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November 21, 2021
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Submitted via https://cara.ecosystem-management.org/Public//CommentInput?Project=51806

I appreciate this opportunity to comment on the Grand Mesa, Uncompahgre, and Gunnison Draft Plan and DEIS. The following comments are mostly related to forest planning processes to provide for the integrated management of the Continental Divide National Scenic Trail (CDNST) a congressionally designated area. The CDNST Comprehensive Plan is included in these comments as **Attachment A**. A reasonable delineation of a minimum extent of a CDNST management corridor is depicted on the maps in **Attachment B**. FSM Chapter 2350 – Trail, River, and Similar Recreation Opportunities is included as **Attachment C.** These comments also address the application of the 1986 ROS (Recreation Opportunity Spectrum) Book planning framework which is included as **Attachment D**. Related, the 1986 Recreation Opportunity Setting as a Management Tool Technical Guide is found as **Attachment E**. These comments regarding the Draft Plan and DEIS are consistent with submitted scoping comments. The most recent version of a CDNST Planning Handbook and ROS-Scenery Management Primer is posted online: NSTrail.org.

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Section I. Brief Review of Planning Issues and Recommendations

A. Introduction – Statutorily Designated Areas

Statutorily 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. 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 (NTSA) of 1968 (PL 90-543), which states that National Scenic Trails will be established, "*In order to… promote the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas… of the Nation… 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… 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…"* (Sections 3(a) and 7(c)). National Scenic Trail Comprehensive Plans must identify 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 high potential route segments protected (Section 5(f)).

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)).

National Scenic Trails, Wild and Scenic Rivers, and Wilderness legislation keeps the management of the federal land under the agencies existing authorities, but subject to the overriding purpose of protecting qualities and values described by the designated area legislation. The establishment of these designated areas thus constitutes an overlay on the

management regime otherwise applicable to lands managed by the agency. By eliminating activities and uses incompatible with the purposes for which an area is designated, the designated area limits the management discretion that the agency might otherwise have.

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

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

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

[1] 36 CFR § 216
[2] https://www.federalregister.gov/documents/2009/10/05/E9-23873/continental-divide-national-scenic-trail-comprehensive-plan-fsm-2350
[3] 16 U.S.C. §§ 1242(a)(2), 1246(k)
[4] 16 U.S.C. §§ 1244(f)(3), 1246(i)
[5] 16 U.S.C. §§ 1241(a), 1244(f)(1)
[6] https://www.fs.fed.us/sites/default/files/fs_media/fs_document/cdnst_comprehensive_plan_final_092809.pdf

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

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

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

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

The final amendments to the CDNST Comprehensive Plan and corresponding directives … will be applied through land management planning and project decisions following requisite environmental analysis (74 FR 51124). CDNST management direction enacted through correspondence may supplement this direction, but such direction would not supersede the guidance found in the National Trails System Act, Executive Orders, CDNST Comprehensive Plan, regulations, and directives.

B. Summary of Issues and Statements of Explanation

CDNST Plan Components

The National Trails System Act of 1968, 82 Stat. 919, as amended, provides that the CDNST shall be administered by the Secretary of Agriculture and so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of nationally significant scenic, historic, natural, or cultural qualities. It empowers and requires that the Secretary of Agriculture select the CDNST rights-of-way which informs the National Scenic Trail corridor location and width. The CDNST travel route is to be located within the established corridor. The establishment of the CDNST corridor thus constitutes an overlay on the management regime

[7] Primitive and Semi-Primitive Non-Motorized ROS settings provide for the nature and purposes of the CDNST.
[8] 16 U.S.C. § 1246(c)

otherwise applicable to public areas managed by land management agencies. The NTSA and *Trails for America in the 21st Century* Executive Order limits the management discretion the agencies would otherwise have by mandating the delineation and protection of the CDNST rights-of-way (aka National Trail Management Corridor) for the purpose of providing for the nature and purposes of the CDNST.

The revised Draft Forest Plan CDNST plan components do not reflect the guidance in the National Forest Management Act of 1976 and the National Trails System Act as amended in 1978. The Forest Service relies on an ambiguous right-of-way[9] statement in the National Trails System Act as enacted in 1968 as an indicator that the management and protection of National Scenic and Historic Trails is subordinate to common multiple-use programs. This improper interpretation of the rights-of-way selection guidance in the NTSA often goes as follows: "*The National Trails System Act at 16 U.S.C. § 1246(a)(2) indicates that management in the vicinity of the CDNST while it traverses management areas that are subject to development or management is acceptable, but should be designed to harmonize with the CDNST as possible. Development and management of each segment of the National Trails System shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land. The wording recognizes multiple uses and seeks to moderate impacts on the trail from resource management to the extent feasible while meeting resource management objectives."*[10]

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

The National Forest Management Act requires that a Land Management Plan address the comprehensive planning and other requirements of the NTSA in order to form one integrated Plan. As such, the NTSA guidance that a National Trails System segment be, "*designed to harmonize with and complement any established multiple-use plans for that specific area*," is

[9] 16 U.S.C. § 1246(a)(2)

[10] Medicine Bow Landscape Vegetation Analysis Project, Reviewing Officer's Instructions, June 10, 2020.

not applicable to a land management plan approved after the passage of the National Forest Management Act (NFMA) in 1976 and as addressed in the 1982 planning regulations. Furthermore, the NTSA was amended in 1978 in part to designate the CDNST and require comprehensive planning for National Scenic and Historic Trails, which the Forest Service until recently was attempting to complete through staged decisions for the CDNST whereas the revised GMUG Forest Plan is critical in contributing to NTSA comprehensive planning requirements.

The National Forest Management Act requires the formulation of one integrated plan (16 U.S.C. § 1604(f)(1)). The 2012 NFMA regulations 36 CFR § 219.1 requires integrated resource management of the resources within the plan area and that plans must comply with all applicable laws and regulations. These regulations also require integrated resource management of multiple use (36 CFR § 219.10(a)), including providing for plan components to provide for the, *"(vi) Appropriate management of other designated areas or recommended designated areas in the plan area, including research natural areas.*" Planning directives describe that planning for designated areas may be met through the land management plan, unless the authorities for the designation require a separate plan; however, in the case of the CDNST the Comprehensive Plan directs that Forest Plans further implement the CDNST comprehensive planning requirements through staged-decision making. *"… 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 – 24.3)

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

Recreation Opportunity Spectrum

The Recreation Opportunity Spectrum (ROS) provides a framework for stratifying and defining classes of outdoor recreation environments, activities, and experience opportunities. The Forest Service uses the recreation opportunity spectrum to define recreation settings. The 1982 ROS User Guide, 1986 ROS Book, and FSM 2310 (WO Amendment 2300-90-1) were the recreation resource technical basis for the planning rule and planning directives. To be consistent with the planning rule and recreation policy and research the Forest Plan must define and apply ROS principles that are consistent with the ROS planning framework which is the best available scientific recreation planning information. Most important is including ROS physical setting indicators when describing Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized ROS setting desired conditions.

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

The Forest Service, in FSM 2310 (WO Amendment 2300-2020-1) on April 23, 2020, modified the 1982 ROS User Guide and 1986 ROS Book Recreation Opportunity Spectrum setting definitions and no longer refers to the 1982 ROS User Guide direction for planning purposes. The agency does not explain the change to policy, but it appears that the agency wishes to allow for mechanical treatment of vegetation and timber production in Semi-Primitive ROS settings. Concerning is that the agency does not disclose the consequences of those changes to

recreationists seeking Primitive and Semi-Primitive ROS experiences when new roads and vegetation management activities are encountered, including those seeking high-quality scenic, primitive hiking and horseback riding opportunities along the Continental Divide National Scenic Trail. The GMUG Draft Plan and DEIS alternatives promote development actions in Semi-Primitive Non-Motorized and Semi-Primitive Motorized ROS settings that are incongruent with the desired conditions of these ROS classes, which is inconsistent with the ROS planning framework as referenced in the planning rule and used in the PEIS.

Primitive and Semi-Primitive ROS classes must constrain some management actions such as mechanical treatments of vegetation that utilize heavy equipment and permanent or temporary roads if these desired ROS class opportunities as described in the 1986 ROS Book and referenced in the planning rule PEIS are to be protected.

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

C. Proposed Solutions to Improve the Plan and EIS

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

The Forest Service should take the following actions:

- Reference and follow the direction in the 2009 CDNST Comprehensive Plan.
- ROS setting descriptions need to be consistent with the 1986 ROS Book which was a basis for the recreation direction in the planning rule as informed by the Planning Rule PEIS and FSM 2310 (WO Amendment 2300-90-1). ROS class definitions need to be expanded to add descriptions of Non-Recreation Uses, Evidence of Humans, and Naturalness characteristics.
- The plan must indicate where established ROS classes, Scenic Character, and Scenic Integrity Objectives apply. Forest Plan modifications of where ROS, Scenic Character, and SIO direction applies (including maps) must follow amendment processes and not be addressed as an administrative change.
- Modify the description of "Overlay" by indicating that underlying management direction would be constrained by Continental Divide National Scenic Trail desired conditions, standards, guidelines, and suitability to ensure that actions, such as those actions that

may occur in General Forests, do not substantially interfere with the nature and purposes of this National Scenic Trail.

- Recognize that Comprehensive Plans developed in response to the requirements of the National Trails System Act (16 U.S.C. §§ 1244(e), 1244(f)) and the Wild and Scenic Rivers Act (16 U.S.C. § 1274(d)) are not resource plans as defined by the NFMA (16 U.S.C. §1604(i) and 36 CFR §219.15(e)).
- Protect the high potential route segments within the project area of the "Continental Divide National Scenic Trail and The Colorado Trail Reroute Lujan to La Garita Wilderness" 2013 Environmental Assessment.
- Recognize that the 1968 NTSA Section 7(a)(2) statement 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 the specific area in order to insure continued maximum benefits from the land"* simply identified the need for National Scenic Trails and National Recreation Trails to be an integral part of multiple-use plans. Integration requirements were strengthened with the passage of NFMA in 1976. In 1978, Public Law 95-625 established and designated the CDNST. This law also added National Historic Trails to the system and required comprehensive planning for National Scenic and Historic Trails.
- To address the requirements of NFMA Section 6(f)(1) and NTSA Sections 3(a)(2), 5(f) and 7(c), modify the management direction for the CDNST management corridor (as depicted in **Attachment B**) by adding the following plan components and eliminating proposed plan guidance that may conflict with the following direction:
  1. Desired Condition: The CDNST provides for high-quality scenic, primitive hiking and horseback riding opportunities and conserves natural, historic, and cultural resources along the corridor (nature and purposes).[11]
  2. Desired Condition: Primitive or Semi-Primitive Non-Motorized ROS setting[12] characteristics are protected or restored.
  3. Desired Condition: Scenic Character is Naturally Evolving or Natural-Appearing. Scenic Integrity Objective is Very High or High.[13]
  4. Desired Condition: The CDNST management corridor contributes to providing for habitat connectivity for Canada lynx and other wildlife species.
  5. Standard: Resource management actions and allowed uses must be compatible with maintaining or restoring Primitive or Semi-Primitive Non-Motorized ROS settings.
  6. Guideline: To provide for desired Scenic Character, management actions should 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.
  7. Standard: Motor vehicle use by the general public is prohibited unless that use:
     a. Is necessary to meet emergencies;
     b. Is necessary to enable adjacent landowners or those with valid outstanding rights to

[11] 16 U.S.C. §§ 1242(a)(2), 1244(f), 1246(c); CDNST Comprehensive Plan Chapter IV.A.; FSM 2353.42 – 74 FR 51124
[12] CDNST Comprehensive Plan Chapter IV.B.5 and FSM 2353.44b – 74 FR 51125; ROS User Guide; ROS Book
[13] CDNST Comprehensive Plan Chapter IV.B.4 and FSM 2353.44b – 74 FR 51124; Landscape Aesthetics Handbook

have reasonable access to their lands or rights;

c. Is for the purpose of allowing private landowners who have agreed to include their lands in the CDNST by cooperative agreement to use or cross those lands or adjacent lands from time to time in accordance with Forest Service regulations; or
d. Is on a motor vehicle route that crosses the CDNST, if that use will not substantially interfere with the nature and purposes of the CDNST;
e. Is designated in accordance with 36 CFR Part 212 Subpart B and:
    i. The vehicle class and width were allowed on that segment of the CDNST prior to November 10, 1978, and the use will not substantially interfere with the nature and purposes of the CDNST or
    ii. That segment of the CDNST was constructed as a road prior to November 10, 1978; or
f. In the case of over-snow vehicles, is allowed in accordance with 36 CFR Part 212, Subpart C and the use will not substantially interfere with the nature and purposes of the CDNST.[14]

8. Suitability: The CDNST management corridor is not suitable for timber production. Timber harvest is not an objective.
9. Objective: Within 5 years of plan approval, a CDNST unit plan (a project level plan) should be completed.

D. Completing the Continental Divide National Scenic Trail

The Draft Forest Plan does not protect the qualities and values of the CDNST, which would result in actions if implemented that perpetually prevent the CDNST from being completed with a protected corridor on the GMUG National Forest. Of the alternatives presented in the DEIS, Alternative D best protects the CDNST qualities and values. Other alternatives are clearly inconsistent with the National Trails System Act and need to be modified or discarded.

Representatives Neguse and Fernandez introduced House of Representatives Bill 5118 titled the "Continental Divide Trail Completion Act" on August 27, 2021. The passage of H.R. 5118 could help protect and complete the CDNST through National Forest System and other lands in Colorado.

Section II. Nature and Purposes of the CDNST

The National Trails System Act[15] (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*

[14] 16 U.S.C §§ 1244(a)(5), 1246(c); CDNST Comprehensive Plan Chapter IV.B.6 and FSM 2353.44b – 74 FR 51125
[15] 16 U.S.C. 1241-1251: Public Law 90-543 (October 2, 1968) and amendments.

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 informed by 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, states, "*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….*" Trails for America[16] vision for the CDNST will be achieved by providing for the *"nature and purposes"* qualities and values of this designated National Trail.

B. National Trails System Act

The National Trails System Act of 1968, 82 Stat. 919, as amended, provides that the CDNST, "*shall be administered*" "*by the Secretary of Agriculture*" and is to be so located to "*provide for maximum outdoor recreation potential and for the conservation and enjoyment*" of "*nationally significant scenic, historic, natural, or cultural qualities*." It empowers and requires that the Secretary of Agriculture select the CDNST right-of-way which informs the National Scenic Trail corridor location and width. In general, "*the use of motorized vehicles by the general public along any national scenic trail shall be prohibited*." 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 right-of-way (aka National Trail Management Corridor) for the purpose of providing for the nature and purposes of the 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

[16] http://nstrail.org/pdf_documents/Trails_for_America_scan.pdf

amended the NTSA of 1968 (16 U.S.C. §§ 1241-1251). Section 5. [16 U.S.C. § 1244] (a) National scenic and national historic trails shall be authorized and designated only by Act of Congress.

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*."

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). "*National scenic… trails may contain campsites, shelters, and related-public-use facilities. Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted... 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 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 its use for outdoor recreation 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..." (Office of the Secretary, 1967).

H.R. 4865 legislation describes the selection of National Scenic Trails corridors – "*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....*"

"*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 a potential addition to the national trails system, states, "*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 in 2004 established a Vision and Guiding Principles for the development and protection of the CDNST. 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 consisted of senior Forest Service, Bureau of Land Management, and National Park Service officials.

The Leadership Council in 2006 reviewed issues related to the 1985 CDNST Comprehensive Plan. It was identified that much of the direction in this plan was inconsistent with law and needed to be amended or revised. The Leadership Council decision was to amend the Comprehensive Plan direction following the Public Participation requirement of the Forest and Rangeland Renewable Resources Planning Act (FRRRPA); and Public Notice and Comment for Standards, Criteria, and Guidance Applicable to Forest Service Programs requirements (16 U.S.C. § 1612(a), 36 CFR § 216). The draft amended Comprehensive Plan was published in the Federal Register for public comment in 2007. The final amended CDNST Comprehensive Plan direction was published in the Federal Register in 2009 and took effect on November 4, 2009 (74 FR 51116). The amended Comprehensive Plan was approved by Chief Thomas Tidwell in September 2009. The eventual revision of the CDNST Comprehensive Plan will need to further

address the conservation,[17] protection,[18] and preservation[19] purposes of this National Scenic Trail.

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 § 216.3) and approved by Associate Chief Hank Kashdan as documented in Federal Register: October 5, 2009.[20]

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 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

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[17] 16 U.S.C. §§ 1242(a)(2), 1246(k)
[18] 16 U.S.C. §§ 1244(f)(3), 1246(i)
[19] 16 U.S.C. §§ 1241(a), 1244(f)(1)
[20] https://www.govinfo.gov/app/details/FR-2009-10-05/E9-23873

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 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). The final Comprehensive Plan 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).

Section III. Land Management Planning

A. Introduction – National Scenic Trails

A National Scenic Trail is a continuous, long-distance trail located on the ground along the congressionally designated route. A National Scenic Trail is 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 Trails include the tread, or the trail path, and the trail setting which is included within the National Trail Management Corridor.

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 are 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 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))—2005). 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 the 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(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)—2005). 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 potential rights-of-way[21] and high potential route segments[22] where the rights-of-way is yet to be selected and the travel route officially located (16 U.S.C. §§ 1244(f)(3), 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 qualities and 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—2005).

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 this National Scenic Trail.

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. Instead, the 1985 CDNST Comprehensive Plan was in violation of 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 Plan and

[21] Rights-of-Way: 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.

[22] 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)).

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 specific 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*;" and (2) "*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*

> The Appalachian Trailway Agreement signed by the U.S. Forest Service and the National Park Service on October 15, 1938, was perhaps the most important step taken by the Appalachian Trail Conference in protecting the Appalachian Trail for the use of future generations. The Federal agencies agreed to designate a zone with a minimum width of one mile on each side of the Appalachian Trail within their respective jurisdictions, except where the trail descends into the main valleys. Within the zone no new paralleling routes for the passage of motorized transportation or developments which, in the judgment of the administering agency, are incompatible, will be constructed.

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 an 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 Sections 3, 5(f) and 7(b), (c), (d), (e), (f), and (i). The CDNST corridor, also known as a National Trail Management Corridor (NTMC),[23] is to be described through the delineation of a Management Area (MA) or NTMC with plan components that provide for the nature and purposes qualities and 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 Primitive and Semi-Primitive Non-Motorized experiences. In addition, the CDNST travel route is a concern level-1 travel route and scenic integrity 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 route. 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 another desirable setting. The Forest Service Scenery Management System identifies that the middleground begins at 1/2-mile of the travel route.

The extent of the MA or 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 that 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. For example, Forest Plans are expected to provide for ecological conditions to contribute to the recovery of threatened

[23] 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.

and endangered species and to conserve species that have been proposed for listing under the Endangered Species Act.

C. CDNST 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. Planning guidance for the National Trails System and the CDNST has been modified several times since the legislation was enacted in 1968. 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. 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 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… 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 averse 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) states, "*National scenic and national historic trails shall be authorized and designated only by Act of Congress*." 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)).[24] 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…*" (FSM 2353.44 (b)(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

The NTSA Section 7(a) requirement to select 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.

[24]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 (16 U.S.C. 1244(a)(5)). Provided that the road segment was constructed as a road prior to November 10, 1978. The provisions of 16 U.S.C. 1241(a), 16 U.S.C. 1242(a)(2), 16 U.S.C. 1244(f), 16 U.S.C. 1246(i), and 36 CFR 212.55 would still apply to any such motor vehicle use designation situation.

authorities. It becomes a key consideration in establishing the National Trail Management Corridor in a Resource Management Plan" (BLM MS-6280).

(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 Section 7(a)(2) and reviews other planning requirements, to understand the intent and legal requirements of the guidance:

(a) What is a "*segment of the National Trails System*?" To place this in proper 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 (NHTs), 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).

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) "*preserving significant natural, historical, and cultural resources*" (16 U.S.C. § 1244(f)); (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.

Specific to the National Forest System, the NFMA of 1976 established that Land Management Plans were to provide for one integrated plan (16 U.S.C. § 1604(f)(1) and 36 U.S.C. § 219.2(b)). The NFMA planning regulations direct that, "…*requirements for additional planning for special areas shall be met through plans required under this subpart*" (36 CFR § 219.2(a) [1982]); the 2012 Rule describes that plans that are developed pursuant to the final rule must comply with all applicable laws and regulations (36 CFR § 219.1(f)); and "*the plan must include plan components, including standards or guidelines, to provide for… appropriate management of other designated areas…*" (36 CFR § 219.10 [2012]). By no later than 1982, with the establishment of regulations, NFMA planning processes 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 unclear 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.[25]

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,[26] and then managing the selected corridor to maintain those ROS settings characteristics, may assure continued benefits of the land that best meet the needs of the American people.

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) preserving significant natural, historical, and cultural resources (16 U.S.C. § 1244(f)); (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 and comprehensive planning became a requirement of the NTSA, regulations were being developed to provide for

[25] 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 ...."

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

integrated multiple-use plans as a result of the NFMA (Forest Service) and the Federal Land Policy and Management Act of 1976 (BLM).

(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).[27]

(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 adopted for National Scenic Trail in 1968 and has 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.

[27] http://nstrail.org/pdf_documents/ANST_FR_Notice_Relocation_1981.pdf

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 for the CDNST: (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 states, "*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 (qualities and values) of the national trail, and ensuring that other uses do not substantially interfere with the described National Scenic Trail qualities and values. The federal lands within a right-of-way have 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 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 historic 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 Scenic 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 2001, The Roadless Rule was enacted with many Roadless Areas being traversed by the CDNST. Land Management Plans are developed pursuant to the final rule must comply with all applicable laws and regulations" (36 CFR § 219.1(f), 77 FR 21206). The planning rule provides no direct guidance for integrating IRAs designated by the Roadless Rule into the forest planning process.

(12) 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 regarding NSHTs. The recognition of NLCS components as ACECs as defined in FLMPA 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 states, "*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).

(13) 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).

(14) In 2012, the Forest Service planning rule identified the ROS planning framework and Scenery Management System as the best management tools and science for addressing recreation and scenic resources in forest planning.

(15) 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 not clear, 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 in 2015 the Agency was 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.

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 in 2009 amended the 1985 CDNST Comprehensive Plan[28] and issued conforming FSM 2353.4 policy.[29]

A comprehensive plan for the acquisition, management, development, and use of a National Scenic Trail includes, in part, specific 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 currently 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 (FSM 2353.44b).
- 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.

CDNST comprehensive planning requirements (16 U.S.C. § 1244(f)) is 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[30] 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

[28] http://nstrail.org/main/cdnst_comprehensive_plan_final_092809.pdf
[29] http://nstrail.org/main/fsm_2350_2300_2009_2_cdnst.pdf
[30] 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.

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 an 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…*
- *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 are addressed in the CDNST Comprehensive Plan in Chapter II(A) and IV(A). 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).

Scenery and 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. 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.

An integrated planning strategy for the CDNST is depicted in **Appendix A** of this document. 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. Given the inaction by the agencies to protect the nature and purposes qualities and values of the CDNST through staged decision-making, the Secretary should consider abandoning this incremental approach to comprehensive planning. Instead, the Secretary should select rights-of-ways (NTSA, Section 7(a)(2)) that encompasses CDNST existing and high potential route segments and begin the process of revising the CDNST Comprehensive Plan (NTSA, section 5(f)) following the planning requirements of the NTSA and 40 CFR Parts 1500-1508 (2005) EIS processes. CDNST associated Land Management Plans could then be revised or amended to reflect the CDNST Comprehensive Plan direction.

E. Recreation Opportunity Spectrum and Scenery Management System

1. Recreation Opportunity Spectrum

The 2012 Forest Service planning rule and 2015 planning directives identified the ROS planning framework as the best management tool and science for addressing recreation resources in forest planning. The recreation setting is the surroundings or the environment for the recreational activities. The recreation opportunity spectrum is a system by which existing and desired recreation settings are defined, classified, inventoried, established, and monitored. The planning rule describes that the recreation setting is the social, managerial, and physical attributes of a place that, when combined, provide a distinct set of recreation opportunities. The Forest Service uses the recreation opportunity spectrum to define recreation settings and categorizes them into six distinct classes: primitive, semi-primitive non-motorized, semi-primitive motorized, roaded natural, rural, and urban.

A recreation opportunity is a chance to participate in a specific recreation activity in a particular recreation setting to enjoy desired recreation experiences and other benefits that accrue. Recreation opportunities include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air. The recreation setting is the social, managerial, and physical attributes of a place that, when combined, provide a distinct set of recreation opportunities.

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

The fundamental premise of ROS is that quality recreational experiences are best assured by providing a range or diversity of opportunities: by allowing visitors to make decisions about the settings they seek, there will be a closer match between the expectations and preferences visitors hold and the experiences they realize (Stankey 1999). Thus, underlying the ROS idea is the notion of a spectrum or diversity of opportunities that can be described as a continuum,

roughly from developed to undeveloped. Such opportunities are described by the setting. A setting is defined as the combination of attributes of a real place that gives it recreational value…

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

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

Roger Clark and George Stankey in the Recreation Opportunity Spectrum – A Framework for Planning, Management, and Research, General Technical Report PNW-98[31] states, "*The end product of recreation management is a diverse range of opportunities from which people can derive various experiences. This paper offers a framework for managing recreation opportunities based on six physical, biological, social, and managerial factors that, when combined, can be utilized by recreationists to obtain diverse experiences…*

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

Recreation opportunity settings are described using six factors: Access, Nonrecreational Resources Uses, Onsite Management, Social Interaction, Acceptability of Visitor Impacts, and Acceptable Level of Regimentation. The factor that is most closely related to the Scenery Management System is Non-recreational Resources Uses describing that, "*This factor considers*

[31] http://nstrail.org/carrying_capacity/gtr098.pdf

the extent to which nonrecreational resource uses (grazing, mining, logging) are compatible with various opportunities for outdoor recreation. Other uses can severely conflict with opportunities for primitive experiences. For example, Stankey (1973) found that grazing in the Bridger Wilderness in Wyoming was the most serious source of conflict reported by visitors. In other cases, a variety of resource management activities that might even contribute to visitor enjoyment can be found in conjunction with outdoor recreation… Planners and managers must consider the lasting effects of a resource activity (mines, clearcuts), as well as short-term effects (logging trucks, noise from a mine) to determine the impacts on the recreational opportunity…

The recreation opportunity setting is composed of other natural features in addition to the six factors. Landform types, vegetation, scenery, water, wildlife, etc., are all important elements of recreation environments; they influence where people go and the kinds of activities possible. Considerable work has gone into developing procedures for measuring and managing visual resources."

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

The 1986 ROS Book[32] states, "*The physical setting is defined by the absence or presence of human sights and sounds, size, and the amount of environmental modification caused by human activity. The physical setting is documented by combining these three criteria as described below. Physical Setting - The physical setting is best defined by an area's degree of remoteness from the sights and sounds of humans, by its size, and by the amount of environmental change caused by human activity…* (page II-11)

Chuck McConnell and Warren Bacon in the 1986 ROS Book state, "*Much of the success in managing vegetation to achieve desired visual character and meet visual quality objectives in Roaded Natural and Rural areas is tied to control of viewing positions primarily on roads, highways, and use areas. When the recreation user is traveling on trails or cross-country in Primitive or Semi-Primitive areas, near view becomes very evident. Recreation experience opportunities, which are not as available in Roaded Natural and Rural settings should become a primary goal. Some of these may include:*

1. *Obtaining privacy, solitude, and tranquility in an outdoor setting.*

[32] http://nstrail.org/pdf_documents/ros_1986_user_guide_no_pnw-98_no_examples.pdf

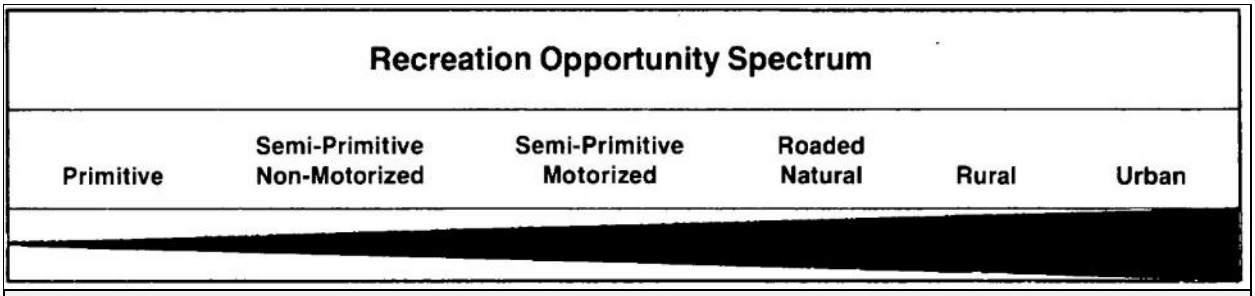
2. *Experiencing natural ecosystems in environments which are largely unmodified by human activity.*
3. *Gaining a new mental perspective in a tranquil outdoor setting.*
4. *Self-testing and risk-taking for self-development and sense of accomplishment.*
5. *Learning more about nature, especially natural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

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

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

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

Table 1



Setting Characterization					
Area is characterized by essentially unmodified natural environment of fairly large size. Interaction between user is very low and evidence of other users is minimal. The area is managed to be essentially free from evidence of human induced restrictions and controls. Motorized use within the area is not permitted.	Areas is characterized by a predominantly natural or natural-appearing environment of moderate-to-large size. Interaction between users is low, but there is often evidence of other users. The area is managed in such a way that minimum on-site controls and restrictions may be present, but are subtle. Motorized use is not permitted.	Areas is characterized by a predominantly natural or natural-appearing environment of moderate-to-large size. Concentration of users is low, but there is often evidence of other users. The area is managed in such a way that minimum on-site controls and restrictions may be present, but are subtle. Motorized use is permitted.	Area is characterized by predominantly natural appearing environments with moderate evidences of the sights and sounds of man. Such evidences usually harmonize with the natural environment. Interaction between users may be low to moderate, but with evidence of other users prevalent. Resource modification and utilization practices are evident, but harmonize with the natural environment. Conventional motorized use is provided for in construction standards and design of facilities.	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….	Area is characterized by a substantially urbanized environment, although the background may have natural-appearing elements. Renewable resource modification and utilization practices are to enhance specific recreation activities. Vegetative cover is often exotic and manicured. Sights and sounds of humans, on-site, are predominant… .

