 U.S.C. 1246(c)); (3) contributing to achieving outdoor recreation, watershed, and wildlife and fish multiple-use benefits (16 U.S.C. 528); and (4) locating, protecting, and providing for the connectivity of a section of a congressionally designated National Scenic Trail.

In 1968 when the NTSA was enacted, the Forest Service was preparing National Forest Unit Plans. In 1978, when the CDNST was designated, regulations were being developed to provide for integrated multiple-use plans as a result of the NFMA (Forest Service) and the Federal Land Policy and Management Act of 1976 (BLM).

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<sup>8</sup> Multiple Use is defined as, "management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people ...."

The NFMA requires that a Forest Plan address the comprehensive planning and other requirements of the NTSA in order to form one integrated Plan (16 U.S.C. 1604(c) and (f) and 36 CFR 219.2 [1982] and 36 CFR 219.1 and 219.10). 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 new or revised land management plan approved after the passage of NFMA and FLPMA.

Specific to NSTs, an optimum location assessment may find that designing the rights-of-way corridor to pass through inventoried Primitive and Semi-Primitive Non-Motorized Recreation ROS settings, and then managing the selected corridor to maintain those ROS settings characteristics, would assure continued benefits of the land that best meet the needs of the American people.

(6) NTSA, Section 7(b) states, “After publication of notice of the availability of appropriate maps or descriptions in the Federal Register, the Secretary charged with the administration of a national scenic or national historic trail may relocate segments of a national scenic or national historic trail right-of-way with the concurrence of the head of the Federal agency having jurisdiction over the lands involved, upon a determination that: (I) Such a relocation is necessary to preserve the purposes for which the trail was established, or (ii) the relocation is necessary to promote a sound land management program in accordance with established multiple-use principles: Provided, That a substantial relocation of the rights-of-way for such trail shall be by Act of Congress.” This direction on relocations part (I) and (ii) may be useful guidance for selecting the initial rights-of-way. The extent of the initial selected rights-of-way should provide for the possibility of future relocations of the CDNST travel route.

A National Park Service example of a relocation of selected rights-of-way is described for a section of the Appalachian National Scenic Trail. “The proposed relocations set forth below are deemed necessary to preserve the purpose for which the Appalachian National Scenic Trail was established. As a part of the program to protect and establish an Appalachian Trail corridor the Department of the Interior, in consultation with the Department of Agriculture, has determined that where the Trail is now along roads, close to houses or otherwise poorly located, the National Park Service in consultation with the Forest Service will seek an alternative location. When necessary, an alternative Trail route will be located outside the existing right-or-way pursuant to Section 7 of the National Trails System Act, which established a process for necessary relocations after publication of notice-in the Federal Register and appropriate consultation” ([46 FR 191](#)).

(7) NTSA, Section 7(c) states, “National scenic or national historic 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. Reasonable efforts shall be made to provide sufficient access opportunities to such trails and, 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....” This section was also adopted in 1968 and has clear implications to the development and management of NSHTs. It is implicit that the nature and purposes of each designated NSHT be established to not only understand acceptable uses along a



National Trail, but also for guiding the selection of the rights-of-way and the establishment of a NSHT management corridor.

In 1978, the NTSA Section 7(c) was amended adding that, “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 by the Secretary charged with administration of the trail.” This guidance is not directly addressed in the CDNST Comprehensive Plan, since nature and purposes substantial interference determinations were already part of the 1968 NTSA direction. However, if the other use was allowed in 1978 by explicit administrative regulations the allowance of such use may be affected by this part of the legislation.

(8) In 1978, the NTSA was amended adding Section 5(e) and 5(f) to require the development of a Comprehensive Plan directing that, “a comprehensive plan for the management, and use of the trail, including but not limited to, the following items: (1) 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...and for national scenic or national historic trails an identified carrying capacity of the trail and a plan for its implementation; (2) the process to be followed by the appropriate Secretary to implement the marking requirements established in section 7(c) of this Act; (3) a protection plan for any high potential historic sites or high potential route segments; and (4) general and site-specific development plans, including anticipated costs.” The CDNST Comprehensive Plan is discussed further in the next section.

(9) The 1983, House Report No. 98-28 describes that, “The 94th Congress conducted oversight hearings on the act, and also enacted legislation designating additional routes for study under the act. The oversight hearings revealed that the federal agencies were not moving expeditiously to implement the provisions of the original act with respect to the protection of the designated trails... Subsection 7(a) is amended by requiring that the secretary charged with overall administration of a national scenic or national historic trail must consult with all affected state and federal agencies. No presumption is to be made that a trail designation carries with it any transfer of management responsibility for affected federal lands. A mechanism is established where a management transfer may be negotiated, including a provision that such transferred segments will be subject to the usual laws, rules, and regulations governing management of lands administered by the receiving secretary, subject to whatever exceptions may be provided for in the transfer agreement. For example, the Secretary of the Interior who is responsible for administration of the Appalachian National Scenic Trail, could negotiate an agreement with the Secretary of Agriculture. This agreement might provide that a certain segment of the trail corridor, acquired by the National Park Service, would be transferred to the Forest Service for management, and would be governed by Forest Service rules and regulations, except that the agreement might specify that the transferred corridor segment would be managed with certain other constraints which would not apply to national forest land generally.”

The Secretary charged with National Trail administration following congressional designation executes requirements under the National Trails System Act (NTSA), which include establishing an advisory council for each trail, completing a Comprehensive Plan, selecting the National Scenic Trail

rights-of-way, describing the nature and purposes (values) of the national trail, and ensuring that other uses do not substantially interfere with the described National Scenic Trail values. The federal lands within the rights-of-way has an overlay of management regimes: (1) the National Scenic Trail administering agency has certain responsibilities associated with the NTSA corridor segment and (2) the managing agency (the on-the-ground land managing agency) has responsibilities to implement the NFMA, FLPMA or NPS General Authorities Act, as applicable, while being constrained by other laws including the NTSA.

Subsection 7(i) was amended to specify that the appropriate secretary responsible for the management of any segment of a component of the National Trails System may utilize the appropriate National Park System or National Forest System authorities in administering such segment. Consistent with the purposes of the act. The 'appropriate' secretary shall consult with states. The appropriate secretary may be either the secretary of Agriculture or the secretary of the Interior. Section 7(j) does not modify the nature and purposes of the CDNST and the guidance in Section 7(c). The added subsection simply lists uses and vehicles that may be permitted on National Trails generally. This provision gives authority to the secretaries to permit such uses where appropriate, but that it must also be exercised in keeping with those other provisions of the law that require the secretaries to protect the resources themselves and the users of the system. It is intended, for example, that motorized vehicles will not normally be allowed on national scenic or historical trails and will be allowed on recreational trails only at times and places where such use will not create significant on-trail or off-trail environmental. Damage and will not jeopardize the safety of hikers, equestrians, or other uses or conflict with the primary purposes for which the trail, or the portion of the trail, were created. Section 7(k) addresses management and development issues associated with private land along a NSHT stating, “For the conservation purpose of preserving or enhancing the recreational, scenic, natural, or historical values of components of the national trails system, and environs thereof as determined by the appropriate Secretary, landowners are authorized to donate or otherwise convey qualified real property interests to qualified organizations consistent with section 170(h)(3) of the Internal Revenue Code of 1954, including, but not limited to, right-of-way, open space, scenic, or conservation easements....” This direction is specific to private land, but identifies the importance “of preserving or enhancing the recreational, scenic, natural, or historical values” along a National Trail.

(10) In 2001, Executive Order 13195 – Trails for America – addressed development and management of NSHTs by directing in Section 1(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....” This E.O. supplements the NTSA by clearly identifying the need to protect NSHT corridors.

(11) In 2009, Omnibus Public Land Management Act (P.L. 111-11, 16 U.S.C. 7202) established National Landscape Conservation System areas on public lands. Section 2002 of this Act describes, in part, “In order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations, there is established in the Bureau of Land Management the National Landscape Conservation System. (b) COMPONENTS.—The system shall include each of the following areas administered by the Bureau of Land Management: (1) Each area that is designated as— ... (D) a national scenic trail or national historic

trail designated as a component of the National Trails System;... Furthermore, the legislation states, The Secretary shall manage the system—(1) in accordance with any applicable law (including regulations) relating to any component of the system included under subsection (b); and (2) in a manner that protects the values for which the components of the system were designated.” The Omnibus Public Land Management Act of 2009 resulted in the comprehensive BLM manual series 6250 and 6280 that address the planning, development, and management of NSHTs for the purpose of protecting NSHT values.

The Federal Land Policy and Management Act of 1976, as amended (P.L. 94-579), section 102, states, “regulations and plans for the protection of public land areas of critical environmental concern be promptly developed.” In addition, Section 103 describes, “(a) The term “areas of critical environmental concern” means areas within the public lands where special management attention is required...to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.” “In the development and revision of land use plans, the Secretary shall– (3) give priority to the designation and protection of areas of critical environmental concern; ...and (9) to the extent consistent with the laws governing the administration of the public lands, coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of other Federal departments and agencies and of the States and local governments within which the lands are located...” (FLPMA Section 202) “The Secretary shall manage the public lands under principles of multiple use and sustained yield, in accordance with the land use plans developed by him under section 202 of this Act when they are available, except that where a tract of such public land has been dedicated to specific uses according to any other provisions of law it shall be managed in accordance with such law.” (FLPMA Section 302)

National Landscape Conservation System landscapes are clearly areas where “special management attention is required” as specified in the FLPMA definition of an Area of Critical of Environmental Concern (ACEC). The Bureau of Land Management has already addressed the need for such special attention, as in MS-6250 and MS-6280 with regard to NSHTs. The recognition of NLCS components as ACECs as defined in FLPMA provides a mechanism for the identification of these areas and the protection of their values through the development and implementation of Resource Management Plans.

BLM Areas of Critical Environmental Concern directive describes that, “Congress has reserved the right to approve additions to the National Wilderness System, National Historic/Scenic Trails System, and National Wild and Scenic Rivers System and to congressionally designate public land areas as National Recreation Areas and National Conservation Areas. A potential ACEC may be contained within or overlap one of the above designations provided that the ACEC designation is necessary to protect a resource or value... (MS-1613, Congressional Designations, .51).

(12) In 2009, the Chief of the Forest Service amended the Continental Divide National Scenic Trail Comprehensive Plan and issued conforming directives (FSM 2353.01d(5) and FSM 2353.4), which addressed development and management of the CDNST (Federal Register: October 5, 2009 (74 FR 51116)). The 2009 Comprehensive Plan and corresponding FSM 2353 directives established baseline policy and appropriate guidance for “nature and purposes,” “visual resource management,” “recreation

resource management,” “motor vehicle use,” and “carrying capacity.” In addition, the 2009 Comprehensive Plan and FSM policy recognizes the role of substantial interference assessments and determinations when addressing other uses along the CDNST corridor. The final amendments and directives are to be applied through land management planning and project decisions following requisite environmental analysis (74 FR 51124).

(13) In 2015, Forest Service planning directives describe that: “When developing plan components for national scenic and historic trails: The Interdisciplinary Team shall identify Congressionally 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 and for the potential rights-of-way of those trails designated for study.” Furthermore, “The team..., “should use other information to delineate a national scenic and historic trails corridor that protects the resource values for which the trail was designated... The plan must include plan components including standards or guidelines for designated areas... that describe the national scenic and historic trail and the recreational, scenic, historic, and other resource values for which the trail was designated....

In the “Response to Comments on the Proposed Land Management Planning Directives,” in January 2015, the Agency mentions National Scenic and Historic Trails in a section titled, Forest Planning – General Comments – Plan Components, pages 24-25. “Respondents asked that the Agency clarify the following about plan components: clarify enforceability of each plan component; clarify ability of plan components to constrain or prohibit public activities; require documenting assumptions for plan components; provide guidance on evaluating and adopting lower tier components such as trail class, managed uses, designed use, and design parameters and identify prohibited uses for national scenic trails.” The response states, “The Agency modified the proposed planning directives by adding a new section at FSH 1909.12, chapter 20, section 24 on designated areas and a specific new section (sec. 24.43) on national scenic and historic trails. FSH 1909.12, chapter 20, section 24.43 emphasizes that plans are to identify and map national scenic and historic trails within the plan area. Plan components must provide for management of the trail consistent with legal authorities and the nature and purposes of existing national scenic and historic trails, and must be consistent with the objectives and practices for the management of the national scenic and historic trails as identified in the most recent comprehensive plan. Comprehensive trail plans are expected to provide for trail management compatible with the plan components of the land management plan.”

This response is somewhat unclear, since two distinct planning processes are discussed in one passage. A Comprehensive Plan is defined by the NTSA, while a National Forest System (NFS) trail plan is a resource plan, such as establishing Travel Management Objectives (FSM 2353.12). However, it appears that the Agency is committed to (1) providing for the protection of the nature and purposes of National Scenic and Historic Trails and being consistent with each National Scenic or Historic Trail Comprehensive Plan, and (2) NFS trail plans are directed to be consistent with plan components. Comprehensive Plans developed in response to the requirements of the National Trails System Act and Wild and Scenic Rivers Act are not resource plans as defined by the NFMA (16 U.S.C. 1604(i) and 36 CFR 219.15(e)).

CDNST policy and direction is found in the 2009 Comprehensive Plan, FSM 2353.4, FSH 1909.12 part 14, and FSH 1909.12 part 24.43, which in total provides the necessary National Trail policy and management direction for implementing the requirements of the NTSA. FSM 2350 is referenced in FSH 1909.12 part 24.43, which is necessary since the Forest Service Planning Handbook in itself does not contain substantive specialized guidance and instruction for addressing the NTSA in an integrated land management planning process. FSM 1110.3, FSM 1110.8, and FSM 1112.02 have more information about the formulation of directives.

(14) In 2016, The Bureau of Land Management (BLM) amended its regulations that establish the procedures used to prepare, revise, or amend land use plans pursuant to the Federal Land Policy and Management Act (FLPMA). On March 27, 2017, these regulations were rescinded by P.L. 115-12 - H.J. Res. 44 - Disapproving the rule submitted by the Department of the Interior relating to Bureau of Land Management regulations that establish the procedures used to prepare, revise, or amend land use plans pursuant to the Federal Land Policy and Management Act of 1976. The BLM issued on December 21, 2017, a Federal Register Notice (82 FR 60554) to effect the removal of any amendments, deletions or other modifications made by the nullified rule, and the reversion to the text of the regulations in effect immediately prior to the effective date of the Planning 2.0 Rule.

#### **D. CDNST Comprehensive Planning**

The Bureau of Outdoor Recreation, pursuant to 16 U.S.C. 1244(b), prepared a Study Report for the CDNST that was completed in 1976. The Chief of the Forest Service adopted the 1976 CDNST Study Report and 1977 CDNST Final Environmental Statement on August 5, 1981 (46 FR 39867). Consistent with the Study Report, the Chief amended the 1985 CDNST Comprehensive Plan and issued conforming FSM 2353.4 policy in 2009.

A comprehensive plan for the acquisition, management, development, and use of a National Scenic Trail includes, in part, specifies objectives and practices to be observed in the management of the CDNST, including the identification of all significant natural, historical, and cultural resources to be preserved, an identified carrying capacity, an acquisition or protection plan, and general and site-specific development plans. A comprehensive plan is completed when programmatic and site-specific planning elements have been addressed.

Comprehensive plan direction must be applied to a management corridor and be associated with measurable outcome-focused objectives that are related to maintaining or achieving nature and purposes desired conditions. These objectives need to define specific recreation opportunities (e.g., activities and experiences); management, land protection, acquisition and development needs; and conservation measures.

On National Forest System lands and BLM public lands, the Comprehensive Plan direction is implemented through NFMA and FLPMA integrated planning processes, including establishing practices to be observed:

- Forest Service practices are described in land management plans as plan components, which include desired conditions, standards, guidelines, suitability of lands, and possibly goals. Practices may also include potential management approaches or strategies and partnership

opportunities or coordination activities. The CDNST management direction is applied to a Management Area.

- BLM practices are described in Resource Management Plans and Special Area Plans as management actions, allowable use decisions, and implementation actions that are applied to a National Trail Management Corridor.

Comprehensive plan requirements (16 U.S.C. 1244(f)) for the CDNST are addressed through staged or stepped-down decision processes: (1) the 2009 Comprehensive Plan established broad policy and procedures including identifying the nature and purposes, (2) land management plans guide all natural resource management activities and establish management standards (thresholds<sup>9</sup> or a clear indication of binding commitment) and guidelines for the National Forest System, provide integrated resource management direction for designated areas, and address programmatic planning requirements as described in the Comprehensive Plan (Chapter IV), and (3) mid-level and site-specific plans complete the comprehensive planning process through field-level actions to protect the corridor and then maintain or construct the travel route (FSM 2353.44b(2)). Staged and stepped down decision processes could appear to support the notion that the comprehensive plans are simply resource plans that are inferior to the land management plan direction. Instead, this is an administrative approach to incrementally step through the comprehensive planning process that is required by the NTSA, while being consistent with NFMA and NEPA staged decision-making processes. The Forest Service Planning Rule PEIS discusses staged decision-making as related to NFMA and NEPA processes:

“...NFMA requires the promulgation of a planning rule that ‘set[s] out the process for the development and revision of the land management plans, and the guidelines and standards’ set out in the Act. The rule must be developed ‘under the principles of the Multiple-Use Sustained-Yield Act’ (16 U.S.C. 1604(g)). A planning rule sets out requirements for development, revision, and amendment of land management plans. By setting out substantive and procedural requirements, it establishes the decision space within which the planning process is to be carried out and within which plan content must fit. Approval of a planning rule will guide development, revision, and amendment of land management plans...

At the second stage of decision-making, within the requirements set out in the planning rule, a land management plan sets out a framework with sideboards to guide all natural resource management activities on a NFS unit. Approval of a land management plan is a programmatic decision that identifies desired conditions, sets goals and objectives, establishes standards and guidelines, and determines what and how often to monitor certain conditions. A plan guides the choice and design of future proposals for projects and activities in a plan area but typically does not authorize projects or activities, nor commit the Forest Service to take action. A plan constrains the Agency, however, by prohibiting the authorization of certain types of projects or activities or limiting the manner in which they may be carried out, in all or part of the plan area...

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<sup>9</sup> Thresholds are minimally acceptable conditions associated with each indicator. Indicators are specific resource or experiential attributes that can be measured to track changes in conditions so that progress toward achieving and maintaining desired conditions can be assessed.

As a planning rule establishes the decision space for land management planning, land management plans establish further constraints upon the decision space for on-the-ground management decisions. Yet, as the multiple-use principle necessitates a broad decision space for plans, plans will also provide broad decision space...

At the third decision-making stage are authorizations of on-the-ground projects and activities. Decisions in this third stage must be consistent with the applicable land management plan. Site-specific decisions on any one unit can cover a wide variety of actions. The number of such decisions, made during the life of a plan, can number into the hundreds, and vary widely by type.

At each stage—from NFMA to planning rule, planning rule to plan, and plan to project—the decision space narrows. Even so, the decision space remains broad. Every one of the plans developed to date has differed from the others, and the project decisions that have been under each plan have varied widely...

Each stage of the Agency’s decision-making process (rule, plans, and projects) is subject to the requirements of the NEPA. As the rule narrows the decision space for plans, and each plan narrows the decision space for projects, so too the NEPA analysis narrows at each stage, through ‘tiering.’ Tiering of NEPA analysis is provided for in the Council on Environmental Quality regulations, and refers to the coverage of general matters in broader environmental impact statements (such as this), with subsequent narrower statements or environmental analyses (such as those for plans) incorporating by reference discussions in the broader document ‘to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review’ (40 CFR 1502.20). Tiering is appropriate when the sequence of statements or analyses is from a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific statement or analysis (40 CFR 1508.28)...

Finally, for each proposed project or activity, the Agency undertakes yet another environmental analysis, to determine the site-specific effects. In addition, it is at that project-specific stage where the bulk of Forest Service NEPA effects analysis is, and will continue to be, done. Only at the point of making project-level decisions does the Agency commit resources or funding for on-the-ground action. It is at this level of NEPA analysis that direct effects can be predicted with confidence to the constituent parts of the environment: the soil, air, water, vegetation, wildlife, social conditions, and economic costs/returns” (Forest Service Planning Rule, PEIS, pages 77-79).

“The [2009] final amendments to the CDNST Comprehensive Plan and corresponding directives... provide guidance to agency officials implementing the National Trails System Act. 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” (74 FR 51123).