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

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

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

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

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

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

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

Management prescriptions[33] are the building blocks for formulating planning alternatives, and for providing site specific management. Each prescription describes a set of compatible multiple-use management practices that will produce a particular mix of resource outputs. For example, one management area prescription might allow grazing and provide for primitive recreation opportunities, but permit only minimal water development structures and place strict controls on timber harvesting and mineral development. Another prescription for the same type of land might also permit grazing, but provide for roaded-natural recreation opportunities and allow for clearcutting and strip mining… (page IV-35)

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

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

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

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

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

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

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

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

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

The *Recreation Opportunity Setting as a Management Tool* technical guide, on pages 22-24, reviews Roaded Modified ROS setting considerations, which is not addressed in the 1982 and 1986 ROS User Guides.[34] Setting indicators are describe in part as, "*Roads are an integral part of these classes and provide a range of opportunities for users of high clearance vehicles on dirt roads to passenger cars on pavement. Roads may be closed to recreational use to meet other resource management objectives. In addition to roads, a full range of trail types and difficulty levels can be present in order to meet recreation objectives… The natural setting is often heavily altered as this environment and access throughout are often the result of intensive commodity production. Timber harvest, for example, is constrained primarily by the NFMA regulation of shaping and blending harvest units with the terrain to the degree practicable. Harvest activities should protect user-established sites from alteration and provide access to them. It should be used to meet other recreation needs such as to provide trailhead access, parking areas, and a diversity of travelway opportunities*…."

Where inventories of setting characteristics are not completely aligned with a specific ROS class, a determination should be made as to which class best represents the current specific setting. As a general rule, the physical characteristics take precedent over social and managerial characteristics. This is because social and managerial characteristics can often be altered

[34] http://nstrail.org/carrying_capacity/ros_tool_1986.pdf

through visitor use management techniques (permits, closures, etc.) where as the physical characteristics (size, remoteness, and others) are more permanent.

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

In review, the Evidence of Humans criteria is used to indicate varying degrees of modifications to the natural landscape as one moves across the spectrum. Authorized uses affecting this criterion include such things as: vegetation treatments, oil and gas development, livestock grazing, recreation developments and other infrastructure. Landscapes may vary from naturally appearing to heavily altered as one moves across the spectrum. Site management may also factor into this criterion. Site management refers to the amount or degree of on-site modification (e.g., vegetation manipulation, landscaping) and the level or scale of development of constructed features (e.g., access sites, parking areas, campgrounds, trails, administrative facilities, buildings, and other structures) ... Modifications may be caused by vegetation management, mineral extraction, road construction or any activity that creates distinct alterations in the natural or natural-appearing setting.

How are ROS setting inconsistencies addressed in providing for desired settings along a National Scenic Trail? An inconsistency is defined as a situation in which the condition of an indicator exceeds the range defined as acceptable by the management guidance. For example, the condition of the indicators for a National Scenic Trail corridor may all be consistent with its management as a Semi-Primitive Non-Motorized setting, except for the presence of a trailhead and access road. In such a case, what are the implications of the inconsistency? Does the inconsistency benefit or interfere with the nature and purposes of the National Scenic Trail? What should be done about the inconsistency? Three general kinds of actions are possible. First, perhaps nothing can or should be done. It may be concluded that the inconsistency will have little or no effect on the area's general character. Alternatively, the agency may lack jurisdiction over the source of the inconsistency. A second response is to direct management action at the inconsistency to bring it back in line with the guidance established for the desired ROS class. The main point to be understood regarding 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.

2. Scenery Management System

"Restoring and Maintaining a Resilient Scenic Landscape: Ecological (Landscape Ecology) Context for Scenery Management," 2012, By Barry Bollenbacher and others states, "*Aesthetics has been part of forest landscape management since the 1960s. Originally conceived to mitigate "ugly" clear cuts, the Visual Management System (VMS) was largely based on the romantic view of nature-as-scenery, with emphasis on the dramatic, visual and static elements of the landscape. Leopold's "ecological aesthetic" expands our goal of identifying and protecting the most scenic landscapes to one aimed at discovering the beauty that lies within each landscape. This shift focused ecological integrity and health as guides to aesthetic appreciation...*

In the United States, our natural landscape preference grew from a tradition of landscape paintings that portrayed natural environments that were carefully composed and embellished suing such design principles as balance, proportion, symmetry, order, unity, and variety in form, line, color and texture. This preference for idealized landscapes became the basis for addressing aesthetics in forest management. As visitors become more and more educated about ecological processes and resiliency, their perceptions of what forest should look like are also changing. Sometimes referred to as an "ecological aesthetic", visitors are incorporating a deeper understanding and appreciation for nature that is based more on science rather than strictly on art.

With the publishing of a new Planning Rule (36 CFR Part 219, April 9, 2012), the concept of sustainability (ecological, social, and economic) is a required outcome of all Land Management Plans. This shift in land management planning presents an opportunity to further refine SMS approaches and better integrate aesthetic and ecological values. In addition to using ecological units as our framework, the "values" we assign landscapes should also be shifting from what's pretty to a more holistic view of what's healthy, resilient, and sustainable. There are some key concepts we must understand to ensure landscape management continues to evolve and merge the art and science of scenery management.

Natural disturbance processes such as fire, insects, and disease, are part of the natural landscape and play an important role in maintaining healthy, resilient, and scenic landscapes. These disturbance regimes need to be evaluated as part of an evolving landscape that, when occurring within their historic range of variability, create changes that are inherently necessary for the long-term health and resiliency of the biophysical attributes of that landscape which, in turn, creates sustainable scenery (scenic integrity). It is important to emphasize that maintaining scenic integrity does not equate to maintaining a specific landscape attribute in its current condition. Disturbance regimes change the type, mix and distribution of landscape attributes. SMS needs to include these disturbance processes and resulting changes as

"positive", creating a healthy, resilient and properly functioning ecosystem. The question becomes whether the changes are within a range (using HRV, climate change, and other contexts) in which the landscape is healthy and resilient as opposed to whether the changes are less attractive when viewed at a smaller scale..."

The 1974 Department of Agriculture, Agriculture Handbook 462, National Forest Landscape Management, v. 2, chapter 1, "The Visual Management System*" states, "The American people are concerned about the quality of their visual environment. Because of this concern, it has become appropriate to establish the "visual landscape" as a basic resource, to be "treated as an essential part of and receive equal consideration with the other basic resources of the land" (FSM 2380). At the same time, public demand has increased for goods and services produced on much of the same land. It has thus become necessary to both inventory the visual resource and provide measurable standards for the management of it. The Visual Management System provides the framework within which this job can be accomplished."*

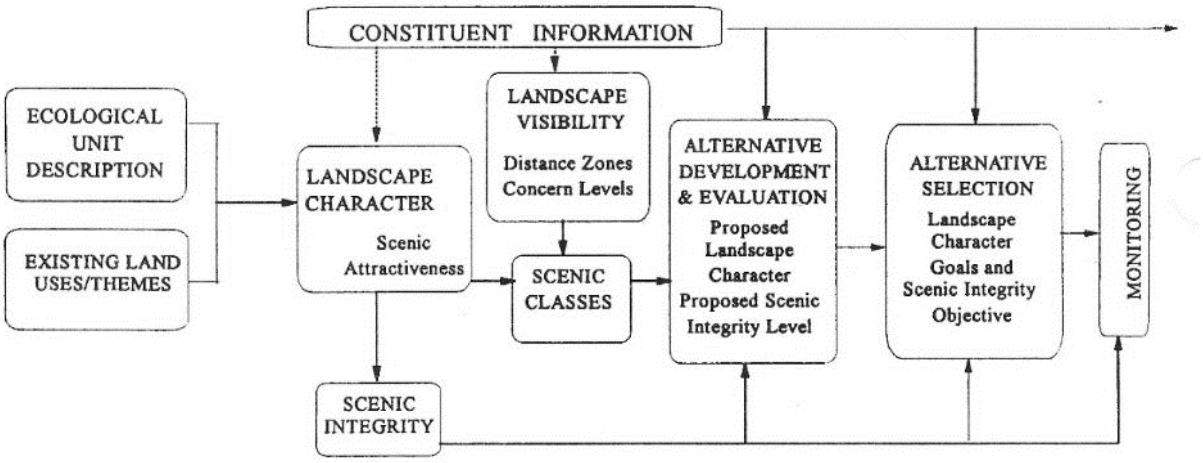
The 1980 Department of Agriculture, Agriculture Handbook 559, National Forest Landscape Management, v. 2, chapter 5, "Timber"[35] states, "*Many timber harvest activities introduce harsh and incongruous visual elements in the landscape. Concurrently, many of the more visually sensitive timber stands have remained unmanaged for want of a visually acceptable method of harvesting. Many such are reaching the end of their normal life cycle, and are becoming susceptible to nature's regeneration processes: wildfire, disease, insect infestation, or windthrow. Nature's regeneration processes also often produce unpleasant visual elements in the landscape. Timber harvest can cut short these natural catastrophes and in turn does not have to be accomplish with such obvious aesthetic impacts.*"

The Scenery Management System (The Landscape Aesthetics Handbook. Landscape Aesthetics - A Handbook for Scenery Management, Agricultural Handbook Number 701)[36] replaced the Visual Management System in 1995. The Scenery Management System does not consider natural events as being ecological catastrophes if the event resulted in vegetation conditions and disturbance extent that were within the Natural Range of Variation. Nature's regeneration processes are not considered unpleasant visual elements in the landscape for visual assessments.

[35] http://nstrail.org/carrying_capacity/National_Forest_Landscape_Management_Vol_2_Ch5_Timber_Handbook_559_1980.pdf

[36] http://nstrail.org/carrying_capacity/landscape_aesthetic_agriculture_handbook_701_1995_complete.pdf

The flow chart below outlines the Scenery Management System processes as presented on page 6 of the summary in the Landscape Aesthetics Handbook 701.



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

The following paraphrases discussions found in the Landscape Aesthetic Handbook:

> There are several over-arching concepts of the SMS that facilitate the inclusion and integration of scenery resources with planning efforts. The SMS is grounded in an ecological context; recognizes valued aspects of the built environment; and incorporates constituent input about valued features (biophysical and human-made) of settings.
>
> Scenic Attractiveness (ISA) classes are developed to determine the relative scenic value of lands within a Landscape Character. The three ISA classes are: Class A, Distinctive; Class B, Typical; Class C, Indistinctive. The landscape elements of landform, vegetation, rocks, cultural features, and water features are described in terms of their line, form, color, texture, and composition for each of these classes. The classes and their breakdown are generally displayed in a chart format. A map delineating the ISA classes is prepared.
>
> The Scenic Character (aka Landscape Character) description is used as a reference for the Scenic Integrity of all lands. Scenic Integrity indicates the degree of intactness and wholeness of the Landscape Character; conversely, Scenic Integrity is a measure of the degree of visible disruption of the Landscape Character. A landscape with very minimal visual disruption is considered to have high Scenic Integrity. Those landscapes having increasingly discordant relationships among scenic attributes are viewed as having

diminished Scenic Integrity. Scenic Integrity is expressed and mapped in terms of Very High, High, Moderate, Low, Very Low, and Unacceptably Low.

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

During the alternative development portion of the planning process, the potential and historical aspects of the Landscape Character Description are used to develop achievable Landscape Character Options concert with other resource and social demands. Landscape Character Descriptions and associated Scenic Integrity Objectives are identified for each option and alternative. The desired Scenic Character and Scenic Integrity are included within the descriptions of the management area and geographic area desired conditions and standards and guidelines. Generally a Very High or High Scenic Integrity Objectives is assigned to Wilderness and other statutorily designated areas.

Natural scenic character originates from natural disturbances, succession of plants, or indirect activities of humans. The existing scenic character continues to change gradually over time by natural processes unless affected by drastic natural forces or indirect human activities. In a natural-appearing landscape, the existing landscape character has resulted from both direct and indirect human activities. Scenic character may have changed gradually over decades or centuries by plant succession unless a concerted effort was made to preserve and maintain cultural elements through processes such as prescribed fires.[37]

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

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

[37] Described in Landscape Aesthetic Handbook.

naturalness or, conversely, the state of disturbance created by human activities or alteration.

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

Several 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 (Arn Arnberger, et. al).[38] Controversial projects must have meaningful evaluation and public engagement to ensure achieving the basic principles of science-based forest management, including the use of the 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.

A constituent assessment should yield information useful in developing statements about desired or preferred landscape character and scenic integrity. Ideally, the constituent assessment also produces information useful for delineating important travel routes and use areas, viewsheds, and special places in the scenic inventory. Finding out how constituents envision and value landscape character, the kinds of scenic integrity they prefer, may involve studying user behavior, talking directly with users, conducting a survey or public involvement workshop, utilizing personal observations of Forest Service personnel, and the perusal of other information sources, including information from previous scenic analyses, recreation and broader forest planning activities.

Management decisions on desired scenic character should be made by utilizing public input in some selective and systematic manner. An approach suggested by Frissell and Stankey (1972)[39] is to relate visitor objectives to management objectives. For National Scenic Trails, the opinions visitors seeking Very High or High Scenic Integrity levels and Primitive or Semi-Primitive Non-

[38] http://nstrail.org/insect_disease_fire/visitor_preferences_for_visual_changes_in_bark_beetle_267_2017_article_975.pdf

[39] http://nstrail.org/carrying_capacity/wilderness_environmental_quality_search_for_social_ecological_harmony_frissell_stankey_1972.pdf

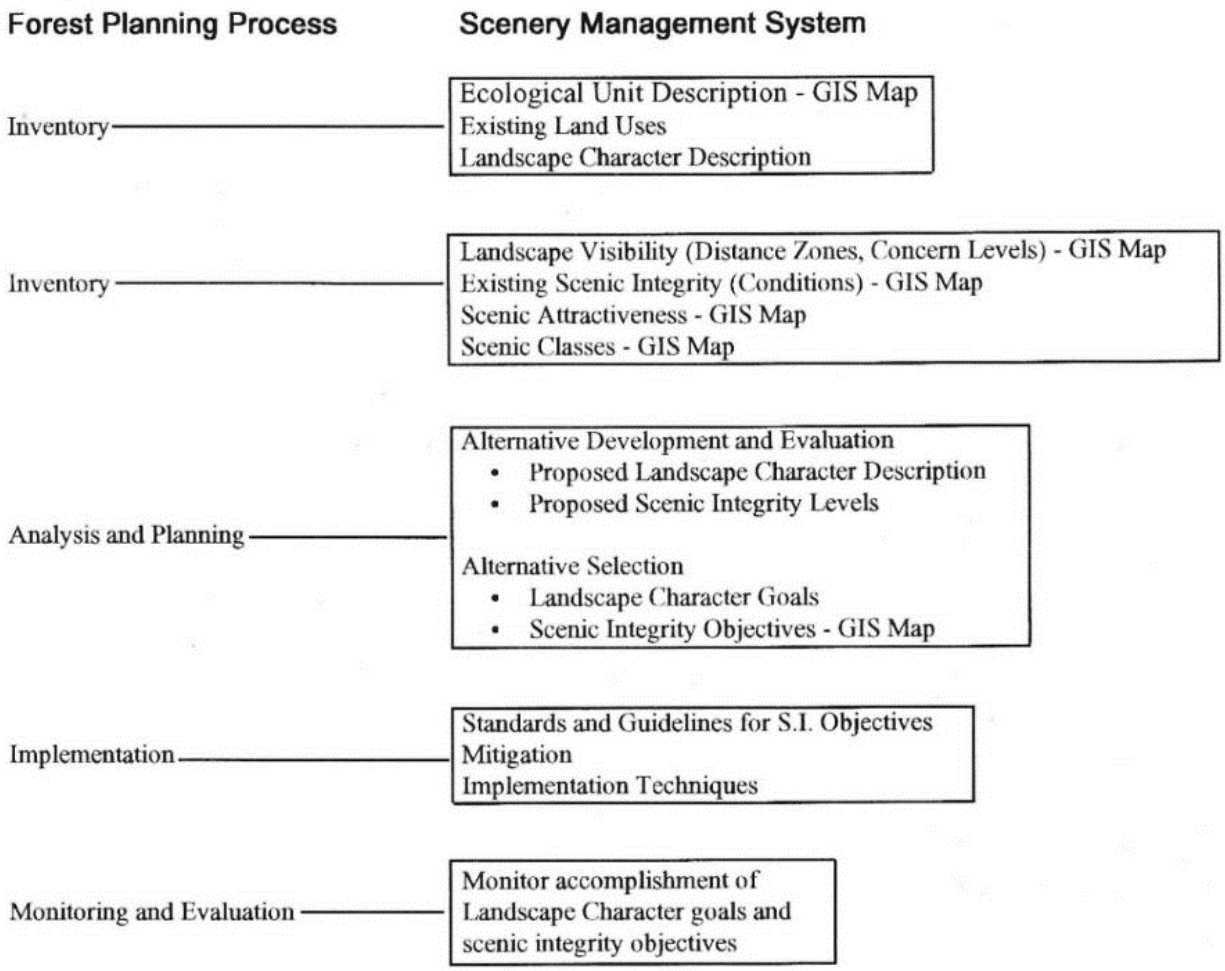
Motorized ROS settings should be valued more than the general public that may not be supportive of the purposes from which a National Scenic Trail was designated.

A recent study in Rocky Mountain National Park looked at park visitor perceptions of tree mortality in a protected area in a selective and systematic manner. This study describes, *"Bark beetle and other natural disturbances will continue to occur in forests across the globe. It is important to understand how these disturbances impact forest visitor perceptions and behaviors to inform environmental education in attempts to mitigate negative impacts… Overall, visitors continued to regard the park positively (e.g., beautiful, interesting, satisfying) despite observed bark beetle disturbance, in contrast to previous preference studies. Visitors also perceived the forest as alive and healthy despite evidence of tree mortality and awareness of bark beetle activity… Overall, knowledge about bark beetles in the forest did not influence aesthetic perceptions. All of the participants rated the forest as beautiful regardless of the amount of knowledge they possessed…"* (Christa Cooper Sumner and Jeffrey A. Lockwood).[40]

The valued landscape character is intact from this viewpoint along the CDNST. Dead trees that are caused by natural events are expected in landscapes where the desired Scenic Character is Natural Evolving or Natural Appearing.

[40] http://nstrail.org/insect_disease_fire/Visitor_Perceptions_of_Bark_Beetle_Impacted_Forests_in_Rocky_Mountain_National_Park_2020.pdf

The application of the Scenery Management System to the forest planning process is described on page 5-2 in the Landscape Aesthetics Handbook 701.



3. Scenery Management System and Recreation Opportunity Spectrum Relationships

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

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

constituent inventory and analysis for both systems is helpful in coordinating management practices.

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

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

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

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

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

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

Knowing where ROS and Scenic Character (and SIO) plan components apply is essential to developing an integrated Forest Plan. Modifying where the ROS and Scenic Character (and SIO) direction applies must follow amendment processes and not be addressed as an administrative change. A plan amendment is required to add, modify, or remove one or more plan components, or to change how or where one or more plan components apply to all or part of the plan area.

Table 5

Evidence of Humans Criteria					
Primitive	Semi-Primitive Non-Motorized	Semi-Primitive Motorized	Roaded Natural	Rural	Urban
Setting is essentially an Unmodified natural environment. Evidence of humans would be unnoticed by an observer wandering through the area.	Natural setting may have subtle modifications that would be noticed, but not draw the attention of an observer wandering through the area.	Natural setting may have moderately dominant alterations, but would not draw the attention of motorized observers on trails and primitive roads [41] within the area.	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 alterations would remain unnoticed or visually subordinate.	Natural setting is culturally modified to the point that it is dominant to the sensitive travel route observer. May include pastoral, agricultural, intensively managed wildland resource landscapes, or utility corridors….	Setting is strongly structure dominated. Natural or natural-appearing elements may play an important role but be visually subordinate….
Evidence of trails is acceptable, but should not exceed standard to carry expected use.	Little or no evidence of primitive roads and the motorized use of trails and primitive roads.	Strong evidence of primitive roads and the motorized use of trails and primitive roads.	There is strong evidence of designed roads and/or highways.	There is strong evidence of designed roads and/or highways.	There is strong evidence of designed roads and/or highways and streets.
Structures are extremely rare.	Structures are rare and isolated.	Structures are rare and isolated.	Structures are generally scattered….	Structures are readily apparent….	Structures and structure complexes are dominant….

[41] "Primitive roads" are not constructed or maintained, and are used by vehicles not primarily intended for highway use (1982 User Guide and 1986 ROS Book).

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

Scenic Integrity Objectives					
ROS Class	Very High	High	Moderate	Low	Very Low
Primitive	Norm	Inconsistent	Unacceptable	Unacceptable	Unacceptable
Semi-Primitive Non-Motorized	Fully Compatible	Norm	Inconsistent	Unacceptable	Unacceptable
Semi-Primitive Motorized	Fully Compatible	Fully Compatible	Norm [42]	Inconsistent	Unacceptable
Roaded Natural-Appearing	Fully Compatible	Norm	Norm	Norm [43]	Inconsistent [44]
Rural	Fully Compatible	Fully Compatible	Norm	Norm[43]	Inconsistent[44]
Urban	Fully Compatible	Fully Compatible	Fully Compatible	Fully Compatible	Not Applicable

The valued landscape character is extremely altered and the ROS setting is substantially degraded along the Cumbres Pass segment of the CDNST on the Rio Grande National Forest resulting in unacceptably low scenic integrity and roaded modified ROS class conditions. This timber sale and road building action is inconsistent with the inherent constraints of the National Trails System Act.

[42] Norm from sensitive roads and trails.
[43] Norm only in middleground-concern level 2, where Roaded Modified subclass is used.
[44] Unacceptable in Roaded Natural-Appearing and Rural where Roaded Modified subclass is used. It may be the norm in a Roaded Modified subclass.

F. Recreation and Visitor Use Management

1. IVUMC

The Interagency Visitor Use Management Council (IVUMC) has developed a Visitor Use Management Framework [45] 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.

2. Unmanaged Recreation

The Chief of the Forest Service in 2003 identified "*unmanaged recreation*" as one of the Four Threats that jeopardize the health of the National Forests, the quality of recreation experiences, and essential ecosystem functions. Unmanaged recreation presents a challenge to both researchers and managers because it is shrouded in uncertainty resulting from disagreement over the definition of the problem, strategies for resolving the problem, and outcomes of management; and incomplete knowledge about recreation visitor's values and

[45] https://visitorusemanagement.nps.gov

relationships with each other and the land. During this period, the Rocky Mountain Region of the Forest Service identified OHV use, mountain bike use, and dispersed recreation in high alpine environments (e.g., Colorado Fourteeners, Indian Peaks Wilderness) where there were growing issues and concerns.

Forest Service in 2006 provided the following facts about unmanaged recreation:

Growing outdoor recreation –

- A 2000 survey showed that 202 million Americans over the age of 15 participate in some form of outdoor recreation, or about 97.5 percent of the population.
- Between 1983 and 1995, percentage of Americans over the age of 15 who:
  - Participated in active outdoor recreation sometime during the year grew from 32 to 56 percent.
  - Traveled to recreation destinations grew from 70 to 90 percent.
- From 1946 to 2000, the number of National Forest System (NFS) visitors grew 18 times. In 2002, the numbers of visitors to national forests and grasslands reached 214 million. Another 215 million people drove through and/or stopped at overlooks and scenic pullouts to enjoy the vistas but did not use Forest Service facilities. As the US population is expected to more than double from 275 to 571 million by the next century (2100), the number of visitors to NFS lands is expected to dramatically increase.
- Pressures on undeveloped natural land for recreation purposes due to growth in U.S. population is:
  - Moderate to heavy through most of the West
  - Heavy through most of the Southwest and the Rockies

Growing OHV use –

- One of the fastest growing forms of outdoor recreation involves the use of OHVs. OHV users have grown tenfold since 1972, from approximately five million to 51 million in 2004. OHV users account for about 11 million annual visits to the national forests and grasslands.
- Surveys conducted in 1983 and 1995 shows that Americans over the age of 15 who:
  - Used OHVs sometime during the year grew from 4 to 14 percent.
  - Took recreational trips to distant destinations grew from 40 to 67 percent.
- Of visitors to the national forests, 11 million visits involve OHV use.
- Decreasing availability of open space outside of public land along with the surge in the use of OHVs is likely to increase the demand for OHV use on NFS lands.

- Other public and private lands are affected by the increasing use of OHVs. Increased population growth, urbanization, and changing demographics are creating competition for space and activities.

Impacts of unmanaged recreation –

- Erosion, user conflicts, spread of invasive species, damage to cultural sites, disturbance to wildlife, destruction of wildlife habitat, and risks to public safety can result from unmanaged recreation, including cross-country OHV use.

To address these issues the Forest Service in 2005 established a Travel Management Rule (36 CFR § 212) and in 2008 supporting FSM 2350, FSM 7700, and FSM 7710 directives were issued. Travel plans developed in response to the Travel Management Rule are resource plans that must be consistent with Forest Plan direction. Amended and revised Forest Plan direction is not constrained by existing travel plan decisions.

Highlights of the rule are:

- The rule requires each national forest or ranger district to designate those roads, trails, and areas open to motor vehicles.
- Designation includes class of vehicle and, if appropriate, time of year for motor vehicle use. A given route, for example, could be designated for use by motorcycles, ATVs, or street-legal vehicles.
- The rule prohibits motor vehicle use off the designated system or inconsistent with the designations.
- Designation decisions are made locally, with public input and in coordination with state, local, and tribal governments.
- Designations are shown on a motor vehicle use map. Use inconsistent with the designations are prohibited.

Implementation of visitor use management principles would assist the agencies in the planning and management of the recreation resource and facilitate addressing unmanaged recreation concerns, issues, and opportunities on Federal lands.

3. Recreation and Tourism Initiatives

"Recreation & Tourism Initiative, Igniting Research for Outdoor Recreation: Linking Science, Policy, and Action," 2020, edited by Steven Selin and others, PNW-GTR-987 describes, "*Public lands provide opportunities and settings for people to experience nature and the outdoors. These outdoor experiences are important for human health and well-being and result in visitor spending that benefits local communities. This report shows that new research, tools, and*

frameworks are needed to help us find new ways to conceptualize outdoor recreation and enhance the ability of public land managers to provide outdoor experiences while protecting natural and cultural resources…."

The following reviews sections of this publication with quotes from the chapters with embedded remarks that reflect on several of the report propositions.

Chapter 1: "The Shifting Outdoor Recreation Paradigm: Time for Change" by Dale J. Blahna states, "*In general, the outdoor recreation paradigm tended to focus narrowly on the social science of visitor experiences, satisfaction, and economic values, while recreation ecology focused on the environmental impacts of recreation. A few integrative models were developed, such as VERP (visitor experience and resource protection) and LAC (limits of acceptable change), but these tools tend to be used rarely and they never grew or evolved into landscape-level models that could play key roles in decisionmaking or management planning like forest growth and yield, wildlife habitat, and fire spread models*…"

The 1986 "Recreation Opportunity Setting as a Management Tool" technical guide provided an integrated model for resource management on NFS lands. The guide for each ROS class described compatible recreation, timber, wildlife, range, and water resource relationships.

"The emerging paradigm of outdoor recreation recognizes that humans are part of natural systems and that connecting with natural settings provides a broad range of human values and benefits that are not otherwise available, affirming these values and benefits to be essential for human health and well-being. As such, it is the responsibility of outdoor recreation professionals and agencies to increase public access and visitor diversity and expand the types of visitor experiences, opportunities, and benefits that people obtain from public lands, while simultaneously protecting the natural environment. Thus, the paradigm shift that is occurring in outdoor recreation has both a societal/conceptual component and an agency/practice component, and both require integrating social and environmental factors."

This statement improperly suggests there is a common belief that current recreation planning models do not address humans as being part of natural systems, while improperly diminishing the recognition that humans can modify the natural environment in a manner that could substantially reduce human health and well-being benefits. A concern is that use continues to increase without adequate measures to protect the natural environment. In addition, more primitive recreation settings that are sought by many recreationists continue to be degraded by resource development actions.

The recreation resource does not need to be a catch-all resource category for addressing the many dimensions of human connections to the natural environment. It is my experience that describing many aspects of native American use of public lands as recreation would be a

mistake. The Arctic National Wildlife Range manager in 1977 asked that I include the Gwitchin and Inuit people in a visitor use questionnaire survey. These native people continue to be part of the dynamics of the Refuge. After meeting with these people, it was clear that their connections and experiences in the Refuge would not be captured by my visitor use survey instrument. The dimensions of their use in the Refuge were complex and could not be readily described as recreation. Aspects of Gwitchin and Inuit use of public lands in Alaska were recognized and protected by the Alaska National Interest Lands Conservation Act.

"Dated recreation planning tools, a downward trajectory for appropriated government funding, and shifting societal values and growing diversity all lend urgency to the need for new ways of thinking about our profession and new practices in recreation management. Outdoor recreation is still viewed as a secondary consideration in decisionmaking by federal land management agencies, with resource production and environmental protection values dominant. Ironically, recreation access and use are the primary ways that Americans connect with public lands, and public lands could be viewed as an essential component of the nation's health infrastructure. We need to act now for three reasons: (1) natural systems will benefit from a better relationship with human society, (2) there is an immediate need for increased government support for recreation management and infrastructure, and (3) public lands require consistent and more public support if they are to continue to exist as a valued component of our well-being…

The anomalies and emerging agency initiatives are the converse of the assumptions underlying the current paradigm. Although solitude, remoteness, traditional uses, counting visitors, and reducing onsite conflicts will always be important parts of public lands recreation management, they are not and should not be the primary focus of the new and emerging goals of sustainable recreation. Recognizing different cultural beliefs and expectations regarding human-nature interactions, expanding understanding and measurement of the diversity of benefits of human-nature contacts, and creating an outdoor recreation ecosystem science will require significant changes for both recreation research and agency management, not unlike the scientific revolutions in fire and wildlife ecology in the 20th century…"

The statement that recreation planning tools are dated is not substantiated. The Recreation Opportunity Spectrum, as envisioned in 1986, would continue to be an effective recreation resource integration tool in forest planning if properly implemented. However, over the last several years the agencies have tended to move away from managing recreation settings; instead, recreation management has been mostly focused on recreation activities. In 2020, the Forest Service FSM 2310 recreation planning directive was modified, which will further diminish the role that the recreation resource will have in multiple use decision making. The ROS planning framework and Limits of Acceptable Change will continue to contribute to integrated planning for multiple use programs if their protocols are adhered to by agencies.

Chapter 5: Rethinking "Outdoor Recreation" to Account for the Diversity of Human Experiences and Connections to Public Lands, Dale Blahna and others state, "*A challenge for recreation managers is overcoming the trap of past mental models that have focused on the notion that recreation is a mix of a small set of activities and a small set of settings that result in recreation satisfaction and then a resultant desired benefit. The Recreation Opportunity Spectrum (ROS), for example, which is the dominant recreation analysis tool of the Forest Service and the Bureau of Land Management (BLM), is a case in point…"*

The BLM no longer uses the Recreation Opportunity Spectrum. The current BLM recreation framework is the Recreation Setting Characteristics (BLM H-8320-1). The BLM states, "*the ROS process mapped the physical, social, and operational RSCs separately and then combined all maps into one final composite map. This often resulted in inconsistencies between the physical, social, and operational recreation settings. The conflicts were resolved by emphasizing the physical character of the landscape or averaging the differences. Unfortunately, this often resulted in a misrepresentation of the social and operational qualities of the recreation area, making the ROS difficult to understand and implement. In response, the BLM has modified the application of the ROS by not requiring the integration of the physical, social, and operational RSCs into one final composite map*."

This change may reduce the ability of the BLM to protect recreation settings. To protect the qualities and values of National Scenic and Historic Trails, the BLM should use the ROS planning framework.

"The ROS is an abstraction of human experiences that classifies an agency's lands into six very general categories (urban, rural, roaded natural, semi-primitive motorized, semi-primitive non-motorized, and primitive) based on seven criteria (remoteness, access, naturalness, facilities, social encounters, visitor impacts, and management characteristics). This abstraction has taken the diversity of the natural world and our relationship to it and has reduced the richness and complexity of our imagination. Today, the ROS appears overly reductionist and does not recognize the simultaneous effects of incongruous setting characteristics and personal and social experiences in time, space, mind, or memory."

The ROS is based on the idea that visitors participate in different recreation activities in different settings in order to realize certain experiences. There are many different types of experiences. Some relate to solitude, risk, and challenge and we typically associate these with opportunities at the primitive end of the spectrum. Others relate to meeting and enjoying others or family togetherness. The Forest Service planning directives, consistent with the ROS planning framework, states "*The interdisciplinary team is encouraged to use new approaches for managing recreation within the plan area. The interdisciplinary team should be proactive in developing a coherent system of sustainable and socially compatible recreation opportunities*."

ROS setting attributes provide for a degree of integration with other resources, which are important elements of achieving desired experiences. The recreation opportunity setting is composed of other natural features in addition to the six factors. Landform types, vegetation, scenery, water, wildlife, etc., are all important elements of recreation environments; they influence where people go and the kinds of activities possible. Considerable work has gone into developing procedures for measuring and managing visual resources.

"Like ROS, most visitor management concepts and tools used today were developed in the 1970s and 1980s. They reflect the post-World War II "recreation boom" mentality, when a new generation of recreationists provided new challenges to managers, and recreation use levels, visitor conflicts, resource impacts, and crowding became dominant agency concerns. In the 21st century, agency policies and leadership priorities are emphasizing increasing visitor use and access, diversifying the visitor base, enhancing experiences, sharing stewardship, and expanding collaborators in land management and decisionmaking. As noted in the prologue, these are very different from the boom era concerns, and concepts like visitor satisfaction, specialization, and carrying capacity are ghosts of past models that are limiting our ability to address today's challenges…"

Agencies continue to face new generations of recreationists that provide new challenges to managers. Visitor conflicts, crowding, and resource issues have not been abated. Plus, these continuing issues are confounded by agency policies and leadership priorities that emphasize increasing visitor use and access, enhancing experiences, increased resource production that diminish recreation opportunities, and establishing management priorities that reduce recreation budgets and the number of professional wildland recreation management specialists. Wildland recreation planning and management specialists would help ensure that the agency had adequate subject matter expertise to address the recreation resource.

Chapter 12: Integrating Social, Ecological, and Economic Factors in Sustainable Recreation Planning and Decisionmaking by Dale J. Blahna and others state, *"If a primary objective of sustainable recreation is sustaining both recreation experiences and environmental conditions while encouraging increasing recreation use and visitor diversity, we know little about how to integrate with broader system resilience objectives. And goals conceived in this way will require newer and more integrated sets of principles and practices than are currently available to managers. Existing recreation management tools are limited, and existing large-scale planning and decision frameworks tend to be very complex and based on generic systems characteristics and standardized metrics, rather than context and place-specific issues. Different research approaches are needed to develop a new generation of integrated principles and practices."*

The ROS planning framework continues to be an important tool for integrated resource land management planning. Its intuitive appeal and ease of integration with other resource uses and

values are responsible for its widespread adoption and modification. It has a strong science foundation. As a planning framework, ROS forces management to explicate fundamental assumptions, but in the process of moving through the framework, it allows agency and public reviewers to follow and understand results. There is no evidence that protecting natural settings using the ROS planning framework is subjectively limiting the ability of the agencies to address current human use needs and challenges.

It should not be assumed that different research approaches will lead to the development of a new generation of integrated principles and effective practices. The ROS planning framework was not intended to never change, but modifications to the ROS planning framework, and changes to other planning models, should only occur through robust public involvement processes and be based on science.

"*Humans Need Nature. Nature Needs Protection. Protected areas serve as a critical conservation tool for protecting nature and biodiversity. Humans also depend on intact ecosystems and benefit from the environmental services they provide. Guaranteeing the effective use and management of protected areas will ensure that all future generations will be able to enjoy the benefits they provide. Protected areas require adept, well-trained personnel and strong partnerships to deal with many challenges including lack of funding, undertrained personnel and personnel shortages, and an ever-increasing list of traditional and emerging transboundary threats…."* (Warner College of Natural Resources)

G. Carrying Capacity

National Trails System Act, 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) [46] 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.

[46] 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.[47] 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 National Scenic Trail nature and purposes. The nature and purposes of an NST are also known as NST qualities and values. The qualities and 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 degrade 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).

[47] Friends of Yosemite Valley v. Kempthorne, 520 F.3d 1024 (9th Cir. 2008); American Whitewater v. Tidwell, (D.S.C. 2012).

H. Ecosystem Integrity and Diversity of Plant and Animal Communities

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

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

"*The term "maintain" means to keep in existence or continuance of the desired ecological conditions in terms of their composition, structure, processes, and connectivity. The maintenance of ecological conditions may be accomplished through passive management, where no action or activity is needed; or through active management such as prescribed burning in a fire-adapted ecosystem, where active intervention may be required to maintain desired ecological conditions*…." (Planning Rule PEIS, page O-25)

The Forest Service planning process provides an important means for integrating forest restoration, climate resilience, watershed protection, wildlife conservation, and recreation settings. 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. The Land Management Plan and related

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 Forest Service describes on their website that, "*Restoration means creating and maintaining healthy, resilient forests capable of delivering all the benefits that people get from them: clean air and water, carbon sequestration, habitat for native fish and wildlife, forest products, opportunities for outdoor recreation, and more. When we restore our Nation's forests, we create jobs in rural communities and benefit the environment at the same time.*

Climate change, catastrophic wildfire, bark beetle infestation, invasive species, record droughts, and other stressors threaten the health of our forest and watersheds, and the people that rely on them. With our valuable state, tribal, local government, and private partners we are working hard to increase the rate of restoration in the face of these mounting challenges. We use an all-lands approach, because we know that problems do not stop at forest boundaries, and we work every day to restore the ecological integrity our forests need to be healthy now and into the future."[48]

Restoration considerations are more complex than this simple characterization. The following briefly reviews (1) ecological integrity assessments, (2) complex early seral forests, (3) forest resilience and fire, (4) climate change, and (5) roads.

1. Ecological Integrity Assessments

Forest ecological integrity assessments must clearly describe the quality or condition of an ecosystem that may need to be restored if desired conditions are to be achieved. Forest restoration is a range of actions that strive to manage a forest in a way that reflects its historical ecological state in a certain place. This can include replanting or reintroducing native plants and animals, mechanical thinning, and prescribed burning to replicate historical tree densities, removal of invasive species, or returning physical processes, including fire behavior, functioning streams, and floodplains to a more natural and resilient state. The goal of forest health projects should be the same as the goal of restoration which is not to recreate a specific appearance, but to reduce the effects of past human activities, such as clearcutting, fire suppression and road construction. Proposed actions to enhance forest resiliency and improve ecological integrity should clearly explain how management actions will increase age class, structural, and vegetation diversity across the landscape. Harvesting live trees in areas of extensive tree mortality, especially if temporary or new permanent roads are needed for the action, would not contribute to forest resiliency, and improve ecological integrity. High-grading timber stands to offset the costs of road construction and reclamation must be avoided if the goal is restoration.

[48] https://www.fs.fed.us/restoration/index.shtml (2021)

Natural vegetation patterns have in some cases been created by large fire events, such as the Great Fire of 1910. Hurricane-force winds, unlike anything seen since, roared across the rolling country of eastern Washington. Then on into Idaho and Montana forests that were so dry they crackled underfoot. In a matter of hours, fires became firestorms, and trees by the millions became exploding candles. By noon on the twenty-first, daylight was dark as far north as Saskatoon, Canada, as far south as Denver, and as far east as Watertown, New York. To the west, the sky was so filled with smoke, ships 500 miles at sea could not navigate by the stars. Smoke turned the sun an eerie copper color in Boston. Soot fell on the ice in Greenland. The Great Fire of 1910 burned three million acres and killed enough timber to fill a freight train 2,400 miles long. Merchantable timber destroyed was estimated to be eight billion board feet, or enough wood to build 800,000 houses. Twenty million acres were burned across the entire Northwest.

Present insect and disease events are having similar ecological effects as some past fire events, but at a much slower rate of vegetation change. Large scale natural events will need to be managed in Rural, Roaded Natural, and Roaded Modified ROS settings if desired conditions are to be realized.

2. Complex Early Seral Forests

> "*Bark beetles are important disturbance agents in western coniferous forests. Population levels of a number of species oscillate periodically, often reaching high densities and causing extensive tree mortality when favorable forest and climatic conditions coincide. These events are part of the ecology of western forests and positively influence many ecological processes, but their adverse economic and social implications can also be significant*." (U.S. Forest Service)

Complex early seral forests are common along the CDNST after years of natural disturbances such as wildfires and insect outbreaks that reset ecological succession processes. 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 Naturally Evolving or Natural-Appearing Scenic Character, Scenic Integrity Objectives of Very High or High, and Primitive or Semi-Primitive Non-Motorized settings could accommodate many management practices, such as prescribed fire, and in limited situations timber harvest, to sustain ecosystem integrity and diversity. However, in most cases complex early seral forest ecosystems that result from fire and insect events fully support or are compatible with the nature and purposes of the CDNST.

Mark E Swanson and others in "The forgotten stage of forest succession: early-successional ecosystems on forest sites," 2010, state, *"Naturally occurring, early-successional ecosystems on forest sites have distinctive characteristics, including high species diversity, as well as complex*

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

Early-successional forest ecosystems that develop after stand-replacing or partial disturbances are diverse in species, processes, and structure. Post-disturbance ecosystems are also often rich in biological legacies, including surviving organisms and organically derived structures, such as woody debris. These legacies and post-disturbance plant communities provide resources that attract and sustain high species diversity, including numerous early-successional obligates, such as certain woodpeckers and arthropods. Early succession is the only period when tree canopies do not dominate the forest site, and so this stage can be characterized by high productivity of plant species (including herbs and shrubs), complex food webs, large nutrient fluxes, and high structural and spatial complexity. Different disturbances contrast markedly in terms of biological legacies, and this will influence the resultant physical and biological conditions, thus affecting successional pathways. Management activities, such as post-disturbance logging and dense tree planting, can reduce the richness within and the duration of early-successional ecosystems. Where maintenance of biodiversity is an objective, the importance and value of these natural early-successional ecosystems may be underappreciated." [49]

"*Complex early seral forests, or snag forests, are ecosystems that occupy potentially forested sites after a stand-replacement disturbance and before re-establishment of a closed forest canopy. They are generated by natural disturbances such as wildfire or insect outbreaks that reset ecological succession processes and follow a pathway that is influenced by biological legacies (e.g., large live trees and snags, downed logs, seed banks, re-sprout tissue, fungi, and other live and dead biomass) that were not removed during the initial disturbance. Complex early seral forests develop with rich biodiversity because the remaining biomass provides resources to many life forms and because of habitat heterogeneity provided by the disturbances that generated them. In this and other ways, complex early seral forests differ from simplified early successional forests created by logging. Complex early seral forest habitat is threatened from fire suppression, thinning, and post-fire or post-insect outbreak logging.*

Complex early seral forests are structurally more complex, contain more large trees and snags, and have more diverse understories, more functional ecosystem processes, and more diverse

[49] http://nstrail.org/insect_disease_fire/forgotten_stage_of_forest_succession_mark_swanson_others_2010.pdf

gene pools than areas of timber harvest. These characteristics provide greater resilience in the face of climate change than that provided by the simplified early seral forests produced by logging. Complex early seral forest attributes promote a high level of species richness, particularly bird communities that utilize these forests extensively.

The residual biomass of snags reduces disturbance stress and provides for the rapid proliferation of new life. For example, seed banks and live vegetation tissue gives rise to dense forb cover, abundant grasses, and shrubs – especially nitrogen fixers…and ectomycorrhizal associates…that facilitate conifer growth. Closed cone conifers like giant sequoia also do well in these forests. Other plants that can abundantly colonize burns, such as conifers and fireweed, arrive by wind or animal dispersed seed. Plant species richness of snag forests can be much higher than in unburned forests.

Bird and small mammal communities that utilize complex early seral forests forage on the abundant insects and increased abundance of seeds in the post-fire flora… These species, in turn, support an increase in raptors. [Many] bird species…achieve highest abundances in complex early seral forests. Bats…also use complex early seral forests because of greater insect prey as well as suitable roosts. Stand-replacing fires stimulate an increased flow of aquatic prey to terrestrial habitats, driving increases in riparian consumers. The trees killed by fire are beneficial to the ecological integrity of stream communities because they are a main source of large woody debris inputs. There is also reproduction by some forest fungi species that are restricted to burns…and the dead wood provides substrate for fungal growth that supports many arthropod species, including unique fire-following native beetles. Beetles, in general, colonize fire-killed trees in complex early seral forests and their abundant larvae support [many wildlife] species."[50]

3. Forest Resilience and Fire

Dr. Dominick A. DellaSala, Chief Scientist, Geos Institute, Ashland Oregon in 2017 states, *"Post-disturbance salvage logging reduces forest resilience and can raise fire hazards – commonly practiced after natural disturbances like fires or insect outbreaks, post-disturbance logging hinders forest resilience by compacting soils, killing natural regeneration of conifer seedlings and shrubs associated with forest renewal, increasing fine fuels from slash left on the ground that aids the spread of fire, removing the most fire-resistant large live and dead trees, and degrading fish and wildlife habitat. Further roads that increase sediment flow to streams triggering widespread water quality problems…*

Beetle Killed Forests are Not More Susceptible to Forest Fires. Forests in the West are being

[50] https://en.wikipedia.org/wiki/Complex_early_seral_forest

affected by the largest outbreaks of bark beetles in decades, which has caused concern about forest resilience and wildfire risk and led to proposals for widespread tree removals. Such proposals stem in part from the rationale that bark beetle outbreaks increase wildfire risks due to dead trees and that logging in beetle-affected forests would therefore lower such risks. However, beetle-killed forests are not more susceptible to forest fires. This is mainly because when conifers die due to drought or native bark beetles, the combustible oils in the needles quickly begin to dissipate, needles and small twigs begin to fall to the ground. Without the fine fuels that facilitate fire spread, potential crown fires are actually-lowered in forests with beetle mortality. The beetle-killed standing dead trees (snags) are the least flammable part of the forest and act more like a large log in a campfire, rather than kindling which is what causes fire spread."

Tania Schoennagel and others in "The Interaction of Fire, Fuels, and Climate across Rocky Mountain Forests," 2004, states, "*understanding the relative influence of fuels and climate on wildfires across the Rocky Mountains is necessary to predict how fires may respond to a changing climate and to define effective fuel management approaches to controlling wildfire in this increasingly populated region. The idea that decades of fire suppression have promoted unnatural fuel accumulation and subsequent unprecedentedly large, severe wildfires across western forests has been developed primarily from studies of dry ponderosa pine forests. However, this model is being applied uncritically across Rocky Mountain forests (e.g., in the Healthy Forests Restoration Act). We synthesize current research and summarize lessons learned from recent large wildfires (the Yellowstone, Rodeo-Chediski, and Hayman fires), which represent case studies of the potential effectiveness of fuel reduction across a range of major forest types. A "one size fits all" approach to reducing wildfire hazards in*

the Rocky Mountain region is unlikely to be effective and may produce collateral damage in some places.

High-severity or stand-replacing fires are defined by the death of canopy trees, in contrast to low-severity fires, which do not kill overstory trees. High-severity fires typically burn the treetops (crown fires) but may also kill trees through very hot surface fires, which primarily burn the forest floor. High-elevation subalpine forests in the Rocky Mountains typify ecosystems that experience infrequent, high-severity crown fires. The forest types that occur in the subalpine zone range from mesic spruce–fir forests to drier, dense lodgepole pine stands; and xeric, open wood lands of limber and bristlecone pine. The most extensive subalpine forest types are composed of Engelmann spruce, subalpine fir, and lodgepole pine, all thin-barked trees easily killed by fire…

Subalpine forests typically experience stand replacing crown fires, rather than low-severity surface fires, because they lack fine fuels on the forest floor but have abundant ladder fuels that carry fire into the treetops. These dense, closed-canopy forests typically support sparse understory vegetation, and the short, stout needles of subalpine trees compact tightly on the forest floor, creating a poor substrate for fire spread. This is in stark contrast to the warmer, open-canopied, productive forests at lower elevations, which support abundant, well-aerated fine fuels on the forest floor. Although fine surface fuels are sparse in subalpine forests, ladder fuels are abundant. Shade-tolerant fir and spruce trees have abundant lateral branches, which easily carry fire up into the canopy. By contrast, shade-intolerant lodgepole pines have few lateral branches, but these trees tend to grow in very dense stands that thin over time, contributing to abundant dead ladder fuels. The abundance of ladder fuels, the proximity of crowns, and the lack of abundant, spatially continuous fine surface fuels all promote high-severity crown fires that dominate subalpine forests…

The recent period of consistent, effective fire suppression in remote high elevation sites, which has lasted 50 years at most, represents only a small portion of typical fire-free intervals in subalpine forests. Studies of fire history show that long fire-free periods (as long as, or longer than, the fire exclusion period during the 20th century) characterized the fire regimes of these forests before Euro-American settlement. Therefore, it is unlikely that the short period of fire exclusion has significantly altered the long fire intervals in subalpine forests.

Furthermore, large, intense fires burning under dry conditions are very difficult, if not impossible, to suppress, and such fires account for the majority of area burned in subalpine forests. At lower elevations within its range, lodgepole pine may also experience occasional small surface fires, but their spatial extent and frequency are not well quantified. Suppression of smaller, less intense fires under moderate climate conditions probably has had little influence on the dominant fire regime in subalpine forests. Our understanding of the dominant fire regime in

these high-elevation, cool forests lead us to conclude that any recent increases in area burned in subalpine forests are probably not attributable to fire suppression. Evidence from the subalpine forests of Yellowstone indicates that fires of comparable size to the 1988 fires occurred in the early 1700s…

No evidence suggests that spruce–fir or lodgepole pine forests have experienced substantial shifts in stand structure over recent decades as a result of fire suppression. Overall, variation in climate rather than in fuels appears to exert the largest influence on the size, timing, and severity of fires in subalpine forests. We conclude that large, infrequent stand replacing fires are "business as usual" in this forest type, not an artifact of fire suppression…

Subalpine forests that experience infrequent, high-severity fires cover approximately 32% to 46% of the forested area in the Rocky Mountain region, which encompasses the three major forest types discussed in this article. The following insights are drawn from analyses of historical fire regimes and contemporary fire behavior in subalpine forests.

- *Infrequent, high-severity, stand-replacing fires dominate the historical and contemporary fire regime in these forests.*
- *Climatic variation, through its effects on the moisture content of live fuels and larger dead fuels, is the predominant influence on fire frequency and severity.*
- *Dense trees and abundant ladder fuels are natural in subalpine forests and do not represent abnormal fuel accumulations.*
- *Fire suppression has had minimal influence on the size, severity, and frequency of high-elevation fires.*

- *Mechanical fuel reduction in subalpine forests would not represent a restoration treatment but rather a departure from the natural range of variability in stand structure.*
- *Given the behavior of fire in Yellowstone in 1988, fuel reduction projects probably will not substantially reduce the frequency, size, or severity of wildfires under extreme weather conditions…*

What does an understanding of the spatial variation in dominant controls on wildfire frequency and severity mean for ecological restoration and for effective fuel treatments to reduce the threat of large, severe wildfires? The Yellowstone fires in 1988 revealed that variation in fuel conditions, as measured by stand age and density, had only minimal influence on fire behavior. Therefore, we expect fuel-reduction treatments in high-elevation forests to be generally unsuccessful in reducing fire frequency, severity, and size, given the overriding importance of extreme climate in controlling fire regimes in this zone. Thinning also will not restore subalpine forests, because they were dense historically and have not changed significantly in response to fire suppression. Thus, fuel-reduction efforts in most Rocky Mountain subalpine forests probably would not effectively mitigate the fire hazard, and these efforts may create new ecological problems by moving the forest structure outside the historic range of variability."

4. Climate Change

The most important action that the USDA could take to address climate change and catastrophic wildfire is to work with State and County governments on fire mitigation programs. Increased development in fire-prone landscapes has increased suppression costs, exacerbated risk to human safety and infrastructure, and reduced management options.

Recent increases in wildfires and insect outbreaks are a result of a changing climate coupled with human-activities including expansion of homes and roads into the Wildland Urban interface (WUI) that will only continue to drive up fire suppression costs and increase risks to life and property. Policies should be enacted that discourage continued growth in the WUI; any new development should include defensible space and construction from non-flammable materials. People living in these forests should be prepared rather than relying solely on fire departments. The most effective way to protect homes is to create defensible space in the immediate 100-feet of a structure and use of non-flammable materials.

The most immediate restoration priority is in forest areas that historically burned in low and mixed severity fire regimes, but have experienced extended periods without fire and are now at risk of burning in severe stand replacing fires. To be effective, the pattern of vegetation treatments needs to be of sufficient scale and strategically arranged to achieve the desired effect on future fire behavior across landscapes. Particularly in dry forest types, and areas of mixed severity fire regimes, the improvement of the water balance of the forest using mechanical thinning, regeneration harvests, prescribed fire, and management of wildland fire

under moderate burning conditions can reduce the density of trees and reduces the risk of severe fire in those stands.

Reintroducing fire to many of our forested watersheds is the other key ingredient in ecological forestry and ultimately will be the most important contributor to restoring forest health and resilience. This means re-establishing more frequent fires of relatively low-severity where this was once the natural regime. This will keep the most flammable fuels in check, protect the larger trees, and recycle nutrients in the forest to develop a healthier canopy and less flammable and more diverse understory. It also means allowing and managing for smaller patches of moderately and severely burned forest where safe and appropriate. The kind of structural diversity and patchiness created by fires with mixed severity moderates the intensity of future fires.

National Forest System lands that are managed for general multiple use programs, including timber production may provide opportunities to focus on fuel management programs that provide for some level of catastrophic wildfire prevention. However, no amount of logging can stop large fires under extreme fire weather. Logging may; in fact, increase the number of unnatural disturbances by homogenizing landscapes with more even aged trees, residual slash left on the ground, and compounding cumulative impacts to ecosystems.

National Forest System lands include not only areas that are managed for general multiple use programs, but also areas where management actions are restricted by legislation such as the Wilderness Act, Wild and Scenic Rivers Act, and National Trails System Act. In all these special areas, fire should be encouraged to play a natural role in the ecosystem. Management actions should reflect the values of each special area.

5. Permanent and Temporary Roads

January 2021 marks the 20-year anniversary of a Forest Service rule meant to rein in the agency's vast, unsustainable network of roads. Commonly referred to as the "*Roads Rule*," its purpose is to reduce, or right-size, the sprawling forest road system— a legacy of logging, grazing, mining, and poorly-managed motorized recreation. After two decades, progress has been very limited overall, and for most of the 193 million acres managed by the Forest Service, the agency has yet to identify a minimum road system that it can afford to maintain and that is environmentally sustainable. Instead, the agency has employed a strategy to build temporary roads that are not part of the roads network. Policy does not restrict the extent nor is long term monitoring of the effects of these routes required. To be truly temporary, restoration of these routes must eliminate the roadbed by restoring natural contours and slopes, restricting reentry for decades, and ensuring that native vegetation reoccupies the disturbed areas.

The intent of the Roads Rule was to move the forest road system toward a more "*sustainable*" condition, one that balanced ecological, economic, and social needs that are defined by a

Forest Plan. When the Forest Service first enacted the Roads Rule, there were over 384,000 miles of roads. Today, 20 years later, there are still around 380,000 miles of permanent roads and an increasing number of temporary roads that leave permanent imprints.

Ecosystem Integrity and diversity of plant and animal communities are affected by temporary and permanent roads. The "*Roads Rule*" was developed to deal with an oversized forest road system. It required the Forest Service "*to set a standard that each forest identify the minimum road system required to balance access objectives with ecosystem health goals; and to use a science-based roads analysis to identify the road network needed to serve the public and land administrators.*" The Roads Rule also required the Forest Service to identify unneeded roads for decommissioning, or other uses, and to prioritize those that pose the greatest risk to public safety or environmental quality. The Roads Rule's intent was to move the forest road system toward a more "*sustainable*" condition, one that balanced ecological, economic, and social needs.

Roads benefit development related desired conditions and, in many cases, lead to desired recreation experiences. However, roads create resource issues including being a significant vector for the spread of weeds and may lead to sedimentation that degrades streams and fisheries. Roads and even closed roads provide access for Off-Road vehicles, mountain bikes, and even pedestrians, which disturb and displaces wildlife like elk.

Temporary roads have the same types of environmental impacts as system roads, although at times the impacts can be worse if the road persists on the landscape since they are not built to last. It is important to note that although they are termed temporary roads, their impacts are not temporary often lasting for over 15 years. Exacerbating the problem is the rise of landscape-scale projects that last between 10-20 years which approves temporary

The Heli-Stat in 1980 was to be a revolutionary new type of aircraft composed of four helicopters mated to an airship. The Heli-Stat design was to provide for vertical lift capabilities that far exceed those available using conventional helicopters. The Heli-Stat was to demonstrate how timber could be economically harvested from remote, inaccessible areas. Its use was to greatly expand the amount of timberland which could be logged from the air. Substantial savings would have resulted from the fact that the Heli-Stat would eliminate the need for constructing logging roads into remote areas. Not only would have the Heli-Stat save money, it would also have prevented the environmental alterations which result from road building in remote areas. The attempt to developed this aircraft was abandoned in 1986.

roads without site-specific NEPA analyses. Roads may be temporary for the purpose of a specific management project, but these routes often have long-term negative impacts to other resource values. Where access to a specific area (e.g., timber stand) is needed for long-term resource management, a temporary road should never be constructed as a substitute for a classified road. For example, in areas being managed for timber production, permanent road access is normally needed for reoccurring harvests, vegetation management (e.g., timber stand improvement, noxious weeds), and other purposes.

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

FSM 7734.1 describes decommissioning treatments: "*Decommission a road by reestablishing vegetation and, if necessary, initiating restoration of ecological processes interrupted or adversely impacted by the unneeded road. Decommissioning includes applying various treatments, including one or more of the following:*

1. *Reestablishing former drainage patterns, stabilizing slopes, and restoring vegetation;*
2. *Blocking the entrance to a road or installing water bars;*
3. *Removing culverts, reestablishing drainages, removing unstable fills, pulling back road shoulders, and scattering slash on the roadbed;*
4. *Completely eliminating the roadbed by restoring natural contours and slopes; and*
5. *Other methods designed to meet the specific conditions associated with the unneeded road*."

Forest Service *Guidelines for Storing and Decommissioning Roads* (1677-1804P-NTDP, June 2018)[51] provides useful information on how to effectively decommission and restore unneeded roads.

The USDA should not expand the Forest Service 380,000-mile road system, which is already unsustainable. The current practice of encouraging temporary roads should be discouraged, since they will likely not be engineered to withstand extreme weather events resulting from climate change, which will lead to soil erosion and water quality concerns. Temporary roads have the same types of environmental impacts as system roads, although at times the impacts

[51] http://nstrail.org/pdf_documents/GuideStoreDecomRoads_Forest_Service1677-1804P_07-02-2018.pdf

can be worse if the road persists on the landscape because they are not built to last. It is important to note that although they are termed temporary roads, their resource impacts are not temporary.

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.

The CDNST rights-of-way corridor may contain campsites, shelters, and related-public-use facilities. Other uses 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. To protect CDNST values, the extent of the established CDNST Management Area or National Trail Management Corridor must be based on compatible Scenic Integrity and Recreation Opportunity Spectrum allocations along the CDNST travel route and high potential route segments.

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 Levels of Low and Very Low are inconsistent with CDNST values and landscapes along the CDNST at these levels of integrity need rehabilitation.