Nature and Purposes is addressed in the CDNST Comprehensive Plan in Chapter II(A) and IV(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.” Final Amendments to the CDNST Comprehensive Plan states, “Administer the

CDNST consistent with the nature and purposes for which this National Scenic Trail was established. The CDNST was established and designated 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” (74 FR 51124).

Visual Resource Management is addressed in the CDNST Comprehensive Plan in Chapter IV(B)(4). Management direction in Part c states, “(1) On National Forest System lands, the visual resource inventory will follow the procedures outlined in Forest Service Manual 2380, and appropriate handbook guidelines. The inventory will be performed as if the trail exists even in sections where it is proposed for construction or reconstruction. (2) On public lands administered by the Bureau of Land Management, the visual resource inventory will follow the procedures outlined in BLM Manual Section 8400. The inventory shall be conducted on the basis that the CDNST is a high sensitivity level travel route and will be performed as if the trail exists even in sections where it is proposed for construction or reconstruction.” Final Amendments to the CDNST Comprehensive Plan states, “Scenery along the CDNST may be managed using the Scenery Management System (FSM 2382.1; Landscape Aesthetics: A Handbook for Scenery Management, Agricultural Handbook 701, 1995... The CDNST is a concern level 1 route, with a scenic integrity objective of high or very high, depending on the trail segment” (74 FR 51125).

“In general a specific integrity level or visual quality objective can be achieved by decreasing the visual contrast of the deviation being viewed. Usually the most effective way is to repeat form, line, color, texture, pattern and scale common to the valued landscape character being viewed” (Landscape Aesthetics Handbook, page 2-5). However, in landscapes where vegetation health issues exist, it may be best to assume that vegetation is ephemeral and may disappear due to factors such as insects, disease and fire. In those areas visual analysis should not consider current vegetation in establishing distance zones or the trail corridor. Another consideration is that the, “middleground is usually the predominant distance zone at which national forest landscapes are seen, except for regions of flat lands or tall, dense vegetation. At this distance, people can distinguish individual tree-forms, large boulders, flower fields, small openings in the forest, and small rock outcrops. Tree-forms typically stand out vividly in silhouetted situations. Form, texture, and color remain dominant, and pattern is important. Texture is often made up of repetitive tree-forms. In steeper topography, a middleground landscape perspective is similar to an aerial one. Because the viewer is able to see human activities from this perspective in context with the overall landscape, a middleground landscape having steep topography is often the most critical of all distance zones for scenery management” (Landscape Aesthetics Handbook, page 4-12).

Recreation Resource Management is addressed in the CDNST Comprehensive Plan in Chapter IV(B)(5). Policy is described in Part b as, “(1) 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.” Primitive means, “of or relating to an earliest or original stage or state” (74 FR 51116). Forms of hiking include backpacking, cross-country skiing, snowshoeing and other similar walking activities.



Recreation management direction is described in the Comprehensive Plan, Chapter IV(B)(5)(c), page 16. “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 traverse intermittently through more developed ROS classes to provide for continuous travel between the Canada and Mexico borders.” All ROS classes are summarized in this section of the Comprehensive Plan to assure that identical definitions are used across administrative units; this summary is not to be construed as indicating a desirability or compatibility of managing the CDNST corridor to provide for Semi-Primitive Motorized, Roaded Natural, and Rural ROS class conditions. Management direction for Semi-Primitive Motorized, Roaded Natural, 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. Primitive and Semi-Primitive Non-Motorized ROS classes generally provide for desired experiences where the allowed non-motorized activities reflect the purposes for which the National Trail was established.

Final Amendments to the CDNST Comprehensive Plan states, “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...

Locate a CDNST segment on a road only where it is primitive and offers recreational opportunities comparable to those provided by a trail with a Designed Use of Pack and Saddle Stock, provided that the CDNST may have to be located on or across motorized routes because of the inability to locate the trail elsewhere” (74 FR 51125).

The 2009 CDNST Comprehensive Plan direction is consistent with the guidance in the NTSA, NFMA, FLPMA, and NEPA and should be followed. Furthermore, policy found in FSM 2353.4 (Forest Service) and MS-6280 (BLM) should guide the development and management of the CDNST. The establishment of CDNST MAs and NTMCs, with appropriate plan components, could facilitate comprehensive planning, selecting and publishing the rights-of-way in the Federal Register, and meet attached NEPA requirements.<sup>10</sup>

In some landscapes, resource developments and use have degraded National Trail values and in these areas, it may be judicious to adopt a non-degradation strategy for the National Trail corridor. The non-degradation concept calls for maintenance of present resource conditions if they equal or exceed minimum conditions and restoration where conditions are below-minimum levels.

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<sup>10</sup> Under the National Environmental Policy Act (NEPA), when a federal agency does not make an “overt act,” no NEPA requirement to prepare an Environmental Impact Statement (EIS) attaches. However, if some agency action was mandated under a separate statute in relation to that activity but the action was not taken, NEPA does attach and the Administrative Procedure Act applies (40 CFR 1508.18 and 5 U.S.C. 706). The NTSA presents an independent planning requirement to prepare and implement a comprehensive plan, select the rights-of-way, and in general provide for the nature and purposes of the CDNST.

**Exhibit 1** depicts an integrated planning strategy for the CDNST. This staged decisionmaking strategy does not diminish the *discrete agency action* that is required by the NTSA Section 5(f) to prepare one Comprehensive Plan for the CDNST.

**Exhibit 1. Integrated Planning Strategy for the CDNST.**

2009 Comprehensive Plan Stage 1	Land Management Plan Stage 2	CDNST Field-Level Plan Stage 3
<p>The comprehensive plan establishes national direction (FSM 2353.01d(5)) that implements foundational provisions of the National Trails System Act, which includes establishing:</p> <ul style="list-style-type: none"> <li>• The Nature and Purposes of the CDNST</li> <li>• Objectives</li> <li>• Guidance for selecting the Rights-of-Way Corridor<sup>11</sup></li> <li>• Guidance for resource management practices as related to:               <ul style="list-style-type: none"> <li>○ Visual Resource</li> <li>○ Recreation Resource</li> <li>○ Motorized Use</li> <li>○ Special Use Permits</li> <li>○ Trail and Facilities</li> <li>○ Carrying Capacity</li> <li>○ Monitoring and Evaluation</li> </ul> </li> <li>• Supported by the 1976 CDNST Study Report, 1977 CDNST Final Environmental Statement and E.O. 13195 – Trails for America, and was established through a <a href="#">36 CFR 216</a> process.</li> </ul>	<p>Land management planning implements the Comprehensive Plan guidance and provides for integrated programmatic direction that is consistent with the NTSA, NFMA, FLPMA or National Parks and Recreation Act, E.O. 13195, and agency specific regulations (e.g., 36 CFR 219) and policies (e.g., FSM 2353.4 and BLM MS-6280):</p> <ul style="list-style-type: none"> <li>• Identifying objectives</li> <li>• Identifies and preserves significant natural, historical, and cultural resources.</li> <li>• Establishes the extent of the CDNST Management Area (FS) or National Trail Management Corridor (BLM).</li> <li>• Provides for protecting or achieving the nature and purposes through establishing supporting plan components:               <ul style="list-style-type: none"> <li>○ Desired Conditions</li> <li>○ Objectives</li> <li>○ Standards (Thresholds)</li> <li>○ Guidelines</li> <li>○ Suitability of Lands</li> <li>○ Management actions,</li> <li>○ Allowable use decisions</li> <li>○ Monitoring</li> </ul> </li> <li>• Developed following programmatic Environmental Impact Statement processes that emphasize ROS and Visual Quality planning principles, and addresses <i>management actions</i> and <i>other uses</i> that may be allowed (16 USC 1246(c)).</li> </ul>	<p>Field-level site-specific planning that is consistent with the Comprehensive Plan, and agency regulations and policies:</p> <ul style="list-style-type: none"> <li>• Identifies and preserves significant natural, historical, and cultural resources (site-specific).</li> <li>• Identifies and displays the segments of the CDNST that traverse the unit.</li> <li>• Establishes the Trail Class, Managed Uses, Designed Use, and Design Parameters for the segments of the CDNST that traverse the unit and identifies uses that are prohibited.</li> <li>• Provides for development, signing, construction, and maintenance.</li> <li>• Establishes carrying capacity (LAC) for segments.</li> <li>• Establishes monitoring programs to evaluate site-specific conditions.</li> <li>• Developed following site-specific Environmental Impact Statement or Environmental Assessment processes that emphasize ROS and Visual Quality planning principles, and addresses <i>implementation actions</i> and <i>other uses</i> that may be allowed (16 USC 1246(c)). Prescribe regulations governing the use, protection, management, development, and administration (16 USC 1246(i)).</li> </ul>
<p>CDNST comprehensive planning Stages 2 and 3 may be combined if requisite programmatic and site-specific NEPA requirements are satisfied.</p>		

**E. Ecosystem Integrity and Diversity**

*“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*

<sup>11</sup> The selection of the rights-of-way (Section 7(a)(2)) should occur soon after a National Scenic Trail is authorized and designated by Congress; however, this did not occur for the CDNST.

*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” (23.11b). “Desired conditions should define and identify fire’s role in the ecosystem” (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 is 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. The EIS should describe how much land could be devoted to “timber production” 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 particular 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. Insufficient fire or too much timber harvest on the landscape can determine the level of departure from the natural range of variation or rate of progression between seral-stages. Departures in fire regime, extensive insect outbreaks, excessive timber production, and other disturbances from the natural range of variation and rate of seral-stage change help assess scenic stability and sustainable recreation.

Scenic integrity is defined as the degree of direct human-caused deviation in the landscape, such as road construction, timber harvesting, or activity debris. 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. Indirect deviations, such as a landscape created by human suppression of the natural role of fire and insect and disease infestations, are not included. In congressionally 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 and in Roaded Natural and Roaded Modified settings,

interventions may include removal of infected and dead trees or clear cuts, associated road construction, and then followed by artificial reforestation. However, clear cuts are typically disliked by forest visitors.

A number of studies have addressed public perceptions toward the ecological and economic consequences of forest insect outbreaks. Yet, little is known about the influence of naturally altered conifer forest landscapes and forest management interventions and the location of the impacted forest stands (near-view to far-view) in relation to each other on forest visitors' visual preferences. Expanded 'salvage' logging to prevent wildfire rarely contributes to ecological recovery in the disturbed area. Logging of dead or dying trees may be appropriate near roads where standing dead trees pose a safety hazard but should generally be avoided in areas where maintaining natural ecosystem processes is a priority. Controversial projects must have meaningful evaluation and public engagement to ensure achieving the basic principles of science-based forest management, including the use of best available science and the application of robust decision-making processes to provide for effective and beneficial management actions to address the vital need to improve the climate and fire resiliency of our national forests and the safety of our communities.

To provide for the nature and purposes of the CDNST over time, scenic and recreation setting stability must be considered when addressing fire, insect, and disease concerns. Managing for CDNST desired Scenic Integrity Levels of Very High and High and Primitive and Semi-Primitive Non-Motorized settings will accommodate management practices, such as prescribed fire, to sustain ecosystem integrity and diversity.

## **F. Recreation Opportunity Spectrum and Scenery Management System**

The Recreation Opportunity Spectrum (ROS) is a system, by which existing and desired recreation settings are defined, classified, inventoried, established, and monitored. Recreation settings are divided into six distinct classes (Primitive, Semi-Primitive Non-Motorized, Semi-Primitive Motorized, Road Natural, Rural, and Urban). Classifications are based on physical, social, and managerial setting characteristics.

As described in the *Recreation Opportunity Setting as a Management Tool* handbook by Stankey, Warren, and Bacon,<sup>12</sup> "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:

1. Access - Includes the type of transportation used by the recreationists within the area and the level of access development, such as trails and roads.
2. Remoteness - The distance of an area from the nearest road, access point, or center of human habitation or development.
3. Nonrecreation uses - Refers to the type and extent of nonrecreation uses present in the area, such as timber harvesting, grazing, and mining.
4. On-site management - The on-site management indicator refers to modifications such as facilities, vegetation management, and site design.

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<sup>12</sup> [http://nstrail.org/carrying\\_capacity/ros\\_tool\\_1986.pdf](http://nstrail.org/carrying_capacity/ros_tool_1986.pdf)

5. Visitor management – Includes the management actions undertaken to maintain conditions and enhance visitor experiences within an ROS class.
6. Social encounters - The number, type, and character of other recreationists met in the area, along travel ways, or camped within sight or sound.
7. Visitor impacts - Includes those impacts caused by recreation use and affecting resources such as soil, vegetation, air, water, and wildlife.”

The Recreation Opportunity Spectrum provides a framework for stratifying and defining classes of outdoor recreation environments, activities, and experience opportunities. The settings, activities, and opportunities for obtaining experiences have been arranged along a continuum or spectrum divided into six classes: Primitive, Semi-Primitive Non-Motorized, Semi-Primitive Motorized, Roaded Natural, Rural, and Urban. Non-recreation uses conflict with opportunities at the primitive end of the spectrum and their associated experiences, such as solitude and naturalness. The lasting effects of an activity (roads, mines, timber production) as well as short-term effects (logging trucks, noise) are also important. Impacts on wildlife habitat are a major concern. These impacts can stem from physical alteration of wildlife habitat or from habitat modification caused by recreationists that leads to species displacement. At the primitive end of the ROS, where naturalness is a key part of the setting, maintaining the natural behavior and existence of fish and wildlife populations is important.

Where 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.

How are ROS setting inconsistencies addressed in providing for desired settings along the 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 guidelines. For example, the condition of the indicators for the National Trail corridor may all be consistent with its management as a semi-primitive non-motorized area with the exception of 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 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 guidelines established for the desired ROS class. The main point to be understood with regard to 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.

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).

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

The relationship between the Scenery Management System and the Recreation Opportunity Spectrum systems are discussed in the Landscape Aesthetics Handbook. Landscape Aesthetics - A Handbook for Scenery Management (Agricultural Handbook Number 701); Appendix F - 1 - Recreation Opportunity Spectrum:

“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, experience, 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, cultural resource management, wildlife management, and old growth management) 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.” The following exhibit displays the relationship between ROS class and Scenic Integrity Objectives as describe in the Landscape Aesthetics Handbook, Appendix F-3.

<b>Scenic Integrity Objectives</b>					
<b>ROS Class</b>	<b>Very High</b>	<b>High</b>	<b>Moderate</b>	<b>Low</b>	<b>Very Low</b>
Primitive	Norm	Inconsistent	Unacceptable	Unacceptable	Unacceptable
Semi-Primitive Non-Motorized	Fully Compatible	Norm	Inconsistent	Unacceptable	Unacceptable
Semi-Primitive Motorized	Fully Compatible	Fully Compatible	Norm (1)	Inconsistent	Unacceptable
Roaded Natural-Appearing	Fully Compatible	Norm	Norm	Norm (2)	Inconsistent (3)
Rural	Fully Compatible	Fully Compatible	Norm	Norm (2)	Inconsistent (3)
Urban	Fully Compatible	Fully Compatible	Fully Compatible	Fully Compatible	Not Applicable

(1) Norm from sensitive roads and trails.  
(2) Norm only in middleground-concern level 2, where Roaded Modified subclass is used.  
(3) Unacceptable in Roaded Natural-Appearing and Rural where Roaded Modified subclass is used. It may be the norm in a Roaded Modified subclass.

## **G. Visitor Use Management**

The Interagency Visitor Use Management Council (IVUMC) has developed a Visitor Use Management Framework<sup>13</sup> that is designed for federal managers to collaboratively develop, implement, and monitor strategies and actions to provide sustainable access to lands and waters. The intent, and ultimate desired outcome, is to provide high quality visitor experiences, while protecting natural and cultural resources. Responsive and effective visitor use management requires managers to:

- Identify desired conditions for resources, visitor experiences, and facilities/operations;
- Gain an understanding of how visitor use influences achievement of those goals; and
- Commit to active / adaptive management and monitoring of visitor use to meet those goals.

The framework can be incorporated into existing federal agency planning and decision-making processes and is applicable across a wide spectrum of situations that vary in complexity and spatial extent from site-specific to large-scale planning efforts. The framework is a legally defensible and transparent planning and decision-making process that:

- Integrates applicable laws and policy requirements;
- Provides sound rationale upon which to base management decisions; and
- Facilitates adaptive management.

The framework identifies four overarching elements with discrete steps under each. The framework is intended to be applied in a flexible manner using the sliding scale concept. The strengths of this framework are that it is iterative, adaptable, and flexible.

Providing for the nature and purposes of a National Scenic Trail should use the Visitor Use Management Framework and utilize Scenery Management System/Visual Resource Management, Recreation Opportunity Spectrum, and Carrying Capacity processes. A primary purpose of these systems is to provide for quality visitor experiences.

## **H. Carrying Capacity**

National Trails System Act<sup>1</sup>, sections 5(e) and 5(f), direct that a Comprehensive Plan for a national trail, “identify carrying capacity of the trail and a plan for its implementation.” This is similar to Section 3(d)(1) of the Wild and Scenic Rivers Act (WSRA)<sup>14</sup> that directs federal river-administering agencies to “address...user capacities” in a Comprehensive River Management Plan prepared for each component of the National Wild and Scenic Rivers System.

Carrying capacity has been described as the number of organisms of a given species and quality that can survive in, without causing deterioration of, a given ecosystem through the least favorable environmental conditions that occur within a stated interval of time. In recreation, refers to the number of people that can occupy an area for a given social and experience goal. In range, refers to the maximum stocking rate possible on a given range without causing deterioration to vegetation or related resources.

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<sup>13</sup> <https://visitorusemanagement.nps.gov>

<sup>14</sup> 16 U.S.C. 1271-1278; Public Law 90-542 (October 2, 1968) and amendments.



The NTSA and WSRA do not define “carrying capacity” or “user capacities,” but recent litigation has focused primarily on the recreational use.<sup>15</sup> The scope of “carrying capacity” and “user capacity” broadly includes visitor use, other public use, and administrative use, but with particular emphasis on the recreational aspect.

Carrying capacities are an integral part of the management approaches identified in a Comprehensive Plan to protect and enhance a NST nature and purposes. The nature and purposes of a NST are also known as NST values. The values of NSTs include: (1) visitor experience opportunities and settings, and (2) the conservation and protection of scenic, natural, historical, and cultural qualities of the corridor. Furthermore, the NTSA goes beyond ROS descriptors requiring the protection of significant resources and qualities along the National Trail corridor.

Visitor use management practices need to be sensitive to situations where there is an asymmetric nature of a conflict, especially where there is a one-way relationship where the primary use is sensitive to a secondary use. In those situations, monitoring and adaptive management actions should ensure that the secondary use does not substantially interfere with maintaining the primary purposes and values.

Addressing visitor capacities requires managers to assess impacts from both established uses and potential new uses. It can be a challenging task because of the complex relationship between human uses and national trail values. The capacity to absorb use without substantial impacts to resources and visitor experiences is dependent on myriad interrelated factors that should be addressed through NEPA planning processes.

Forest Service special use policy requires a capacity analysis and an assessment of public need for outfitter/guide services. It is useful to have numerical capacities when managing outfitter/guides use, since outfitter/guide permits authorize use in specific amounts—expressed as either number of clients or some other similar measure. Special use authorizations allocate a percentage of total recreation capacity to outfitter/guide use. The allocation represents the balance between the amount of use by the general, unguided public and by commercial outfitter/guides and their clients. For example, an allocation of 50 percent would mean that roughly half the capacity is used by outfitter/guides.

The Final Amendments to the CDNST Comprehensive Plan states “Establish a carrying capacity for the CDNST that accommodates its nature and purposes. The Limits of Acceptable Change or a similar system may be used for this purpose” (74 FR 51125).

<b>GENERAL STEPS FOR ADDRESSING CARRYING CAPACITIES ON NATIONAL SCENIC TRAILS</b>
<ol style="list-style-type: none"> <li>1. Describe the NST values (nature and purposes) and the existing kinds and amounts of uses in the NST corridor.</li> <li>2. Identify desired resource and social conditions (“desired conditions”) that relate to NST values.</li> <li>3. Identify measurable indicators tied to the desired conditions.</li> <li>4. Establish thresholds (a clear indication of binding commitment) for each indicator to prevent degradation of NST values.</li> </ol>

<sup>15</sup> *Friends of Yosemite Valley v. Kempthorne*, 520 F.3d 1024 (9<sup>th</sup> Cir. 2008); *American Whitewater v. Tidwell*, (D.S.C. 2012).