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. 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.

This assessment is based in part on recreation research and handbooks including information found in (1) The Recreation Opportunity Spectrum: A Framework for Planning, Management, and Research, General Technical Report PNW-98 by Roger Clark and George Stankey; (2) ROS Users Guide (U.S. Department of Agriculture, Forest Service. ROS Users Guide. 1982/1986, Washington, DC: U.S. Department of Agriculture, Forest Service; (3) Recreation Opportunity Setting as a Management Tool Technical Guide by Warren Bacon, George Stankey, and Greg Warren that is depicted in **Appendix B**;[52] and (4) Landscape Aesthetics, A Handbook for Scenery Management, Agricultural Handbook Number 701.

Land management plans need to 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 - 2005) and effects (40 CFR § 1508.8 - 2005) analyses and disclosure.

J. Forest Service CDNST Plan Components

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 (aka National Trails Management Corridor) 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), 219.10(b)(1)(vi)). The CDNST is a congressionally designated area (36 CFR § 219.19).

[52] http://nstrail.org/carrying_capacity/ros_tool_1986.pdf

On National Forest System lands, a Management Area (MA) is to be established for existing CDNST rights-of-way (FSM 2353.44b(1)). For CDNST segments 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 (16 U.S.C. § 1246(a)(2)) that provide for the nature and purposes of this National Trail (16 U.S.C. § 1246(c)). In addition to having appropriate direction in Land Management Plans, 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 Land Management 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)). Electric bicycles are considered motorized vehicles and are restricted to designated motorized routes on National Forest System lands.

Management Area – A land area identified within the planning area that has the same set of applicable plan components. The boundary of the National Scenic Trail rights-of-way (aka Management Area and National Trail Management Corridor), where there is management discretion, 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 CDNST travel route. 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 Scenery Management System identifies that the middleground begins at 1/2-mile of the travel route. Recommendations for CDNST plan components as applied to a Management Area or National Trail Management Corridor are described in the following descriptions and table.

1. Recommended Forest Service CDNST Plan Components

The following are foundational plan components for the CDNST Management Corridor.

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. Desired conditions are the basis for the rest of the plan components; objectives, standards, guidelines, and suitability determinations must be developed to help achieve the desired conditions. If forest plans contain specific, measurable desired conditions, this should focus the process of identifying locations where projects are needed, and thereby increase the efficiency of project planning.

CDNST Management Area Desired Conditions (aka CDNST Management Corridor)
1. The CDNST provides for high-quality scenic, primitive hiking and horseback riding opportunities and conserves natural, historic, and cultural resources along the corridor (nature and purposes).[53]
2. Scenic Character is Natural Evolving or Natural-Appearing. Scenic Integrity Objective is Very High or High.[54]
3. Primitive and Semi-Primitive Non-Motorized ROS class setting characteristics are protected or restored.[55]
4. The CDNST management corridor contributes to providing for habitat connectivity for Canada lynx and other wildlife species. [Related: FW-DC-SPEC-32 and FW-DC-SPEC-3]

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. Standards and guidelines may have qualifications. For example, a standard for a wildland-urban interface area requires that vegetation management projects leave no standing dead trees or downed woody debris; the Forestwide standard requires all vegetation management projects leave a certain minimum level of dead trees or down woody debris, but also states the qualification, "*except within the wildland-urban interface area*."

Scenery Management
4. Guideline: To provide for desired Scenic Character, management actions should 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
5. Standard: Resource management actions and allowed uses must be compatible with maintaining or restoring Primitive or Semi-Primitive Non-Motorized ROS settings.[55]

[53] 16 U.S.C. §§ 1242(a)(2), 1244(f), 1246(c); CDNST Comprehensive Plan Chapter IV.A.; FSM 2353.42 – 74 FR 51124.
[54] CDNST Comprehensive Plan Chapter IV.B.4 and FSM 2353.44b – 74 FR 51124
[55] CDNST Comprehensive Plan Chapter IV.B.5 and FSM 2353.44b – 74 FR 51125. This reference is to ROS classes as defined in the 1982 and 1986 ROS User Guides, which was the basis for the sustainable recreation direction in the Planning Rule as informed by the Planning Rule PEIS. Furthermore, these ROS User Guides were a basis for the CDNST Comprehensive Plan recreation resource direction in Chapter IV Part 5 and Forest Service directives CDNST recreation management direction in FSM 2353.44b Part 8.

Motor Vehicle Use by the General Public.[56]
6. Standard: Motor vehicle use by the general public is prohibited on the CDNST unless that use is consistent with the applicable CDNST unit plan and: a. Is necessary to meet emergencies; b. Is necessary to enable adjacent landowners or those with valid outstanding rights to have reasonable access to their lands or rights; c. Is for the purpose of allowing private landowners who have agreed to include their lands in the CDNST by cooperative agreement to use or cross those lands or adjacent lands from time to time in accordance with Forest Service regulations; d. Is on a motor vehicle route that crosses the CDNST, if that use will not substantially interfere with the nature and purposes of the CDNST; e. Is designated in accordance with 36 CFR Part 212, Subpart B, on National Forest System lands and: 1. 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[57] or 2. That segment of the CDNST was constructed as a road prior to November 10, 1978;[24] or f. 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.[58]

Suitability of Lands – These plan components identify areas of land as suitable or not suitable for specific uses (such as timber or forage 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
7. The area is not suitable for timber production. Timber harvest is not an objective.

[56] 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.

[57]The Forest Service on June 25, 1990, withdrew the "40-inch rule" regulating acceptable off-road vehicle size on National Forest System trails. Until then it was illegal for recreationists to have any vehicle that exceeded 40 inches in width on an NFS trail, by default prohibiting four-wheel ATVs. ATVs and UTVs wider than 40 inches use of NFS trails do not fall within the "shall be permitted" requirement of the NTSA (16 U.S.C. 1246(c)).

[58] FSM 2353.44b(11) – 74 FR 51125

The CDNST rights-of-way and management corridor is not suitable for timber production as described in 36 CFR § 219.11(a)(1)(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, 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 providing guidance that, "*…efforts be made to avoid activities incompatible with the purposes for which such trails were established*," and "*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*."

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*."

Managing the CDNST corridor for Roaded Natural/Modified and Semi-Primitive Motorized ROS settings (as well as for timber production) would lead to management actions that substantially interfere with the nature and purposes of the CDNST. In areas of timber production, the spread of non-native vegetation (e.g., noxious weeds) and reoccurring harvests for timber purposes, stand tending, road construction and reconstruction, CDNST travel route closures, and other development activities are incompatible with desired ROS settings and Scenic Integrity Objectives. The lasting effects of timber production activities (roads, timber harvest) as well as short-term effects (logging trucks, noise) degrade CDNST recreation, scenic, historic, natural, and cultural qualities.

Timber production is incompatible with achieving National Trails System Act objectives and the CDNST nature and purposes desired conditions. The purpose of timber production is the purposeful growing, tending, harvesting, and regeneration of regulated crops of trees to be cut into logs, bolts, or other round sections for industrial or consumer use, which is in stark contrast

and clearly incompatible with protecting the purposes for which National Scenic Trails are established. The CDNST rights-of-way/management corridor is not suitable for timber production (36 CFR § 219.11(a)(1)(i) and (iii)).

A 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 settings, 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, timber harvest should not be an objective, 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.

2. Forest Service Prescribed CDNST Plan Components

The Continental Divide National Scenic Trail (CDNST) Leadership Council met in Idaho Falls in 2004. Attendees included interagency Regional and State lead line-officers from along the Continental Divide: Montana, Idaho, Wyoming, Colorado, and New Mexico. In this meeting, the Leadership Council formed a vision statement for the future of the CDNST and adopted guiding principles. The Vision Statement described, "*Complete the Trail to connect people and communities to the Continental Divide by providing scenic, high-quality, primitive hiking and horseback riding experiences, while preserving the significant natural, historic, and cultural resources along the Trail.*"

The Leadership Council in 2006 reviewed issues related to the 1985 CDNST Comprehensive Plan. It was clear that much of the direction in this plan was inconsistent with law and needed to be amended or revised. The Leadership Council decision was to amend the Comprehensive Plan direction following the Public Participation requirement of FRRRPA; and Public Notice and Comment for Standards, Criteria, and Guidance Applicable to Forest Service Programs requirements (16 U.S.C. § 1612(a), 36 CFR § 216). The draft amended Comprehensive Plan was published in the Federal Register for public comment in 2007.

The final amended CDNST Comprehensive Plan direction was published in the Federal Register

and took effect on November 4, 2009 (74 FR 51116). The amended Comprehensive Plan was approved by Chief Thomas Tidwell in September 2009. An outcome of the amended Comprehensive Plan was the description of the nature and purposes of this National Scenic Trail: "*Administer the CDNST consistent with the nature and purposes for which this National Scenic Trail was established. The CDNST was established by an Act of Congress on November 10, 1978 (16 USC 1244(a)). The nature and purposes of the CDNST are to provide for high-quality scenic, primitive hiking and horseback riding opportunities and to conserve natural, historic, and cultural resources along the CDNST corridor*."

A Federal Interagency Leadership Council approved a CDT Charter in 2015[59] that described in part that, "*Guiding Principles for Management of the Continental Divide Trail – Trail and Recreation Experience:*

- *Trail routing provides for nationally renowned high-quality hiking and/or horseback riding experiences that strive to highlight the CDT's significant features and provide connectors to communities along the CDT.*
- *The CDT provides primarily a non-motorized experience consistent with the Act.*
- *Land and resource management plans provide direction for the CDT that is consistent with the Act.*
- *The natural, historic, cultural, and scenic features of the CDT are sustained over time*."

In the November 16, 2017, Regional Foresters along the CDNST issued guidance for addressing the CDNST in Land Management Plan revision. The purpose of the guidance was, "*To provide a common framework for developing CDT plan direction while allowing flexibility for CDT units 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 and reduce duplication of effort to develop direction by each CDT forest… Individual units may develop additional plan components, remove those that are not applicable, adjust them to respond to local conditions and public input, and edit to suit different writing styles. Any resulting variation must be consistent with the legislation and policy for managing the CDT… To ensure the conservation of the CDT's nationally significant scenic, historic, natural and cultural resources, and to maximize its intended recreation opportunities, the trail's entire length, together with sufficient land area on both sides to safeguard and preserve its character, should be legally accessible, permanently protected, and managed as a single entity across jurisdictions (National Trails System Act, PL 90-543, E.O. 13195) … The CDT corridor should be wide enough to encompass the resources, qualities, values, associated settings and primary uses of the Trail. The 0.5-mile foreground viewed from either side of the CDT must be a primary consideration in delineating the CDT*

[59] http://nstrail.org/management/CDT_LeadershipCouncilCharter_SIGNED_Oct2015.pdf

corridor boundary (FSM 2353.44b(7)) … The nature and purposes of the CDT are to provide for high-quality, scenic and primitive hiking and horseback riding opportunities and to conserve the natural, historic, and cultural resources along the CDT corridor."

The Forest Service in 2016 established a plan component template to be used by Forest Supervisors to initiate the development of CDNST direction in revised and amended plans.[60] Unfortunately, this template has not been a useful foundation for establishing CDNST plan components and they must be modified if CDNST nature and purposes are to be protected. The following observations briefly discuss some of the concerns if these components were to be adopted in a Land Management Plan:

Desired Condition 1. *The CDT is a well-defined trail that provides for high-quality, primitive hiking and horseback riding opportunities, and other compatible non-motorized trail activities, in a highly scenic setting along the Continental Divide. The significant scenic, natural, historic and cultural resources along the trail's corridor are conserved. Where possible, the trail provides visitors with expansive views of the natural landscapes along the Divide*.

***Observation*:** Desired conditions are the basis for the rest of the plan components; objectives, standards, guidelines, and suitability determinations must be developed to help achieve the desired conditions.

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

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

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

[60] https://www.fs.usda.gov/managing-land/trails/cdt/management

sustainability should recognize that hazard tree mitigation is an integral part of trail maintenance.

Programmatic considerations for a highly scenic setting and expansive views should be addressed through forest planning processes to review and establish the location of the CDNST corridor.

The principle desired condition must be to provide for the nature and purposes of the CDNST: CDNST Management Area (MA) or described National Trail Management Corridor (NTMC) provides high-quality scenic, primitive hiking and horseback riding opportunities and conserves natural, historic, and cultural resources along the CDNST corridor (CDNST Comprehensive Plan, Chapter IV.A). Excluding the nature and purposes of the CDNST as a desired condition plan component fails to address the requirement for integrated resource planning and fulfilling the requirements of the National Trails System Act (36 CFR § 219.1(f)).

This concern alone demonstrates that the plan would not fulfil the integration requirements of the National Forest Management Act (16 U.S.C. § 1604(f)(1), 36 CFR § 219.10, FSH 1909.12 parts 23 and 24.43) and the comprehensive planning requirements of the National Trails System Act (16 U.S.C. § 1244(f)).

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

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

Desired Condition 2. *Viewsheds from the CDT have high scenic values. The foreground of the trail (up to 0.5 mile on either side) is naturally-appearing. The potential to view wildlife is high, and evidence of ecological processes such as fire, insects, and diseases exist*.

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

Desired Condition 3. *The CDT can be accessed from multiple locations, allowing visitors to select the type of terrain, scenery, and trail length (e.g., ranging from long-distance to day use) that best accommodate their desired outdoor recreation experience(s)*.

Desired Condition 4. *Use conflicts amongst trail users are infrequent.*

Desired Condition 5. *The trail is well maintained, signed, and passable. Alternate routes are made available in the case of temporary closures resulting from natural events, such as fire or flood, or land management activities.*

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

Standard 1. *No surface occupancy for oil and gas or geothermal energy leasing activities shall occur within the CDT corridor…*

Standard 2. *No common variety mineral extraction shall occur within the CDT corridor*.

Standard 3. *Existing motorized use may continue on the CDT. New motorized events shall not be permitted on the CDT. Motorized use shall not be allowed on newly constructed segments of the CDT*.

***Observation*:** Standard 3 is inconsistent with the requirements of the National Trail System Act. The appropriate standard is controlled by the direction in the NTSA, CDNST Comprehensive Plan Chapter IV(b)(6), and FSM 2353.44b(11):

"*Motor vehicle use by the general public is prohibited on the CDNST, unless that use is consistent with the applicable land management plan and:*

(1) Is necessary to meet emergencies;

(2) Is necessary to enable adjacent landowners or those with valid outstanding rights to have reasonable access to their lands or rights;

(3) 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 Federal regulations;

(4) 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;

(5) Is designated in accordance with 36 CFR Part 212, Subpart B, on National Forest System lands or is allowed on public lands and:

(a) 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

(b) That segment of the CDNST was constructed as a road prior to November 10, 1978; or

(6) In the case of over-snow vehicles, is allowed in accordance with 36 CFR Part 212, Subpart C, on National Forest System lands or is allowed on public lands and the use will not substantially interfere with the nature and purposes of the CDNST."

Guideline 1. *To retain or promote the character for which the trail was designated, new or relocated trail segments should be located primarily within settings consistent with or complementing Primitive or Semi-Primitive Non-Motorized Recreation Opportunity Spectrum classes. Road and motorized trail crossings and other signs of modern development should be avoided to the extent possible.*

***Observation*:** To be consistent with the National Trails System Act, CDNST Comprehensive Plan and related directives; revised Land Management Plans should locate the CDNST corridor in existing Primitive or Semi-Primitive Non-Motorized Recreation Opportunity Spectrum classes to the extent practicable. Furthermore, a revised Land Management Plan decision should establish Primitive or Semi-Primitive Non-Motorized Recreation Opportunity Spectrum classes (and address as necessary any use inconsistencies) in order to protect CDNST nature and purpose qualities and values along CDNST existing and high-potential route segments.

Guideline 2. *To protect or enhance the scenic qualities of the CDT, management activities should be consistent with Scenic Integrity Objectives of High or Very High within the foreground of the trail (up to 0.5 mile either side).*

***Observation*:** Scenic Integrity Objectives are desired conditions and not guidelines.

Guideline 3. *If management activities result in short-term impacts to the scenic integrity of the trail, mitigation measures should be included, such as screening, feathering, and other scenery management techniques to minimize visual impacts within and adjacent to the trail corridor (within visible foreground of the CDT at a minimum).*

***Observation*:** Management activities must not substantially interfere with the CDNST nature and purposes. To be consistent with the NTSA, forest health and timber harvest projects may only be allowed where the direct, indirect, and cumulative effects of the timber harvests and related activities do not result in the substantial degradation of CDNST qualities and values. The allowance for short-term effects should only be permitted for resource benefits.

This guideline has several issues including the assumption that unconstrained forest health projects will be allowed to degrade existing scenic integrity for some undefined period. Forest health and timber harvest projects must not substantially interfere with the nature and purposes of the CDNST. The guideline needs to be deleted and replaced with Scenic Integrity Objectives desired conditions and a Scenic Integrity Level guideline or standard.

Guideline 4. *In order to promote a non-motorized setting, the CDT should not be permanently re-located onto routes open to motor vehicle use*.

***Observation*:** The CDNST travel route must be located within the selected CDNST rights-of-way, which is addressed in FSH 1909.12 part 24.43. Additional guidance is found in FSM 2353.44(b)(8)— 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 designated routes because of the inability to locate the trail elsewhere (FSM 2353.44b(11).

Guideline 5. *The minimum trail facilities necessary to safely accommodate the amount and types of use anticipated on any given segment should be provided*.

***Observation*:** The guidance should describe that facilities must be compatible with the established ROS setting (i.e., Primitive and Semi-Primitive Non-Motorized classes) and be consistent with the established carrying capacity.

Guideline 6. *To protect the CDT's scenic values, special-use authorizations for new communication sites, utility corridors, and renewable energy sites should not be visible within foreground (up to 0.5 mile) and should not be visually dominant within the middleground viewshed (up to four miles).*

***Observation*:** The guidance should also state that special use authorizations must not result in a substantial interference to the nature and purposes of the CDNST.

Guideline 7. *Linear utilities and rights-of-way should be avoided. Where unavoidable, these should be limited to a single crossing of the trail per special use authorization to maintain the integrity of the trail corridor and values for which the NSHT was designated.*

***Observation*:** Along the CDNST corridor, linear utilities and rights-of-way should be addressed through forest planning processes and presented if appropriate as an accepted ROS inconsistency.

Guideline 8. *In order to promote a naturally appearing, non-motorized setting, constructing temporary or permanent roads or motorized trails across or adjacent to the trail should be avoided unless needed for resource protection, private lands access, or to protect public health and safety.*

***Observation*:** This direction should be addressed through establishing appropriate ROS settings through forest planning. The CDNST corridor should be managed for Primitive or Semi-Primitive Non-Motorized settings.

Guideline 9. *In order to promote a naturally appearing setting and avoid visual, aural and resource impacts, using the CDT for timber pile landings or as a temporary road for any purpose should not be allowed.*

***Observation*:** This direction should be addressed through establishing appropriate ROS settings through forest planning and recognizing that the ROS allocations for the CDNST corridor are not suitable for timber production.

Guideline 10. *Hauling or skidding along the CDT itself should be allowed only where the CDT is currently located on an open road and no other reasonable options are available*.

***Observation*:** This direction should be addressed through establishing appropriate ROS settings through forest planning and recognizing that the ROS allocations for the CDNST corridor are not suitable for timber production. Further direction is found in FSM 2353.44(b)(8).

Mixing pedestrians, equestrians, log trucks, and skidders on roads is a bad and unsafe idea with the probable outcome being that the routes are closed during timber operations. Any timber management actions along the CDNST travel route need to be consistent with SPNM setting constraints and be only allowed when there is a determination that the action will not substantially interfere with the nature and purposes of the CDNST. To provide for a safe user experience, hauling and skidding must not be allowed on existing CDNST travel routes and such direction should be included as a standard or guideline.

The Forest Service relies on ambiguous rights-of-way (16 U.S.C. § 1246(a)(2)) direction in the National Trails System Act as an indicator that the management and protection of National Scenic and Historic Trails is subordinate to common multiple-use programs. This interpretation is inconsistent with the direction in the National Trails System Act. This improper interpretation of the rights-of-way guidance in the NTSA often goes as follows: "*The National Trails System Act at 16 U.S.C. § 1246(a)(2) indicates that management in the vicinity of the CDNST while it traverses management areas that are subject to development or management is acceptable, but should be designed to harmonize with the CDNST as possible. Development and management of each segment of the National Trails System shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land. The wording recognizes multiple uses and seeks to moderate impacts on the trail from resource management to the extent feasible while meeting resource management objectives."*[61]

The National Forest Management Act requires that a Land Management Plan address the comprehensive planning and other requirements of the NTSA in order to form one integrated

[61] Medicine Bow Landscape Vegetation Analysis Project, Reviewing Officer's Instructions, June 10, 2020.

Plan (16 §§ U.S.C. 1604(e), 1604(f) and 36 CFR §§ 219.1, 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 land management plan approved after the passage of the NFMA in 1976 and as addressed in the 1982 implementing planning regulations (36 CFR § 219.2 (1982)). The 2012 Rule describes that plans that are developed pursuant to the final rule must comply with all applicable laws and regulations (36 CFR § 219.1(f)). Furthermore, the NTSA was amended in 1978 in part to designate the CDNST and require comprehensive planning for National Scenic and Historic Trails, which the Forest Service is completing through staged decisions for the CDNST whereas a revised Forest Plan is critical in completing NTSA comprehensive planning requirements.

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

In summary, the 2017 Regional Foresters' plan components do not protect the nature and purposes of the CDNST from developments and other incompatible uses such as timber production and road construction. The regional plan components do not address the National Trails System Act requirements to: (1) provide for high-quality scenic, primitive hiking and horseback riding opportunities that reflect ROS planning framework conventions as referenced in the planning rule,[62] and (2) conserve scenic, historic, natural, or cultural qualities of the areas through which such trails may pass (16 U.S.C. § 1242(a)(2)). In addition, the regional plan guidance does not establish direction to: (1) preserve significant natural, historical, and cultural resources (16 U.S.C. § 1244(f)(1)); and (2) protect the CDNST corridor to the degree necessary to ensure that the values for which the CDNST was established remain intact or are restored (E.O. 13195, FSM 2353.44b(1), and FSH 1909.12 24.43.) The plan must avoid approving activities that are incompatible with the purposes for which the CDNST was established.

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

[62] The Forest Service 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" (Federal Register Volume 74, Number 191)

Trails System Act, Executive Orders, CDNST Comprehensive Plan, regulations, and directives (See Hierarchy of Direction, Planning Rule PEIS, pages 75-77). The Regional Foresters' formulation and adoption of this guidance was not in compliance with the Public Participation requirement of FRRRPA; and Public Notice and Comment for Standards, Criteria, and Guidance Applicable to Forest Service Programs (16 U.S.C. § 1612(a), 36 CFR § 216).

Regional Forester policy direction is inconsistent with the USDA Departmental Regulation 1074-001 scientific integrity policy that relates to the development, analysis, and use of data for decision-making. This DR is intended to instill public confidence in USDA research and science-based public policymaking by articulating the principles of scientific integrity, including reflecting scientific information appropriately and accurately.

The Regional Foresters' plan components are inconsistent with the NTSA (16 U.S.C. §§ 1242(a)(2), 1244(f), 1246(a)(2), 1246(c); Trails for America in the 21st Century E.O. 13195; NFMA regulations (36 CFR § 219.10(b)(1)(vi)), CDNST Comprehensive Plan (Chapter IV), and APA (5 U.S.C. § 706(2)).

K. Recreation Opportunity Spectrum Plan Components

The Forest Service 1982 ROS User Guide states, "*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 ensure 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." Forest Service planning regulations define recreation opportunity as, "An opportunity to participate in a specific recreation activity in a particular recreation setting to enjoy desired recreation experiences and other benefits that accrue…." Recreation setting is defined as*, "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*…."

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.

The Planning Rule requires "*plan components for sustainable recreation, including recreation settings, opportunities, access; and scenic character*…" and that "*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*" (36 CFR § 219.7 Part (e)). Knowing where ROS and Scenic Character (and SIO) plan components apply is essential to developing an integrated Forest Plan.

Modifying where the ROS and Scenic Character (and SIO) direction applies must follow amendment processes and not be addressed as an administrative change. A plan amendment is required to add, modify, or remove one or more plan components, or to change how or where one or more plan components apply to all or part of the plan area.

The following describes ROS setting plan components that represent each ROS class desired characteristics with supporting standards, guidelines, and suitability determinations. Standards and guidelines may have qualifications or allowed ROS class inconsistencies.

1. Recommended Recreation Opportunity Spectrum Plan Components

Primitive ROS Setting

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

provide quiet solitude away from roads and people or other parties, are generally free of human development, and facilitate self-reliance and discovery. Signing, and other infrastructure is minimal and constructed of rustic, native materials. Scenic Integrity Objective is Very High.
Primitive ROS Class Standards and Guidelines
Standards: Motor vehicles are not allowed unless the use is mandated by Federal law and regulation. Permanent and temporary roads may not be constructed.
Guidelines: (1) No new permanent buildings should be constructed, since buildings 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.
Primitive ROS Class Suitability of Lands
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

Semi-Primitive Non-Motorized ROS Class Desired Conditions
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 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 roads may be present, but are managed to not dominate the landscape or detract from the naturalness of the area. Rustic structures such as signs and footbridges are occasionally present to direct use and/or protect the setting's natural and cultural resources. Scenic Integrity Objective is High.
Semi-Primitive Non-Motorized ROS Class Standards and Guidelines
Standards: (1) Motor vehicle use is not allowed unless the use is mandated by Federal law and regulation; and (2) Permanent and temporary roads may not be constructed.
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; (4) Vegetation management may range from prescribed fire to very limited and restricted timber harvest for the purpose of maintaining or restoring a natural setting; and (5) To protect or restore the remoteness and naturalness of the area, any existing road should be decommissioned, including obliteration and recontouring with natural slopes.
Semi-Primitive Non-Motorized ROS Class Suitability of Lands
Suitability: (1) Motorized recreation travel is not suitable; and (2) Lands are not suitable for timber production. Timber harvest is not an objective.

Semi-Primitive Motorized ROS Setting

Semi-Primitive Motorized ROS Class Desired Conditions
Setting: The area is predominantly a natural-appearing environment. Concentration of users is low, but there is often evidence of other users.
Experience: Moderate probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance in an environment that offers a high degree of challenge and risk. Opportunity to have a high degree of interaction with the natural environment. Opportunity to use motorized equipment.
Evidence of Humans: Natural setting may have moderate alterations, but would not draw the attention of motorized observers on trails and primitive roads within the area. The area provides for motorized recreation opportunities in backcountry settings. Vegetation management does not dominate the landscape or detract from the experience of visitors. Visitors challenge themselves as they explore rugged landscapes. Scenic Integrity Objective is Moderate.
Semi-Primitive Motorized ROS Class Standards and Guidelines
Guidelines: (1) The development scale of recreation facilities should be 0-1 to protect the undeveloped character of desired SPM settings; (2) Low to moderate contact between parties to protect the social setting; (3) Vegetation management may range from prescribed fire to limited and restricted timber harvest for the purpose of maintaining or restoring natural vegetative conditions; and (4) Motorized routes are typically designed as motorized trails (FSH 2309.18 part 23.21, Trail Class 2, No Double Lane) and Four-Wheel Drive Vehicles routes (FSH 2309.18 part 23.23, Trail Class 2, No Double Lane) offering a high degree of self-reliance, challenge, and risk in exploring these backcountry settings.
Semi-Primitive Motorized ROS Class Suitability of Lands
Suitability: Lands are not suitable for timber production. Timber harvest is not an objective.

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 ROS setting** subclass includes areas that exhibit evidence of extensive forest management activities that are dominant on the landscape, including having high road densities, heavily logged areas, highly visible mining, oil and gas, wind energy, or other similar uses and activities. Scenic Integrity Objective is Low. Desired Scenic Character may be described as “Agricultural” expressing dominant human agricultural land uses producing domestic products.
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.

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, except for the presence of a trailhead and access road. In such a case, what are the implications of the inconsistency? Does the inconsistency benefit or interfere with the nature and purposes of the National 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 about inconsistencies is that they might be managed. The presence of one does not necessarily automatically lead to a change in ROS class. By analyzing its cause, implications, and possible solutions, an inconsistency may be handled in a logical and systematic fashion. Recognize that where there is no management discretion the CDNST will intermittently pass through more developed settings in order to provide for a continuous National Trail Management Corridor between Canada and Mexico.

2. ROS and the Roadless Rule

The Roadless Rule was enacted in 2001 with many Roadless Areas being traversed by the CDNST. Land Management Plans are developed pursuant to the final rule must comply with all applicable laws and regulations" (36 CFR § 219.1(f), 77 FR 21206). The planning rule provides no direct guidance for integrating IRAs designated by the Roadless Rule into the forest planning process; however, the planning rule and directives do require that Land Management Plans establish desired ROS classes.

To be consistent with the planning rule and directives, 2001 Roadless Area prohibitions and restrictions would dictate that the Land Management Plan must establish Primitive, Semi-Primitive Non-Motorized, or Semi-Primitive Motorized ROS settings, as described in the 1986 ROS Book, for Roadless Areas if their values are to be protected. These ROS settings are not

suitable for timber production and associated developments, since timber production and related developments are contrary to the physical attributes for "*Evidence of Humans*," "*Non-Recreation Uses*," and "*Naturalness*" in these ROS settings.

The Colorado Roadless Rule FEIS on pages 267-268 states, "*Congress amended the National Trails System Act with Public Law 95-625, on November 10, 1978, to establish and designate the Continental Divide National Scenic Trail (CDNST), which traverses approximately 800 miles through Colorado along the Continental Divide. The Comprehensive Plan for the CDNST, amended on September 28, 2009, describes that the nature and purposes 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. Under forest plan direction, the trail is managed to provide for primarily primitive and semi-primitive non-motorized recreation opportunities and settings, and a scenic integrity level of high to very high. The direction would be followed under any of the four alternatives...*

None of the alternatives would directly affect the scenic values for which the CDNST was designated because management direction contained in the statutes associated with this designated trail overrides any existing forest plan direction or rule.