5. Identify the kinds of uses that can be received in the NST corridor without exceeding the established thresholds.
6. Identify a range of specific management actions that would be triggered under specific conditions to prevent exceeding the established thresholds.
7. Estimate the capacities---the maximum number of people that can be received in the entire NST corridor without adversely impacting the NST values.
8. Establish a program of monitoring and ongoing study to ensure the quantity and mixture of uses does not adversely affect NST values, and adapt management actions accordingly.

## I. Substantial Interference

Black's law dictionary defines substantial evidence as the amount of evidence which a reasoning mind would accept as sufficient to support a particular conclusion and consists of more than a mere scintilla. BLM directive MS-6280 define substantial interference in relation to nature and purposes:

- *Substantial Interference.* Determination that an activity or use affects (hinders or obstructs) the nature and purposes of a designated National Trail.
- *Nature and Purposes.* The term used to describe the character, characteristics, and congressional intent for a designated National Trail, including the resources, qualities, values, and associated settings of the areas through which such trails may pass; the primary use or uses of a National Trail; and activities promoting the preservation of, public access to, travel within, and enjoyment and appreciation of National Trails.

Management direction for Semi-Primitive Motorized, Roded Natural, 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. 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 high and very high scenic integrity allocations would normally protect the nature and purposes (values) of the CDNST.

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 minimal visual disruption is considered to have very 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 Scenic Integrity levels: Very High, High, Moderate, Low, Very Low, and Unacceptably Low. Scenic Integrity is used to describe an existing landscape condition, a standard for management, or a desired future condition. Scenic Integrity Levels of Very High and High contribute to the nature and purposes of the CDNST. Scenic Integrity Level of Moderate may degrade CDNST values. Scenic Integrity Levels of Low and Very Low are inconsistent with CDNST values and landscapes along the CDNST at these levels of integrity need rehabilitation.

Land management plans should establish desired conditions, standards, and guidelines that preserve and promote the nature and purposes of the CDNST. Specific interference thresholds should be established during the development of a land management plan. Further, the determination of carrying

capacity is integral to protecting CDNST values. Substantial interference analyses and determinations need to be rigorous and be addressed as part of the cumulative impact (40 CFR 1508.7) and effects (40 CFR 1508.8) analyses and disclosure.

## **J. Forest Service Planning Considerations**

*Forest Service – The following describes common considerations and elements of what could be expected for (or lead to) locations and Plan components that would be applied to a Management Area to achieve the nature and purposes of the CDNST:*

Forest Service land management plans shall form one integrated plan for each unit (16 U.S.C. 1604(f)(1) and 36 CFR 219.10). The plan must provide for ecosystem services and multiple uses, including outdoor recreation, range, timber, watershed, wildlife, and fish, within Forest Service authority and the inherent capability of the plan area as follows: ... (b)... (1) The plan must include plan components, including standards or guidelines, to provide for: (i) Sustainable recreation; including recreation settings, opportunities, and access; and scenic character..., and (vi) appropriate management of other designated areas or recommended designated areas in the plan area...(36 CFR 219.10(b)(i)&(vi)). The CDNST is a congressionally designated area (36 CFR 219.19).

On National Forest System lands, a Management Area (MA) is to be established for existing CDNST rights-of-way corridors (FSM 2353.44b(1)). For CDNST sections that pass through the planning unit, plan components must include management and use direction (16 U.S.C. 1244(f)) for the rights-of-way that provide for the nature and purposes of this National Trail (16 U.S.C. 1246). In addition to having appropriate direction in LMPs, some actions are only allowed or are dependent on the approval of a CDNST unit plan (FSM 2353.44(b)(2)) as either an independent site-specific plan or as an integrated part of a Forest Plan with the requisite NEPA analysis; this would include a decision that allows bicycle use (FSM 2353.44b(10)) and motor vehicle use (FSM 2353.44b(11)).

Forest Service directives FSM 2310 and FSM 2380 describe recreation and scenery planning policy.

- FSM 2310.3 - Policy...
  1. Use the Recreation Opportunity Spectrum (ROS) to establish planning criteria, generate objectives for recreation, evaluate public issues, integrate management concerns, project recreation needs and demands, and coordinate management objectives.
  2. Use the ROS system to develop standards and guidelines for proposed recreation resource use and development.

Forest Service directives FSM 2350 and a Federal Register Notice provides important planning direction:

- FSM 2350 - Approved by Acting Associate Deputy Chief Gregory C. Smith, July 19, 2016
- Federal Register - Notice of Final Amendments to Comprehensive Plan and Final Directives - Approved by Associate Chief Hank Kashdan, Vol. 74, No. 191, Monday, October 5, 2009

Planning and management guidance enacted through Regional Forester or other correspondence may supplement, but not supersede the guidance found in the National Trails System Act, Executive

Orders, CDNST Comprehensive Plan, regulations, and directives (See *Hierarchy of Direction*, Planning Rule PEIS, pages 75-77).

The boundary of the National Scenic Trail management corridor should follow topographic features to the extent possible, while being at least one-half mile wide on each side of the established and potential locations (16 U.S.C. 1244(f)(3)) of a NST travel routes where there is management discretion. This is based on Recreation Opportunity Spectrum (ROS) criteria that identify remoteness for a Semi-Primitive Non-Motorized setting as, "An area designated at least 1/2-mile but not further than 3 miles from all roads, railroads or trails with motorized use; can include the existence of primitive roads if closed to motorized use." The FS Scenery Management System identifies that the middleground begins at 1/2-mile of the travel route.

**Forest Plan Components**

Recommendations for CDNST plan components as applied to a MA (aka National Trail Management Corridor) are described in the following table.

**CDNST LMP MA Desired Conditions** – These are descriptions of specific social, economic, or ecological characteristics of the plan area, or a portion of the plan area, toward which management of the land and resources should be directed. Desired conditions are the vision of what you want your forest to look like, and other plan components (objectives, standards and guidelines, and suitability), would be designed to get you there.

Descriptions
<b>CDNST Management Area Desired Conditions</b>
The management area provides for high-quality scenic, primitive hiking and horseback riding opportunities and conserves natural, historic, and cultural resources along the CDNST corridor (CDNST nature and purposes).
The area is predominantly a natural-appearing or naturally evolving landscape. Scenic integrity objectives are High and Very High.
Interaction between users is very low and evidence of other users is minimal. Semi-Primitive Non-Motorized or Primitive ROS class settings are protected or restored.
The management area provides for natural ecological processes where the composition, structure, functions, and connectivity operates normally.
The CDNST linear landscape provides connectivity for people and wildlife.

**CDNST LMP MA Objectives** – These are concise, measurable, and time-specific statements of a desired rate of progress toward a desired condition or conditions, based on reasonably foreseeable budgets. Objectives should be designed so that monitoring can gauge progress as well as the effectiveness of activities in moving towards the desired condition.

Descriptions
For the purpose of addressing the National Trail System Act (16 U.S.C. 1244(f)) comprehensive planning site-specific planning requirements, a CDNST unit plan (FSM 2353.44(b)(2)) should be

completed within three years.<sup>16</sup> [Example of stepped-down and staged planning and decision-making.]

Complete the CDNST travel route through the MA within five years. [Example of proposed and possible actions.]

**CDNST LMP MA Standards** – These are mandatory constraints on project and activity decision-making, established to help achieve or maintain the desired condition or conditions, to avoid or mitigate undesirable effects, or to meet applicable legal requirements. Standards must be complied with as written. Adaptive management direction may support the use of situation-dependent (if-then) or qualified (unless) standards. **Guidelines** – These are mandatory constraints on project and activity decision-making that provide flexibility for different situations so long as the purpose of the guideline is met. Guidelines should be written so that their intent is clear. If there is evidence that a different approach would be more or equally effective in meeting the intent, divergence can be justified.

Descriptions - See FSM 1110.8 and FSH 1909.12 05.1 for Degree of Compliance or Restriction “Helping Verbs” and “Mood of Verb” Definitions

#### **Scenery Management**

Standard: Manage the CDNST travel route as a concern level 1 travel route. To provide for desired Scenic Character, management actions must meet a Scenic Integrity Level of Very High or High in the immediate foreground and foreground visual zones as viewed from the CDNST travel route.

#### **Recreation Setting Management**

Standard: Resource management actions and allowed uses must be compatible with maintaining or restoring Primitive or Semi-Primitive Non-Motorized ROS class settings. Accepted Semi-Primitive Non-Motorized ROS class inconsistencies include existing: (1) NFS roads, (2) state and county road right-of-ways, and (3) utility right-of-ways. Manage ROS class inconsistencies with the objective of minimizing effects on the CDNST nature and purposes.

Standard: The CDNST must be managed 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. Forms of hiking include cross-country skiing, snowshoeing and other similar walking activities.

#### **Motor Vehicle Use by the General Public**

Standard: Motor vehicle use by the general public is prohibited on the CDNST travel route 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, as long as that use will not substantially interfere with the nature and purposes of the CDNST,

<sup>16</sup> This stage of stepped-down planning could be addressed in a Forest Plan if supported by the Forest Plan EIS.

<ul style="list-style-type: none"> <li>▪ Is designated in accordance with 36 CFR Part 212, Subpart B, on National Forest System lands and: <ul style="list-style-type: none"> <li>○ 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</li> <li>○ That segment of the CDNST was constructed as a road prior to November 10, 1978; or</li> </ul> </li> <li>▪ In the case of over-snow vehicles, is allowed in accordance with 36 CFR Part 212, Subpart C, on National Forest System lands and the use will not substantially interfere with the nature and purposes of the CDNST.<sup>17</sup></li> </ul>
<b>Special Uses Management</b>
Standard: Activities, uses, and events that would require a permit must not be authorized unless the activity, use, or event is compatible with the nature and purposes of the CDNST.
<b>Minerals Management</b>
Standard: Mineral leases are to include stipulations for no surface occupancy.
Standard: Permits for the removal of mineral materials are not to be issued.
Guideline: Mineral withdrawals should be enacted in areas with a history of locatable mineral findings. The purpose of this guidance is to help ensure that CDNST values are not degraded by mining activities.
<b>Vegetation Management</b>
Standard: Rangelands where affected by livestock use must be maintained in a Proper Functioning Condition.
Standard: Timber harvests may only be used for maintaining or making progress toward the Management Area desired conditions.
Guideline: Vegetation may be managed to enhance CDNST nature and purposes values, such as to provide vistas to view surrounding landscapes and to conserve natural resources. The purpose of this guidance is to allow for limited vegetation management for CDNST purposes.
Guideline: Vegetation may be managed to maintain or improve threatened and endangered species, proposed and candidate species, and species of conservation concern habitat. The purpose of this guidance is to recognize the conservation purposes of the CDNST.
<b>Lands Acquisition</b>
Standard: Provide for land acquisitions to protect the nature and purposes of the National Trail. Prohibit land disposals.
<b>Travel Routes</b>
Standard: The CDNST travel route may not be used for a livestock driveway.
<b>Fire Suppression</b>

<sup>17</sup> In 1978, the NTSA Section 7(c) was amended adding that, “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 by the Secretary charged with administration of the trail.” This guidance is not addressed in the CDNST Comprehensive Plan, since nature and purposes substantial interference determinations were already part of the 1968 NTSA direction. However, where the other use was allowed in 1978 by explicit administrative regulations the allowance of such use may be affected by this part.

Guideline: Fire suppression activities should apply the Minimum Impact Suppression Tactics Implementation Guidelines. The purpose of this guidance is to protect the CDNST nature and purposes from suppression activities.

**Other Uses Considerations**

Standard: To protect the values for which the CDNST was designated, resource uses and activities that could conflict with the nature and purposes of the CDNST may be allowed only where there is a determination that the other use would not substantially interfere with the nature and purposes of the CDNST.

Guideline: Where congressionally designated areas overlap, apply the management direction that best protects the values for which each designated area was established—the most restrictive measures control. The purpose of this guidance is to protect the values for which all congressionally designated areas are established.

**Suitability of Lands** – These plan components identify areas of land as suitable or not suitable for specific uses (such as timber or range production), based on the applicable desired conditions. The identification of suitability of lands is not required for every resource or activity and does not need to be made for every acre of the plan area and the inherent capability of the land to support the use or activity.

**Suitability of Lands**

Lands are not suitable for timber production.

The CDNST rights-of-way and management corridor is not suitable for timber production as described in 36 CFR 219.11(a)(i) and (iii). Timber production is incompatible with achieving National Trails System Act objectives and the CDNST nature and purposes desired conditions.

The NTSA, Section 2(a), policy describes an objective as, “...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...” Section 3(a)(2), states that, “national scenic trails...will be...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.” Section 5(f), describes that a comprehensive plan, which is being completed through staged decision making on NFS lands, will provide management direction that addresses, “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..., and a protection plan for any...high potential route segments.” Section 7(c) restricts uses and activities, including the removal of vegetation describing that, “Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted.”

The CDNST Comprehensive Plan and FSM 2353.42 policy describe desired conditions, “Administer National Scenic and National Historic Trail corridors to be compatible with the nature and purposes of the corresponding trail... 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 lasting effects of an activity (roads, timber harvest) as well as short-term effects (logging trucks, noise) degrade CDNST values. Managing the CDNST corridor for Roded Natural/Modified and Semi-Primitive Motorized ROS settings and timber production purposes would lead to management actions that substantially interfere with the nature and purposes of the CDNST. In areas of timber production, reoccurring harvests for timber purposes, stand tending, road construction and reconstruction, CDNST travel route closures, and other activities are incompatible with desired ROS settings and Scenic Integrity Objectives.

The Plan should recognize that timber production and associated actions and activities are inconsistent with the provisions of (1) the National Trails System Act, including providing for the nature and purposes of the CDNST and (2) Primitive and Semi-Primitive Non-Motorized ROS classes, which are appropriate ROS allocations for a CDNST management corridor or rights-of-way. Regulated forest structure conditions maintained by periodic forest harvest and regeneration is inconsistent with and unnecessary for achieving CDNST, Primitive ROS class, and Semi-Primitive 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.

### **CDNST LMP MA Implementation Guidance**

Partnerships and volunteers are sustained or sought to lead and assist in CDNST programs. Volunteer and cooperative agreements will be developed with those volunteers and private organizations that are dedicated to planning, developing, maintaining, and managing the CDNST in accordance with Sections 2(c), 7(h)(1), and 11 of the NTSA.

The direction in the NTSA, 2009 CDNST Comprehensive Plan, FSM 2310, FSM 2353.4, and FSM 2380 are used to guide the development and management of the Trail.

### **Recreation Opportunity Spectrum Plan Components**

Forest Service directives describe, *“Use the Recreation Opportunity Spectrum (ROS) system and the ROS Users Guide (1982) to delineate, define, and integrate outdoor recreation opportunities in land and resource management planning” (FSM 2311.1). Managing for recreation requires different kinds of data and management concepts than does most other activities. While recreation must have a physical base of land or water, the product—recreation experience--is a personal or social phenomenon. Although the management is resource based, the actual recreational activities are a result of people, their perceptions, wants, and behavior.*

*While the goal of the recreation is to obtain satisfying experiences, the goal of the recreation resource manager becomes one of providing the opportunities for obtaining these experiences. By managing the natural resource settings, and the activities, which occur within it, the manager is providing the opportunities for recreation experiences to take place. Therefore, for both the manager and the*



*recreationist, recreation opportunities can be expressed in terms of three principal components: the activities, the setting, and the experience.*

*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. 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. The Recreation Opportunity Spectrum provides a framework for defining the types of outdoor recreation opportunities the public might desire, and identifies that portion of the spectrum a given National Forest might be able to provide.*

*Planning for recreation opportunities using the Recreation Opportunity Spectrum are conducted as part of Land and Resource Management Planning. The recreation input includes factors such as supply and demand, issues and identification of alternative responses to those issues, which the planner must assess in order to develop management area prescriptions designed to assure the appropriate recreation experience through setting and activity management on the Forest...*

*Land and Resource Management Planning assure that National Forest System lands provide a variety of appropriate opportunities for outdoor recreation... Each prescription should contain minimum guidelines and standards to be met as well as directions concerning the type of activities, settings, and experience opportunities to be managed for during the planning time periods... The land and water areas of the Forest are inventoried and mapped by Recreation Opportunity Spectrum class to identify which areas are currently providing what kinds of recreation opportunities. This is done by analyzing the physical, social, and managerial setting components for each area. The characteristics of each of these three components of the setting affect the kind of experience the recreationist most probably realizes from using the area.*

- *PHYSICAL SETTING-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.*
- *SIZE OF AREA-Size of area is used as an indicator of the opportunity to experience self-sufficiency as related to the sense of vastness of a relatively undeveloped area. In some settings, application of the remoteness criteria assures the existence of these experience opportunities; in other settings, the remoteness criteria alone do not. Therefore, apply the size criteria to the map or overlay developed using the remoteness criteria to insure that the appropriate experience opportunities are available. (Most useful for ROS setting inventory.)*
- *EVIDENCE OF HUMANS-evidence of Humans is used as an indicator of the opportunity to recreate in environmental settings having varying degrees of human influence or modification.*
- *SOCIAL SETTING-The social setting reflects the amount and type of contact between individuals or groups. It indicates opportunities for solitude, for interactions with a few selected individuals, or for large group interactions.*
- *MANAGERIAL SETTING-The managerial setting reflects the amount and kind of restrictions placed on people's actions by the administering agency or private landowner which affect recreation opportunities."*

The Forest Service Planning Handbook (FSH 1909.12 – Part 23.23a) addresses recreation resources. "The Forest Plan must include desired conditions for sustainable recreation using mapped desired

*recreation opportunity spectrum classes. This mapping may be based on management areas, geographic areas, designated areas, independent overlay mapping, or any combination of these approaches. 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.”*

To meet the Planning Rule analysis requirements of using the *Best Available Scientific Information* and to ensure CEQ requirements for *Methodology and Scientific Accuracy*, ROS plan components with desired conditions, standards, and guidelines must be described in the plan. In addition, Primitive or Semi-Primitive Non-Motorized ROS class “Social Setting” guidance for party size and encounters would meet the NTSA comprehensive planning requirement for addressing carrying capacity. The following descriptions present plan components that link specific ROS characteristics to the appropriate ROS class.

**Primitive ROS Setting**

<b>Primitive ROS Class Desired Conditions</b>
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 woodsman and 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 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.
<b>Primitive ROS Class Standards and Guidelines</b>
Standards: (1) Motor vehicle use is not allowed unless necessary to protect public health and safety or the use is mandated by Federal law and regulation; and (2) Management actions must result in Very High Scenic Integrity.
Guidelines: (1) No new permanent structures should be constructed, since structures 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 roads, timber harvest, or mineral extraction are allowed in order to protect the remoteness and naturalness of the area.
<b>Primitive ROS Class Suitability of Lands</b>
Suitability: (1) Motorized and mechanized recreation travel are not suitable; and (2) lands are not suitable for timber production.

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

<b>Semi-Primitive Non-Motorized ROS Class Desired Conditions</b>
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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.
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 woodsman and outdoor skill in an environment that offers a high degree of challenge and risk.
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 and re-vegetated 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.
<b>Semi-Primitive Non-Motorized ROS Class Standards and Guidelines</b>
Standards: (1) Motor vehicle use is not allowed unless necessary to protect public health and safety or the use is mandated by Federal law and regulation; and (2) Management actions must result in High or Very High Scenic Integrity level; and (3) Roads may not be constructed.
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 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; and (4) Vegetative management may range from prescribed fire to very limited and restricted timber harvest for the purpose of maintaining or restoring a natural setting.
<b>Semi-Primitive Non-Motorized ROS Class Suitability of Lands</b>
Suitability: (1) Motorized recreation travel is not suitable; and (2) Lands are not suitable for timber production.

### **Semi-Primitive Motorized ROS Setting**

<b>Semi-Primitive Motorized ROS Class Desired Conditions</b>
Setting: The area is predominantly 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 moderately 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.
<b>Semi-Primitive Motorized ROS Class Standards and Guidelines</b>
Standards: (1) Management actions must result in at least a Moderate Scenic Integrity level, and (2) Roads may not be constructed.

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, and (3) Vegetation management may range from prescribed fire to limited and restricted timber harvest for the purpose of maintaining or restoring natural vegetative conditions.

**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.

**Roaded Natural ROS Class Standards and Guidelines**

Standard: Management actions must result in at least a Low Scenic Integrity level.

**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 a large number of 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.
<b>Rural ROS Class Suitability of Lands</b>
Suitability: Lands may be suitable for timber production.

### **K. Rights-of-Way and Regulations Recommendations**

The Chief of the Forest Service has reserved the authority to select the final NTSA section 7 rights-of-way. Revised or amended Forest Plans, BLM Resource Management Plans, and NPS General Management Plans should result in CDNST rights-of-way recommendations (CDNST Comprehensive Plan, Chapter III (F)). Revised or amended land management plans should identify the adopted CDNST management direction as binding, while also recognizing that the CDNST rights-of-way recommendation will receive further review and possible modification by the Chief of the Forest Service after consultation with the BLM and NPS, if appropriate. Any change to the land management plan should be implemented through plan amendment processes. The plan should state that, “This recommendation is a preliminary administrative recommendation that will receive further review and possible modification by the Chief of the Forest Service. The Chief has reserved the authority to make final decisions on rights-of-way designation. Plan implementation is not dependent upon subsequent action related to recommendations for the National Scenic Trail rights-of-way.”

Revised or amended Forest Plans, BLM Resource Management Plans, and NPS General Management Plans should recommend regulations to be established that would govern the use, protection, management, development, and administration of the CDNST providing for the purposes for which this National Scenic Trail was established (16 U.S.C. 1246(i)).

### **M. Establishing the CDNST Travel Route (1989 – 1998)**

After the adoption of the 1985 CDNST Comprehensive Plan there were several assessments to find routes for CDNST travel routes. These assessments included the following and other efforts to establish a CDNST travel route:

- Decision Notice and FONSI for Continental Divide National Scenic Trail Montana – Idaho Section, April 1989
- Continental Divide National Scenic Trail Decision Notice and FONSI, Central New Mexico Section, Cibola Planning Segment, December 1992

- Record of Decision, Continental Divide National Scenic Trail, Wyoming and Colorado Segment, Final Environmental Impact Statement, Rocky Mountain Region US Forest Service, August 1993.
- Decision Notice and FONSI, Final Route Selection, Continental Divide National Scenic Trail from South Pass to Yellowstone National Park, February 1998.

These assessments did not consider optimum locations of the CDNST rights-of-way, nor did the decisions establish management direction to provide for the CDNST nature and purposes. These assessments were predominantly based on guidance found in the faulty 1985 Comprehensive Plan, which was replaced in 2009 with direction that is consistent with the NTSA, CDNST Study Report, and related Final Environmental Statement. In addition, the 2009 Comprehensive Plan recognized that the CDNST was designated by an Act of Congress on November 10, 1978 (16 U.S.C 1244(a)). As a result of the 1985 erroneous guidance, many of the assessment decisions have proven not to be beneficial to the CDNST. Additionally, the routing decisions were not transmitted to the Chief for approval (2009 CDNST Comprehensive Plan, Chapter III part F – Process for Locating CDNST segments).

A National Scenic Trail optimum location assessment may find that designing the CDNST rights-of-way corridor to pass through inventoried Primitive and Semi-Primitive Recreation Opportunity Spectrum (ROS) settings would assure continued benefits of the land that best meet the needs of the American people. This would include the recreation and conservation benefits resulting from: (1) locating the National Trail corridor “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...” (16 U.S.C. 1242(a)(2)); (2) avoiding, to the extent possible, activities along the NST that would be incompatible with the purposes of the CDNST for which it was established (16 U.S.C. 1246(c)); and (3) contributing to achieving outdoor recreation, watershed, and wildlife and fish multiple-use benefits (16 U.S.C. 528).

Revised and amended plans need to identify a location for the CDNST corridor that is based on an analysis of an optimum location of the rights-of-way. In addition, plan components need to establish direction that provides for the nature and purposes of this National Scenic Trail, including identifying standards that protect scenic integrity and more primitive ROS settings. CDNST travel routes are to be located within the rights-of-way and identified CDNST management corridor.

## **Chapter IV. Comprehensive Planning Relationship to NEPA**

This section reviews several aspects of the CEQ regulations for implementing NEPA (40 CFR 1500-1508) for addressing National Scenic Trails in land management planning. NEPA processes are reviewed in Forest Service Handbook 1909.15, BLM Handbook H-1790-1, and NPS Handbook Director Order #12. Fundamental NEPA process considerations are described in a CEQ document titled, “Major Cases Interpreting the National Environmental Policy Act.” This document is found online at [https://ceq.doe.gov/docs/laws-regulations/Major\\_NEPA\\_Cases.pdf](https://ceq.doe.gov/docs/laws-regulations/Major_NEPA_Cases.pdf).

### **A. National Scenic Trail Planning and NEPA**

Most federal agency actions, unless specifically exempted, are subject to the procedural requirements of NEPA. These requirements are articulated in NEPA CEQ regulations, and in each

agency's supplemental implementing policies.<sup>18</sup> Supplemental agency policies often include specific procedural direction or guidance on preparation of appropriate NEPA documents (i.e., Environmental Impact Statements (EIS), Environmental Assessments (EA), and Categorical Exclusions (CE)). Because agency guidance varies widely, this section will generally not address agency specific regulation, policy, or procedure.

NEPA is “our basic national charter for protection of the environment” (40 C.F.R. 1500.1(a)). Better analysis and decisions are the ultimate goal of the NEPA process (40 CFR 1500.1(c)). NEPA’s twin aims are to ensure that federal agencies take a hard look at the environmental impacts of their proposed actions before taking an action and to ensure that agencies provide relevant information to the public so the public can play a role in both the decision-making process and the implementation of the decision (40 C.F.R. 1502.1). By focusing the agency’s attention on the environmental consequences of its proposed action, NEPA ensures that important effects will not be overlooked or underestimated only to be discovered after an agency has committed resources (42 U.S.C. 4332(2)(C)).

NEPA is designed to promote consideration of potential effects on the human environment (40 CFR 1508.14) that would result from proposed Federal agency actions, and to provide the public and decision makers with useful information regarding reasonable alternatives (40 CFR 1508.25(b)) and mitigation measures to improve the environmental outcomes of Federal agency actions. NEPA ensures that the environmental effects of proposed actions are taken into account before decisions are made and informs the public of significant environmental effects of proposed Federal agency actions, promoting transparency and accountability concerning Federal actions that may significantly affect the quality of the human environment. NEPA reviews should identify measures to avoid, minimize, or mitigate adverse effects of Federal agency actions. Environmental impact statements shall be prepared using an inter-disciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts (section 102(2)(A) of the Act). The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process (40 CFR 1502.6).

NEPA document(s) that support a Comprehensive Plan (including staged or phased decisions) will analyze the effects of a range of alternatives, including but not limited to effects on visual quality, ROS settings, carrying capacities and natural, historical, and cultural resources to be preserved. A Comprehensive Plan and supporting NEPA decision documents will typically establish goals, desired conditions, allowable uses, standards (thresholds), guidelines, and the conditions under which uses are allowed for a discreet geographic area or linear landscape. NEPA decision documents should provide additional information and support the thought process used to implement, revise, or amend a Comprehensive Plan.

The CEQ regulations require that NEPA decision-making processes provide for thoughtful, rigorous evaluation of reasonable options within the scope of the proposed decisions. The decision process involves interested and affected individuals, groups, and governments. The “early and often” interactions that the NEPA suggests in establishing the scope of the proposed actions considered in a Comprehensive Plan are especially important when identifying significant natural, historical, and

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<sup>18</sup> 36 CFR Part 220 and 43 CFR Part 46 does not lessen the applicability of the CEQ 40 CFR Part 1500 regulations on National Forest System lands (36 CFR 220.1(b)) and BLM Public Lands (73 FR 61292).

cultural resources to be preserved; selecting the rights-of-way; and establishing scenic integrity levels, ROS class settings, and capacities for the management corridor.

Comprehensive Plan requirements (16 U.S.C. 1244 (e) and (f)) have sometimes been addressed through staged or stepped-down decision processes: (1) a Comprehensive Plan establishes broad policy and procedures, (2) land management plans provide integrated resource management direction and address programmatic planning requirements as described in the Comprehensive Plan, and (3) mid-level and site-specific plans complete the comprehensive planning process through field-level actions to construct the travel route and protect the corridor. Staged decision making and tiering is discussed in the Comprehensive Plan, Chapter III(C). The Comprehensive Plan requirements are met once all staged phases are complete. As required by laws and regulations, addressing NTSA planning requirements is to be an integrated part of developing NFMA and FLPMA directed land management plans.

When a federal agency does not make an “overt act,” no NEPA requirement to prepare an Environmental Impact Statement (EIS) attaches. However, if some agency action was mandated under a separate statute in relation to that activity but the action was not taken, NEPA does attach and the Administrative Procedure Act applies (40 CFR 1508.18 and 5 U.S.C. 706). The NTSA presents an independent planning requirement to prepare and implement a comprehensive plan including identifying carrying capacity, select the rights-of-way, and in general establish management direction that provides for the nature and purposes values of this NST.

Land management plans are to protect CDNST Section 7(a)(2) potential rights-of-way and high potential route segments where the rights-of-way is yet to be selected and the travel route officially located (16 U.S.C. 1244(f)(3) and 1246(a)(2)). Until the CDNST rights-of-way is selected and the corridor is located, the Agencies must not undertake any major Federal action which (1) may adversely impact the nature and purposes values of potential CDNST rights-of-way and corridor locations, (2) limit the choice of reasonable alternatives, and (3) prejudice ultimate rights-of-way and locations decisions (40 CFR 1506.1). The Forest Service describes that, “the NEPA and Forest planning processes must be integrated. The Responsible Official should provide direction to the Interdisciplinary team in a project initiation letter to ensure that the Interdisciplinary Team develops a strategic approach for coordinating planning and NEPA procedures” (FSH 1909.12 part 21.13).

Forest Service Handbook 1909.12 part 21.13 states, “The NEPA and Forest planning processes must be integrated. The Responsible Official should provide direction to the Interdisciplinary team in a project initiation letter to ensure that the Interdisciplinary Team develops a strategic approach for coordinating planning and NEPA procedures. The Forest Service NEPA directives are found in FSM 1950 – Environmental Policy and Procedures and in FSH 1909.15 – National Environmental Policy Act Handbook... Careful coordination of planning and NEPA procedures, particularly public participation, allows the Interdisciplinary Team to be more efficient by aligning planning tasks with the requirements of NEPA. Important opportunities to integrate planning and NEPA requirements include the following:

1. Using the results of the assessment to describe the affected environment in the environmental impact statement. If information gaps were identified during or subsequent to the assessment, additional information might be needed to describe effectively the affected environment, consistent with NEPA requirements.



2. Using the need to change the plan identified during the planning process to write the purpose and need statement for the environmental impact statement. Early in the planning phase, a preliminary need to change the plan is identified and public comment is sought to help develop the need to change the plan, which in turn helps focus plan development or revision.
3. Including both planning and NEPA requirements in the public participation strategy (FSH 1909.12 part 40.42).
4. Integrating NEPA scoping, where appropriate, into public engagement activities used to support development of plan components and other plan content. Scoping includes refining the proposed action, determining cooperating agencies, identifying preliminary issues, and identifying interested and affected persons (FSH 1909.15 part 10.11.) Early public engagement during the planning process can help to identify goals and concerns for the plan area. This phase provides the opportunity for the Interdisciplinary Team to meet NEPA scoping requirements (40 CFR 1501.7) and, therefore, gain an understanding of the following elements that will be important during the NEPA analysis:
  - a. Significant issues that will frame alternatives for considerations,
  - b. Potential alternatives for analysis, and
  - c. Potential effects of alternatives.

The Healthy Forests Restoration Act (HFRA), 16 U.S.C. 6511 to 6518, as amended through P.L. 115-141, authorizes management actions to address certain vegetation issues.

- Section 104(a) describes that except as otherwise provided in this title, the Secretary shall conduct authorized hazardous fuel reduction projects in accordance with—(1) the National Environmental Policy Act of 1969; and (2) other applicable laws.
- Section 603 states that an insect and disease project may be categorically excluded from documentation in an environmental assessment or an environmental impact statement and exempt from pre-decisional objections. However, section 603 CE may not be used in areas where vegetation removal is restricted.
- WILDFIRE RESILIENCE PROJECTS, Section 605(c) Limitations part (4) describes that, “EXTRAORDINARY CIRCUMSTANCES.—The Secretary shall apply the extraordinary circumstances procedures under section 220.6 of title 36, code of Federal regulations (or successor regulations), when using the categorical exclusion under this section.
- Section 605(d) Exclusions.— This section does not apply to—
  - (1) A component of the National Wilderness Preservation System;
  - (2) Any Federal land on which, by Act of Congress or Presidential proclamation, the removal of vegetation is restricted or prohibited;
 

*[The NTSA, Section 7(c), restricts the removal of vegetation to only those actions that would not substantially interfere with the nature and purposes of a National Scenic or Historic Trail.];*
  - (3) A congressionally designated wilderness study area; or

(4) An area in which activities under subsection (a) would be inconsistent with the applicable land and resource management plan.

- Section 605(e). FOREST MANAGEMENT PLANS.—All projects and activities carried out under this section shall be consistent with the land and resource management plan established under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 10 1604) for the unit of the National Forest System containing the projects and activities.

The U.S. Forest Service describes that, “...recreation planning and management tools that shape the recreation program include the Recreation opportunity spectrum (ROS) [and] Scenery management system... 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. 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. 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).

## **B. Establishment of the Purpose and Need for Action**

The Purpose and Need for Action section of the DEIS (40 CFR 1502.13) should describe the need to provide integrated resource management, including providing for the purposes for which Congressional designated areas are established such as protecting the nature and purposes and related values of National Scenic and Historic Trails.

The 2009 Federal Register Notice of final amendments to the CDNST Comprehensive Plan

Special Use Permits – Separate “approving a use” from “authorizing a use.” There has been inconsistency in how NEPA is applied to special uses. In short, a NEPA decision “approves” an action/activity to take place on the landscape. A special use authorization “authorizes” a specific entity to conduct the stated action/activity in a specific location on the landscape. Recreational use decisions would normally address the allocation between private and commercial parties of the available allowed use-days (or acceptable impacts) as often seen in the allocation of use on Wild and Scenic Rivers.

and final directives state, “The final amendments to the CDNST Comprehensive Plan and corresponding directives will provide guidance to agency officials implementing the National Trails System Act. 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” (Federal Register, October 5, 2009, 74 FR 51116).

A land management plan NEPA document must provide the framework for the purpose and need for action and for the decisions to be made of identifying the management corridor and establishing scenic integrity levels, ROS class settings, and carrying capacities. A land management plan should establish desired conditions, including the nature and purposes of a National Trail as well as key resource indicators and thresholds that prevent degradation.

The described underlying purpose and need for action for programmatic and site-specific NEPA analyses must be consistent with all land use laws, Presidential proclamations, and regulations that prohibit or restrict actions. To the extent practicable avoid activities incompatible with the purposes for which National Scenic Trails are established. Actions that would substantially interfere with the nature and purposes of a National Scenic Trail are to be eliminated from detailed study in NEPA analyzes.

The “need for action” (or change) is based upon a comparison of the baseline conditions and desired conditions. This comparison establishes both the “scope” of and the “need” for action. The “scope” of and the “need” for the proposed actions establish the basis for determining the reasonable range of alternatives. The purpose and need description represents the “problem to be solved.” Defining the scope appropriately (and refining as necessary through the early steps of the NEPA process) improves the overall efficacy of the NEPA document. How broadly or narrowly the scope is described affects the range of reasonable alternatives that can meet the need, which in turn affects how well the range of alternatives and the selected alternative respond to this need. There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action (40 CFR 1501.7).

Identifying conditions that are within federal control and those that require action by entities not within the decision-making agency’s control is helpful in the early stages of NEPA. A federal agency cannot necessarily eliminate options or alternatives outside of its jurisdiction from consideration in the NEPA process if the options present reasonable alternatives to meet the need.<sup>19</sup> However, an agency may only take actions that are within the agency’s legal authority (40 CFR 1508.15). Clarifying who is responsible for achieving desired conditions will help to establish early in the process the key authorities or participation by others needed to achieve the overall desired conditions.

### **C. Identify Proposed Action and a Reasonable Range of Alternatives**

NEPA requires federal agencies to include alternatives to the proposed action within an EIS (42 U.S.C. 4332(2)(C)). The alternatives analysis is the heart of a NEPA document, and NEPA’s

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<sup>19</sup> See CEQ 40 Questions

implementing regulations direct agencies to “rigorously explore and objectively evaluate all reasonable alternatives,” including appropriate mitigation measures to reduce the potential impacts of the action on the environment (40 CFR 1502.14).

Forest Service land management plans shall form one integrated plan for each unit (16 U.S.C. 1604(f)(1) and 36 CFR 219.10). The plan and developed NEPA alternatives must provide for ecosystem services and multiple uses, including outdoor recreation, range, timber, watershed, wildlife, and fish, within Forest Service authority and the inherent capability of the plan area as follows: ... (b)... (1) The plan must include plan components, including standards or guidelines, to provide for: (i) Sustainable recreation; including recreation settings, opportunities, and access; and scenic character..., and (vi) appropriate management of other designated areas or recommended designated areas in the plan area...(36 CFR 219.10(b)(i)&(vi)). The CDNST is a congressionally designated area (36 CFR 219.19).

The identification and evaluation of alternative ways of meeting the purpose and need of the proposed action is critical to the NEPA analysis. Elements of a reasonable proposed action and alternatives for the CDNST corridor are presented in Chapter III of this paper. The lead agency or agencies must, “objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.” Reasonable alternatives are those that substantially meet the agency’s purpose and need. If the agency is considering an application for a permit or other federal approval, the agency must still consider all reasonable alternatives. Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant. Agencies are obligated to evaluate all reasonable alternatives or a range of reasonable alternatives in enough detail so that a reader can compare and contrast the environmental effects of the various alternatives.

The Forest Service in 2016 established a CDNST plan component template to be used by Forest Supervisors to initiate the development forest plan guidance in revised and amend plans.<sup>20</sup> The Regional Forester’s describe that, “*The authority for broad-based policy and direction for the development and management of the Continental Divide National Scenic Trail (CDT) is found in the 2009 comprehensive plan. However, individual forest plan direction for the CDT varies greatly across Forests and is nonexistent for some Forests. The CDT Federal Interagency Leadership Council, which provides consistent leadership and coordinated management of CDT program activities, asked the agency to provide more consistent management direction for this 3,100-mile, congressionally-designated trail. With 15 of the 20 Forests through which the CDT occurs (CDT Forests) revising their forest plans over the next several years, it was determined that consistency could best be achieved through development of recommended CDT forest plan direction. Consequently, the Trail Administrator worked extensively with District, Forest and Regional Office staffs of Regions 1, 2, 3, and 4, to develop the enclosed CDT Recommended Forest Plan Components document (referred to here as "Template") to assist CDT Forests as they undergo revision... As part of our responsibility to coordinate planning efforts among adjoining units and Regions, we are requiring all CDT Forests to use the Template as a basis for discussions with the public when developing the proposed plan. The document provides a common*

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<sup>20</sup> <https://www.fs.fed.us/managing-land/trails/cdt/management>

*framework for developing CDT plan direction while allowing flexibility for CDT Forests to make adjustments based on their unique needs, conditions, and public input. Use of this Template will facilitate more seamless management of the CDT corridor, respond to concerns of our partners, and reduce duplication of effort to develop direction by each CDT Forest... We also expect CDT Forests to designate the CDT corridor as a management area, or equivalent spatially identifiable area to provide a consistent approach for establishing management emphasis for the CDT across CDT Forests. The one-half mile foreground, viewed from either side of the CDT, must be a primary consideration in delineating the CDT corridor or management area boundary.”*

The template is a useful beginning point for establishing CDNST plan components. However, some of suggested plan components do not protect CDNST nature and purposes values. A reasonable and significantly alternative to the Regional Foresters’ plan component suggestions are those plan components that are presented in Chapter III Part J. All reasonable alternatives must be rigorously explored and objectively evaluated.

Components of a proposed action in land management planning may include the selection of the rights-of-way and/or identification of the management corridor, and will likely include the establishment of scenic integrity levels, ROS class, and carrying capacities for the National Scenic Trail. The conditions under which a variety of uses is allowed may be labeled as thresholds, standards and guidelines, or other terminology. In regards to addressing scenic integrity, recreation opportunities, and carrying capacities, this step requires that these use conditions be expressed in terms of thresholds that will prevent degradation of National Scenic Trail values.