Potential indirect impacts on the high-to-very-high scenic values along this trail corridor could vary by alternative depending on the amount of road construction or tree cutting within view of the CDNST. Among the alternatives, Alternative 1 might have the least potential to affect those scenic and other values along the CDNST from adjacent land management activities with the lowest projected levels of road construction and tree cutting activities. Projected activities in Alternatives 2 and 4 likely would be focused within the CPZs and not likely to affect the CDNST. The upper tier acres of Alternatives 2 and 4 would limit future activities more than the prohibitions of Alternative 1 in the IRA acres. Alternative 3 has the highest potential to affect scenic and other values because of the highest level of projected activities within the IRA/CRA acres."

A basic CDNST effects assumption was that CDNST Comprehensive Plan and FSM 2353.4 would be more controlling than the Roadless Rules when implementing projects within the CDNST corridor.

3. Forest Service Manual 2310 (2300-2020-1) – Sustainable Recreation Planning

The Sustainable Recreation Planning directive, FSM 2310 (WO Amendment 2300-2020-1), was approved by Tina Terrell, Associate Deputy Chief on April 23, 2020. Unfortunately, this amended FSM 2310 guidance is inconsistent with the recreation opportunity spectrum planning framework and the comprehensive planning requirements of the Wild and Scenic Rivers Act and National Trails System Act. It is improper that the Forest Service modified the 1986 ROS class definitions without articulating compelling reasons for the modifications and disclosing

the consequences to those recreationists seeking Primitive and Semi-Primitive ROS settings as described since 1982.

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

The amended policy makes substantial changes to the recreation planning policy direction without the benefit of 36 CFR § 216 public involvement processes. This policy replaces FSM 2310 (WO Amendment 2300-90-1). The 1990 directive provided the following direction:

> *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.*
> 3. *Use the ROS system guidelines to describe recreation opportunities and coordinate with other recreation suppliers.*
> 4. *Recognize individual National Forests need not provide recreation opportunities in each ROS class.*
> 5. *Do not provide urban opportunities with appropriated or other public funds. Channel urban class provided by private sector funds to private land if available…*
>
> *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…."

FSM 2310 (WO Amendment 2300-2020-1) "Digest" describes substantive changes as: "*2311* – *Replaces obsolete direction on Resource Opportunities in Recreation Planning with direction on Corporate Data and Tools that have been in place for over 20 years.*" This "Digest" statement is factually inaccurate. The use of the ROS planning framework and the ROS User Guide continue to be relevant, especially for addressing the recreation resource in forest planning. The ROS planning framework use for forest planning is supported by a 2007 publication by McCool, Clark, and Stankey in "An Assessment of Frameworks Useful for Public Land Recreation Planning," General Technical Report PNW-GTR-705.

The 1986 ROS Book, which repeated the 1982 ROS User Guide information, was the basis for the 2012 Planning Rule/PEIS and 2015 planning directives. As the Acting Recreation Planning National Program Manager, I prepared comments on the draft FSH 1909.12 planning directives that were based in part on the FSM 2310 direction to use the 1986 ROS Book technical guidance for addressing NFMA and planning rule requirements (16 U.S.C. § 1604(f)(1) and 36 CFR §§ 219.1(f), 219.3, 219.6(b)(9), 219.8(b)(2), 219.10(a)(1) & (b)(1), and 219.19 definitions for Recreation Opportunity and Setting). In this position, I reviewed drafts of a proposed amendment to FSM 2310. These drafts addressed remoteness and evidence of humans as setting indicators.

The Recreation Opportunity Spectrum planning framework, as described in the 1986 ROS Book, continues to be the best science-based process for providing for the integration of the recreation resource in multiple-use planning. The 2012 Forest Service planning rule and 2015 planning directives properly identified the ROS planning framework as the best management tools and science for addressing the recreation resource in forest planning. The recreation setting is the surroundings or the environment for the recreational activities. The planning rule describes that the recreation setting is the social, managerial, and physical attributes of a place that, when combined, provide a distinct set of recreation opportunities. The rule describes that 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.

The amended 2020 FSM 2310 ROS direction allows for establishing social, managerial, and physical attributes of a place independently, which does not resolve inconsistencies between recreation setting components. This approach is not aligned with the Recreation Opportunity Spectrum planning framework. As such, the 2020 FSM 2310 ROS direction allows for development actions in Semi-Primitive Non-Motorized and Semi-Primitive Motorized ROS settings that are incongruent with the desired conditions of these ROS classes.

The amended 2020 FSM 2310 ROS direction degrades the usefulness of existing National Trail, Wild and Scenic River, and Wilderness policy direction that is intended to protect the values for which each congressionally designated area was established:

- The 2009 CDNST Comprehensive Plan states, "*Use the ROS system in delineating and integrating recreation opportunities in managing the CDNST*."
- FSM 2353.44 – National Scenic Trails. The amended 2009 CDNST Comprehensive Plan and FSM 2353.44b policy relies in part on the FSM 2310 (WO Amendment 2300-90-1) direction. FSM 2353.44b(8) – "*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)*."
- FSM 2354.32 – Wild and Scenic Rivers. "*Management plans for designated [wild and scenic] rivers must: 1. Establish management objectives for each segment of the river. As a minimum, state the Recreation Opportunity Spectrum class featured (ROS, FSM 2310) and procedures for maintaining the ROS for each segment over time. To the extent possible, the management objectives should reflect the river's recreational relationship to nearby rivers*."
- FSM 2320.3 – Wilderness. "*Use the Recreation Opportunity Spectrum (FSM 2310) as a tool to plan adjacent land management*."

It is incorrect to infer that the 2012 Planning Rule and 2015 Planning directives guidance for the recreation resource were based on "*obsolete direction*." The 2020 "Digest" and the substance of the 2020 FSM 2310 direction has improperly influenced an objection review of the Custer-Gallatin proposed revised plan.[63] The 2020 FSM 2310 digest and policy needs to be corrected.

The 2015 Forest Service planning directives require the establishment of mapped ROS settings through Forest Planning processes (FSH 1909.12 – Part 23.23a). Mapped ROS classes based on the 1986 ROS Book class descriptions would help ensure the integration of multiple use programs through Forest Plan decisions. The ROS class descriptions and policy direction as modified by FSM 2310 (WO Amendment 2300-2020-1) diminishes the usefulness of having mapped ROS settings and using the ROS as a management tool.

The ROS planning framework was not intended to never change, but modifications to ROS class characteristics definitions should only occur through robust public involvement processes, based on science that supports modifying ROS characteristic definitions, and to improve readability. The amended FSM 2310 direction does not meet any of these need for change criteria. Furthermore, effects of any change to ROS class characteristics need to be disclosed.

[63] http://nstrail.org/planning/gallatin_nf/Final_CG_LMP_Objection_Response_April_15_2021.pdf

The planning rule and planning directives were grounded in the 1986 ROS Book guidance and related research. It is concerning that some in the Forest Service have relied on informal and inappropriate Corporate Data and Tools for over 20 years resulting in the degradation of Primitive ROS and Semi-Primitive ROS settings.

A review of the amended FSM 2310 (2300-2020-1) follows:

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

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

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

Primitive and Semi-Primitive ROS classes will constrain some actions such as mechanical treatments with heavy equipment or road development if these desired ROS class opportunities are to be available to recreationists seeking those experiences. The recreation opportunity setting since its inception has been composed of other natural features in addition to the six factors. Landform types, vegetation, scenery, water, and wildlife are all important elements of recreation environments; they influence where people go and the kinds of activities possible. Making choices between competing resource priorities is often the nature of integrated

resource management planning as required by the National Forest Management Act (16 CFR § 1604(f)(1), 36 CFR § 219.10(a), FSH 1909.12 Part 22).

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

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

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

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

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

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

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

Observation: An element that is missing from the direction is to describe policy that responsible officials are to ensure that land management plans are prepared through NEPA interdisciplinary processes that address the integration of the recreation resource in planning analyses and decisions (16 U.S.C. 1604(f), 36 CFR 219.10). In addition, Forest Plans must provide for the purposes for which designated areas are established.

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

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

Amended **FSM 2310.5** defines Recreation Opportunity Spectrum classes.

Observation: The characterizations of ROS classes are a significant deviation from established Physical Setting descriptions. "*Evidence of Humans*," "*Non-Recreation Uses*," and "*Naturalness*" setting indicators are improperly omitted in the narratives for Primitive, Semi-Primitive Non-Motorized, and Semi-Primitive Motorized ROS settings.

Primitive settings allow for mechanized use outside of wilderness in the amended FSM 2310 direction. Bicycles should not be allowed in Primitive ROS settings. Primitive means ''*of or relating to an earliest or original stage or state*.'' Mountain bikes are not primitive in nature. Asymmetric impacts between bicyclists and traditional nonmotorized users will tend to displace hikers and equestrians from non-wilderness trails. The asymmetric or one-way nature of

conflict suggests that active management is needed to maintain the quality of recreation for visitors who are sensitive to conflicting uses. Visitors who are sensitive to conflict are likely to be dissatisfied or ultimately displaced.[64] FSM 2310 should describe that the trail class norm is Pack and Saddle Stock Class 2 and 3 (FSH 2309.18 23.12 – Exhibit 01).

Observation: Semi-Primitive Non-Motorized settings exempts open roads stating that, "*occasional administrative use occurs on these roads for the purpose of natural and cultural resource protection and management*." This ROS setting does not allow for new administrative or public use roads except in very limited situations – closed roads may be present, but are managed to not dominate the landscape or detract from the naturalness of the area.

The unconstrained guidance that, "*occasional administrative use occurs on these roads for the purpose of natural and cultural resource protection and management*" does not support SPNM desired conditions and needs to be changed. This ROS setting may only have subtle modifications that would be noticed but not draw the attention of an observer wandering through the area. Rarely would permanent and temporary roads be consistent with protecting SPNM ROS setting desired conditions where defined using the 1982/1986 ROS planning framework.

Observation: Exhibit 01, Vegetation states that, "*Treatments enhance forest health and mimic natural vegetation patterns.*" Due to social and resource conditions, large-scale vegetation harvest and associated road construction will need to be restricted to meet desired forest conditions.

Natural vegetation patterns have in some cases been created by large fire events, such as the Great Fire of 1910. Hurricane-force winds, unlike anything seen since, roared across the rolling country of eastern Washington. Then on into Idaho and Montana forests that were so dry they crackled underfoot. In a matter of hours, fires became firestorms, and trees by the millions became exploding candles. By noon on the twenty-first, daylight was dark as far north as Saskatoon, Canada, as far south as Denver, and as far east as Watertown, New York. To the west, the sky was so filled with smoke, ships 500 miles at sea could not navigate by the stars. Smoke turned the sun an eerie copper color in Boston. Soot fell on the ice in Greenland. The Great Fire of 1910 burned three million acres and killed enough timber to fill a freight train 2,400 miles long. Merchantable timber destroyed was estimated to be eight billion board feet, or enough wood to build 800,000 houses. Twenty million acres were burned across the entire Northwest. The current insect and disease situation are having similar ecological effects as some past fire events, but at a much slower rate of change.

[64] Manning, R.E. (2010). Studies in Outdoor Recreation: Search and Research for Satisfaction. Studies in Outdoor Recreation: Search and Research for Satisfaction. Page 218.

Desired conditions must stress the need to reflect the constraints described for "*Evidence of Humans*," "*Non-Recreation Uses*," and "*Naturalness*" setting indicators for this Semi-Primitive Non-Motorized ROS class. Specifically, the statement that treatments are to enhance forest health is vague and could lead to actions that benefit timber programs over allowing for natural processes to unfold. Describing that treatments are to mimic natural vegetation patterns is also unclear and should be deleted.

Forest health is an increasingly important concept in natural resource management. The definition of forest health is difficult and dependent on desired conditions. From an ecosystem-centered perspective, forest health has been defined by resilience, recurrence, persistence, and biophysical processes which lead to sustainable ecological conditions. Most important, so as to minimize the evidence of humans, vegetation management actions need to avoid restoration actions that require the construction of permanent and temporary roads within Semi-Primitive Non-Motorized ROS settings and minimize new roads in Semi-Primitive Motorized ROS settings. Exhibit 01, Scenic Integrity states that, "*Typically High*." The desired Scenic Integrity Objective should be simply described as High.

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

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

Observation: Exhibit 01 describes ROS characteristics as "*themes*," which is not defined nor recognized as a plan component in forest planning processes (36 CFR § 219 and FSH 1909.12 directives). Failing to identify desired conditions and other plan components in the FSM 2310 definition reduces the importance and effectiveness of the planning directives requirement that states, "*The plan must include plan components, including standards or guidelines, to provide for sustainable recreation integrated with other plan components as described in 23.21a. To meet this requirement the plan: … (a) Must include desired conditions*

for sustainable recreation using mapped desired recreation opportunity spectrum classes..." (FSH 1909.12 23.23a).

Desired conditions are the basis for the rest of the plan components; objectives, standards, guidelines, and suitability determinations must be developed to help achieve the desired conditions. If forest plans contain specific, measurable desired conditions, this should focus the process of identifying locations where projects are needed, and thereby increase the efficiency of project planning.

General Technical Report PNW-98 December 1979 states, "*The ROS is a helpful concept for determining the types of recreational opportunities that should be provided. And after a basic decision has been made about the opportunity desirable in an area, the ROS provides guidance about appropriate planning approaches—standards by which each factor should be managed*."

The 2012 Planning Rule Programmatic Environmental Impact Statement states the analysis of the recreation resource is based on the 1986 ROS Book, Scenery Management System, and Recreation facility analysis: "*Three recreation planning and management tools that shape the recreation program include:*

- *Recreation opportunity spectrum – ROS 1986;*
- *Scenery management system; and*
- *Recreation facility analysis.*

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).

The Forest Service in response to Land Management Plan proposed directives comments on pages 22 and 47 states, "*FSH 1909.12, chapter 10, section 13.4 has been modified to indicate that the interdisciplinary team shall identify and evaluate available information about recreational settings and opportunities, including seasonal variation, using the recreation opportunity spectrum (ROS). An update of ROS information is not required during the assessment, though additional information not included in ROS may also be identified and included in the assessment process. 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 (36 CFR 219.19). The desired ROS class is not required to be the same as the existing ROS class.*

FSH 1909.12, chapter 20, section 23.23 states that 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. The interdisciplinary team may also create desired recreation opportunity spectrum classes to reflect seasonal variations. Desired winter recreation opportunity spectrum classes can be developed to depict changes in the location, mix and distribution of setting opportunities (both motorized and nonmotorized)."

An example of a consequence if FSM 2310 (2300-2020-1) definitions are applied to plan components is that an established Semi-Primitive Non-Motorized ROS setting would no longer protect CDNST nature and purposes qualities and values. A Semi-Primitive Motorized ROS setting could be like what is described as a Roaded Modified ROS setting. A Roaded Modified ROS setting is defined by extensive forest management activities and road networks, which is clearly incompatible with providing for high-quality scenic, primitive hiking and horseback riding opportunities and the conservation of natural, historic, and cultural resources within the CDNST corridor. The ROS class protection norm for the CDNST should be restricted to the establishment of a Primitive ROS setting if FSM 2310 (2300-2020-1) direction is implemented.

The Forest Service did not provide a reasoned basis or a detailed justification for modifying the 1982 ROS User Guide and 1986 ROS Book Recreation Opportunity Spectrum setting definitions and disclosing the consequences of those changes to recreationists seeking Primitive and Semi-

Primitive ROS settings, including those seeking high-quality scenic, primitive hiking and horseback riding experiences along the Continental Divide National Scenic Trail.

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

The formulation and issuance of FSM 2310 (2300-2020-1) is not in compliance with the Public Participation requirement of FRRRPA and the Public Notice and Comment for Standards, Criteria, and Guidance Applicable to Forest Service Programs (16 U.S.C. § 1612(a), 36 CFR § 216). The amended policy (2300-2020-1) is inconsistent with the 36 CFR § 219 forest planning regulations and the Planning Rule PEIS.

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

FSM 2310 (2300-2020-1) policy should be reissued through a Federal Register Notice following 36 CFR § 216 public involvement processes to define the ROS Classes as desired conditions, to include ROS Class Characteristics descriptors that address, in part, "Evidence of Humans," "Non-Recreation Uses," and "Naturalness" characteristics, and to make other changes that support providing for the integration of the recreation resource in natural resource planning processes.

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

FSM 2310 (WO Amendment 2300-2020-1) direction is not in conformance with the National Forest Management Act, National Trails System Act, Wild and Scenic Rivers Act, NEPA, and regulations (16 U.S.C. §§ 1604(f)(1), 1612(a), 1244(e), 1244(f), 1274(d); 36 CFR §§ 216, 219.3, 219.10(b)(1)(i)); 40 CFR §§ 1502.24 (2005), 1502.23 (2020)), and APA (5 U.S.C. § 706(2).

L. 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 National Scenic Trail 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.

N. Review of Revised Forest Plans and Other Similar Decisions

The following is a brief review of recently approved Forest Plans and other land management programmatic decisions. Reviewed are the Beaverhead-Deerlodge National Forest Plan, Shoshone National Forest Plan, Rio Grande National Forest Plan, and the Medicine Bow Landscape Vegetation Analysis Project. The status of CDNST land and resource management plan protections is summarized in **Appendix C**.

1. Beaverhead-Deerlodge Forest Plan (2009)

The Beaverhead-Deerlodge National Forest is yet to address a revised plan appeal decision, which states, "*One appeal contention regarding the Continental Divide National Scenic Trail (CDNST) was received and is addressed in Attachment 2: Issues Reviewed and Decisions Affirmed. However, on September 28, 2009, the CDNST Comprehensive Plan was amended, with an effective date of November 4, 2009. The Revised Plan referred to an amended Comprehensive Plan, which in fact had not been amended at the time the ROD was issued. No*

correction to that wording is required since the effective date of the amendment is imminent. However, subsequent to the effective date of the amendment, the Revised Plan direction should be reviewed to determine whether it is consistent with the Comprehensive Plan amendment (and related FSM 2350 direction), and appropriate action taken if necessary."

The 2009 Forest Plan on page 33 establishes that, "*Projects in foreground areas of scenic byways, national scenic trails or wild and scenic rivers will be designed to meet the SIO of at least High*." Otherwise, the existing Plan fails to address the requirements of the Comprehensive Plan and FSM 2350 to establish a Management Area and to use in part the ROS planning framework to provide for the nature and purposes of the CDNST.

2. Shoshone Forest Plan (2014)

The 2015 Shoshone Forest Plan does not address the 2014 Reviewing Officer for the Chief final instructions to the Regional Forester to, *"Revise the LMP and project record to include the Nature and Purposes for the CDNST."* In response to the Reviewing Officer's direction, the Regional Forester added a theme to the management direction stating that, "*Management of the Continental Divide National Scenic Trail (Trail) is consistent with the Continental Divide National Scenic Trail Comprehensive Plan (USDA Forest Service 2009). That plan describes the nature and purposes of the trail as, "… to provide high-quality scenic, primitive hiking and horseback riding opportunities and to conserve natural, historic, and cultural resources along the CDNST corridor*."

The revised Shoshone Forest Plan was developed following the 1982 NFMA planning rule, which doesn't recognize *"themes"* prescriptions for Management Areas. A goal states, "*Provide for high-quality scenic, primitive hiking, and horseback riding opportunities and conserve natural, historic, and cultural resources along the Trail corridor*." A goal is a concise statement that describes a desired condition to be achieved sometime in the future. It is normally expressed in broad, general terms and is timeless in that it has no specific date by which it is to be completed, which is not controlling for the planning period. The Shoshone Plan CDNST standards and guidelines do not constrain actions that substantially interfere with the nature and purposes of the CDNST. On the contrary, the Plan promotes actions that degrade CDNST qualities and values. For example, standards and guidelines state to manage for the Recreation Opportunity Spectrum class of the management area in which the Trail occurs. The Shoshone Plan commingling (overlapping) and often disparate management direction for various Management Areas that apply to the CDNST corridor in the revised Plan is highly confusing. These MA goals and desired conditions allow uses and activities that substantially interfere with the nature and purposes of the CDNST. None of these MAs include management direction for providing Primitive or Semi-Primitive Non-Motorized ROS settings, except north of Brooks Lake where MA 3.3B is prescribed for a Semi-Primitive Non-Motorized setting in the summer. A

principal consideration is that the CDNST MA corridor location must avoid developed areas such as MA 5.1, *"…to the extent practicable, efforts be made to avoid activities incompatible with the purposes for which such trails were established*" (16 U.S.C. §§ 1246(a)(2), 1246(c)).

District Rangers on the Bridger-Teton National Forest recognized that the Shoshone Forest Plan does not protect the values of this National Scenic Trail and took steps to move the CDNST travel route. In 2019, to help remedy the situation, the CDNST travel route in the vicinity of Lava Mountain was informally moved from the Shoshone NF to the Bridger-Teton NF as approved in a Bridger-Teton NF Decision Memo.[65] The Lava Mountain section of MA 3.6A corridor persists on the Shoshone NF, but it is no longer considered as the location of the CDNST travel route, except for a few miles.

3. Spruce Beetle Epidemic and Aspen Decline Management Response (2016)

Jacqueline Buchanan, the Reviewing Officer and Deputy Regional Forester, on May 5, 2016, responded to objections to the draft Spruce Beetle Epidemic and Aspen Decline Management Response (SBEADMR) project that is located on the Grand Mesa Uncompahgre and Gunnison National Forests. The following discusses a few of the responses and conclusions that are described in the Reviewing Officer's Response to Eligible Objections.

Regarding the National Trails System Act and the Recreation Opportunity Spectrum the response beginning on page 2 states, "*While the SBEADMR FEIS does not discuss impacts to the ROS along the CDNST per se, my review of the project record demonstrates that the GMUG NFs developed mechanisms to protect the nature and purposes of the CDNST, and to ensure compliance with the National Trails System Act. Design criterion SVR-6, for example, requires a visual quality objective (VQO) of retention in the foreground, and a VQO of partial retention in the middleground, of the CDNST and other designated trails (FEIS p. 737). In essence, this means that all SBEADMR activities proposed within 300 feet to ½ mile (foreground) of the CDNST will be designed so that they blend with features in the characteristic landscape and are not visually evident. Activities that can be viewed between ½ mile to 4 miles (middleground) of the CDNST will also be designed to blend with features in the characteristic landscape; however, some activities may be noticeable from vantage points (FEIS p. 733). While some level of management activity will be evident along the CDNST in the short-term, the FEIS asserts that proposed treatments are expected to improve the long-term appearance of areas adjacent to the trail and to improve public safety (FEIS p. 729).*"

[65] http://nstrail.org/planning/bridger_teton_nf/Sheridan_Pass_and_Togwotee_Pass_Decision_Memo_BTNF.pdf

The statement that treatments will "*improve the long-term appearance of areas*" is inconsistent with the Scenery Management System. The desired Scenic Character along the CDNST travel route is Natural Evolving or Natural Appearing with a Scenic Integrity of Very High or High.

"It should be noted that design criterion SVR-6 was expanded between Draft and Final EISs, in response to public comments, to protect scenic quality and visual resources within the foreground and middleground of proposed reroutes on the CDNST (FEIS p. 76). It should also be noted that between Draft and Final EISs, and in response to public comments, the GMUG NFs further delineated a proposed road system to facilitate a more quantitative, thorough effects analysis; added a requirement to decommission roads within five years of the close of the associated timber sale (draft ROD p. 11) to further mitigate adverse effects to the trail in the long term (FEIS p. 730); and, added a section to the Recreation Use portion of the FEIS to document the potential impacts to existing and proposed re-routes of the CDNST from SBEADMR action alternatives (FEIS p. 76). All of these factors were adopted in the FEIS to ensure protection of the nature and purposes of the CDNST; and, they also demonstrate that the GMUG NFs took a hard look at the impacts to the CDNST from the SBEADMR project, as required by NEPA…

The 2009 Comprehensive Plan for the CDNST, and direction prescribed in Forest Service Manual (FSM) 2353.4, state "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 GMUG NFs revised 1991 Forest Plan contains direction addressing visual quality/scenery and specific types of recreation experience along the CDNST (revised 1991 Plan pp. III-82 to III-83). Although more contemporary policy exists (e.g., 2009 CDNST Comprehensive Plan and FSM 2350), which explicitly identifies objectives for ROS settings, neither the Comprehensive Plan, nor the Manual direction, contain requirements or triggers that would suggest an immediate need to amend a plan or develop a CDNST unit plan. Rather, the current direction is that Forests would incorporate such policy when they undergo Plan Revision. The GMUG NFs will incorporate this direction when they initiate Plan Revision, currently scheduled for spring of 2016."

The 2009 CDNST Comprehensive Plan is mistakenly characterized as being contemporary policy, which may suggest for an early era that the 1985 CDNST Comprehensive Plan was consistent with the NTSA. Instead, the 1985 CDNST Comprehensive Plan was in violation of 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 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)).

4. Rio Grande Revised Forest Plan (2020)

Jeff Vail, the Objection Reviewing Officer and Acting Deputy Regional Forester of the Rocky Mountain Region, on March 10, 2020, provided additional direction for the Management of National Scenic and Historic Trails in response to objections[66] filed on the Draft Record of Decision (Draft ROD) and Final Environmental Impact Statement (Final EIS) for the Rio Grande National Forest Revised Land Management Plan (Revised Plan).[67] The following discusses a few of the responses and conclusions that are described in the Reviewing Officer's Response to Eligible Objections.

Continental Divide National Scenic Trail: The objection response on page 28 states, "*The revised plan presents the CDNST as a linear feature, with a one-half-mile scenic corridor on either side, crossing multiple management areas (final EIS, p. 38). CDT-34 explains that "A mapped trail corridor is required by Forest Service Handbook 1909.12 [specifically 24.43(1)(c.)]. The corridor itself is not exclusionary, as it is just a spatially identifiable area. Land management plan direction applied to the corridor determines what management activities could occur within the corridor." The revised plan direction includes plan components associated with the CDNST and the management areas the corridor crosses as well as other relevant plan components such as those associated with recreation and scenery. The only activities excluded from the corridor are leasable mineral and common variety mineral development and extraction as set forth in S-CDT-1 and S-CDT-2….*"

The Reviewing Officer conclusion fails to address provisions of the National Trails System Act, the CDNST Comprehensive Plan, and FSM 2353.4 direction including direction to establish a Management Area (FSM 2353.44(b)(1)) and that the CDNST travel route may be located 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 (FSM 2353.44b(8)). As discussed in the objection, the Notice of Final Amendments to Comprehensive Plan and Final

[66] http://nstrail.org/planning/riogrande_nf/riogrande_drod_proposed_plan_feis_objection_final.pdf
[67] http://nstrail.org/planning/riogrande_nf/riogrande_objection_response_03102020.pdf

Directives, Vol. 74, No. 191, Monday, October 5, 2009, also provides direction that is relevant to forest planning that is not addressed in the Forest Plan or in the objection response. The revised Forest Plan direction does not protect CDNST existing and high-potential route segments through the establishment of compatible ROS settings.

The Rio Grande Forest Plan FEIS failed to address substantive comments regarding "Overlapping Management Areas and CDNST Corridor." Management Area 5 promotes resource development with related effects: "A full range of activities is present with an emphasis on the production of commercial wood products… Forest visitors to these areas can expect to experience active forest management including timber harvest, livestock grazing, established infrastructure, and improvements. In timber harvest areas, stumps, logging slash, skid trails, and soil disturbance will be evident…."

The Forest Plan maps indicate that the established ROS class for this Management Area is Roaded Natural and Semi-Primitive Motorized. These ROS settings do not provide for the nature and purposes of the CDNST. Clearly, MA-5 management direction does not protect CDNST scenic and setting values.

Forestwide plan components that are associated with the CDNST do not protect the scenic resource along the CDNST travel route due in part to the use of the informal descriptor that states that the CDNST viewsheds will have high scenic values. Scenic values are normal associated with scenic attractiveness. Scenic attractiveness classifications are: Distinctive, Typical, and Indistinctive. The FEIS did not address locating the CDNST rights-of-way (corridor) to relate to distinctive landscapes. This direction should have informed the establishment of the CDNST corridor and has little connection with plan implementation.

The revised plan does not establish a trail corridor and plan components consistent with the National Trails System Act, 2009 CDNST Comprehensive Plan, E.O. 13195, FSM 2353.4 and FSH 1909.12 24.43. The conclusion does not but should have recognized that the Forest Plan CDNST plan components fail to protect the nature and purposes of the CDNST. The Plan failed to protect the recreation setting and address the conservation requirements of the NTSA section 3(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." In addition, the guidance in NTSA section 5(f), states, "a comprehensive plan, which is being completed through staged decision making on NFS lands, will provide management direction that address 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

providing guidance that, and …efforts be made to avoid activities incompatible with the purposes for which such trails were established.

The revised Rio Grande Forest Plan did not address the comprehensive planning requirements of the National Trails System Act to provide for the nature and purposes of the CDNST. Forest Plan CDNST plan components did not utilize the ROS planning framework to protect CDNST values (Comprehensive Plan, Chapter 5). The Reviewing Officer failed to recognize that the Forest Plan is inconsistent with 36 CFR § 219.10 requirements for protecting designated areas, and FSH 1909.12 Part 24.43— The Responsible Official shall include plan components that provide for the nature and purposes of national scenic and historic trails in the plan area. Plan components presented in comments and in the objection would protect the nature and purposes of the existing and high potential route segments of CDNST through the establishment of a Management Area that is broad enough to protect recreation, natural, scenic, historic, and cultural qualities of the CDNST. The CDNST Management Area and associated plan components presented in comments is a reasonable alternative that should have been developed and considered in detail in the programmatic Forest Plan EIS. The Reviewing Officer did not provide instructions to correct this NEPA deficiency.

The approved 2021 Lujan Pass Timber Management project will substantially interfere with the nature and purposes of the CDNST. The Forest Plan maps indicate that the established ROS class for this Management Area is Roaded Natural and Semi-Primitive Motorized. These ROS settings do not provide for the nature and purposes of the CDNST. Clearly, MA-5 management direction does not protect CDNST scenic and setting values, including the application of MA-5 direction for the Lujan Pass Timber Sale.