Distinguish early in the process the importance of certain allowable uses or the conditions of those uses in protecting NST values (avoiding, reducing, or eliminating degradation), and/or enhancing values. Besides providing a clear logic track for the decisions made regarding scenic integrity, recreation opportunities, and carrying capacities, this will also help to identify elements that may need monitoring.

Managed and allowable uses and conditions of use may be either common to all alternatives or may vary by alternative. Managed and allowable uses or conditions of use that would be the same for all alternatives should be identified early in the NEPA process, along with a clear rationale for why those uses or conditions of use would be common to all alternatives. For example, conditions of use could protect Threatened and Endangered Species or cultural resources. Commonalities may also include existing uses or conditions not shown to have an adverse effect on NST values or that otherwise already meet the purpose and need for action (40 CFR 1502.14(a)).

CEQ regulations also provide guidance regarding the agency’s scope of actions. Aspects of an action that are inter-related (e.g., the kinds and amounts of use and the facilities that support that use) should be considered during this process (40 CFR 1508.23 and 40 CFR 1508.25). If the purpose and need for action suggest a change from the existing condition, or if there are unresolved conflicts regarding alternative uses of resources, then a “hard look” at a reasonable range of alternatives will be needed (40 CFR 1508.25).

NEPA documents should explain the timeframe within which future actions would be taken. Be clear about whether NEPA decisions are being made to authorize certain actions when the Comprehensive Plan is completed without further decision process needed, or whether decisions about

actions contemplated within the life of the Comprehensive Plan would be authorized at a later time. The latter approach is typically used in broad “programmatic” NEPA documents and subsequent site-specific documents that may be tiered to the larger document (40 CFR 1500.4(i); 1502.20).

Consider the following when determining whether visual quality, recreation setting, or carrying capacity actions identified in the Comprehensive Plan are also NEPA decisions (1) made upon Comprehensive Plan completion or (2) authorized later in time:

- Whether the action is part of an “adaptive management” decision. The term “adaptive management” is sometimes used by agencies to describe a range of different actions that managers may take resulting from one NEPA decision to respond to changing conditions during implementation or uncertain outcomes of implementing the decision. To authorize future adaptive action, the NEPA document describes when, where and how an action would take place, and when, where, and how the decision might be adapted or changed to accommodate changes in conditions or actual outcomes of the original action.
- Whether the action is ripe for decision. Actions are considered “ripe for decision” when the agency has identified a proposal it is prepared to make a decision on and the effects can be meaningfully analyzed (40 CFR 1508.22). However, NEPA processes allow for emergency actions where substantial degradation is probable or occurring.
- If all or parts of the future “adaptive” actions identified in a Comprehensive Plan are not ripe for a NEPA decision, the NEPA document should discuss why they are not ripe for a decision at this time. Additionally, the NEPA document should describe the why adaptive action is needed, and the expected process used to make a final decision on those future actions.

#### “Adaptive Management”

Adaptive management is an “if this... then that” approach. If “this” condition exists (in this example for two consecutive years), then “that” action would be taken (in this case a suite of actions, with an ultimate limit on group sizes and campsite closures). To authorize automatically one or more of the actions proposed to reduce the effects of human use, the environmental impacts of those actions must be addressed in the authorizing NEPA document. The Forest Service describes, “The proposed action and one or more alternatives to the proposed action may include adaptive management. An adaptive management proposal or alternative must clearly identify the adjustment(s) that may be made when monitoring during project implementation indicates that the action is not having its intended effect, or is causing unintended and undesirable effects. The EIS [or EA] must disclose not only the effects of the proposed action or alternative but also the effect of the adjustment. Such proposal or alternative must also describe the monitoring that would take place to inform the responsible official during implementation whether the action is having its intended effect.”

#### D. Affected Environment

The affected environment consists of “the environment of the area(s) to be affected or created by the alternatives under consideration” (1502.15). Put another way, the affected environment describes the existing condition of the resources that could be impacted by implementing any of the alternatives. When applicable, the affected environment should discuss resource condition trends and identify contributing factors. Such information can provide a basis for considering how a changing, dynamic

environment could affect conclusions that are reached regarding the environmental consequences of implementing any of the alternatives under consideration.

The affected environment serves as the baseline for predicting changes to the human environment that could occur if any of the alternatives under consideration, including the no-action alternative, are implemented. The affected environment is separate and distinct from the no-action alternative, which describes current management rather than the current state of affected resources, and discloses how the current condition of affected resources would change, if current management were to continue.

The Interdisciplinary Team should identify and evaluate available information about designated areas including:

1. Types, purposes, and locations of established designated areas within the plan area. The Responsible Official should use a map to identify these locations.
2. Range of uses, management activities, or management restrictions associated with the established designated areas in the plan area.
3. Existing plans for the management of established designated areas within the plan area, such as comprehensive plans for national scenic or historic trails.

The affected environment must 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 values are being protected, including the protection of desired cultural landscapes, recreation settings, scenic integrity, and providing for conservation purposes along the existing CDNST travel route and high-potential route segments (16 U.S.C. 1244(f)(3)). In addition, the status of the rights-of-way is to be described (16 U.S.C. 1246(a)(2)).

The NTSA states that, “National Scenic Trails, established as provided in section 5 of this Act, which will be extended trails so 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), and 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...(16 U.S.C. 1244(f)).” Examples of conservation and preservation attributes that should be discussed in the Affected Environment section may include the presence of designated and recommended wilderness, roadless areas, and important wildlife habitat along the CDNST travel route.

The NEPA affected environment description, as related to forest planning, would normally be consistent with the revision assessment reports and findings that resulted from FSH 1909.12 Chapter 10 Best Available Scientific Information and other processes. However, a Forest Plan revision Environmental Impact Statement analysis would always require describing current conditions and would likely be more robust than that found in the Forest Plan revision assessment due to specific NEPA processes such as the requirement for methodology and scientific accuracy (40 CFR 1502.24).

The spatial and temporal boundaries of the affected environment must be defined for the cumulative analysis. The components of the affected environment considered in a cumulative analysis are the same resources, ecosystems, and human communities that could be affected by the proposal. However, the spatial limits of a National Scenic Trail cumulative analysis is normally broader than the analysis of the proposal because the cumulative analysis must consider all activities that affect those environmental components, even outside the area affected by the proposal.

#### **E. Analyze the Effects of the Proposed Action and Alternatives**

The amended CDNST Comprehensive Plan and related FSM 2350 direction is applied through land management planning and project decisions follow requisite environmental analysis (74 FR 51116-51125). The amended CDNST Comprehensive Plan went into effective on November 4, 2009. As related to Forest Plans and RMPs, the No Action alternative should describe how the CDNST rights-of-way, travel route, and high-potential route segments are being protected until such time that the Forest Plan or RMP is amended or revised to address the amended Comprehensive Plan and directives guidance.

Avoidance of actions that may degrade CDNST values is one strategy that has been used to protect the CDNST nature and purposes values until such time that a Forest Plan or RMP is amended or revised. In some cases, the Forest and BLM have failed to act to address the 2009 CDNST Comprehensive Plan, FSM 2350, and MS-6280 guidance. The No Action alternative must explain how or if the requirements of the National Trails System Act will be addressed if No Action is the select alternative. Chapter III Part D discusses the relationship between comprehensive planning and land and resource management planning in more detail.

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, ROS class conditions, and carrying capacities will generally be based on analysis of the effects of the allowable uses and conditions of use on NST values that are included in the proposed action and each alternative in the NEPA document. This outcome is also a specific decision aspect of the proposed action or alternatives. Utilizing ROS and Scenery Management/Visual Resource Management systems will help ensure that NEPA assessments are systematic and accurately describe the affected environment and expected outcomes from each alternative. The level of precision or certainty of the effects can be guided by the CEQ regulations regarding the use of “methodology and scientific accuracy” (40 CFR 1502.24) and the information needed to support a reasoned choice among alternatives (40 CFR 1502.22). Clearly document how the final decision is based on the best available science (36 CFR 219.3), scientific accuracy, and other relevant information needed to understand the reasonably foreseeable adverse effects of a choice between alternatives, the gaps in that information, and the rationale for why a reasoned choice between alternatives can be made at this time. In addition, substantial interference analyses and determinations need to be rigorous and be addressed as part of the cumulative impact (40 CFR 1508.7) and effects (40 CFR 1508.8) analyses and disclosure.

Specific to National Scenic Trails, the NTSA states that, “National Scenic Trails, established as



provided in section 5 of this Act, which will be extended trails so 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), and that comprehensive planning will describe 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...(16 U.S.C. 1244(f)).” The nature and purposes policy for the CDNST is: “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” (2009 CDNST Comprehensive Plan, FSM 2353.42, and 74 FR 51116—Notice of final amendments to comprehensive plan and final directives).

Management direction for Semi-Primitive Motorized, Roded Natural, Rural, and Urban ROS classes allow uses that would substantially interfere with the nature and purposes of a NST if the allocation desired conditions are realized. 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 high and very high scenic integrity allocations would normally protect the nature and purposes (values) of a NST. See the glossary for ROS class descriptions.

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. Another example of conservation and preservation benefits of establishing a CDNST management corridor may include the protection of important wildlife connectivity areas through establishing the extent of the CDNST corridor to reflect this conservation need. Forest plans are expected to provide for ecological conditions to contribute to the recovery of threatened and endangered species and to conserve species that have been proposed for listing under the Endangered Species Act.

One of the strongest combinations of conservation protection for undeveloped federal public lands is overlapping Wilderness, Wild and Scenic River, and National Scenic Trail designations. Each congressional designation offers protections that the other does not. Overlapping designations within roadless areas would help ensure National Forest System lands are protected for current and future generations by protecting wilderness characteristics, outstandingly remarkable values of eligible wild and scenic rivers, and the nature and purposes of National Scenic Trails. These overlapping designations provide a complimentary framework for a high-level of protection from overuse and development of federal lands.

NEPA reviews must take a “hard look” at impacts that alternatives under consideration would have on the human environment if implemented. This means that there must be evidence that the agency considered all foreseeable direct, indirect, and cumulative impacts, used sound science and best available information, and made a logical, rational connection between the facts presented and the

conclusions drawn. Analyzing impacts means considering how the condition of a resource would change, either negatively or positively, as a result of implementing each of the alternatives under consideration. A written impact analysis that focuses on significant issues should be included in the environmental consequences section of a NEPA document. A written impact analysis should: (1) describe the impacts that each of the alternatives under consideration would have on affected resources; (2) use quantitative data to the extent practicable; (3) discuss the importance of impacts through consideration of their context and intensity; and (4) provide a clear, rational link between the facts presented and the conclusions drawn.

Direct Impacts - Direct impacts are impacts “which are caused by the action and occur at the same time and place” (1508.8(a)). Indirect Impacts - Indirect impacts are impacts “which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable” (1508.8(b)). Cumulative Impacts - In addition to direct and indirect impacts, the agency is required to analyze the cumulative impacts of each alternative (1508.25(c)). A cumulative impact is an “impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions” (1508.7). A cumulative impact analysis must consider the overall effects of the direct and indirect impacts of the proposed action, when added to the impacts of past, present, and reasonably foreseeable actions on a given resource.

To assess cumulative impacts, the assessment will need to identify past, present, and reasonably foreseeable future actions that affect the same resources as the proposed action or alternatives. Past, present, and reasonably foreseeable future actions are not limited to agency actions, but could be actions taken or proposed by any federal, state, or local government or a private entity, and are actions that are not included in the proposal or alternatives under consideration. To be considered under the cumulative analysis section of the EA or EIS, past actions should have ongoing impacts that are presently occurring. Reasonably foreseeable future actions include those federal and non-federal activities not yet undertaken, but sufficiently likely to occur, that a decision maker should take such activities into consideration in reaching a decision. This includes, but is not limited to, activities for which there are existing decisions, funding, or proposals. Reasonably foreseeable future actions do not include those actions that are highly speculative or indefinite. It is important to note that past, present, and reasonably foreseeable future actions are limited to human actions, meaning they are attributable to specific individuals or entities. Naturally occurring incidents, such as insects and disease infestations, are not actions per se and therefore the effects of these types of incidents should be considered as part of the affected environment rather than as part of a cumulative impact analysis. The status of CDNST land and resource management plan protections is summarized in **Appendix A**.

When describing cumulative impacts, it is generally not necessary to individually list and analyze the effects of each past cumulative action. Rather, it is appropriate to discuss them in sum. [See CEQ guidance: Guidance on the Consideration of Past Actions in Cumulative Effects Analysis.] When describing cumulative impacts in an EA or EIS, you should separate the cumulative impact analysis from the analysis of direct and indirect impacts. While the cumulative impact analysis should include the same elements of a written impact analysis discussed above, in many cases due to the nature of available information, the description of cumulative impacts may be less detailed than description of direct and

indirect impacts.

Land management planning NEPA related maps, along with associated geospatial data, may assist with the understanding of the relationships between providing for CDNST corridor and other resources values. As such, public participation in the review and assessment of a land management plan NEPA proposed action and alternatives would be advanced through the public availability of the following geospatial data layers—only Forest Service planning handbook references are provided, but similar geospatial information should also be available for planning purposes for BLM public lands:

- Administrative Boundaries (FSH 1909.12 part 22.2)
- Land Ownership (FSH 1909.12 part 22.2)
- Designated Areas, including Recommended Wilderness, Wilderness Study Areas, Suitable and Eligible Wild & Scenic Rivers, Inventoried Roadless Areas, and the extent of the CDNST management corridor/rights-of-way to be established (acres) (FSH 1909.12 parts 22.2 and 24)
- Recreation Opportunity Spectrum Classes to be established – Summer and Winter (FSH 1909.12 parts 22.2 and 23.23a)
- Scenic Integrity/VRM Objectives to be established (FSH 1909.12 parts 22.2 and 23.23f)
- Lands that May be Suitable for Timber Production (FSH 1909.12 Chapter 60)
- CDNST travel route as an independent data layer (FSH 1909.12 part 23.231)
- NFS roads and trails with attribute data, including existing road maintenance levels and trail travel route fundamentals such as Designed Use, Managed Use, and Trail Class (FSH 1909.12 part 23.231)
- Species-specific Plan Components for At-risk Species, including where the plan components apply—e.g., Canada lynx linkage/connectivity areas (FSH 1909.12 parts 22.2 and 23.13)

The effects analysis for the development of the revised Forest Plan NEPA proposed action and alternatives should include 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. In addition, the analyses need to describe the effects the establishment of a CDNST management corridor and associated plan components on outdoor recreation, range, timber, watershed, and wildlife and fish resources. The following specific resource relationships should be described:

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

For each alternative, the analysis of environmental effects needs to address how the land management planning decisions will achieve:

- Providing for the nature and purposes of the National Trail, including protecting the National

Trail resources, qualities, values, and associated settings;

- Identifying the National Trail primary users;
- Ensuring carrying capacity is not exceeded; and
- Preventing other uses from substantially interfering with the nature and purposes of the National Trail.

The Record of Decision that accompanies the approved plan and NEPA selected alternative needs to be clearly describe the planning decisions for the National Trail travel route and the National Trail Management Corridor. In addition, the ROD must document how the best available scientific information was used for recreation and scenery assessments to inform planning, the plan components, and other plan content, including the monitoring program.

#### **F. New Information, Monitoring, and Modifying Decisions**

The CEQ regulations tie monitoring and enforcement of mitigation measures to implementation of the decision. The CEQ regulations state, “[a] monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation” (40 CFR 1505.2). Further, “agencies may provide monitoring to assure their decisions are carried out and should do so in important cases. Mitigation and other conditions established...shall be implemented by the lead agency” (40 CFR 1505.3).

Through a discussion of when to prepare a supplemental EIS, the CEQ regulations also provide guidance about the conditions under which an existing NEPA decision might be changed (40 CFR 1502.9). This approach suggests that a supplemented NEPA document may be needed when there are significant new conditions or information relevant to environmental concerns. While the CEQ regulations indicate the kinds of situations that may suggest a change to a NEPA document, individual agency implementing regulations or policy for the NEPA or other applicable laws and regulation may also provide guidance about when decisions may be changed.

As a rule of thumb, if the proposal has not yet been implemented, or if the EIS concerns an ongoing program, EISs that are more than 5 years old should be carefully reexamined to determine if the criteria in Section 40 CFR 1502.9 compel preparation of an EIS/EA supplement (Forty Questions, Council on Environmental Quality).

Specific to the CDNST, the amended CDNST Comprehensive Plan (2009), FSM 2353.4 (2009), FSH 1909.12 part 24.43 (2015), and BLM MS-6280 constituted new information (40 CFR 1502.9(c)). The responsible official must review the new information and determine its significance to environmental concerns and bearing on current Forest Plan direction and associated EIS (FSH 1909.15 - 18). In regards to environmental documents for enacted Forest Plans, determine if Management Area (MA) prescriptions and plan components along the CDNST travel route and corridor provide for the nature and purposes of the CDNST (FSM 2353.42 and FSM 2353.44b(1)). If not, the plan should be amended or revised following the appropriate NEPA process to address the planning requirements of the NTSA (16 U.S.C. 1244(5)(f) and FSM 2353.44(b)(1)). The BLM has similar requirements for addressing new information (Land Use Planning Handbook, H-1601-1).

Forest Plans and Resource Management Plans must monitor progress toward meeting desired conditions and objectives for National Scenic Trails. Specific to the Forest Service – Has plan components provided for desired natural-appearing or naturally evolving landscapes? Indicator: Acres meeting the high or very high scenic integrity levels. Are the current recreation settings providing for or moving toward desired ROS classes? Indicator: ROS indicators consistency with desired ROS class. Have natural ecological processes persisted or been restored? Indicator: Acres of fires managed for resource objectives within the CDNST corridor. Is the CDNST travel route maintained to standard? Indicator: Miles of trails maintained annually. Has a CDNST unit plan been prepared and approved? Indicator: CDNST unit plan scoping, draft, and final. Has the effects from any uses or activities been as predicted that were allowed due to a not likely to substantially interfere with the nature and purposes determination (NTSA, Section 7(c))? Indicator: Monitoring plan as described in the other uses or activities approving decision document.

Management actions must ensure that CDNST values are not degraded during the period of CDNST comprehensive planning through staged or stepped-down decision-making processes. Project proposals may bring the CDNST into the scope of a NEPA process and affect alternatives due to potential direct, indirect, and cumulative impacts of past actions and new proposals that may substantially interfere with the nature and purposes of the CDNST (40 CFR 1508.25(c)). This in turn could trigger the need for a land management plan amendment, and on National Forest System lands, the development of a site-specific CDNST unit plan.

## **Chapter V. Legislative History and Policy Review**

### **A. Trails for America**

Trails for America, a 1966 report prepared by the Bureau of Outdoor Recreation in response to President Johnson’s Natural Beauty Message of February 8, 1965, describes a vision for the Continental Divide Trail: “A Continental Divide Trail would provide a continuous route along the Continental Divide and Rocky Mountains from the Canadian border almost to the Mexican border... The concept was originated by a group of horsemen known as the Rocky Mountain Trails, Inc.... Designed to accommodate riders and hikers, a Continental Divide Trail would pass through some of the most scenic areas in the country in its 3,082-mile route. The 763 miles in Montana, 147 miles in Idaho, 506 miles in Wyoming, 614 miles in Colorado, and 1,052 miles in New Mexico span spectacular, wild, mountain country, rich in the early history of the West. The route affords views of perpetual icefields and of awesome peaks, many over 14,000 feet. It passes hundreds of alpine lakes and streams teeming with trout. The high mountains are home to many species of game, including the bighorn sheep, mule deer, and bear...

Administration of national scenic trails is complicated by the linear nature of the trails and the complex pattern of land ownership along them. Most existing or potential national scenic trails extend through or into several States. Typically, they cross some lands that are administered by Federal, State, and local public agencies, and other lands that are privately owned. In the West, the trails cross lands administered largely by Federal agencies—the Forest Service, National Park Service, [and] Bureau of

Land Management... In view of these considerations, administration of national scenic trails should be governed by the following principles...