Forestwide plan components that are associated with the CDNST do not protect the scenic resource along the CDNST travel route due in part to the use of the informal descriptor that states that the CDNST viewsheds will have high scenic values. Scenic values are normally associated with scenic attractiveness. Scenic attractiveness classifications are: Distinctive, Typical, and Indistinctive. The Forest Plan FEIS did not address locating the CDNST rights-of-way (corridor) to relate to distinctive landscapes. This direction should have informed the establishment of the CDNST corridor and has little connection with plan implementation.

The Lujan Pass Timber Management Project Environmental Assessment approved in May of 2021 on pages 6 and 7 states, "*The Rio Grande National Forest proposes to initiate patch clearcutting and salvage cutting within the Spanish Creek drainage, near Lujan Pass. For the purposes of this analysis, the project addresses consistency with both the (1996) Forest Plan and the 2020 Forest Plan. Forest condition will be measured against 1996 Forest Plan Desired Conditions for Management Area Prescription (MAP) 5.13 – Forest Products and MAP 5.11 – General Forest and Intermingled Rangelands. All proposed management activities fall within*

these two management areas, and actions are therefore dictated by this direction. The project is also consistent with direction in the Forest Plan (2020), specifically Management Area 5 – General Forest and Rangelands and Forestwide desired conditions and objectives for vegetation…

The proposed action responds to the goals and objectives outlined in both the 1996 Revised Forest Plan and the 2020 Forest Plan and is designed to move the analysis area towards Desired Conditions. It directly addresses the purpose and need for action in a few ways. First, the patch clear cutting and salvage intermediate harvest will allow the Forest to cost-effectively make wood fiber available to industry in areas where roads have been constructed. Second, the salvage cutting component will capture the value of Engelmann spruce that have been killed by spruce beetle before product value is lost…."

The EA fails to identify the CDNST management corridor and provide for practices that protect the qualities and values for which this National Scenic Trail was designated. The EA skirts the Forest Plan direction that the CDNST corridor is not suitable for timber production. The EA does not identify that the purpose of management within the CDNST corridor is to protect and provide for the nature and purposes of this National Scenic Trail.

It is factually inaccurate to state, *"The project would not affect the nature and purposes of the CDNST as defined in the National Scenic Trails Act in the 2009 CDNST Comprehensive Plan*." The Rio Grande Forest Plan CDNST standards and guidelines do not constrain actions that substantially interfere with the nature and purposes of the CDNST. The Plan promotes actions that degrade CDNST qualities and values. The project fails to provide for natural-appearing scenic character and a scenic integrity objective of high. The project fails to protect or restore more primitive settings within the CDNST corridor. More primitive settings would result in conserving scenic, natural, historic, and cultural resources along the trail corridor.

Implementation of the timber management direction will continue to modify valued landscapes from an existing high scenic integrity level resulting in a low scenic integrity level as a result of intensive timber management programs. Lands managed for timber production would perpetuate degradation of visual quality and recreation well beyond five years. Continuing to modify the area resulting in ROS Roaded Modified class conditions will substantially degrade the ROS desired condition for the CDNST corridor.

The Lujan Pass Objection Response on pages 3 and 4 states, "*according to DC-VEG-1, commercial timber harvest may occur on lands identified as not suitable for timber production to meet multiple use objectives and for safety and health (LMP, p. 34). In addition, S-VEG-1 states that timber may not be harvested for the purpose of timber production on lands not suited for timber production, but may occur for other purposes such as protecting other*

multiple-use values, protecting or enhancing biodiversity or wildlife habitat, scenic-resource management, salvage, sanitation, public health, or safety.

The Forest Management and Forest Health resource report prepared for the Lujan Pass Timber Management Project states that "Commercial timber harvest on lands identified as not suitable for timber will consist of harvest activities to capture commercial value before it is lost and to improve forest health and safety within the CDNST corridor." The report clearly identifies safety as a purpose for commercial timber harvest within he CDNST corridor and alludes to salvage harvest as another purpose, in that it seeks to capture commercial value of material before lost. The Recreation section of the EA (p. 26) states: "Public health and safety in the project area are expected to incrementally increase by the removal of standing dead and dying trees." The draft DN states that "Forest Plan standards and guidelines authorize harvest activities within the CDNST corridor for safety and forest health" and that the proposed action will "provide improved forest health and safety near the Continental Divide National Scenic Trail.'"

The response clearly describes that the project is about commercial timber harvest and not protecting the nature and purposes of the CDNST. Safety concerns from tree hazards along the CDNST route would only be a concern within a tree length of the trail tread.

The "Lujan Pass Timber Management Project Objection Responses" on pages 5 and 6 states, "*The Lujan Pass Timber Management Project is not a CDNST decision that implements changes to or specific management of the CDNST or its corridor per FSM 2353.04. The EA tiers to the LMP, which identifies the CDNST corridor and desired conditions, standards, and objectives for the CDNST (LMP, p. 51-55) and addresses timber suitability within the CDNST corridor (LMP, pp. 34-36). The purpose and need for the proposed action (EA pp. 1-3) are based on timber management and there are no proposed management changes to the CDNST.*"

This statement demonstrates that the Forest Supervisor is addressing the CDNST as only a travel route without a regard to protecting the corridor setting. The project EA may be consistent with the revised Forest Plan, but the Forest Plan is inconsistent with the National Trails System Act failing to use the Recreation Opportunity Spectrum and Scenery Management System to protect the nature and purposes of the CDNST.

Objection responses on pages 6 and 7 states, "*Objector alleges that the project fails to provide for natural-appearing scenic character and that a scenic integrity objective of high would degrade the scenic integrity to low as viewed from the CDNST route, and would therefore substantially interfere with the nature and purpose and degrade the qualities and values of the CDNST.*" The response states, "*The Visual resource report addressed scenic integrity objectives in relation to forest management activities. The scenic integrity objective for Management Area 5 is moderate; however, the desired condition for the CDNST in the 2020 LMP states (p. 54): DC-CDT-1: Viewsheds from the Continental Divide National Scenic Trail have high scenic values. The*

foreground of the trail appears natural. (Forestwide) Although some commercial timber harvest is proposed with the intent of improving safety in the CDNST corridor, timber production is not. The Visual resource report (p. 9) analyzed changes to this high scenic integrity desired condition for the CDNST corridor and disclosed that the proposed action may degrade scenic integrity in the short term, but effects are anticipated to be minimal five years into the future. Further, the Visual resource report states (p. 8) "Desired conditions in the 2020 Land Management Plan call for vegetation treatments that visually blend with the existing scenic character. The project will also be consistent with Guideline G-SCNY-1, which directs that management activities are designed to minimize impacts to valued scenic attributes and scenic character."

This response demonstrates a lay understanding of the principles of the Scenery Management System and long-standing principles for managing visitor safety in dispersed recreation settings. Scenic integrity will not be protected in the short and long-term with the approved action. The analyses are inconsistent with the protocols presented in "Landscape Aesthetics - A Handbook for Scenery Management, Agricultural Handbook Number 701."

Objection responses on pages 8 and 9 states, "Objector alleges that the purpose of the project fails to recognize and protect the nature and purposes of the CDNST using professional recreation planning protocols." The response states, "*The Recreation resource report addressed changes to the ROS desired condition as identified in the LMP. The desired condition for the CDNST corridor in Management Area 5 is a semi-primitive motorized ROS setting. The EA (p. 19) identifies no change to the ROS setting… I find that the EA and Recreation resource report adequately addressed the ROS setting for the CDNST in the project area and there would be no changes to the desired ROS setting of semi-primitive motorized. I further find that the EA and associated resource reports did recognize and protect the nature and purposes of the CDNST using professional recreation management planning protocols*."

This finding is factually inaccurate. The project is inconsistent with the ROS planning framework, since timber production and associated road construction is inconsistent with a Semi-Primitive Motorized ROS setting. Furthermore, a Semi-Primitive Motorized ROS setting does not protect the nature and purposes of the CDNST. The EA did not use the ROS planning framework in the project analyses.

The purpose of the project fails to recognize and protect the nature and purposes of the CDNST using professional recreation and scenery management planning protocols. The Rio Grande CDNST plan components, as demonstrated by this project, allows for projects that substantially interfere with the nature and purposes qualities and values of the CDNST.

5. Medicine Bow Landscape Vegetation Analysis Project (2020)

The LaVA project may be the first time that the Forest Service has argued in a document that the protection of National Scenic and Historic Trails is secondary to general multiple-use

programs. Jacqueline Buchanan, the Objection Reviewing Officer and Deputy Regional Forester of the Rocky Mountain Region correspondence of June 10, 2020, responds to objections that were filed on the LaVA project decision.[68] The following discusses a few of the responses and conclusions that are described in the Reviewing Officer's Response to Eligible Objections.

The Reviewing Officer's response on page 96 states, "*Regarding the objector's concern that the CDNST is in a Roaded Modified ROS class, the designation of this ROS class is an artifact of the ROS process. ROS classes that are less modified than Roaded have an acreage requirement of at least 2,500 acres"* (ROS Users Guide, page 28). *That results in smaller areas of less modified ROS classes being subsumed into more modified ROS classes in the direction for a LRMP. Within a more modified ROS class, smaller areas can be managed for more impact.*

The LRMP defines ranges of ROS classes for management areas and indicates that ROS is mapped for specific locations. FSH 2353.44b.8 states: 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 to provide for continuous travel between the Montana-Canada and New-Mexico-Mexico borders.

While the desire may be to locate the CDNST in primitive and semi-primitive non-motorized ROS classes, it is recognized that the CDNST may be located in more developed classes. The following statement from 16 U.S.C. § 1246(a)(2) indicates that management in those areas is acceptable, but should be designed to harmonize with the CDNST as possible: "Development and management of each segment of the National Trails System shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land…

Conclusion: I find that the Responsible Official has provided for management of the CDNST in accordance with the LRMP. The modified final EIS and Appendix A as written address the issues raised by the objectors and other direction which would seek to accommodate the desired ROS settings and scenic integrity for the CDNST from the Comprehensive Plan to the extent feasible with existing management direction."

The Reviewing Officer's discussion fails to recognize the difference between ROS inventories and ROS settings to be established. On National Forest System lands, the Forest Service has the discretion to establish and where necessary restore areas to be compatible with the nature and purposes of the CDNST. The Forest Service does not have the legal authority to approve actions that would substantially interfere with the nature and purposes of this National Scenic Trail such as continuing to implement the 2003 Forest Plan direction that allows for the

[68]http://nstrail.org/planning/medicine_bow_nf/lava_project_reviewing_officer_instructions_and_response_06102020.pdf

development of the CDNST corridor. The Forest Service is to protect the nature and purposes by using the ROS planning framework in delineating and integrating recreation opportunities in managing the CDNST.

The Responsible Official inappropriately suggests that, "*16 U.S.C. § 1246(a)(2) indicates that management in those areas is acceptable, but should be designed to harmonize with the CDNST….*" As described in project comments, the vague NTSA 1968 language of 16 U.S.C. § 1246(a)(2) was no longer relevant after the passage of NFMA in 1976 that required the development of one integrated plan and required by the 1982 Planning Regulations, which was further modified by the 1978 NTSA amendment direction that required comprehensive planning for the CDNST.

The Forest Service relies on an ambiguous right-of-way (16 U.S.C. § 1246(a)(2)) statement in the National Trails System Act as enacted in 1968 as an indicator that the management and protection of National Scenic and Historic Trails is subordinate to common multiple-use programs. This improper interpretation of the rights-of-way guidance in the NTSA often goes as follows: "*The National Trails System Act at 16 U.S.C. § 1246(a)(2) indicates that management in the vicinity of the CDNST while it traverses management areas that are subject to development or management is acceptable, but should be designed to harmonize with the CDNST as possible. Development and management of each segment of the National Trails System shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land. The wording recognizes multiple uses and seeks to moderate impacts on the trail from resource management to the extent feasible while meeting resource management objectives*." As argued in comments and objection, this interpretation is inconsistent with the complete reading of the National Trails System Act. This direction is clearly out of step with the direction in the CDNST Comprehensive Plan and FSM 2353.4.

The 2018 North Savery Timber Sale is embedded within the LaVA project. The North Savery project decision prescribes extensive timber harvests and road construction that overlay the CDNST travel route resulting in actions that substantially interfere with the nature and purpose qualities and values of the CDNST. Instead of prescribing extensive timber management activities, the Forest Service should have avoided commercial timber harvest and road construction and reconstruction actions within the CDNST corridor. A revised or amended Forest Plan should establish guidance that addresses vegetation management practices within the CDNST corridor.

The proposed 2021 West Hog Preliminary Treatment Area prescriptions will continue to degrade CDNST qualities and values. As described in my LaVA objection, the determination that the decision "will not substantially Interfere with the nature and purpose of the CDNST" is not

supported by the MFEIS analyses and disclosure. The glossary of the MFEIS states that, "National Trails System Act - The decision to implement the authorized road and vegetation treatment activities does not substantially interfere with the nature and purposes of the Continental Divide National Scenic Trail and, therefore, is compliant with the National Trails System Act, as amended." However, the rationale for this statement is not apparent from a review of the MFEIS. Clearly, MFEIS analysis of substantial interference is not supported by an assessment that is consistent with the requirements of the National Trails System Act, CDNST Comprehensive Plan, ROS planning framework, Scenery Management System, CEQ requirement for methodology and scientific accuracy, and related directives. The LaVA ROD allows for the CDNST travel route to be closed annually to public use for the next 15 years which would substantially degrade the experiences of users of the CDNST travel route. The decision would lead to management actions that would substantially degrade existing High and Very High Scenic Integrity Levels by modifying landscapes resulting in a Low Scenic Integrity level. Further implementation of the Roaded Modified ROS setting direction along the CDNST travel route would substantially interfere with the purposes for which the CDNST was designated by an Act of Congress. To provide for the nature and purposes of the CDNST, management actions must support maintaining or achieving Primitive or Semi-Primitive Non-Motorized settings. The proposed 2021 West Hog Preliminary Treatment Area prescriptions demonstrate that the LaVA decision does not protect CDNST qualities and values from substantial degradation.

The Forest Plan should be amended or revised to address the substantive provisions of 36 CFR 219.10, including the associated National Trails policy direction that is found in the 2009 CDNST Comprehensive Plan, FSM 2310, FSM 2353, FSM 2380, FSH 1909.12 24.43, and FR Notice of final amendments to the CDNST Comprehensive Plan and final directives (Federal Register, October 5, 2009, 74 FR 51116).

Section IV. Grand Mesa, Uncompahgre, and Gunnison Draft Plan

A. Native Species Diversity

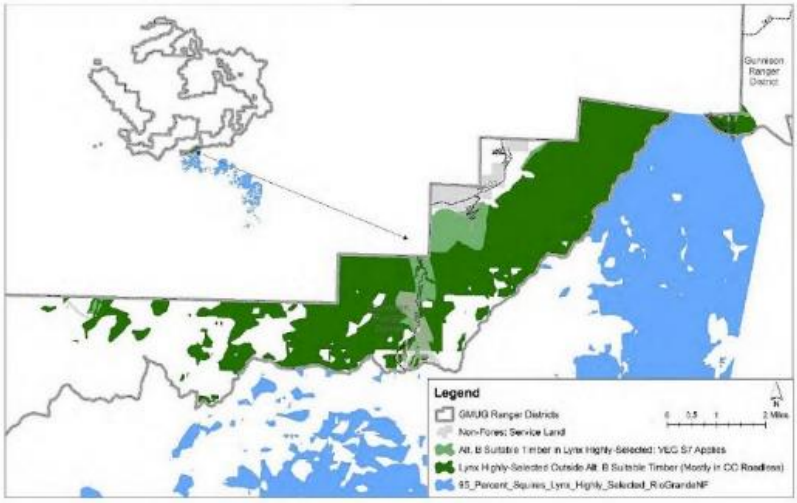
Draft Plan: The Draft Plan on page 29 reviews bighorn sheep and states, "*FW-STND-SPEC-13: On active grazing allotments, maintain effective separation between domestic sheep and bighorn sheep herds. Effective separation is defined as spatial or temporal separation between bighorn sheep and domestic sheep*…

Management Approaches - To implement GDL-SPEC-13, Tier 1 bighorn sheep herds with the greatest potential to contribute to population viability in the plan area should be prioritized. Tier 2 herds, where they interact or have the potential to interact with Tier 1 herds, should also be prioritized. Use the most current version of the Western Association of Fish and Wildlife Agency's Recommendations for Domestic Sheep and Goat Management in Wild Sheep Habitat to inform management."

Comment: The Rocky Mountain Bighorn Sheep should be identified as a Species of Conservation Concern, which would be consistent with the Rio Grande National Forest recent plan decision. Some domestic sheep allotments on the Forest are in and near occupied range and suitable range of Rocky Mountain bighorn sheep. There is a potential risk of contact occurring between domestic sheep and Rocky Mountain bighorn sheep. Research shows that contact between bighorn sheep and domestic sheep and goats can lead to transmission of respiratory disease and pneumonia in bighorn sheep, which could potentially affect the ability of bighorn sheep populations to persist over time. To promote healthy populations of bighorn sheep that persist over time, domestic sheep stocking and distribution should be managed to minimize risk of contact with Rocky Mountain bighorn sheep.

The complexities, disease history, and mechanisms or causal agents leading to epizootic disease events are still not fully understood in the wild. The best available science suggests that maintaining spatial or temporal separation of the species is a prudent step when the management objective is to maintain bighorn sheep populations. The GMUG National Forest should minimize bighorn and domestic sheep interactions. Every effort should be made to reduce the risk of contact with domestic sheep.

Draft Plan: The Draft Plan on page 33 reviews Canada lynx and states, "*FW-STND-SPEC-35a (VEG S7) (Alternatives B and C): In stands that do not qualify for VegS6 due to overstory mortality, salvage activities in stands that represent high quality lynx habitat may occur in up to 7 percent of the high-probability lynx use area (95 percent lynx use areas shown on the High Probability Lynx Use Area Map) that overlaps the suitable timber base. Harvest activities in VEG S7 stands in combination with all vegetation management activities, including incidental damage resulting in either Stand Initiation Structural Stage conditions, a reduction of horizontal cover, or both, are tracked for 15 years from the decision date for this forest plan decision. See also appendix 4 for more background on this standard.*"



Comment: These amendments appear to be limited in scope based on Figure 14 – Area where VEG S7 applies in alternative B. Any standard should not state monitoring requirements. However, this area is in established ROS settings that are not compatible with timber production. FW-STND-SPEC-35a (VEG S7) should be dropped from further consideration.

All discussion of management overlays must clearly describe that the most constraining standard or guideline of each overlay controls management actions. Any standard should not include monitoring requirements.

Quote continues

"*FW-STND-SPEC-35b (VEG S8) (Alternative D): In stands that do not qualify for VegS6 due to overstory mortality, vegetation management activities may occur in up to 7 percent of mapped lynx habitat. Harvest activities in VEG S7 stands in combination with all vegetation management activities, including incidental damage resulting in either Stand Initiation Structural Stage conditions, a reduction of horizontal cover, or both, are tracked for 15 years from the decision date for this forest plan decision. See also appendix 4 for more background on this standard*."

Comment: All discussion of management overlays must clearly describe that the most constraining standard or guideline of each overlay controls management actions. Any standard should not include monitoring requirements.

B. Continental Divide National Scenic Trail

Draft Plan: The Draft Plan beginning on page 29 reviews Designated Trails stating, "*Designated trails in the GMUG include congressionally designated trails (Continental Divide National Scenic Trail and Old Spanish National Historic Trail) and administratively designated trails (Crag Crest and Bear Creek National Recreation Trails). To incorporate the resources, qualities, values, associated settings, and primary uses of the GMUG's designated trails, each trail is mapped to include the foreground viewshed (about one-half mile from either side of the trail tread). In the draft forest plan, Designated Trails encompasses a mapped area of approximately 77,600 acres (2.5 percent of the GMUG) that overlie multiple other management areas. The forest plan components listed below identify applicability to the trail itself, up to one-half mile on either side of the trail (the visible foreground), or both…*

Comment: To incorporate CDNST resources, qualities, and values the CDNST management corridor should include an area that emphasizes the foreground viewshed and that provides for a Semi-Primitive Non-Motorized ROS setting for existing and high potential CDNST route segments.

Quote Continues

Desired Conditions

FW-DC-DTRL-01: The Continental Divide National Scenic Trail is a well-defined trail traversing a natural-appearing setting along the Continental Divide. The trail provides for high-quality hiking and horseback riding opportunities, other compatible non-motorized trail activities, as well as motorized vehicle use expressly allowed by administrative regulations at the time of trail designation [16 USC 1246(c)]. Where possible, the trail provides visitors with expansive views of the natural landscapes along the Continental Divide. See also the Forestwide guideline for scenery SCNY-05.

Comment: Desired conditions are the basis for the rest of the plan components; objectives, standards, guidelines, and suitability determinations must be developed to help achieve the desired conditions.

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

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

Programmatic considerations for a highly scenic setting and expansive views should be addressed through forest planning processes to review and establish the location of the CDNST corridor.

The principle desired condition must be to provide for the nature and purposes of the CDNST: CDNST Management Area (MA) or described National Trail Management Corridor (NTMC) provides high-quality scenic, primitive hiking and horseback riding opportunities and conserves natural, historic, and cultural resources along the CDNST corridor (CDNST Comprehensive Plan, Chapter IV.A). Excluding the nature and purposes of the CDNST as a desired condition plan component fails to address the requirement for integrated resource planning and fulfilling the requirements of the National Trails System Act (36 CFR § 219.1(f)).

This concern alone demonstrates that the plan would not fulfil the integration requirements of the National Forest Management Act (16 U.S.C. § 1604(f)(1), 36 CFR § 219.10, FSH 1909.12 parts 23 and 24.43) and the comprehensive planning requirements of the National Trails System Act (16 U.S.C. § 1244(f)).

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

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

Quote Continues

FW-DC-DTRL-02: The Continental Divide National Scenic Trail can be accessed from multiple locations, allowing visitors to select the type of terrain, scenery, and trail length (e.g., ranging from long-distance to day use) that best accommodate their desired outdoor recreation experience(s):

- *Wild and remote backcountry segments provide opportunities for solitude, immersion in natural landscapes, and primitive outdoor recreation.*
- *Easily accessible trail segments complement local community interests and contribute to their sense of place.*

Comment: Local community interests must be compatible with the CDNST nature and purposes. The second bullet statement should be deleted.

Quote Continues

FW-DC-DTRL-03: The Continental Divide National Scenic Trail is well-maintained, signed, and passable.

Objectives

FW-OBJ-DTRL-04: Within 10 years of plan approval, relocate the Continental Divide National Scenic Trail off of roads.

Comment: This objective should be replaced with an objective to accomplish an Optimum Location Review. Otherwise, restate as, "*Within 10 years of plan approval, relocate the Continental Divide National Scenic Trail off of roads that were constructed prior to 1978*."

Quote Continues

Standards

FW-STND-DTRL-05: Energy and mineral materials sites shall not be allowed within the visible foreground, up to one-half mile on either side of the Continental Divide National Scenic Trail.

Comment: The guidance should also state that special use authorizations must not result in a substantial interference to the nature and purposes of the CDNST.

Quote Continues

FW-STND-DTRL-06: New motorized events shall not be permitted on the Continental Divide National Scenic Trail. Existing permitted motorized events may continue.

FW-STND-DTRL-07: Motorized use shall not be allowed on newly constructed segments of the Continental Divide National Scenic Trail.

Comment: FW-STND-DTRL-06 and FW-STND-DTRL-07 *are* inconsistent with the requirements of the National Trail System Act. The appropriate standard is controlled by the direction in the NTSA, CDNST Comprehensive Plan Chapter IV(b)(6), and FSM 2353.44b(11):

"*Motor vehicle use by the general public is prohibited on the CDNST, unless that use is consistent with the applicable land management plan and:*

(1) Is necessary to meet emergencies;

(2) Is necessary to enable adjacent landowners or those with valid outstanding rights to have reasonable access to their lands or rights;

(3) 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 Federal regulations;

(4) 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;

(5) Is designated in accordance with 36 CFR Part 212, Subpart B, on National Forest System lands or is allowed on public lands and:

(a) 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

(b) That segment of the CDNST was constructed as a road prior to November 10, 1978; or

(6) In the case of over-snow vehicles, is allowed in accordance with 36 CFR Part 212, Subpart C, on National Forest System lands or is allowed on public lands and the use will not substantially interfere with the nature and purposes of the CDNST."

Quote Continues

Guidelines

FW-GDL-DTRL-08: If management activities result in short-term impacts to the scenic integrity of the Continental Divide National Scenic Trail, mitigation measures should be included, such as

screening, feathering, and other scenery management techniques to minimize visual impacts within and adjacent to the trail (within visible foreground, up to one-half-mile of either side of the trail at a minimum).

Comment: Management activities must not substantially interfere with the CDNST nature and purposes. To be consistent with the NTSA, forest health and timber harvest projects may only be allowed where the direct, indirect, and cumulative effects of the timber harvests and related activities do not result in the substantial degradation of CDNST qualities and values. The allowance for short-term effects should only be permitted for CDNST resource benefits.

This guideline has several issues including the assumption that unconstrained forest health projects will be allowed to degrade existing scenic integrity for some undefined period. Forest health and timber harvest projects must not substantially interfere with the nature and purposes of the CDNST. The guideline needs to be deleted and replaced with Scenic Integrity Objectives desired conditions and a Scenic Integrity Level guideline or standard.

Quote Continues

FW-GDL-DTRL-09: To promote high-quality scenic, primitive hiking and horseback riding opportunities along the Continental Divide National Scenic Trail, the minimum trail facilities necessary to safely accommodate the amount and types of use anticipated on any given trail segment should be provided.

FW-GDL-DTRL-10: To conserve natural, historic, and cultural resources, the Continental Divide National Scenic Trail should not be used for timber pile landings or as a temporary road for any purpose except where the trail is currently co-located on an open road. Hauling or skidding along a co-located portion of the trail may be allowed only when 1) no other haul route or skid trail options are available, and 2) design criteria are used to minimize impacts to the trail infrastructure.

Comment: This direction should be addressed through establishing appropriate ROS settings through forest planning and recognizing that the ROS allocations for the CDNST corridor are not suitable for timber production.

Mixing pedestrians, equestrians, log trucks, and skidders on roads is a bad and unsafe idea with the probable outcome being that the routes are closed during timber operations. Any timber management actions along the CDNST travel route need to be consistent with SPNM setting constraints and be only allowed when there is a determination that the action will not substantially interfere with the nature and purposes of the CDNST. To provide for a safe user experience, hauling and skidding must not be allowed on existing CDNST travel routes and such direction should be included as a standard or guideline.

The Forest Service relies on ambiguous rights-of-way (16 U.S.C. § 1246(a)(2)) direction in the National Trails System Act as an indicator that the management and protection of National Scenic and Historic Trails is subordinate to common multiple-use programs. This interpretation is inconsistent with the direction in the National Trails System Act. This improper interpretation of the rights-of-way guidance in the NTSA often goes as follows: "*The National Trails System Act at 16 U.S.C. § 1246(a)(2) indicates that management in the vicinity of the CDNST while it traverses management areas that are subject to development or management is acceptable, but should be designed to harmonize with the CDNST as possible. Development and management of each segment of the National Trails System shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land. The wording recognizes multiple uses and seeks to moderate impacts on the trail from resource management to the extent feasible while meeting resource management objectives.*"

Quote Continues

FW-GDL-DTRL-11: To ensure continuous recreational access along the Continental Divide National Scenic Trail, alternate routes should be made available in the case of temporary closures resulting from natural events, such as fire or flood, or land management activities.

Comment: Land management activities must not substantially interfere with the nature and purposes of the CDNST.

Quote Continues

FW-GDL-DTRL-12: To promote natural-appearing settings, unplanned fires in the visible foreground (up to one-half mile) of the Continental Divide National Scenic Trail should be managed using minimum impact suppression tactics or other tactics appropriate for the protection of national scenic trail values. Prescribed fires in the foreground of the Continental Divide National Scenic Trail should be managed to incorporate national scenic trail values. Construction of firelines by heavy equipment should not be allowed within the visible foreground of the Continental Divide National Scenic Trail unless necessary for emergency protection of life and property.

FW-GDL-DTRL-13: To protect the scenic values of the Continental Divide National Scenic Trail, special use authorizations for new communication sites, utilities, and renewable energy sites should not be within the visible foreground of the trail (up to one-half mile either side), and should not be visually dominant within the middleground viewshed of the trail (up to 4 miles either side). Exception: the utility corridor overlay and Monarch Ski Area.

Comment: The guidance should also state that special use authorizations must not result in a substantial interference to the nature and purposes of the CDNST. Monarch Ski Area expansion plans should be subject to a CDNST substantial interference determination.

Quote Continues

FW-GDL-DTRL-14: To maintain the integrity of the Continental Divide National Scenic Trail and the values for which it was designated, new linear utilities and special use authorizations that cross the trail should be avoided. Where unavoidable, these should be limited to a single crossing of the trail per special user authorization. Exception: the utility corridor overlay and Monarch Ski Area.

Comment: Along the CDNST corridor, linear utilities, easements/rights-of-way, and Monarch Ski Area expansion should be addressed through forest planning processes and presented if appropriate as an accepted ROS inconsistency. Developments must not substantially interfere with the nature and purposes of the CDNST.

Quote Continues

FW-GDL-DTRL-15: To promote a natural-appearing setting along the Continental Divide National Scenic Trail, any new temporary or permanent motorized routes (roads and trails) should only be contemplated if new routes are (a) required by law to provide access to private lands, (b) necessary for emergency protection of life and property, or (c) determined to be the only prudent and feasible option. In such circumstances, any project involving construction of a motorized route across or within the Continental Divide National Scenic Trail corridor should be designed in such a manner that minimizes impacts to the scenic, natural, and experiential values of the trail."