4. The entire length of each national scenic trail, together with sufficient land area on both sides to safeguard adequately and preserve its character, should be protected in some form of public control..., and
9. The responsible Secretary, after agreement with the other Federal agencies involved and consultation with appropriate States, local governments, private organizations, and advisory councils, should:
  - a. locate and designate the route and width of right-of-way of each trail assigned him. The right-of-way should be wide enough to protect adequately the natural and scenic character of the lands through which the trail passes and the historic features along and near along the trail, and to provide campsites, shelters, and related public-use facilities as necessary. It should avoid, insofar as practicable, established highways, motor roads, mining areas, power transmission lines, private recreational developments, public recreational developments not related to the trail, existing commercial and industrial developments, range fences and improvements, private operations, and any other activities that would be incompatible with the protection of the trail in its natural condition and its use for outdoor recreation. Formal designation should be accomplished by publishing notice of the route and right-of-way in the Federal Register, together with appropriate maps and descriptions. Minor changes in route and right-of-way should be handled in the same manner.
  - b. define the kinds of recreation use that are appropriate on the trail and in keeping with its objectives, and define the kinds of non-recreation uses, if any, that may be permitted within the right-of-way; issue the necessary regulations; and provide enforcement.
  - c. establish construction and maintenance standards including standards for related facilities that will adequately protect trail values and provide for optimum public use.”

## **B. National Trails System Act**

The National Trails System Act (NTSA), P.L. 90-543, was passed by Congress on October 2, 1968. It established policies and procedures for a nationwide system of trails including National Scenic Trails. The Appalachian Trail and the Pacific Crest Trail were designated as the nation's first National Scenic Trails. “The Act was intended to insure that long-distance, high-quality trails with substantial recreation and scenic potential were afforded Federal recognition and protection” (S.R. 95-636).



The National Parks and Recreation Act of November 10, 1978 authorized and designated the Continental Divide National Scenic Trail (CDNST) (Pub. L. No. 95-625, 92 Stat. 3467), which amended

the NTSA of 1968 (16 U.S.C. 1241-1251). The “Background” for H.R. 12536 states that, “Title V establishes new units of the National Park and National Trail Systems which the committee believes to be essential additions to these national programs. Timely action to preserve portions of our heritage, both historical and natural, within the states and insular areas is needed to assure these resources are not lost through adverse actions by special interest groups” (H.R. 95-1165).

**Statement of Policy – Sec. 2 (16 U.S.C. 1241(a))**

“In order to provide for the ever-increasing outdoor recreation needs of an expanding population and in order 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, trails should be established...within scenic areas and along historic travel routes of the Nation which are often more remotely located.”

**National Trails System – Sec. 3 (16 U.S.C. 1242(a)(2)) –**

“National scenic trails, established as provided in section 5 of this Act, which will be extended trails **so located** (*emphasis added*) 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. National scenic trails may be located so as to represent desert, marsh, grassland, mountain, canyon, river, forest, and other areas, as well as landforms which exhibit significant characteristics of the physiographic regions of the Nation.”

**National Scenic and Historic Trails –**

NTSA Sec. 5(a) (16 U.S.C. 1244(5)(a)) – National scenic and national historic trails shall be authorized and designated only by Act of Congress. There are hereby established [and designated] the following National Scenic and National Historic Trails...

“(5) The Continental Divide National Scenic Trail, a trail of approximately thirty-one hundred miles, extending from the Montana-Canada border to the New Mexico-Mexico border, following the approximate route depicted on the map, identified as 'Proposed Continental Divide National Scenic Trail' in the Department of the Interior Continental Divide Trail study report dated March 1977... The Continental Divide National Scenic Trail shall be administered by the Secretary of Agriculture in consultation with the Secretary of the Interior. Notwithstanding the provisions of section 7(c), the use of motorized vehicles on roads which will be designated segments of the Continental Divide National Scenic Trail shall be permitted in accordance with regulations prescribed by the appropriate Secretary. No land or interest in land outside the exterior boundaries of any federally administered area may be

Overlay of Management Regime – The NTSA establishment and designation of the CDNST provides for the Secretaries of the Agriculture and Interior to manage the CDNST under existing agencies authorities, but subject to the overriding direction of providing for the nature and purposes of this NST. 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.

acquired by the Federal Government for the trail except with the consent of the owner of the land or interest in land. The authority of the Federal Government to acquire fee title under this paragraph shall be limited to an average of not more than 1/4 mile on either side of the trail.”

NTSA sec. 5(f) (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:

1. 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;
2. The process to be followed by the appropriate Secretary to implement the marking requirements established in section 7(c) of this Act;
3. A protection plan for any...high potential route segments; and
4. General and site-specific development plans, including anticipated costs.”

#### **Administration and Development – Sec. 7 (16 U.S.C. 1246) –**

The Secretary of Agriculture is charged with the overall administration of the CDNST. Pursuant to Section 5(a), the CDNST was authorized and designated on November 10, 1978. Section 7(a)(2) states that the, “...Secretary shall select the rights-of-way for national scenic and national historic trails and shall publish notice thereof of the availability of appropriate maps or descriptions in the Federal Register; Provided, That in selecting the rights-of-way full consideration shall be given to minimizing the adverse effects upon the adjacent landowner or user and his operation. Development and management of each segment of the National Trails System [i.e., National Recreation Trails, National Scenic Trails, National Historic Trails, and Connecting and Side Trails] shall be designed to harmonize with and complement any established multiple-use plans for the specific area in order to insure continued maximum benefits from the land...<sup>21</sup>” The legislative requirement for the Secretary of Agriculture to take action and select the CDNST rights-of-way should be addressed by establishing CDNST Management Area (MA) corridors in Land Management Plans (FSM 2353.44b);

A National Scenic Trail optimum location assessment may find that designing the CDNST rights-of-way corridor to pass through inventoried Primitive and Semi-Primitive Recreation Opportunity Spectrum (ROS) settings would assure continued benefits of the land that best meet the needs of the American people. This would include the recreation and conservation benefits resulting from: (1) locating the National Trail corridor “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...” (16 U.S.C. 1242(a)(2)); (2) avoiding, to the extent possible, activities along the NST that would be incompatible with the purposes of the CDNST for which it was established (16 U.S.C. 1246(c)); and (3) contributing to achieving outdoor recreation, watershed, and wildlife and fish multiple-use benefits (16 U.S.C. 528). The rights-of-way requirement of 16 U.S.C. 1246(a)(2) is directed at selecting the 5-state CDNST rights-of-way corridor and does not diminish or modify the nature and purposes values of the CDNST (16 U.S.C. 1246(c)).

<sup>21</sup> The BLM in MS-6280 describes that, “For all National Trails, the National Trail Management Corridor alternatives should consider... (d) opportunities to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land, while minimizing conflict” (Chapter 4.2(D)).



the requirement should be met on BLM public lands by establishing NTMC in Resource Management Plans. The establishment of CDNST MAs and NTMCs could facilitate CDNST comprehensive planning (16 U.S.C. 1244(f)), selecting and publishing the CDNST rights-of-way in the Federal Register (16 U.S.C. 1246(a)(2)), and meet attached NEPA requirements.

NTSA Sec. 7(c) (16 U.S.C.1246(c)) – “National scenic or national historic 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. Reasonable efforts shall be made to provide sufficient access opportunities to such trails and, 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 include recreational and resource uses that may be incompatible with the nature and purposes for which the CDNST was established and designated.] 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 by the Secretary charged with administration of the trail.”

NTSA Sec. 7(j) (16 U.S.C. 1246(j)). This section does not modify the nature and purposes for which the CDNST was established and created. It describes that, “the provisions of this subsection shall not supersede any other provisions of this Act or other Federal laws, or any State or local laws.”

NTSA Sec. 7(k) (16 U.S.C. 1246(k)). “For the conservation purpose of preserving or enhancing the recreational, scenic, natural, or historical values of components of the national trails system, and environs thereof as determined by the appropriate Secretary, landowners are authorized to donate or otherwise convey qualified real property interests to qualified organizations consistent with section 170(h)(3) of the Internal Revenue Code of 1954, including, but not limited to, right-of-way, open space, scenic, or conservation easements....”

NTSA Sec. 7(i) (16 U.S.C. 1246(i)). The appropriate Secretary...may issue regulations, which may be revised from time to time, governing the use, protection, management, development, and administration of trails of the national trails system. In order to maintain good conduct on and along the trails located within federally administered areas and to provide for the proper government and protection of such trails, the Secretary of the Interior and the Secretary of Agriculture shall prescribe and publish such uniform regulations as they deem necessary....

### **C. Departmental and Congressional Considerations**

*Office of the Secretary, 1967:* The Departmental Recommendation discusses National Scenic Trails. “National scenic trails.—A relatively small number of lengthy trails which have natural, scenic, or historic qualities that give them recreation use potential of national significance. Such trails will be several hundred miles long, may have overnight shelters at appropriate intervals, and may interconnect with other major trails to permit the enjoyment of such activities as hiking or horseback riding.... The

Secretary of the Interior is authorized to select a right-of-way for, and to provide appropriate marking of, the Appalachian and Potomac Heritage Trails, and the Secretary of Agriculture is authorized to do likewise for the Continental Divide and Pacific Crest Trails. The rights-of-way for the trails will be of sufficient width to protect natural, scenic, and historic features along the trails and to provide needed public use facilities. The rights-of-way will be located to avoid established uses that are incompatible with the protection of a trail in its natural condition and its use for outdoor recreation....”

*Senate Report No. 1233, 1968:* “CONTINENTAL DIVIDE TRAIL – Designed to accommodate riders and hikers, the Continental Divide Trail would pass through some of the most scenic areas in the country. The trail would span spectacular, wild mountain country, rich in the early history of the West. The route affords views of perpetual ice-fields and of awesome peaks. It passes hundreds of alpine lakes and streams teeming with native trout. The high mountains are home to many species of game, including the bighorn sheep, mule deer, and bear.... The designation of the Continental Divide Trail represents an attempt to make available by trail a stretch of country, which has historical interest and charm and bisects the Western United States. The committee does recognize that no such contiguous trail has ever, in fact, existed. However, the committee believes that the trail should be regarded as calling attention to the grandeur and esthetic qualities of the Continental Divide, and that it will add significantly to the Nation's appreciation of its priceless natural heritage.”

*House Report No. 1631, 1968:* “PURPOSE - The ultimate aim of H.R. 4865, as amended, is to lay the foundation for expanding further the opportunities for the American people to use and enjoy the natural, scenic, historic, and outdoor recreational areas of the Nation. To accomplish this objective, it establishes a national trails system composed of...National scenic trails, which will be located in more remote areas having natural, scenic, and historic values of national significance....”

**BACKGROUND AND NEED** - The proposed national trails system is the product of a general study conducted by the Bureau of Outdoor Recreation at the direction of the President. That study, entitled "Trails for America," formed the basis for the recommended legislation. It recognizes the value of providing simple trails to meet a multitude of outdoor recreation uses and recommended the immediate authorization of the Appalachian Trail as the initial national scenic trail. It also suggested that the Pacific Crest Trail, the Potomac Heritage Trail, and the Continental Divide Trail should be studied promptly for early consideration for inclusion in the system.”

H.R. 4865 proposed legislation describes the selection of Routes for National Scenic Trails – “The Secretary...shall select the rights-of-way.... Such rights-of-way shall be (1) of sufficient width and so located to provide the maximum retention of natural conditions, scenic and historic features, and primitive character of the trail area, to provide campsites, shelters, and related public-use facilities, and to provide reasonable public access; and (2) located to avoid, insofar as practicable, established highways, motor roads, mining areas, power transmission lines, existing commercial and industrial developments, range fences and improvements, private operations, and any other activities that would be incompatible with the protection of the trail in its natural condition and its use for outdoor recreation....”

Congress considered these qualitative requirements for selecting and designing the rights-of-way in HR 4865, but did not enact the specific direction in NTSA Section 7(a). Instead, the enacted

legislation inserts in Section 7(a) more conceptual direction for selecting and designing the rights-of-way, including (1) “consideration of minimizing adverse effects” and (2) designing each national trails system segment “to harmonize with and complement any established multiple use plans<sup>22</sup>...” (16 U.S.C. 1246(a)(2)). The enacted legislation made other modifications to HR 4865, including (1) changing the definition of a National Scenic Trail to broaden the statement of purpose (16 U.S.C. 1242(a)) and (2) added a requirement to make efforts to avoid activities incompatible with the purpose for which such trails were established (16 U.S.C. 1246(c)). House and Senate Reports are silent on the reasons for these changes.

*House Report 95-734, 1978:* In 1968, Congress enacted the National Trails System Act, and designated the Appalachian Trail as one of the two initial National Scenic Trails within the system. The act was intended to insure that long-distance, high-quality trails with substantial recreation and scenic potential were afforded Federal recognition and protection... At the time of enactment of the National Trails System Act in 1968, Congress recognized the unique recreational opportunities afforded by extended trails of this type. It was also recognized that changing land uses and increasing pressures for development were a growing threat to maintaining a continuous trail route. The act therefore provided for a Federal responsibility to protect the trail, including the authority to acquire a permanent right-of-way.

*Senate Report No.95-636, 1978:* “The Act was intended to insure that long-distance, high-quality trails with substantial recreation and scenic potential were afforded Federal recognition and protection.... The fourth amendment modifies section 7(g) of the 1968 act to modify the restriction on the use of eminent domain to provide that the secretary may acquire in fee title and lesser interest no more than an average of 125 acres per mile. Experience with the trail has demonstrated that additional authority is needed to insure the acquisition of a corridor wide enough to protect trail values.” This amendment to the NTSA was specific to the Appalachian NST, but demonstrates awareness of the need for a National Trail corridor even when eminent domain may be used to secure the necessary land.

*House Report No.95-1165, 1978:* “Title V establishes new units of the National Park and National Trail Systems which the committee believes to be essential additions to these national programs. Timely action to preserve portions of our heritage, both historical and natural, within the states and insular areas is needed to assure these resources are not lost through adverse actions by special interest groups.”

*House Report No. 98-28, 1983:* Section 7(j) intent is described in this report, “While the new subsection would permit the appropriate secretaries to allow trail bikes and other off-the-road vehicles on portions of the National Trail System, the Committee wishes to emphasize that this provision gives authority to the secretaries to permit such uses where appropriate, but that it must also be exercised in keeping with those other provisions of the law that require the secretaries to protect the resources themselves and the users of the system. It is intended, for example, that motorized vehicles will not normally be allowed on national scenic or historical trails and will be allowed on recreational trails only

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<sup>22</sup> NTSA Section 7(a)(2) is reviewed in the, “Development and Management” section of this paper.

at times and places where such use will not create significant on-trail or off-trail environmental damage and will not jeopardize the safety of hikers, equestrians, or other uses or conflict with the primary purposes for which the trail, or the portion of the trail, were created.” This report underscores the importance of understanding the primary purposes for which a National Trail was established.

#### **D. Executive Orders**

Executive Order 13195 – Trails for America in the 21st Century: “By the authority vested in me as President by the Constitution and the laws of the United States of America, and in furtherance of purposes of the National Trails System Act of 1968...and to achieve the common goal of better establishing and operating America's national system of trails, it is hereby ordered as follows: Section 1... Federal agencies will, to the extent permitted by law and where practicable ... 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....”

National Scenic Trail Values – (1) visitor experience opportunities and settings, and (2) the conservation/ protection of scenic, natural, historical, and cultural qualities of the corridor. Primitive and Semi-Primitive Non-Motorized ROS settings provide for desired experiences, but only if the allowed non-motorized activities reflect the purposes for which the National Trail was established. Furthermore, the NTSA goes beyond ROS descriptors requiring the protection of significant resources and qualities along the National Trail corridor. The ROS planning framework, NTSA Comprehensive Plan (Section (5(f)) components, NTSA rights-of-way (Section 7(a)), and E.O. 13195 requirements point to the need for land management plans to map the extent of the corridor and apply to the described corridor appropriate plan components (desired conditions, objectives, standards, guidelines, and suitability of lands) to protect National Trail values (nature and purposes).

Executive Order 11644 and 11989 – Use of off-road [motorized] vehicles on the public lands: “...By virtue of the authority vested in me as President of the United States by the Constitution of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (42 U.S.C. 4321), it is hereby ordered as follows: Section 1. *Purpose*. It is the purpose of this order to establish policies and provide for procedures that will ensure that the use of off-road [motorized] vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands....” (Related: 36 CFR 212.55 and 43 CFR 8351.1)

#### **E. Study Report, Comprehensive Plan, and Policy for the CDNST**

The Bureau of Outdoor Recreation, pursuant to 16 U.S.C. 1244(b), prepared a Study Report for the CDNST that was completed in 1976. The Chief of the Forest Service adopted the 1976 CDNST Study Report and 1977 CDNST Final Environmental Statement on August 5, 1981 (46 FR 39867). In 2009, the Chief amended the 1985 CDNST Comprehensive Plan and issued conforming FSM 2353.4 policy.

Comprehensive plan requirements (16 U.S.C. 1244(f)) for the CDNST are addressed through staged or stepped-down decision processes: (1) the 2009 Comprehensive Plan established broad policy

and procedures, (2) land management plans are to provide integrated resource management direction and address programmatic planning requirements as described in the Comprehensive Plan, including providing for the protection of CDNST nature and purposes, and (3) mid-level and site-specific plans (e.g., Forest-level CDNST unit plans (FSM 2353.44b(2)) complete the comprehensive planning process through field-level actions to construct or maintain the travel route and protect the corridor. The following direction is found in the Comprehensive Plan and Forest Service Manual:

Comprehensive Plan – Approved by Thomas L. Tidwell, Chief

Purpose of the Comprehensive Plan: “Preparation of the Comprehensive Plan for the CDNST is required by the National Trails System Act, P.L. 90-543 enacted on October 2, 1968 as amended. The National Environmental Policy Act (NEPA) and the implementing regulations for each of the Federal agencies with responsibilities for the CDNST require assessment of the environmental impacts of locating the CDNST. In addition, each of the Federal agencies is required by various Acts of Congress to prepare and implement land and resource management plans for the Federal lands over which they have jurisdiction... Because of the number of Federal and state land management agency jurisdictions and various political subdivisions traversed by the CDNST the Secretary of Agriculture intends that the Comprehensive Plan provide for a fully coordinated approach by each of the responsible Federal and State agencies for the location, development, and management of the CDNST. It is the goal of this Comprehensive Plan to provide a uniform CDNST program that reflects the purposes of the National Scenic Trail system, and allows for the use and protection of the natural and cultural resources found along the rights-of-way and located route on lands of all jurisdictions... The primary role of the Comprehensive Plan is to serve as an authority for broad based policy and direction for the development and management of the CDNST.”

Land and Resource Management Plans: “Both the Forest Service and the Bureau of Land Management are required to develop land and resource management plans that are designed to integrate all resource management activities that may occur within a land use unit into a coordinated system that reflects the interaction of management activities in achieving long-range objectives and goals for public land management. This is will be accomplished through the development of a series of synergetic management prescriptions developed for specific management areas. The same type of integration of CDNST management direction will be used in National Park Resource Management Plans...<sup>23</sup> Land and resource management plans are to provide for the 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 management direction given in Chapter IV is to be used in the development of specific land and resource management prescriptions.”

Nature and Purposes: “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

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<sup>23</sup> See the [Appalachian Trail Resource Management Plan](#) for an example.

and to conserve natural, historic, and cultural resources along the CDNST corridor.” Primitive means, “of or relating to an earliest or original stage or state.” (74 FR 51116)

## **Forest Service, Regulations and Policy**

### **36 CFR 219.10 Multiple use.**

While meeting the requirements of 36 CFR 219.8 and 219.9, the plan must provide for ecosystem services and multiple uses, including outdoor recreation, range, timber, watershed, wildlife, and fish, within Forest Service authority and the inherent capability of the plan area as follows:

(a) *Integrated resource management for multiple use.* The plan must include plan components, including standards or guidelines, for integrated resource management to provide for ecosystem services and multiple uses in the plan area. When developing plan components for integrated resource management, to the extent relevant to the plan area and the public participation process and the requirements of 36 CFR 219.7, 219.8, 219.9, and 219.11, the responsible official shall consider:

(1) Aesthetic values, air quality, cultural and heritage resources, ecosystem services, fish and wildlife species, forage, geologic features, grazing and rangelands, habitat and habitat connectivity, recreation settings and opportunities, riparian areas, scenery, soil, surface and subsurface water quality, timber, trails, vegetation, viewsheds, wilderness, and other relevant resources and uses...

(3) Appropriate placement and sustainable management of infrastructure, such as recreational facilities and transportation and utility corridors...

(6) Land status and ownership, use, and access patterns relevant to the plan area.

(7) Reasonably foreseeable risks to ecological, social, and economic sustainability...

(10) Opportunities to connect people with nature.