Comment: Roads should not be constructed within the CDNST Management Area unless consistent with the nature and purposes of the CDNST. Possibly, this guideline could describe that, "*Roads should not be constructed within the CDNST Management Area, unless allowed by a valid existing right. The purpose of this guideline is to protect the nature and purposes of the CDNST by avoiding the construction of roads*."

Draft Plan: The Draft Plan on page 336 states, "*Removed from working draft: FW-STND-DTRL-06: Existing motorized use may continue on the Continental Divide National Scenic Trail, as long as it does not substantially interfere with the trail's nature and purpose. Justification: staff conversations concluded that the component—having raised early questions amongst reviewing cooperators as to what 'substantial interference' meant— was unduly complicated and an unnecessary component. Existing motorized use will continue on motorized portions of the Continental Divide National Scenic Trail, up until if/when those routes are relocated to be separated from a non-motorized Continental Divide National Scenic Trail portion.*"

Comment: This commitment by the Forest Supervisor to avoid taken actions to protect CDNST qualities and values is inappropriate and shows bias. A substantial interference determination in a programmatic NEPA document is not complicated when using the ROS planning framework and Scenery Management System as envisioned in the Planning Rule and PEIS.

The Draft Forest Plan and the existing Gunnison Travel Plan do not protect the qualities and values of the CDNST, which would result in actions if implemented that perpetually prevent the CDNST from being completed with a protected corridor on the GMUG National Forest.

The CDNST travel route has never been evaluated for motor vehicle use following 36 CFR § 212.55 processes. The Gunnison Ranger District Travel Plan decision, dated June 28, 2010, failed to address the requirements of the 2009 CDNST Comprehensive Plan, FSM 2353.44b(11), and 36 CFR 212 for the CDNST travel route.

The Deputy Regional Forester of Operations, on September 30, 2010, affirmed most of the Gunnison National Forest Travel Plan decision, with two explicit exceptions. One of these exceptions addressed motor vehicle use on the Continental Divide National Scenic Trail: "*The designation decision of the Continental Divide National Scenic Trail (CDNST) is reversed with the following instructions:*

1. *The CDNST is excluded from this decision and will revert to the previous decision related to travel management, which includes motorized travel. This direction is consistent with 36 CFR 212.50 (b), stating "the responsible official may incorporate previous administrative decisions regarding travel management made under other authorities, including designations and prohibitions of motor vehicle use…*[69]*"*
2. *This change is effective immediately and should be reflected on the motor vehicle use map (MVUM).*
3. *The Gunnison National Forest shall analyze the Monarch Crest Trail within a larger context of CDNST management. A subsequent decision on designation of Monarch Crest Trail will be incorporated into travel management pursuant to revision designations in 36 CFR 212.54*."

There may be continuing confusion on whether this decision applies to the entire CDNST on the Forest or if the decision is limited to only the Monarch Crest Trail section of the CDNST. A specific issue is the designation of Trail No. 787 for motor vehicle use, which is a CDNST section that is located east of Spring Creek Pass. This section of the CDNST has traditionally been managed for nonmotorized use as demonstrated in the 1983 Gunnison Basin Area Travel Plan. Implementation of the first instruction by itself would reverse the designation decision and result in managing Trail No. 787 for nonmotorized use subject to any new decision. The third instruction directs that an analysis be completed of the Monarch Crest Trail within a larger

[69] Specific to 36 CFR 212.50 (b), previous travel plans did not address the requirements of the National Trails System Act and as such failed to protect the nature and purposes of the CDNST.

context of the CDNST management. Trail No. 787 is within the larger context of CDNST management and should be considered in subsequent analyses that will address the CDNST planning requirements. The appeal decision instructions should be interpreted so that the motor vehicle use designation decision of the CDNST is reversed and that the first and second instructions apply to the entity of the CDNST travel route that is within the Gunnison National Forest Travel Plan area. The Gunnison Travel Plan did not address the requirements of 36 CFR § 212.55 for the CDNST Travel route.

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

The final plan must address providing for the integrated management of statutorily designated areas. Statutorily designated areas must be managed to achieve the purposes for which they were established. The NTSA establishment and designation of the CDNST provides for the Secretary of Agriculture to manage the CDNST under existing agencies authorities, but subject to the overriding direction of providing for the nature and purposes of this National Scenic Trail. The establishment of the CDNST thus constitutes an overlay on the management regime otherwise applicable to public areas managed by land management agencies. The NTSA and E.O. limits the management discretion the agencies would otherwise have by mandating the delineation and protection of the CDNST corridor. The draft plan fails to act on addressing the requirements of the National Trails System Act to describe the CDNST rights-of-way and approve plan components that protect the nature and purposes of the CDNST. The plan encourages activities and use that if implemented will degrade CDNST qualities and values and substantially interfere with the nature and purposes of this National Scenic Trail which is not allowed by the National Trails System Act.

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

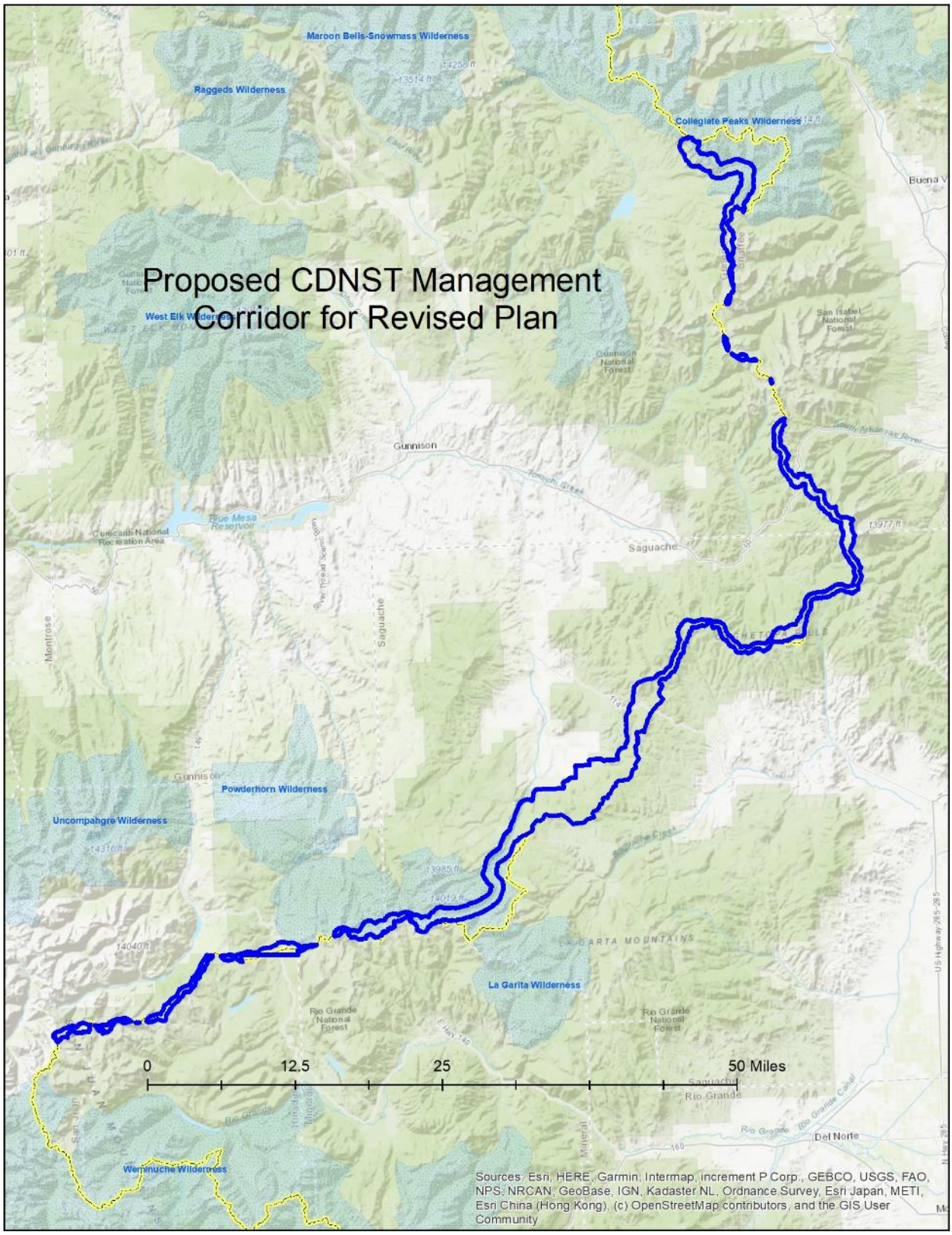
Much of the CDNST direction departs from the CDNST Comprehensive Plan, FSH 2353.44b, and FSH 1909.12 24.43 guidance without providing a reasoned basis or a detailed justification for ignoring these previous findings and direction. The APA ensures that agencies do not change course based on the "*whim and caprice of the bureaucracy*," and prevents agencies from subverting the rule of law by making policy based on shifting "*political winds and currents*."

When reversing a prior policy that "*has engendered serious reliance interests*," the agency must "*provide a more detailed justification than what would suffice for a new policy created on a blank slate*." This requires a "*reasoned explanation… for disregarding the facts and circumstances that underlay or were engendered by the prior policy.*" The Forest Service should take the following actions:

- Reference and follow the direction in the 2009 CDNST Comprehensive Plan.
- ROS setting descriptions need to be consistent with the 1986 ROS Book which was a basis for the recreation direction in the planning rule as informed by the Planning Rule PEIS and FSM 2310 (WO Amendment 2300-90-1 ROS class definitions need to be expanded to add descriptions of Non-Recreation Uses, Evidence of Humans, and Naturalness characteristics.
- The plan must indicate where established ROS classes, Scenic Character, and Scenic Integrity Objectives apply. Forest Plan modifications of where ROS, Scenic Character, and SIO direction applies (including maps) must follow amendment processes and not be addressed as an administrative change.
- Modify the description of "Overlay" by indicating that underlying management direction would be constrained by Continental Divide National Scenic Trail desired conditions, standards, guidelines, and suitability to ensure that actions, such as those actions that may occur in General Forests, do not substantially interfere with the nature and purposes of this National Scenic Trail.
- Recognize that Comprehensive Plans developed in response to the requirements of the National Trails System Act (16 U.S.C. §§ 1244(e), 1244(f)) and the Wild and Scenic Rivers Act (16 U.S.C. § 1274(d)) are not resource plans as defined by the NFMA (16 U.S.C. §1604(i) and 36 CFR §219.15(e)).
- Protect the high potential route segments within the project area of the "Continental Divide National Scenic Trail and The Colorado Trail Reroute Lujan to La Garita Wilderness" 2013 Environmental Assessment.
- Recognize that the 1968 NTSA Section 7(a)(2) statement 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 the specific area in order to insure continued maximum benefits from the land"* simply identified the need for National Scenic Trails and National Recreation Trails to be an integral part of multiple-use plans. Integration requirements were strengthened with the passage of NFMA in 1976. In 1978, Public Law 95-625 established and designated the CDNST. This law also added National Historic Trails to the system and required comprehensive planning for National Scenic and Historic Trails.
- To address the requirements of NFMA Section 6(f)(1) and NTSA Sections 3(a)(2), 5(f) and 7(c), modify the management direction for the CDNST management corridor (as depicted in **Attachment B**) by adding the following plan components and eliminating proposed plan guidance that may conflict with the following direction. [A Google Earth KMZ file of the CDNST Management Corridor is posted online: http://nstrail.org/cdt_planning.htm.]

1. Desired Condition: The CDNST provides for high-quality scenic, primitive hiking and horseback riding opportunities and conserves natural, historic, and cultural resources along the corridor (nature and purposes).[70]
2. Desired Condition: Primitive or Semi-Primitive Non-Motorized ROS setting[71] characteristics are protected or restored.
3. Desired Condition: Scenic Character is Naturally Evolving or Natural-Appearing. Scenic Integrity Objective is Very High or High.[72]
4. Desired Condition: The CDNST management corridor contributes to providing for habitat connectivity for Canada lynx and other wildlife species.
5. Standard: Resource management actions and allowed uses must be compatible with maintaining or restoring Primitive or Semi-Primitive Non-Motorized ROS settings.
6. Guideline: To provide for desired Scenic Character, management actions should 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.
7. Standard: Motor vehicle use by the general public is prohibited unless that use:
    a. Is necessary to meet emergencies;
    b. Is necessary to enable adjacent landowners or those with valid outstanding rights to have reasonable access to their lands or rights;
    c. Is for the purpose of allowing private landowners who have agreed to include their lands in the CDNST by cooperative agreement to use or cross those lands or adjacent lands from time to time in accordance with Forest Service regulations; or
    d. Is on a motor vehicle route that crosses the CDNST, if that use will not substantially interfere with the nature and purposes of the CDNST;
    e. Is designated in accordance with 36 CFR Part 212 Subpart B and:
        i. The vehicle class and width were allowed on that segment of the CDNST prior to November 10, 1978, and the use will not substantially interfere with the nature and purposes of the CDNST or
        ii. That segment of the CDNST was constructed as a road prior to November 10, 1978; or
    f. In the case of over-snow vehicles, is allowed in accordance with 36 CFR Part 212, Subpart C and the use will not substantially interfere with the nature and purposes of the CDNST.[73]
8. Suitability: The CDNST management corridor is not suitable for timber production. Timber harvest is not an objective.
9. Objective: Within 5 years of plan approval, a CDNST unit plan (a project level plan) should be completed.

[70] 16 U.S.C. §§ 1242(a)(2), 1244(f), 1246(c); CDNST Comprehensive Plan Chapter IV.A.; FSM 2353.42 – 74 FR 51124
[71] CDNST Comprehensive Plan Chapter IV.B.5 and FSM 2353.44b – 74 FR 51125; ROS User Guide; ROS Book
[72] CDNST Comprehensive Plan Chapter IV.B.4 and FSM 2353.44b – 74 FR 51124; Landscape Aesthetics Handbook
[73] 16 U.S.C §§ 1244(a)(5), 1246(c); CDNST Comprehensive Plan Chapter IV.B.6 and FSM 2353.44b – 74 FR 51125


Proposed CDNST Management Corridor for Revised Plan
Maroon Bells-Snowmass Wilderness
Raggeds Wilderness
Collegiate Peaks Wilderness
West Elk Wilderness
Gunnison
Blue Mesa Reservoir
Curecanti National Recreation Area
Saguache
Powderhorn Wilderness
Uncompahgre Wilderness
La Garita Wilderness
Rio Grande National Forest
Weminuche Wilderness
Del Norte
0
12.5
25
50 Miles
Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

C. Recreation Opportunity Spectrum

Draft Plan: The Draft Plan beginning page 63 reviews Recreation Opportunity Spectrum allocations. Guideline FW-GDL-REC-16 states*, "To achieve and maintain an array of place-based, desired recreation settings and opportunities across the landscape for the long-term, project-level planning (including the development of new facilities), travel management planning (designation of National Forest System roads, trails, and/or areas for motorized/mechanized use), development of area management plans (including wilderness), and all national forest management decisions and activities (range, timber, vegetation, wildlife, minerals, lands, etc.) should be consistent with the (1) desired recreation opportunity spectrum setting parameters detailed in tables 9-14 and (2) corresponding broad-scale desired summer and winter recreation opportunity spectrum allocations (see table 8 and table 9) and maps. See Recreation Management Approaches section for implementation. See also appendix 1 for maps*…."

Comment: The Plan must include ROS class Desired Conditions that are supported by Standards, Guidelines, and Suitability determinations.

Table 8 describes acreage of summer Recreation Opportunity Spectrum allocations by draft alternative. However, the number displayed do not reflect ROS conditions based on the 1982 ROS User Guide and 1986 ROS Book. Repeated below is the acreage of summer Recreation Opportunity Spectrum allocations by draft alternative (Page 63).

	Alternative A / No Action (acres)	Alternative B / Blended Alternative (acres)	Alternative C / Active Management Emphasis (acres)	Alternative D / Special Area Emphasis (acres)
Primitive	360,000	326,000	335,000	812,000
Semi-primitive non-motorized	1,411,000	1,380,000	1,086,000	936,000
Semi-primitive motorized	772,000	835,000	951,000	680,000
Roaded natural	414,000	417,000	585,000	530,000

Semi-Primitive Non-Motorized and Semi-Primitive ROS settings are not suited for timber production and timber harvest is not an objective in these areas. Hence, there are either extensive areas that need to be reclassified to Roaded Natural/Roaded Modified from Semi-Primitive ROS setting allocations or the estimate of lands suitable for timber production needs to be substantially decreased. A Roaded Modified ROS subclass would distinguish those settings that would be significantly altered by timber production and timber harvest from other roaded natural settings. The following table displays gross estimates of ROS class assignments if the assignments were controlled by timber suitability as proposed in the Draft Plan.

Acreage in Summer ROS classes that reflect timber production suitability overlay (adjusted for timber suitable cells that overlap SPNM and SPM ROS setting allocations)	Alternative B / Blended Alternative (acres)	Alternative D / Special Area Emphasis (acres)
Primitive	326,000	812,000
Semi-primitive non-motorized	977,000	666,000
Semi-primitive motorized	273,000	298,000
Roaded natural/modified	1,382,000	1,182,000

I recommend that the acres of lands suitable for timber production be decreased to reflect the exclusion of Semi-Primitive Non-Motorized and Semi-Primitive Motorized ROS settings. For example, Alternative B may indicate approximately 400,000 acres that are suitable for timber production in a Roaded Modified ROS setting.

ROS setting Tables 10 through 14 use terms that are outdated. The 2012 Planning Rule made the terms "prescription" and "theme" obsolete. Instead, ROS settings should be described using Planning Rule terms of Desired Conditions, Standards, Guidelines, and Suitability.

The revised Forest Plan (and for each EIS alternative) should present the distribution of ROS Desired Conditions similar to Table 22 as found in the proposed 2007 Forest Plan:

Forest Setting	ROS Setting Summer	Grand Mesa	Gunnison Basin	North Fork Valley	San Juans	Uncompahgre Plateau	ROS in Percent
Wilderness[1]	Pristine	0	148,500	50,700	67,900	6,400	9%
	Primitive	0	242,400	64,200	49,000	7,700	12%
	Semi-Primitive	0	26,000	15,200	4,700	22,000	2%
Backcountry settings	SPNM	84,900	146,000	59,200	48,400	86,100	14%
	SPM	31,000	209,500	18,600	32,400	60,400	12%
General Forest Roaded Settings	RN-NM	25,600	40,600	87,800	38,900	34,700	8%
	RN	160,600	455,800	182,600	56,500	352,400	41%,
	RM	6,100	4,700	2,800	2,400	9,200	1%
Rural Setting	R	7,900	11,500	300	2,000	0	1%
Total by Geographic Area[2]		316,100	1,285,000	481,400	302,200	578,900	2,963,600

Draft Plan: The Draft Plan on pages 71 and 72 states, "*Desired recreation opportunity spectrum functions as a framework for (1) meeting the persisting and evolving needs of diverse user groups (FW-DC-REC-01) and, (2) ensuring that recreation is appropriately prioritized and balanced with other national forest resources over time (MA-DC-EMREC-01 and FW-DC-REC-02). Mapped at the national forest-scale, desired recreation opportunity spectrum settings provide desired landscape-level settings to work toward and/or maintain over the life of the forest plan. However, should finer-scale analysis, public feedback, and/or place-based needs lead to a decision that is substantially or irreversibly inconsistent with the Forestwide mapped desired recreation opportunity spectrum setting allocations (e.g., installation of permanent infrastructure such as a non-conforming trail class cutting through the middle of a desired*

recreation opportunity spectrum setting), the following will be done as part of that planning effort: (a) the inconsistency and rationale for deviation is documented, and, if changes are spatial, (b) the desired recreation opportunity spectrum map(s) is/are amended. The responsible official will determine whether the scale of inconsistency is of such magnitude to require a plan amendment or an administrative map change due to mapping alterations."

Comment: ROS class definitions need to be expanded to add descriptions of Non-Recreation Uses, Evidence of Humans, and Naturalness characteristics. ROS setting descriptions need to be consistent with the 1986 ROS Book which was a basis for the recreation direction in the planning rule as informed by the Planning Rule PEIS and FSM 2310 (WO Amendment 2300-90-1).

The plan must indicate where established ROS classes, Scenic Character, and Scenic Integrity Objectives apply. Forest Plan modifications of where ROS, Scenic Character, and SIO direction applies (including maps) must follow amendment processes and not be addressed as an administrative change.

Draft Plan: The Draft Plan on page 75 states, "*Suitability - About 948,200 acres of land in the GMUG National Forests have been identified as suitable for timber production in alternative B of the draft forest plan. Lands are identified as suitable for timber production through the process detailed in appendix 8, which further details the acres identified as suitable for timber production for each of the analyzed alternatives. Even though lands may be identified as suitable for timber production, those lands are not guaranteed to be feasible for harvest. Feasibility is determined at the site-specific, project level with more detailed information. See appendix 8 for more information*."

Comment: Alternative B is described as having 948,200 acres suitable for timber production. However, Semi-Primitive Non-Motorized and Semi-Primitive Motorized ROS settings are not suited for timber production and timber harvest is not an objective in these areas. Lands suitable for timber production should be confined to areas established for Roaded Natural ROS class conditions preferably to a subclass area of a Road Modified ROS setting. Lands suitable for timber production should be approximately 400,000 acres after being constrained by ROS classifications. The Forest Service may wish to consider establishing a Roaded Modified ROS setting in those areas where the intent is to manage the land for timber production. This reclassification should seek public review in a supplemental DEIS.

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

Primitive and Semi-Primitive ROS classes will constrain some actions such as mechanical treatments with heavy equipment and road development if these desired ROS class opportunities are to be available to recreationists seeking these experiences. The recreation opportunity setting since its inception has been composed of other natural features in addition to the six factors. Landform types, vegetation, scenery, water, and wildlife are all important elements of recreation environments; they influence where people go and the kinds of activities possible.

Summary Comment: The Forest Service should take the following actions:

- ROS setting descriptions need to be consistent with the 1986 ROS Book which was a basis for the recreation direction in the planning rule as informed by the Planning Rule PEIS and FSM 2310 (WO Amendment 2300-90-1). ROS class definitions need to be expanded to add descriptions of Non-Recreation Uses, Evidence of Humans, and Naturalness characteristics.
- The plan must indicate where established ROS classes, Scenic Character, and Scenic Integrity Objectives apply. Forest Plan modifications of where ROS, Scenic Character, and SIO direction applies (including maps) must follow amendment processes and not be addressed as an administrative change.
- Modify the description of "Overlay" as described below under Glossary Terms.
- Modify ROS plan components as described below.

Primitive ROS Setting

Primitive ROS Class Desired Conditions

- Setting: The area is essentially an unmodified natural environment. Interaction between users is very low and evidence of other users is minimal.
- Experience: Very high probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance through the application of outdoor skill in an environment that offers a high degree of challenge and risk.
- Evidence of Humans: Evidence of humans would be un-noticed by an observer wandering through the area. Natural ecological processes such as fire, insects, and disease exist. The area may provide for wildlife connectivity across landscapes. Primitive ROS settings contain no motorized and mechanized vehicles and there is little probability of seeing other groups. They provide quiet solitude away from roads and people or other parties, are generally free of human development, and facilitate self-reliance and discovery. Signing, and other infrastructure is minimal and constructed of rustic, native materials. Scenic Integrity Objective is Very High.

Primitive ROS Class Standards and Guidelines

- Standards: Motor vehicles are not allowed unless the use is mandated by Federal law and regulation. Permanent and temporary roads may not be constructed.
- Guidelines: (1) No new permanent buildings should be constructed, since buildings 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.

Primitive ROS Class Suitability of Lands

- 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

Semi-Primitive Non-Motorized ROS Class Desired Conditions

- 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 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 roads may be present, but are managed to not dominate the landscape or detract from the naturalness of the area. Rustic structures such as signs and footbridges are occasionally present to direct use and/or protect the setting's natural and cultural resources. Scenic Integrity Objective is High.

Semi-Primitive Non-Motorized ROS Class Standards and Guidelines

- Standards: (1) Motor vehicle use is not allowed unless the use is mandated by Federal law and regulation; and (2) Permanent and temporary roads may not be constructed.
- 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; (4) Vegetation management may range from prescribed fire to very limited and restricted timber harvest for the purpose of maintaining or restoring a natural setting; and (5) To protect resources, any existing road should be decommissioned, including obliteration and recontouring with natural slopes.

Semi-Primitive Non-Motorized ROS Class Suitability of Lands

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

Semi-Primitive Motorized ROS Setting

Semi-Primitive Motorized ROS Class Desired Conditions

- Setting: The area is predominantly a natural-appearing environment. Concentration of users is low, but there is often evidence of other users.
- Experience: Moderate probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance in an environment that offers a high degree of challenge and risk. Opportunity to have a high degree of interaction with the natural environment. Opportunity to use motorized equipment.
- Evidence of Humans: Natural setting may have moderate alterations, but would not draw the attention of motorized observers on trails and primitive roads within the area. The area provides for motorized recreation opportunities in backcountry settings. Vegetation management does not dominate the landscape or detract from the experience of visitors. Visitors challenge themselves as they explore rugged landscapes. Scenic Integrity Objective is Moderate.

Semi-Primitive Motorized ROS Class Standards and Guidelines

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

Semi-Primitive Motorized ROS Class Suitability of Lands

- Suitability: Lands are not suitable for timber production. Timber harvest is not an objective.

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.

Roaded Modified **ROS setting** is a subclass of Roaded Natural includes areas that exhibit evidence of extensive forest management activities that are dominant on the landscape, including having high road densities, heavily logged areas, highly visible mining, oil and gas, wind energy, or other similar uses and activities. Scenic Integrity Objective is Low. Desired Scenic Character may be described as "Agricultural" expressing dominant human agricultural land uses producing domestic products.

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.

D. Scenery Management

Draft Plan: The Draft Forest Plan beginning on page 72 states, "*FW-GDL-SCNY-05: To maintain scenic character for the scenic byways, travel corridors, trails, and streams that make up the set of concern level 1 travelways, vegetation should be managed within 300 feet of the travelway to retain or enhance the scenic quality of the immediate foreground of the travelway, unless such measures would directly conflict with maintenance standards for such infrastructure (i.e., reduction of hazardous fuels along a power line that immediately bisects the route). See appendix 3 for full list of concern level 1 travelways. FW-GDL-SCNY-06: To maintain scenic character for scenic byways, travel corridors, scenic trails, and streams that comprise the set of*

concern level 1 travelways, the development of large facilities (including, but not limited to, powerlines, gas wells, and power stations) should be avoided within the immediate foreground of the route (300 feet), unless the proposed infrastructure can be fully screened (i.e., with vegetation and topography). Exception: Where concern level 1 travelways intersect the utility corridor overlay or other established rights-of-way."

Comment: These guidelines should be modified to reflect the guidance in Landscape Aesthetics Handbook No. 701 to address foreground, middle-ground, and distant views.

E. Timber Products

Draft Plan: The Draft Forest Plan beginning on page 74 states, *"Desired Conditions – Vegetation management contributes to a variety of desired conditions. See Social and Economic Environment FW-DC-SCEC-01; Key Ecosystem Characteristic FW-DC-ECO-01, 02, and 07; and Fire and Fuels DC FFM-01.*

Suitability – About 948,200 acres of land in the GMUG National Forests have been identified as suitable for timber production in alternative B of the draft forest plan. Lands are identified as suitable for timber production through the process detailed in appendix 8, which further details the acres identified as suitable for timber production for each of the analyzed alternatives. Even though lands may be identified as suitable for timber production, those lands are not guaranteed to be feasible for harvest. Feasibility is determined at the site-specific, project level with more detailed information. See appendix 8 for more information…

FW-STND-TMBR-03: Timber shall not be harvested for the purpose of timber production on lands not suited for timber production (36 CFR 219.11(d)(1)). Timber harvest may occur on these lands as a tool to assist in achieving or maintaining one or more applicable desired conditions or objectives of the plan in order to protect other multiple-use values and for salvage, sanitation, public health, or safety (36 CFR 219.11(c)). Examples of using timber harvest to protect other multiple use values include improving wildlife or fish habitat and thinning to reduce fire risk…."

Comment: Timber production effects are inconsistent with the desired conditions of Primitive, Semi-Primitive Non-Motorize and Semi-Primitive Motorize ROS settings. In addition, timber production is inconsistent with CDNST desired conditions. Roads are inconsistent with the desired conditions of Primitive, Semi-Primitive Non-Motorize and Semi-Primitive Motorize ROS settings. In addition, roads are inconsistent with CDNST desired conditions.[74] Lands suitable for timber production is over estimated with the proposed ROS settings to be established.

[74] 36 CFR § 219.11(a)(1)(i) – Lands not suited for timber production – Statute prohibits timber production on the land and 36 CFR § 219.11(a)(1)(iii) Lands not suited for timber production – Timber production not compatible with desired conditions.

F. National Forest System Trails

Draft Plan: The Draft Forest Plan beginning on page 77 review National Forest System trails.

Comment: Suggest adding a sustainable trail guideline: "*To promote a sustainable trail system, constructed trails must be designed following National Forest System trail development standards, unless constructed within a special use permit area such as a ski area*."

G. National Forest System Roads

Draft Plan: The Draft Forest Plan beginning on page 78 states, "*FW-STND-TSTN-03: All temporary roads shall be closed and rehabilitated within 2 years following completion of the use of the road, which involves re-contouring where significant side slope exists, elimination of ditches and other structures, out-sloping during construction, removal of ruts and berms, removal of culverts or other instream structures and associated fills, effectively blocking the road to normal vehicular traffic where feasible, and construction of drainage features such as cross ditches and water bars…*

FW-STND-TSTN-04: National Forest System roads determined through the National Environmental Policy Act process to be not needed shall be either a) converted to another use, such as a trail, or b) decommissioned within 3 years of the determination…."

Comment: Suggest using the term *decommissioned* instead of *rehabilitated* in FW-STND-TSTN-03. Roads should not be converted to a National Forest System trail unless is documented in a NEPA document that the new trail is priority for the trail system on the forest and that there is reasonable expectation that it will be maintained.