(b) *Requirements for plan components for a new plan or plan revision.*

(1) The plan must include plan components, including standards or guidelines, to provide for:

(i) Sustainable recreation; including recreation settings, opportunities, and access; and scenic character. Recreation opportunities may include nonmotorized, motorized, developed, and dispersed recreation on land, water, and in the air.

(ii) Protection of cultural and historic resources.

(iii) Management of areas of tribal importance.

(iv) Protection of congressionally designated wilderness areas as well as management of areas recommended for wilderness designation to protect and maintain the ecological and social characteristics that provide the basis for their suitability for wilderness designation.

(v) Protection of designated wild and scenic rivers as well as management of rivers found eligible or determined suitable for the National Wild and Scenic River system to protect the values that provide the basis for their suitability for inclusion in the system.

(vi) Appropriate management of other designated areas or recommended designated areas in the plan area, including research natural areas.

### FSM 1923.03 – Policy.

1. Unless otherwise provided by law, all areas that may be suitable for inclusion in the National Wilderness Preservation System must be inventoried and evaluated for recommendation as designated wilderness areas during plan development or revision. Responsible Officials shall follow policy direction stated in FSH 1909.12, chapter 70, for this inventory and evaluation process.

### FSH 1909.12, Part 74.1 – Management of Recommended Wilderness Areas

When developing plan components for recommended wilderness areas, the Responsible Official has discretion to implement a range of management options. All plan components applicable to a recommended area must protect and maintain the social and ecological characteristics that provide the basis for wilderness recommendation. In addition, the plan may include one or more plan components for a recommended wilderness area that:

1. Enhance the ecological and social characteristics that provide the basis for wilderness designations;
2. Continue existing uses, only if such uses do not prevent the protection and maintenance of the social and ecological characteristics that provide the basis for wilderness designation;
3. Alter existing uses, subject to valid existing rights; or
4. Eliminate existing uses, except those uses subject to valid existing rights.

FSM 2310.3 - Policy. In addition to general planning policy presented in 36 CFR 219.1, FSM 1903, FSM 1920.3, FSM 1922.03, and FSM 2303:

1. Use the Recreation Opportunity Spectrum (ROS) to establish planning criteria, generate objectives for recreation, evaluate public issues, integrate management concerns, project recreation needs and demands, and coordinate management objectives.
2. Use the ROS system to develop standards and guidelines for proposed recreation resource use and development.

### 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. Recreation integration/coordination provides for integrated management prescriptions and associated standards to deal with the recreation resource. ROS defines six recreation opportunity classes that provide different settings for recreational use: primitive, semi-primitive nonmotorized, semi-primitive motorized, roaded natural, rural, and urban. Use ROS classes to describe all recreation opportunity areas--from natural, undisturbed, and undeveloped to heavily used, modified, and developed. Apply the criteria involving the physical, social, and managerial

environments found in the ROS Users Guide to delineate the different ROS classes of land. Urban class areas are not normally an appropriate management objective for National Forest lands.

The 1982 ROS User Guide provides the following descriptions of each ROS class setting and evidence of humans:

**Primitive:** Area is characterized by essentially unmodified natural environment of fairly large size. Interaction between users 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. Setting is essentially an unmodified natural environment. Evidence of humans would be un-noticed by an observer wandering through the area.

**Semi-Primitive Non-Motorized:** Area is characterized by a predominantly natural-appearing environment of moderate-to-large size. Interaction between users is low, but there is often evidence of other users. The areas are managed in such a way that minimum on-site controls and restrictions may be present, but are subtle. Motorized use is not permitted. Natural setting may have subtle modifications that would be noticed but not draw the attention of an observer wandering through the area.

**Semi-Primitive Motorized:** Area is characterized by a predominantly natural-appearing environment of moderate-to-large size. Concentration of users is low, but there is often evidence of other users. The areas are managed in such a way that minimum on-site controls and restrictions may be present, but are subtle. Motorized use is permitted. Natural setting may have moderately dominant alterations but would not draw the attention of motorized observers on trails and primitive roads within the area.

**Roaded Natural:** 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 evident, but harmonize with the natural environment. Conventional motorized use is provided for in construction standards and design of facilities. Natural setting 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.

**Rural:** 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 skin, for which challenge and risk-taking are important elements. 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.



FSM 2350 Policy – Approved by Acting Associate Deputy Chief Richard W. Sowa

FSM 2353.01 – Authority. FSM 2353.01d - Other Authorities...

5. The amended Continental Divide National Scenic Trail Comprehensive Plan.

FSM 2353.04b - Chief of the Forest Service. The Chief of the Forest Service is responsible for: ...

2. Approving and submitting National Scenic and National Historic Trail comprehensive management plans to Congress (16 U.S.C. 1244(e) and (f)).
3. When in the public interest, entering into an agreement with the Secretary of the Interior that transfers management responsibilities for segments of National Scenic or National Historic Trails (16 U.S.C. 1246(a)(1)(B)).
4. Selecting the corridor for National Scenic and National Historic Trails and publishing notice of availability of required maps and descriptions in the Federal Register (16 U.S.C. 1246(a)(2)).

FSM 2353.04g - Regional Foresters. Regional Foresters are responsible for: ...

3. National Scenic and National Historic Trails...
  - b. For trails administered by the Secretary of Agriculture: ...
    - (2) Approving the location of these trails within the applicable corridor and signing notices for the Federal Register of availability of maps and descriptions of the location of these trails (16 U.S.C. 1246(a)(2) and (b)). For trails that traverse multiple regions, the lead Regional Forester has this responsibility...
    - (6) Approving non-substantial relocations of National Scenic and National Historic Trails, publishing required notices in the Federal Register, and referring recommendations for substantial relocations to the Chief (16 U.S.C. 1246(b)). For trails that traverse multiple regions, the lead regional forester has this responsibility.

FSM 2353.11 – Relationship between National Recreation, National Scenic, and National Historic Trails and NFS Trails

Manage National Recreation, National Scenic, and National Historic Trails as NFS trails.  
Administer each National Recreation, National Scenic, and National Historic Trail corridor to meet the intended nature and purposes of the corresponding trail (FSM 2353.31).

FSM 2353.31 – Policy

1. The National Trails System (16 U.S.C. 1242(a)) includes: ... b. National Scenic Trails. These extended trails are located so as to provide for maximum outdoor recreation potential and for conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which these trails pass (16 U.S.C. 1242(a)(2))...
2. Ensure that management of each trail in the National Trails System addresses the nature and

purposes of the trail and is consistent with the applicable land management plan (16 U.S.C. 1246(a)(2)).<sup>24</sup>

3. TMOs for a National Recreation, National Scenic, or National Historic Trail should reflect the nature and purposes for which the trail was established.

#### FSM 2353.4 – Administration of National Scenic and National Historic Trails

##### FSM 2353.41 – Objectives

Develop and administer National Scenic and National Historic Trails to ensure protection of the purposes for which the trails were established and to maximize benefits from the land.

##### FSM 2353.42 – Policy

Administer National Scenic and National Historic Trail corridors to be compatible with the nature and purposes of the corresponding trail. CDNST: 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.

##### FSM 2353.44b, “Continental Divide National Scenic Trail –

1. The land management plan for an administrative unit through which the CDNST passes must provide for the nature and purposes of the CDNST (FSM 2353.42) and, in accordance with the programmatic requirements of the NTSA, as amended (16 U.S.C. 1244(f)), and the CDNST Comprehensive Plan, as amended, must:

- a. Except where the CDNST traverses a wilderness area and is governed by wilderness management prescriptions (36 CFR Part 293), establish a management area for the CDNST that is broad enough to protect natural, scenic, historic, and cultural features;
- b. Prescribe desired conditions, objectives, standards, and guidelines for the CDNST; and
- c. Establish a monitoring program to evaluate the condition of the CDNST in the management area.

2. A CDNST unit plan must be developed for each administrative unit through which the CDNST passes. Each CDNST unit plan must provide for the nature and purposes of the CDNST (FSM 2353.42), and, in accordance with the site-specific requirements in the NTSA, as amended (16 U.S.C. 1244(f)), and the CDNST Comprehensive Plan, as amended, must:

- a. Identify and display the segments of the CDNST that traverse that unit.
- b. Except where the CDNST traverses a wilderness area and is governed by wilderness management prescriptions (36 CFR Part 293) and except where delineated in the applicable land management plan, establish a management area for the segments of the CDNST that

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<sup>24</sup> A land management plan amendment may be necessary in order to provide for the nature and purposes of the CDNST. See the discussions under Administration and Development and Land Management Plan Considerations.

traverse that unit that is broad enough to protect natural, scenic, historic, and cultural features;

c. Establish the Trail Class, Managed Uses, Designed Use, and Design Parameters for the segments of the CDNST that traverse that unit and identify uses that are prohibited on the segments of the CDNST that traverse that unit (FSH 2309.18).

d. Provide for development, construction, signing, and maintenance of the segments of the CDNST that traverse that unit.

e. Identify and preserve significant natural, historical, and cultural resources along the sections of the CDNST corridor that traverse that unit.

f. Consistent with the provisions of the applicable land management plan and the nature and purposes of the CDNST (FSM 2353.42), establish carrying capacity for the segments of the CDNST that traverse that unit (FSM 2353.44b, para. 1). The Limits of Acceptable Change or a similar system may be used for this purpose.

g. Establish monitoring programs to evaluate the site-specific conditions of the CDNST.”

FSM 2353.44b parts 7 and 8 contribute to defining key landscape characteristics of the CDNST Management Area corridor:

7. “...The one-half mile foreground viewed from either side of the CDNST travel route must be a primary consideration in delineating the boundary of a CDNST management area (para. 2b). [FSM 2380] The CDNST is a concern level 1 route..., with a scenic integrity objective of high or very high, depending on the trail segment...”

8. 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 (FSM 2353.42). Use the Recreation Opportunity Spectrum (ROS) and the ROS Users Guide in delineating and integrating recreation opportunities in CDNST unit plans and managing the CDNST (FSM 2311.1).<sup>25</sup> Where possible, locate the CDNST in primitive and semi-primitive non-motorized ROS classes, provided that the CDNST may have to traverse intermittently through more developed ROS classes....”

FSH 1909.12 – Part 11.3 of the planning handbook describes the assessment report. The assessment report must be a concise public document that supports the development of a new plan or plan revision. In part, summarizes how the best available scientific information and other information informs the assessment. ROS and SMS Scenic Integrity inventories are the principle tools for obtaining the best scientific information for the condition of the recreation resource.

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<sup>25</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 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).

FSH 1909.12 – Part 13.4 of the planning handbook describes the, “focus of the assessment for recreation is to identify and evaluate available information about existing conditions, trends and sustainability of recreation settings, opportunities, uses, preferences, access, and scenic character. Conditions and trends are assessed within the plan area as well as in relation to the broader landscape... The Interdisciplinary Team shall identify and evaluate available information about recreational settings and opportunities, including seasonal variation, using the Recreation Opportunity Spectrum (ROS). The Team shall also identify and evaluate available information about the existing and potential scenic character of the plan area based on maps and other information using the Scenery Management System.”

FSH 1909.12 – Part 14 of the planning handbook describes that designated areas are specific areas or features within the plan area that have been given a permanent designation to maintain its unique special character or purpose. Some categories of designated areas may be established only by statute (statutorily designated areas or often called congressionally designated areas)... Certain purposes and restrictions are usually established for designated areas, which greatly influence management needs and opportunities associated with them.

The Interdisciplinary Team should identify and evaluate available information about designated areas including:

4. Types, purposes, and locations of established designated areas within the plan area. The Responsible Official should use a map to identify these locations.
5. Range of uses, management activities, or management restrictions associated with the established designated areas in the plan area.
6. Existing plans for the management of established designated areas within the plan area, such as comprehensive plans for national scenic or historic trails.
7. In addition, the assessment report should describe the status of selecting the CDNST rights-of-way (16 U.S.C. 1246(a)(2)).

FSH 1909.12 – Part 22.1 of the planning handbook describes each of the categories of plan components in greater detail and explains how the components should be expressed in the plan. Plan components guide future project and activity decisionmaking. The plan must indicate whether specific plan components apply to the entire plan area, to specific management areas or geographic areas, or to other areas as identified in the plan. Must be informed by the best available scientific information.

FSH 1909.12 – Part 22.2 deals with the identification of management areas and geographic areas. (Designated areas may be identified as MAs or GAs. However, a combination of GA and MA approaches may be useful. Above all, the approach must be clear about where plan components apply. The MA or GA guidance can constrain an activity to a greater degree than the unit-wide direction does.

FSH 1909.12 – Part 22.32 addresses distinctive roles and contributions of the planning area. Describe the recreation opportunities provided and the conservation area protected within the National Scenic Trail rights-of-way and management corridor.

FSH 1909.12 – Part 22.34 calls for the plan to include a list of types of possible projects for the next 3 to 5 years to move toward the desired conditions and objectives. The possible actions may be displayed in an appendix as a brief summary of the types of possible projects expected but such information is not a commitment to take any action.

FSH 1909.12 – Part 23.21b reviews ecosystem services. The Planning Rule (36 CFR 219.10, 219.10(a)(1), and 219.8(b)(3) requires that a plan include plan components including standards or guidelines, for integrated resource management to provide for ecosystem services and multiple use. The plan should describe the desired conditions for the key ecosystem services to be achieved from the National Scenic Trail management corridor.

FSH 1909.12 – Part 23.23a addresses recreation resources. The Interdisciplinary Team uses the recreation opportunity spectrum to define recreation settings and categorize them into the six distinct classes as the structure to describe recreational settings. At the forest scale, sustainable recreation is derived through the integrated planning process and emerges as the resultant set of desired recreation opportunity spectrum classes. Each setting provides opportunities to engage in activities (motorized, nonmotorized, developed, or dispersed on land, water, and in the air) that result in different experiences and outcomes. The Interdisciplinary Team may create desired recreation opportunity spectrum subclasses. For example, the subclass “roaded modified” was first defined in the Pacific Northwest to distinguish those settings significantly altered by past timber harvest from other roaded natural settings. Must include desired conditions for sustainable recreation using mapped desired recreation opportunity spectrum classes. This mapping may be based on management areas, geographic areas, designated areas, independent overlay mapping, or any combination of these approaches. Should include specific standards or guidelines where restrictions are needed to ensure the achievement or movement toward the desired recreation opportunity spectrum classes.

FSH 1909.12 – Part 23.23f is concerned with scenery, aesthetic values, viewsheds and geologic features. (The framework for scenery management is described in Landscape Aesthetics – A Handbook for Scenery Management. Viewsheds are specific elements to be considered because they describe areas seen from certain view locations such as trails (and, implicitly, from National Scenic Trails). The plan should contain standards or guidelines as needed to avoid or mitigate undesirable effects incompatible with desired scenery conditions. ... Standards and guidelines can be applied at multiple scales to specific management activities such as timber harvest, utility corridors, trail construction, facility development, or road construction.

FSH 1909.12 – Part 23.23g addresses cultural and historic resources. The plan must include plan components including standards or guidelines for protection of cultural and historic resources integrated with other plan components. To meet this requirement the plan may include, in part, desired conditions describing the cultural or historic resources in the plan area. For cultural landscapes, a special set of desired conditions may be appropriate for the protection, management, and use of the resource.

FSH 1909.12 – Part 23.23i deals with infrastructure, roads and trails. As related to roads, the plan should include the desired condition for the road system based on the desired uses for the plan area. As related to recreational trails, the plan should include desired conditions. The desired condition may describe nationally designated trails and distribution and types of trails for various uses such as hiking, off-road vehicles, mountain bikes, equestrian use, or winter uses such as skiing or snowmobiling. The plan may identify the types of trails and recreational use that are suitable or not suitable in a management or geographic area, aligned with the desired recreational settings and opportunities.

#### FSH 1909.12 – 24.2 – Plan Components for Designated Areas...

1. When developing plan components:

b. The Responsible Official shall include plan components that will provide for appropriate management of designated areas based on the applicable authorities and the specific purposes for which each area was designated or recommended for designation. Uses and management activities are allowed in designated areas to the extent that these uses are in harmony with the purpose for which the area was designated. For recommended designated areas, the uses and activities allowed should be compatible with the basis of the recommendation.

#### FSH 1909.12 – 24.3 - Designated Area Plans

Planning for designated areas may be met through the land management plan, unless the authorities for the designation require a separate plan. Specific plans for designated areas must be consistent with the plan components (36 CFR 219.15(e)).<sup>26</sup> The designated area

Designated Area – The CDNST designated area extent may be defined by the selected CDNST Section 7 rights-of-way. The CDNST Management Area (FS) and National Trail Management Corridor (BLM) resides within this selected rights-of-way. The MA or NTMC extent and associated plan components must provide for the nature and purposes of this NST.

authorities may require specific plans (such as wild and scenic river plans or national scenic and historic trail plans) for a designated area with additional requirements than those of the Planning Rule. Any parts of a designated area plan that meet the requirements for land management plan components must be included in the land management plan. The entire area plan does not need to be included in the land management plan. The land management plans must also be compatible with these designated area plans or either the land management plan or the designated area plan must be amended to achieve this compatibility.

#### FSH 1909.12 Part 24.43 – National Scenic and Historic Trails

1. “When developing plan components for national scenic and historic trails:

a. The Interdisciplinary Team should review the assessment for relevant information about existing national scenic and historic trails in the plan area, including established rights-of-

<sup>26</sup> Comprehensive Plans developed in response to the requirements of the National Trails System Act and Wild and Scenic Rivers Act are not resource plans as defined by the NFMA (16 U.S.C. 1604(i) and 36 CFR 219.15(e)).

way pursuant to 16 U.S.C 1246(a)(2) and direction contained in comprehensive plans (CPs) pursuant to 16 U.S.C. 1244(e) or 1244(f). For existing or study national scenic and historic trails that do not have such information published, assessments identify and evaluate other information pertinent to the location and management of national scenic and historic trails.

b. The Interdisciplinary Team shall identify Congressionally 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 and for the potential rights-of-way of those trails designated for study (16 U.S.C. 1244(b)).

c. The Interdisciplinary Team shall use the national scenic and historic trails rights-of-way maps required by 16 U.S.C. 1246(a)(2) to map the location of the trails. Where national trail rights-of-way have not yet been selected, the Interdisciplinary Team shall reference the establishing legislation (16 U.S.C. 1244(a)) as the primary source for identifying and mapping the national scenic and historic trails right-of-way. If the right-of-way has not been selected, either through legislation or publication in the Federal Register, the Interdisciplinary Team should use other information to delineate a national scenic and historic trails corridor that protects the resource values for which the trail was designated or is being proposed for designation (16 U.S.C. 1244(b)).

d. The Responsible Official shall consult with neighboring Responsible Officials when developing plan components for national scenic and historic trails that cross unit boundaries and shall strive to maintain or establish compatible management approaches while recognizing diverse resource conditions and needs in the different plan areas.

e. Plan components must be compatible with the objectives and practices identified in the comprehensive plan for the management of the national scenic and historic trail. The objectives and practices include the identification of resources to be preserved and the trail's carrying capacity.

f. The Responsible Official shall include plan components that provide for the nature and purposes of national scenic and historic trails in the plan area. In doing so, the Responsible Official should take into consideration other aspects of the plan related to the trail such as access, cultural and historic resources, recreational settings, scenic character, and valid existing rights.

2. The plan must include plan components including standards or guidelines for a designated area as described in part 24.2 of this Handbook. To meet this requirement the plan:

a. Should include desired conditions that describe the national scenic and historic trail and the recreational, scenic, historic, and other resource values for which the trail was designated.

b. May include objectives for national scenic and historic trails where existing conditions (settings, opportunities, scenic character, cultural and other resources values) are different

from desired conditions. These objectives can identify intended activities to improve national scenic and historic trail conditions, mitigate or enhance associated resource values, create or improve connections with communities and visitors, or other desired and measureable outcomes that will improve the national scenic and historic trail experience.

c. May include standards or guidelines to place limits or conditions on projects or activities to protect the trail and associated resource values.

d. May include suitability plan components to limit or prevent incompatible uses and activities.

e. Must identify and map National scenic and historic trails per #1c above.

f. May, to apply plan components unique to the National and Scenic Historic Trail: provide one or more management or geographic areas for a national scenic and historic trail; reference the identified national scenic and historic trail right-of-way, place a corridor around the trail, or use other means to clearly identify where the plan components apply in reference to the trail.

FSM 2350 has more information about national scenic and historic trails.<sup>27</sup>”

FSH 1909.12 – Part 24.44 requires plan components to be compatible with restrictions of road rules applicable to inventoried roadless areas.

FS-EM-7700-30 - Guidelines for Engineering Analysis of Motorized Mixed Use on Roads

Normally, the CDNST travel route is not to be located on a road unless permanently closed to motor vehicle use. However, in a situation where the CDNST travel route is to be located on an open National Forest System road, an analysis should be completed which documents that mixed use on the road allows for the safe travel of pedestrians and equestrians. Modify the mixed use analysis that is described in [EM-7700-30](#) to assess both motorized and nonmotorized use along the route.

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<sup>27</sup> FSM 1920.3 - 6, states, “Provide all Service-wide direction necessary for planning assessments, plan development, plan revision, plan amendment, and plan monitoring is contained or referenced in this chapter, and supplements, or handbooks thereto.” National Scenic Trail policy and direction is found in comprehensive plans for National Trails, FSM 2353.4 (referenced in the Planning Handbook as FSM 2350), FSH 1909.12 section 14, and FSH 1909.12 section 24.43, which in total provides the necessary policy and management direction for implementing the requirements of the NTSA. Fortuitously, FSM 2350 is clearly referenced in FSH 1909.12 section 24.43 for the Forest Service Planning Handbook in itself does not contain substantive specialized guidance and instruction for addressing the NTSA in an integrated land management plan. FSM 1110.3, FSM 1110.8, and FSM 1112.02 has more information about the formulation of directives.



## Chapter VI. Glossary

The following presents key definitions that provide context for many of the discussions in this handbook:

- Conservation. The protection, preservation, management, or restoration of natural environments, ecological communities, and species.
- Continental Divide National Scenic Trail (CDNST). The National Parks and Recreation Act of November 10, 1978 authorized and designated the Continental Divide National Scenic Trail (CDNST) (Pub. L. No. 95-625, 92 Stat. 3467), which amended the NTSA of 1968 (16 U.S.C. 1241-1251). [See National Scenic Trail.]:
  - CDNST Comprehensive Plan. Statutorily required plan providing direction and guidance for the administration and management of a congressionally designated National Scenic Trail or National Historic Trail. The plan includes the identification of the nature and purposes, goals and objectives, all significant natural, historical, and cultural resources to be preserved, carrying capacity, and high potential segments for the national trail management corridor. Comprehensive planning may be accomplished through staged or stepped-down decision processes.
  - CDNST Corridor. A CDNST corridor is referred to on maps published in 1978 as part of the establishment of this National Scenic Trail. The selected rights-of-way and management corridor extent must be of sufficient width to encompass National Trail resources, qualities, values, and associated settings. [See National Trail Corridor Segment and National Trail Management Corridor.]
  - CDNST Designated Area. The CDNST designated area is the extent of the selected rights-of-way. Land management plans may describe the CDNST designated area as that of a management area or national trail management corridor. [See National Trail Right(s)-of-Way and National Trail Management Corridor.]
  - CDNST Nature and Purposes. 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” (2009 CDNST Comprehensive Plan, FSM 2353.42, and Federal Register Notice on October 5, 2009 (74 FR 51116)). [See National Trail Nature and Purposes.]
  - CDNST Travel Route. The CDNST travel route is normally a standard terra trail that has a surface consisting predominantly of the ground and that is designed and managed to accommodate use on that surface. A National Scenic Trail travel route is located within an

established management area or national trail management corridor. [See FSM 2353.44b part 9.]

- CDNST Unit Plan. The Forest Service outlines the requirement of a CDNST Unit Plan in FSM 2353.44b. In general, a site-specific CDNST plan that is developed through staged (or phased) decisionmaking may serve the purpose of the Forest Service directive guidance to fulfill the National Trails System Act comprehensive planning requirements.
- Cultural Landscape. A geographic area, including both cultural and natural resources and the wildlife or domestic animals therein, associated with a historic event, activity, or person, or exhibiting other cultural or esthetic values. There are four non-mutually exclusive types of cultural landscapes: historic sites, historic designed landscapes, historic vernacular landscapes, and ethnographic landscapes.
- National Trail Corridor Segment. Corridor segment is a term used by congress to describe the management of a National Scenic Trail corridor: *“For example, the Secretary of the Interior who is responsible for administration of the Appalachian National Scenic Trail, could negotiate an agreement with the Secretary of Agriculture. This agreement might provide that a certain segment of the trail corridor, acquired by the National Park Service, would be transferred to the Forest Service for management, and would be governed by Forest Service rules and regulations, except that the agreement might specify that the transferred corridor segment would be managed with certain other constraints which would not apply to national forest land generally.”*
- National Scenic Trail. “A continuous, long-distance trail located on the ground by the land-managing agency along the congressionally designated route, in coordination with the trail administering agency. A National Scenic Trail provides maximum compatible outdoor recreation opportunity and conservation and enjoyment of the nationally significant scenic, historic, natural, and cultural resources, qualities, values, and associated settings and the primary use or uses of the areas through which such trails may pass. National Scenic Trails represent desert, marsh, grassland, mountain, canyon, river, forest, and other areas, as well as landforms that exhibit significant characteristics of the physiographic regions of the Nation. National Scenic Trails include the tread, or the trail path, and the trail setting which is included within the National Trail Management Corridor. National Scenic Trails may contain water sources or structures which are designed to support and provide for the safety of travelers along the trail.” (BLM MS-6280) National scenic and national historic 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. Other uses include recreational and resource uses that may be incompatible with the nature and purposes for which the CDNST was established and designated. Reasonable efforts shall be made to provide sufficient access opportunities to such trails and, 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.

- National Scenic Trail Values. Executive Order 13195 – Trails for America in the 21st Century describes that that agencies will, protect 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...” The values of National Scenic Trails include: (1) visitor experience opportunities and settings, and (2) the conservation and protection of scenic, natural, historical, and cultural qualities of the corridor. [See Nature and Purposes; and National Trail Resources, Qualities, and Values.]
- National Trail Associated Settings. “The geographic extent of the resources, qualities, and values or landscape elements within the surrounding environment that influence the trail experience and contribute to resource protection. Settings associated with a National Scenic or Historic Trail include scenic, historic, cultural, recreation, natural (including biological, geological, and scientific), and other landscape elements (see resources, qualities, and values).” (BLM MS-6280)
- National Trail Management Corridor. “Allocation established through the land use planning process, pursuant to Section 202 of Federal Land Policy and Management Act and Section 7(a)(2) of the National Trails System Act (“rights-of-way”) for a public land area of sufficient width within which to encompass National Trail resources, qualities, values, and associated settings and the primary use or uses that are present or to be restored.” (BLM MS-6280)
- National Trail Nature and Purposes. “The term used to describe the character, characteristics, and congressional intent for a designated National Trail, including the resources, qualities, values, and associated settings of the areas through which such trails may pass; the primary use or uses of a National Trail; and activities promoting the preservation of, public access to, travel within, and enjoyment and appreciation of National Trails.” (BLM MS-6280)
- National Trail Right(s)-of-Way. “Term used in Section 7(a)(2) of the National Trails System Act to describe the corridor selected by the National Trail administering agency in the trailwide Comprehensive Plan and which includes the area of land that is of sufficient width to encompass National Trail resources, qualities, values, and associated settings. The National Trail Right-of-Way, in the context of the National Trails System Act, differs from a Federal Land Policy and Management Act (FLPMA) Title V right-of-way, which is a grant issued pursuant to FLPMA authorities. It becomes a key consideration in establishing the National Trail Management Corridor in a Resource Management Plan” (BLM MS-6280). In addition, the selection of the rights-of-way must be consonant of the implications of guidance found in NTSA Section 7(b), 7(d), 7(e), and 7(f).
- National Trail Resources, Qualities, and Values. “The significant scenic, historic, cultural, recreation, natural (including biological, geological, and scientific), and other landscape areas

through which such trails may pass as identified in the National Trails System Act.” (BLM MS-6280)

- Recreation Opportunity Spectrum: The Recreation Opportunity Spectrum planning framework is the recognized framework for stratifying and defining classes of outdoor recreation environments, activities, and experience opportunities through land management planning. The CDNST Comprehensive Plan, Chapter IV.B.5, recreation resource management direction is to use the ROS System in delineating and integrating recreation opportunities in managing the CDNST. The settings, activities, and opportunities for obtaining experiences have been arranged along a continuum or spectrum divided into six classes that are described below along with recommended plan components. The definition of each ROS class describes six setting characteristics: Access, Remoteness, Naturalness, Non-Recreation Uses, On-Site Management, Visitor Management, Social Encounters, and Visitor Impacts. The following descriptions are consistent with the descriptions in the 1982 ROS User Guide. The following descriptions presents plan components that link specific ROS characteristics to the appropriate ROS class.
  - Primitive – Desired Conditions: The area is essentially an unmodified natural environment. Interaction between users is very low and evidence of other users is minimal. Motorized use is not permitted. 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 woodsman and outdoor skill in an environment that offers a high degree of challenge and risk. 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 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. Inventoried Primitive settings are least 3 miles from all roads, trails, rivers, lakes and railroads with motorized use. Standards: (1) Motor and mechanized vehicles are not allowed; and (2) Management actions must result in Very High Scenic Integrity—naturally occurring incidents, such as fire, insects and disease are not defined as human-caused deviations in the landscape. Guidelines: (1) No new permanent structures should be constructed, since structures 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 roads, timber harvest, or mineral extraction are allowed in order to protect the remoteness and naturalness of the area. Suitability: (1) Motorized and mechanized recreation travel are not suitable; and (2) Lands are not suitable for timber production.
  - Semi-Primitive Non-Motorized (SPNM) – Desired Conditions: 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. Motorized use is not permitted. 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 skill in an environment that offers a high degree of challenge and risk. 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 and re-vegetated 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. Standards: (1) Motor vehicle use by the general public is not allowed;<sup>28</sup> and (2) Management actions must result in High or Very High Scenic Integrity; and (3) No new roads may be built. Guidelines: (1) The development scale of recreation facilities should be 0-1 to protect the undeveloped character of desired SPM settings; (2) Less than 15 parties per day encountered 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; and (4) Vegetative management may range from prescribed fire to very limited timber harvest for the purpose of maintaining a natural setting. Suitability: (1) Motorized recreation travel is not suitable; and (2) Lands are not suitable for timber production.

- Semi-Primitive Motorized (SPM) – Desired Conditions: The area is predominantly natural-appearing environment. Concentration of users is low, but there is often evidence of other users. 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. Natural setting may have moderately 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. Standard: (1) Management actions must result in at least Moderate Scenic Integrity, and (2) Any road that is constructed or reconstructed for a vegetation manage project must be decommissioned within 2 years after the project is complete. Guidelines: (1) The development scale of recreation facilities should be 0-1 to protect the undeveloped character of desired SPM settings; and (2) Vegetation management may range from prescribed fire to limited timber harvest for the purpose of maintaining or improving natural vegetative conditions. Suitability: Lands are not suitable for timber production.

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<sup>28</sup> Motor vehicle use by the general public may be present on the CDNST travel route as a ROS class inconsistency if allowed by the National Trails System Act.

- **Roaded Natural – Desired Conditions:** 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. 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. 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. Roaded Modified has been used as a subclass of RN by several Forests and Regions for many years. Roaded Modified has typically been defined as areas exhibiting evidence of forest management activities that are dominant on the landscape. Examples of RM include heavily logged areas, evidence of mining, oil/gas, or other minerals extraction activities.
  
- **Rural – Desired Conditions:** Area is characterized by a substantially modified natural environment. Opportunities to affiliate with others are prevalent. The convenience of recreation sites and opportunities are more important than a natural landscape or setting. Sights and sounds of man are readily evident, and the concentration of users is often moderate to high. Developed sites, roads, and trails are designed for moderate to high use.
  
- **Recreation Setting (Forest Service).** 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: primitive, semi-primitive non-motorized, semi-primitive motorized, roaded natural, rural, and urban.
  
- **Scenic Character (Forest Service).** A combination of the physical, biological, and cultural images that gives an area its scenic identity and contributes to its sense of place. Scenic character provides a frame of reference from which to determine scenic attractiveness and to measure scenic integrity (36 CFR 219.19).


































- Scenic Integrity Levels (Forest Service). Scenic integrity is defined as the degree of direct human-caused deviation in the landscape, such as road construction, timber harvesting, or activity debris. Indirect deviations, such as a landscape created by human suppression of the natural role of fire, are not included. 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 very 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 Scenic Integrity levels: Very High, High, Moderate, Low, Very Low, and Unacceptably Low. Scenic Integrity is used to describe an existing landscape condition, a standard for management, or a desired future condition.
  - **VERY HIGH**. (Unaltered) preservation. **VERY HIGH** scenic integrity refers to landscapes where the valued landscape character "is" intact with only minute if any deviations. The existing landscape character and sense of place is expressed at the highest possible level.
  - **HIGH** (Appears Unaltered) retention. **HIGH** scenic integrity refers to landscapes where the valued landscape character "appears" intact. Deviations may be present but must repeat the form, line, color, texture, and pattern common to the landscape character so completely and at such scale that they are not evident.
  - **MODERATE** (Slightly Altered) partial retention. **MODERATE** scenic integrity refers to landscapes where the valued landscape character "appears slightly altered." Noticeable deviations must remain visually subordinate to the landscape character being viewed.
  - **LOW** (Moderately Altered) modification. **LOW** scenic integrity refers to landscapes where the valued landscape character "appears moderately altered." Deviations begin to dominate the valued landscape character being viewed but they borrow valued attributes such as size, shape, edge effect and pattern of natural openings, vegetative type changes or architectural styles outside the landscape being viewed. They should not only appear as valued character outside the landscape being viewed but compatible or complimentary to the character within.
  - **VERY LOW** (Heavily Altered) maximum modification. **VERY LOW** scenic integrity refers to landscapes where the valued landscape character "appears heavily altered." Deviations may strongly dominate the valued landscape character. They may not borrow from valued attributes such as size, shape, edge effect and pattern of natural openings, vegetative type changes or architectural styles within or outside the landscape being viewed. However, deviations must be shaped and blended with the natural terrain (landforms) so that elements such as unnatural edges, roads, landings, and structures do not dominate the composition.
  - **UNACCEPTABLY LOW** scenic integrity refers to landscapes where the valued landscape character being viewed appears extremely altered. Deviations are extremely

dominant and borrow little if any form, line, color, texture, pattern or scale from the landscape character. Landscapes at this level of integrity need rehabilitation. This level should only be used to inventory existing integrity. It must not be used as a management objective.
























- Scenic Integrity Objectives. Scenic integrity objectives in the context of the forest plan are equivalent to goals or 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. Scenic integrity is measured in five levels:
  - **VERY HIGH:** landscapes where the valued landscape character “is” intact with only minute, if any deviations. The existing landscape character and sense of place is expressed at the highest possible level.
  - **HIGH:** landscapes where the valued landscape character appears unaltered. Deviations may be present but must repeat the form, line, color, texture and pattern common to the landscape character so completely and at such scale that they are not evident.
  - **MODERATE:** landscapes where the valued landscape character appears slightly altered. Noticeable deviations must remain visually subordinate to the landscape character being viewed.
  - **LOW:** landscapes where the valued landscape character appears moderately altered. Deviations begin to dominate the valued landscape character being viewed but they borrow valued attributes such as size, shape, edge effect, pattern of natural openings, vegetative type changes or architectural styles outside the landscape being viewed. They should not only appear as valued character outside the landscape being viewed, but compatible or complimentary to the character within.
  - **VERY LOW:** landscapes where the valued landscape character appears heavily altered. Deviations may strongly dominate the valued landscape character. They may not borrow from valued attributes such as size, shape, edge effect, pattern of natural openings, vegetative type changes or architectural styles within or outside the landscape being viewed. However, deviations must be shaped and blended with the natural terrain so that elements such as unnatural edges, roads, landings and structures do not dominate the composition.
- Substantial Interference. “Determination that an activity or use affects (hinders or obstructs) the nature and purposes of a designated National Trail (see nature and purposes).” (BLM MS-6280) Black’s law dictionary defines substantial evidence as the amount of evidence which a reasoning mind would accept as sufficient to support a particular conclusion and consists of more than a mere scintilla.



**Appendix A. Status of Land and Resource Management Plan CDNST Protections.**

Excellent 		Very Good 		Good 		Poor 		Fails to Protect Nature and Purposes 	
Federal Land Management Areas Montana to New Mexico	CDNST Recreation Setting Protected	CDNST Scenic Integrity Protected	CDNST Location	Forest Plan/RMP CDNST Management Direction	Comments				
Flathead National Forest					Recommend conducting an optimum location review.				
Helena - Lewis and Clark National Forest					CDNST is somewhat protected where located in designated Wilderness. Plan revision needs to address the requirements of the CDNST Comprehensive Plan and FSH 1909.12 - 24.43 – National Scenic and Historic Trails. Resolving private land rights-of-way access issues adjacent to the Helena National Forest is very important.				
Bearverhead-Deerlodge National Forest					CDNST is somewhat protected due to designated Wilderness. The 2009 Forest Plan needs to be amended to address the requirements of the Comprehensive Plan and FSH 1909.12 - 24.43 – National Scenic and Historic Trails.				
Bitterroot National Forest					Plan revision needs to address the requirements of the CDNST Comprehensive Plan and FSH 1909.12 - 24.43 – National Scenic and Historic Trails.				
Salmon National Forest					Plan revision needs to address the requirements of the CDNST Comprehensive Plan and FSH 1909.12 - 24.43 – National Scenic and Historic Trails.				
Gallatin National Forest					Plan revision needs to address the requirements of the CDNST Comprehensive Plan and FSH 1909.12 - 24.43 – National Scenic and Historic Trails.				
Caribou-Targhee					Plan revision is not scheduled. The Plan needs to be amended to address				

National Forest					the requirements of the Comprehensive Plan and FSH 1909.12 - 24.43 – National Scenic and Historic Trails.
Bridger-Teton National Forest					CDNST is protected in part due to designated Wilderness. Plan revision is not scheduled. The Plan needs to be amended to address the requirements of the Comprehensive Plan and FSH 1909.12 - 24.43 – National Scenic and Historic Trails. An optimum location review should be conducted.
Shoshone National Forest					The 2015 Forest Plan needs to be amended to address the requirements of the CDNST Comprehensive Plan and Chief's Objection decision to address the CDNST nature and purposes.
Medicine-Bow NF					The Plan needs to be amended to address the requirements of the CDNST Comprehensive Plan and FSH 1909.12 - 24.43 – National Scenic and Historic Trails.
Routt NF					The Plan needs to be amended to address the requirements of the CDNST Comprehensive Plan and FSH 1909.12 - 24.43 – National Scenic and Historic Trails.
Arapaho-Roosevelt NF					Plan revision is not scheduled. The Plan needs to be amended to address the requirements of the CDNST Comprehensive Plan and FSH 1909.12 - 24.43 – National Scenic and Historic Trails.
White River National Forest					The Plan needs to be amended to address the requirements of the CDNST Comprehensive Plan and FSH 1909.12 - 24.43 – National Scenic and Historic Trails.
Gunnison National Forest					The Plan needs to be revised to address the requirements of the CDNST Comprehensive Plan and FSH 1909.12 - 24.43 – National Scenic and Historic Trails.

Rio Grande National Forest					Plan revision needs to address the requirements of the CDNST Comprehensive Plan and FSH 1909.12 - 24.43 – National Scenic and Historic Trails. The CDNST is protected where located in designated Wilderness.
San Juan National Forest					CDNST is mostly protected due to designated Wilderness. The 2013 Forest Plan needs to be amended to address the requirements of the CDNST Comprehensive Plan and FSH 1909.12 - 24.43 – National Scenic and Historic Trails.
Carson National Forest					Plan revision needs to address the requirements of the CDNST Comprehensive Plan and FSH 1909.12 - 24.43 – National Scenic and Historic Trails.
Santa Fe National Forest					CDNST is primarily protected due to designated Wilderness. Plan revision needs to address the requirements of the CDNST Comprehensive Plan and FSH 1909.12 - 24.43 – National Scenic and Historic Trails.
Cibola National Forest					Plan revision needs to address the requirements of the CDNST Comprehensive Plan and FSH 1909.12 - 24.43 – National Scenic and Historic Trails. Connectivity with the Alamocita Creek land acquisition is of high importance.
Gila National Forest					CDNST is partially protected due to designated Wilderness. Plan revision needs to address the requirements of the CDNST Comprehensive Plan and FSH 1909.12 - 24.43 – National Scenic and Historic Trails.