H. Eligible Wild and Scenic Rivers

Draft Plan: The Draft Forest on page 79 states, "***Desired Conditions*** - *FW-DC-WSR-01: Eligible wild river segments are free of impoundments and waters are free flowing. Shorelines are essentially primitive with little or no evidence of human activity, with the exceptions of historical or culturally significant features. The areas are generally inaccessible except by trail for non-motorized travel. Water quality meets or exceeds State standards for aesthetics, for propagation of fish and wildlife adapted to the river habitat, and for human contact.*

FW-DC-WSR-02: Eligible scenic river segments are free of impoundments and waters are free flowing. Shorelines are largely primitive and undeveloped with no substantial evidence of human activity. Roads may occasionally reach or bridge scenic river corridors.

FW-DC-WSR-03: Eligible recreation river segments may have some existing impoundment or diversion features, but waterways remain free flowing and riverine in appearance. Recreation river segments are accessible by road or trail, improvements occur, and encounters with people are expected.

Standards - *FW-STND-WSR-04: Management actions within the river corridors of eligible river segments shall be consistent with management direction contained in FSH 1909.12, chapter 80, section 84, FSM 2354, or other current direction."*

Comment: I recommend adding the following Desired Condition which would contribute to protecting wetlands and supplement the RMGD plan components by referring to Proper Functioning Condition.

Desired Condition – "*Stream ecosystems, riparian zones, and associated stream courses are functioning properly and resilient to natural disturbances and climate change.*"

Reference: USDI BLM; USDA FS; USDA NRCS (USDI Bureau of Land Management, USDA Forest Service, USDA National Resource Conservation Service). 1998. Riparian area management: A user guide to assessing proper functioning condition and the supporting science for lotic areas, TR 1737-15. Denver, CO.

Standard – "*Eligible Wild and Scenic Rivers are managed to protect outstandingly remarkable values.*"

I. Management Area Establishment

Draft Plan: The Draft Forest on page 80 states, "*The GMUG National Forests contain several areas that require additional or different direction and plan components. These areas are identified as management areas. A management area represents a management emphasis for an area or several similar areas on the landscape. Some management areas have been designated by Congress, such as designated wilderness; other areas are identified by this forest plan. Plan components for a management area may differ from Forestwide guidance by:*

- *Constraining an activity where Forestwide direction does not,*
- *Constraining an activity to a greater degree than Forestwide direction, or*
- *Providing for an exception to Forestwide direction, when Forestwide direction would otherwise conflict with the management emphasis of the management area.*
- *All Forestwide plan components are otherwise applied to management areas.*

The distribution of management areas in the draft forest plan is identified in table 17. See appendix 1 to find the location of associated maps.

Management areas are proposed for Wilderness, Special Areas and Designations, Research National Areas, Fossil Ridge Special Recreation Area, Colorado Roadless Areas, Wildlife Management Area, Special Management Area, Mountain Resorts, Recreation Emphasis Corridors, and General Forest (i.e., Forestwide direction)." [National Scenic and Historic Trails are not included.]

Comment: The CDNST management corridor is said to be equivalent to a Management Area. To avoid plan implementation confusion the revise plan should describe a CDNST Management Area. This would be consistent with FSM 2353.44b.

J. Recommended Wilderness

Draft Plan: The Draft Plan on page 90 states, "*This section applies to recommended wilderness, if any areas result from step four of the wilderness process (FSH 1909.12 chapter 70). Should any recommended wilderness areas ultimately be designated by Congress as wilderness during the implementation period of this forest plan, Management Area 1.2 (RECWLD) would become moot for those areas. Management direction for those areas would be provided in Management Area 1.1 (WLDN) of this plan, and any other parameters set forth in legislation designating recommended areas as wilderness.*"

Comment: The analysis step should address the conservation benefits of overlapping Wilderness, Wild and Scenic River, and National Scenic Trail designations. Each congressional designation offers protections that the other does not. Overlapping designations 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 the CDNST. Where National Trail corridors, Wilderness Areas, and/or Wild and Scenic Rivers overlap the most restrictive management measures would control. Protecting wilderness values would include, in part, establishing plan components that identifies recommended wilderness as not being suitable for motor vehicle use and mechanized transport.

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).

The Continental Divide National Scenic Trail potential rights-of-way/management corridor is found within the following roadless areas: Texas Creek #167, Sanford Basin #170, Mirror Basin #169, Agate Creek #173, Cochetopa Hills #165, Cochetopa #141/#143, Carson #73, and Cataract #62. Recommending these areas for wilderness designation and managing the areas to protect wilderness characteristics would contribute to the conservation purposes of the CDNST.

Plan components applicable to a recommended area must protect and maintain the social and ecological characteristics that provide the basis for wilderness recommendation and should include the following plan components:

> ***Desired Condition****: Areas recommended for wilderness retain their wilderness characteristics until their designation as wilderness or other use determined by Congress.*
>
> ***Desired Condition****: Enhance the ecological and social characteristics that provide the basis for wilderness designations.*
>
> ***Standard****: 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.*

K. Wildlife Management Area

Draft Plan: The Draft Plan on page 93 states, "*Desired Conditions - MA-DC-WLDF-01: Large blocks of diverse habitat are relatively undisturbed by routes, providing security for the life history, distribution, and movement of many species, including big-game species. Habitat connectivity is maintained or improved as fragmentation by routes is reduced. See also the Forestwide objective for native species diversity SPEC-03.*

Standards *- MA-STND-WLDF-02: To maintain habitat function and provide security habitat for wildlife species by minimizing impacts associated with roads and trails, there shall be no net gain in system routes, both motorized and non-motorized, where the system route density already exceeds 1 linear mile per square mile, within a wildlife management area boundary. Additions of new system routes within wildlife management areas shall not cause the route density in a proposed project's zone of influence to exceed 1 linear mile per square mile. Within the Flattop Wildlife Management Areas in the Gunnison Ranger District, there shall be no new routes. Exception: this does not apply to administrative routes (see appendix 12, Footnotes Regarding Best Available Scientific Information for further detail).*

Objectives - MA-OBJ-WLDF-03: Within 5 years of plan approval, identify potential area-specific management actions for each wildlife management area to improve habitat connectivity with respect to existing route densities and to achieve desired ecological conditions for constituent ecosystems. Within 10 years of plan approval, complete one action in each wildlife management area."

Comment: Approximately seventy percent of the Wildlife Management Areas are identified as being suitable for timber production, which is inconsistent with the Desired Condition for this Management Area. Vegetation management in these areas should be for resource benefit.

A plan component should be added stating, "*Lands are not suitable for timber production. Timber harvest is not an objective*."

L. References Cited

Draft Plan: The Draft Plan on page 123 cites references.

Comment: The following references should be cited in the Forest Plan in the appropriate selections and listed as references:[75]

- USDA Forest Service. 2020. Chapter 2350 – Trail, River, and Similar Recreation Opportunities. (WO Amendment 2300-2020-1)
- Visitor Perceptions of Bark Beetle Impacted Forests in Rocky Mountain National Park, Colorado by Christa Cooper Sumner, and Jeffrey A. Lockwood. 2020.
- USDA Forest Service. 2013. "Continental Divide National Scenic Trail and The Colorado Trail Reroute Lujan to La Garita Wilderness" 2013 Environmental Assessment.
- USDA Forest Service. 1990. Chapter 2310 of Forest Service Manual 2300 – Planning and Data Management. (WO Amendment 2300-90-1)
- USDA Forest Service. 1986. ROS Book 1986.
- USDA Forest Service. 1986. Recreation Opportunity Setting as a Management Tool Technical Guide by George Stankey, Greg Warren, and Warren Bacon. Pacific Northwest Region.
- Visitor Preferences for Visual Changes in Bark Beetle-Impacted Forest Recreation Settings in the United States and Germany by Arne Arnberger and others. 2017
- The forgotten stage of forest succession: Early-successional ecosystems on forest sites by Mark E Swanson and others. 2010.
- An Assessment of Frameworks Useful for Public Land Recreation Planning by McCool, Clark, and Stankey, General Technical Report PNW-GTR-705. 2007.
- The Recreation Opportunity Spectrum: A Framework for Planning, Management, and Research, General Technical Report PNW-98 by Roger Clark and George Stankey. 1979.

M. Glossary Terms

Draft Plan: The Draft Plan on page 153 states, "*Overlay -Overlays are mapped and represent areas with more specific emphases and direction. These include scenic integrity objectives, desired recreation opportunity spectrum settings; designated trails; scenic byways; eligible wild and scenic river segments; and utility corridors. The direction for these areas builds on Forestwide and any underlying management area direction. An example of this is the designated trails overlay, which includes the Continental Divide National Scenic Trail. While Continental Divide National Scenic Trail direction would apply along the entirety of the trail in the GMUG, how the corridor is managed would be impacted by the underlying management*

[75] These articles can be found online at http://nstrail.org/references.htm.

area direction, which adjusts as this trail traverses through several management areas, including Designated Wilderness (1.1), Colorado Roadless Areas (3.1), Mountain Resorts (4.1), and General Forest (5)."

Comment: Modify the glossary description of "Overlay" by stating that, "*Overlays are mapped and represent areas with more specific emphases and direction. These include scenic integrity objectives, desired recreation opportunity spectrum settings; designated trails; scenic byways; eligible wild and scenic river segments; and utility corridors. ~~The direction for these areas builds on Forestwide and any underlying management area direction~~. An example of this is the designated trails overlay, which includes the Continental Divide National Scenic Trail. While Continental Divide National Scenic Trail direction would apply along the entirety of the trail in the GMUG, how the corridor is managed ~~would~~ [may] be impacted by the underlying management area direction, which adjusts as this trail traverses through several management areas, including Designated Wilderness (1.1), Colorado Roadless Areas (3.1), Mountain Resorts (4.1), and General Forest (5). [Insert:] Conversely, the underlying management direction may be constrained by the standards, guidelines, and suitability for the Continental Divide National Scenic Trail. The most constraining standards, guidelines, and suitability determinations control when there are overlapping plan components*."

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

Draft Plan: The Draft Plan on pages 156 and 157 states, "*Recreation opportunity spectrum also known as recreation setting. Allocations that identify a variety of recreation experience opportunities categorized into six classes on a scale from primitive to urban. Each class is defined in terms of the degree to which it satisfies certain recreation experience needs, based on the extent to which the natural environment has been modified, the type of facilities provided, the degree of outdoor skills needed to enjoy the area, and the relative density of recreation use. The six classes are:*

- *Primitive – Very high probability of experiencing solitude, self-reliance, and challenge; natural landscape with natural processes allowed to function; very low interaction between users; restrictions and controls not evident; access limited; generally cross-country travel.*
- *Semi-primitive non-motorized – Good probability of experiencing solitude, self-reliance, and challenges; natural primitive landscapes; some evidence of users; minimum subtle*

controls; access by low standard trails and cross-country travel; natural processes allowed to function with subtle vegetative alterations. Managed for non-motorized use.

- *Semi-primitive motorized – Moderate probability for self-reliance and experiencing solitude away from travelways (roads/trails); risk associated with motorized equipment; predominantly natural landscapes; low concentration of users and interaction by users long travelways; minimum but subtle restrictions; vegetative alterations visually blend with the landscape. Existing routes are designated for off highway vehicles and other high clearance vehicles. Mountain bikes and other mechanized equipment are present.*
- *Roaded natural – Low opportunity to avoid other users; little opportunity for risk or challenge; substantial modified landscapes; moderate evidence and interaction of users; controls and restrictions present; variety of motorized users and access; various shapes and sizes of vegetative alterations that blend with the landscape. The road system is well defined and can accommodate sedan travel.*
- *Rural – Good opportunity to affiliate with others; facilities important; self-reliance of little importance; altered landscapes but attractive; high interaction among users; obvious and prevalent controls; extensive motorized use; vegetation maintained. Rural settings represent most developed recreation sites.*
- *Urban – Opportunity to affiliate with others important; outdoor skills associated with competitive events; landscapes extensively changed with dominant structures; large numbers of user interactions; intensive controls are numerous; motorized use prevalent, including mass transit; vegetation planted and maintained. Highly developed ski areas and resorts are examples of a typical urban setting on National Forest System lands*."

Comment: ROS characterizations are incomplete. Recreation Opportunity Spectrum Classes. ROS class desired conditions must be compatible with the 1986 ROS Book descriptions. The definitions in Draft Plan and DEIS should be modified:

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

- Semi-Primitive Motorized ROS Class Desired Conditions. Setting: The area is predominantly a natural-appearing environment. Concentration of users is low, but there is often evidence of other users. Experience: Moderate probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance in an environment that offers a high degree of challenge and risk. Opportunity to have a high degree of interaction with the natural environment. Opportunity to use motorized equipment. Evidence of Humans: Natural setting may have moderate alterations, but would not draw the attention of motorized observers on trails and primitive roads within the area. The area provides for motorized recreation opportunities in backcountry settings. Vegetation management does not dominate the landscape or detract from the experience of visitors. Visitors challenge themselves as they explore rugged landscapes.
- Roaded Natural ROS Class Desired Conditions. Setting: The area is predominantly natural-appearing environments with moderate evidences of the sights and sounds of human activities. Such evidences usually harmonize with the natural environment. Interaction between users may be low to moderate, but with evidence of other users prevalent. Resource modification and utilization practices evident, but harmonize with the natural environment. Conventional motorized use is provided for in construction standards and design of facilities. Experience: About equal probability to experience affiliation with other user groups and for isolation from sights and sound of humans. Opportunity to have a high degree of interaction with the natural environment. Challenge and risk opportunities associated with a more primitive type of recreation are not very important. Practice and testing of outdoor skills might be important. Opportunities for both motorized and non-motorized forms of recreation are possible. Evidence of Humans: Natural settings may have modifications, which range from being easily noticed to strongly dominant to observers within the area. However, from sensitive travel routes and use areas these alternations would remain unnoticed or visually subordinate. The landscape is generally natural with modifications moderately evident. Concentration of users is low to moderate, but facilities for group activities may be present. Challenge and risk opportunities are generally not important in this class. Opportunities for both motorized and non-motorized activities are present. Construction standards and facility design incorporate conventional motorized uses. The Roaded Modified subclass includes areas that exhibit evidence of extensive forest

management activities that are dominant on the landscape, including having high road densities, heavily logged areas, highly visible mining, oil and gas, wind energy, or other similar uses and activities. Scenic Integrity Objective is Low.

- Rural ROS Class Desired Conditions. Setting: Area is characterized by substantially modified natural environment. Resource modification and utilization practices are to enhance specific recreation activities and to maintain vegetative cover and soil. Sights and sounds of humans are readily evident, and the interaction between users is often moderate to high. A considerable number of facilities are designed for use by many people. Facilities are often provided for special activities. Moderate densities are provided far away from developed sites. Facilities for intensified motorized use and parking are available. Experience: Probability for experiencing affiliation with individuals and groups is prevalent as is the convenience of sites and opportunities. These factors are generally more important than the setting of the physical environment. Opportunities for wildland challenges, risk-taking, and testing of outdoor skills are generally unimportant except for specific activities like downhill skiing, for which challenge and risk-taking are important elements. Evidence of Humans: Natural setting is culturally modified to the point that it is dominant to the sensitive travel route observer. May include intensively managed wildland resource landscapes. Pedestrian or other slow-moving observers are constantly within view of the culturally changed landscape.

N. Scenic Integrity Descriptions and Scenic Travelways

Draft Plan: The Draft Forest Plan beginning on page 187 states, "*Scenic integrity objectives for some management areas and overlays vary:*

- *Wildlife management area – Scenic integrity objectives vary from high to low depending on underlying area (i.e., Colorado roadless area) and other factors (i.e., concern level routes and distance zones, etc.).*
- *Recreation emphasis corridors – Scenic integrity objectives vary from high to low depending on underlying area (i.e., Colorado roadless area) and other factors (i.e., concern level routes and distance zones, etc.).*
- *General forest – Scenic integrity objectives vary from high to low depending on underlying area (i.e., recreation opportunity spectrum setting) or other factors (i.e., concern level routes and distance zones, etc.) and other factors.*
- *Desired recreation opportunity spectrum setting – The scenic integrity objectives are proposed to vary depending on the recreation opportunity spectrum setting and the draft alternative:*
  - *Alternative B: Semi-primitive non-motorized is only moderate, high, or very high scenic integrity objective (only low where coincident with the utility corridor overlay)*
  - *Alternative C: Semi-primitive non-motorized and semi-primitive motorized vary from low to high scenic integrity objective.*
  - *Alternative D: Semi-primitive non-motorized is only high or very high scenic integrity objective. Semi-primitive motorized is moderate, high, or very high scenic integrity objective (only low where coincident with the utility corridor overlay)."*

Comment: The direction should also reflect that timber production is not consistent with the desired conditions for Semi-Primitive Non-Motorized and Semi-Primitive Motorized ROS settings. Scenic integrity objectives for the CDNST travel route are Very High or High. Scenic integrity objectives should be consistent with the comparison table in the Landscape Aesthetics – A Handbook for Scenery Management (Agriculture Handbook No. 701, Appendix F-3).

O. Timber Suitability Analysis

Draft Plan: The Draft Plan beginning on page 226 states, "*Lands identified as suitable for timber production have a regularly scheduled timber harvest program that contributes to Forestwide desired conditions and multiple use goals, such as providing mosaics of habitats for wildlife species, managing fuels, and contributing to the economic sustainability of local communities…*

*Alternative D - The land suited for timber production under alternative D was defined using the criteria below. Starting with the may be suitable timber areas, the following areas were removed because timber production is not compatible with the desired conditions and objectives for these areas: Wilderness to be analyzed/recommended wilderness, Special interest areas, Research natural areas, Eligible wild, scenic, and recreational rivers (using wild and scenic river overlay), Mountain resort areas (Management Area 4.1) Designated trails (**using designated trails overlay**), Recreation emphasis corridors, Scenic byways, Special management areas, slopes greater than 40 percent."*

Comment: The rule provides overall direction for how plans are developed, revised, and amended. Section 219.11(a)(1)(i) "Statute, Executive order, or regulation prohibits timber production on the land." The National Trails System Act prohibits actions that substantially interfere with the nature and purposes of a National Scenic or Historic Trail. Section 219.11(a)(1)(iii) requires that where timber production would not be compatible with desired conditions and objectives established by the plan, including those established in accordance with the requirements for suitability (§ 219.8), diversity (§ 219.9), and multiple use (§ 219.10), the responsible official shall identify such lands as not suitable for timber production.

Timber production effects are incompatible with achieving National Trails System Act objectives and the CDNST nature and purposes desired conditions. Furthermore, timber production is inconsistent with Semi-Primitive Non-Motorized and Semi-Primitive Motorized ROS setting desired conditions. These areas are characterized by a predominantly natural or natural-appearing environment of moderate-to-large size. Natural setting may have subtle modifications that would be noticed, but not draw the attention of an observer wandering through the area (SPNM). Natural setting may have moderately dominant alterations, but would not draw the attention of motorized observers on trails and primitive roads within the area (SPM).

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 settings, 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, timber harvest should not be an objective, and harvest quantity projections must not be included in projected wood sale quantity and projected timber sale quantity calculations.

The purpose of timber production is the purposeful growing, tending, harvesting, and regeneration of regulated crops of trees to be cut into logs, bolts, or other round sections for industrial or consumer use, which is in stark contrast and clearly incompatible with protecting the purposes for which National Scenic Trails are established. The CDNST rights-of-way/ management corridor is not suitable for timber production (36 CFR § 219.11(a)(1)(i) and (iii)).

Managing the CDNST corridor for Roaded Natural/Modified and Semi-Primitive Motorized ROS settings (as well as for timber production) would lead to management actions that substantially interfere with the nature and purposes of the CDNST. In areas of timber production, the spread of non-native vegetation (e.g., noxious weeds) and reoccurring harvests for timber purposes, stand tending, road construction and reconstruction, CDNST travel route closures, and other development activities are incompatible with desired ROS settings and Scenic Integrity Objectives. The lasting effects of timber production activities (roads, timber harvest) as well as short-term effects (logging trucks, noise) degrade CDNST recreation, scenic, historic, natural, and cultural qualities.

P. Regional Forester's List of Species of Conservation Concern

Draft Plan: The Draft Plan beginning on page 260 reviews Rocky Mountain Bighorn Sheep.

1. "*Threats that are known to operate on the GMUG include genetic isolation due to barriers to movement, disease, predation, recreation and climate-change related drought that impacts their low-elevation water sources. Disease risk is related to contact with domestic sheep on and off the GMUG.*
2. *Historically, over approximately the last 200 years, the population dramatically declined. However, the total population on the GMUG has increased 20 percent since 2002 due to intensive restoration efforts by Colorado Parks and Wildlife. Recreation pressure is likely resulting in a declining habitat trend.*
3. *The population on the GMUG is in the middle of the sub-species' geographic range of the as a whole and thus does not represent a restricted range.*
4. *There is no restricted ecological condition or low population number*."

Comment: The Rocky Mountain Bighorn Sheep should be identified as a Species of Conservation Concern, which would be consistent with the Rio Grande National Forest decision. Some domestic sheep allotments on the Forest are in and near occupied range and suitable range of Rocky Mountain bighorn sheep. There is a potential risk of contact occurring between domestic sheep and Rocky Mountain bighorn sheep. Research shows that contact between bighorn sheep and domestic sheep and goats can lead to transmission of respiratory disease and pneumonia in bighorn sheep, which could potentially affect the ability of bighorn sheep populations to persist over time. To promote healthy populations of bighorn sheep that persist over time, domestic sheep stocking and distribution should be managed to minimize risk of contact with Rocky Mountain bighorn sheep.

The complexities, disease history, and mechanisms or causal agents leading to epizootic disease events are still not fully understood in the wild. The best available science suggests that maintaining spatial or temporal separation of the species is a prudent step when the management objective is to maintain bighorn sheep populations. The GMUG National Forest should minimize bighorn and domestic sheep interactions. Every effort should be made to reduce the risk of contact with domestic sheep.

Q. Eligible Wild and Scenic River Segments – Cochetopa Creek

Draft Plan: The Draft Plan beginning on page 301 lists eligible Wild and Scenic Rivers. I recommend that a 12-mile stretch of Cochetopa Creek be identified as an eligible Wild and Scenic River. Total eligible area is 4,000 acres on the Gunnison Ranger District. Outstandingly Remarkable Values are Fish and Wildlife (Ecological and Botanical Values). Preliminary Classification is Wild in Wilderness and Scenic outside. This segment of Cochetopa Creek is meandering through wetlands that provide a high level of habitat diversity. The river provides uniquely diverse or high-quality habitat for fish and wildlife species indigenous to the region.

Section V. Comprehensive Planning Relationship to NEPA

The Council on Environmental Quality (CEQ) issued guidance in 2014 on effective use of programmatic National Environmental Policy Act (NEPA) reviews. The guidance provided CEQ's interpretation of existing regulations promulgated under NEPA, but did not change agency obligations regarding NEPA and the CEQ Regulations. The guidance is not a rule or regulation, and the recommendations it contains may not apply to a situation based upon the individual facts and circumstances. This guidance does not change or substitute for any law, regulation, or any other legally binding requirement and is not legally enforceable.

CEQ states that, "*NEPA requires Federal agencies to consider the effects of a proposed action and any reasonable alternatives on the human environment. Those effects include, among others, impacts on social, cultural, economic, and natural resources. To implement NEPA,*

agencies undertake an assessment of the environmental effects of their proposed actions prior to making decisions. The NEPA review process is an integral and valuable tool for public engagement and thoughtful decisionmaking, a process that often produces more sound analysis and information that the federal government might otherwise overlook…

A well-crafted programmatic NEPA review provides the basis for decisions to approve such broad or high-level decisions such as identifying geographically bounded areas within which future proposed activities can be taken or identifying broad mitigation and conservation measures that can be applied to subsequent tiered reviews. Effective programmatic NEPA should present document reviewers with the agency's anticipated timing and sequence of decisions, which decisions are supported by the programmatic NEPA document and which decisions are deferred for some later time, and the time-frame or triggers for a tiered NEPA review… A programmatic NEPA review can also be an effective means to narrow the consideration of alternatives and impact discussions in a subsequent tiered NEPA review. For example, a land management plan PEIS for "zoning" certain uses can narrow future alternatives to specific uses…

A programmatic NEPA review may be appropriate when the action being considered is subject to NEPA requirements and falls into one of the four major categories of actions to which NEPA can apply (40 CFR § 1508.18(b)): … Decision to adopt formal plans, such as documents that guide or constrain alternative uses of Federal resources, upon which future agency actions will be based. For example, setting priorities, options, and measures for future resource allocation according to resource suitability and availability."

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

CEQ further states, "*Agencies should carefully consider, as early as practicable, the benefits of making the initial broad decisions and the amount of effort required to perform a programmatic NEPA review to ensure that it facilitates decision-making and merits the investment of time and effort…*

Purpose and Need: The purpose and need for a PEA or a PEIS should be written to avoid eliminating reasonable alternatives and focused enough for the agency to conduct a rational analysis of the impacts and allow for the public to provide meaningful comment on the programmatic proposal. The purpose and need sets the tone for the scoping process and the course for conducting the NEPA review…

Scope of Analysis: The scope consists of the range of actions, the alternatives, and the associated impacts to be considered in a NEPA review. A programmatic NEPA review, like project- or site-specific NEPA reviews, must address the potentially significant environmental impacts of a proposed Federal action. Consequently, the nature of the pending decision drives the scope of the environmental analyses and documentation. A programmatic document should not narrow or otherwise restrict decision(s) that will be addressed in subsequent NEPA review(s)…

Alternatives: Alternatives in a programmatic NEPA review are expected to reflect the level of the Federal action being proposed and the standard NEPA requirements for alternatives apply. In situations where there is an existing program, plan, or policy, CEQ expects that the no-action alternative in an EIS would typically be the continuation of the present course of action until a new program, plan, or policy is developed and decided upon…

Impacts: All NEPA reviews are concerned with three types of reasonably foreseeable impacts: direct, indirect, and cumulative. The contrast between a programmatic and a project- or site-specific NEPA review is most strongly reflected in how these environmental impacts are analyzed. Because impacts in a programmatic NEPA review typically concern environmental effects over a large geographic and/or time horizon, the depth and detail in programmatic analyses will reflect the major broad and general impacts that might result from making broad programmatic decisions. Programmatic NEPA reviews address the broad environmental consequences relevant at the programmatic level…."

NEPA related geographic areas for land and resource management plans include a National Forest as a whole, Geographic Areas, Management Areas, and the extent of designated areas such as Wild and Scenic River and National Scenic and Historic Trails corridors. BLM Resource Management Plans geographic boundary areas include the BLM Field Office and Special Designations. Programmatic NEPA reviews must be performed at the scale of each of the NEPA defined geographic areas. For designated areas, the extent of the boundaries of each area would control assessment of direct and indirect effects.

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

For each NEPA defined geographic area, NEPA reviews should describe the desired conditions for each area and how related standards and guidelines (aka thresholds) would constrain

actions and prevent degradation. The BLM has similar planning requirements for the NEPA defined geographic areas, including identifying objectives, resource determinations, and management actions.

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

Agencies should recognize the need for robust scientific and technical analyses. Agencies should establish NEPA documents that effectively address issues that are summarized by Feldman and Nichols of Holland and Hart.[76]

"*Litigation arguments regarding or even conclusory judicial statements about "deference" to an agency's NEPA decision making on scientific or technical issues oversimplify the complex balancing and inquiries which courts are directed to undertake in reviewing both the process and substantive issues inherent in evaluating agency use of scientific and technical information under NEPA. A reviewing court at best must struggle to comprehend the agencies' assessments and conclusions regarding environmental effects and to judge their compliance with NEPA in light of the rule of reason, hard look, and arbitrary or capricious formulations of the standard of review.*

Where agency NEPA documents are unartfully drawn, incomplete, or otherwise lacking in clarity and comprehensibility, a reviewing court may have little choice but to delve more deeply into the substantive subject matter underlying agency conclusions in an attempt to discern whether, or to what degree, the agency has failed to meet those standards. At the least, less clearly drafted and supported NEPA documents will offer an invitation to conscientious judges to venture into the realm of agency expertise in an effort diligently to review agency action and ensure the agency's implementation of NEPA's twin goals of informed decision making and informed public disclosure.

As the law of NEPA continues to evolve, and agency reliance upon more complex and technical scientific methodologies and information in natural resource management and decision making continues to grow, federal agencies, NEPA practitioners, and stakeholders must recognize and adapt to the shifting standards for scientific information and analysis under NEPA.

[76] Murray D. Feldman & Kristin A. Nichols, "NEPA's Scientific and Information Standards— Taking the Harder Look," National Environmental Policy Act 6-1 (Rocky Mt. Min. L. Fdn. 2017).

In particular, those charged with the development and use of NEPA documents need to ensure that the use of scientific information and analyses in NEPA documentation is clear, transparent, and understandable to both the lay public and the lay judiciary. Accomplishing this requires careful attention to:

1. *Using the most up-to-date information available;*
2. *Identifying limitations in models, methodologies, and information and disclosing them in the National Environmental Policy Act document;*
3. *Where multiple and conflicting data sets, models, or other methodologies for impact assessment exists, comparing and contrasting their strengths and weaknesses, and explaining in the National Environmental Policy Act document the basis for selecting one data set or methodology over another, or for considering multiple methods and data sets in the analysis;*
4. *Documenting the source and basis for key assumptions, standards, and data used in the National Environmental Policy Act document;*
5. *Erring on the side of transparency and, in the language of one early NEPA case, ensuring that stubborn problems are not "otherwise swept . . . under the rug";*
6. *Considering and addressing responsible opposing scientific views; and*
7. *Where data gaps exist, either filling the gaps or explaining why doing so would be too costly or infeasible.*

These and related efforts will produce improved environmental analyses and NEPA documents, and ultimately better agency decisions, thus meeting the underlying goals of the National Environmental Policy Act process. Greater awareness of the types of impact assessment and scientific issues being encountered by the agencies and reviewed by the courts can guide NEPA practitioners, agencies, and stakeholders in meeting NEPA's requirements for high-quality information and accurate scientific analysis."

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.[77] 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

[77] 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).

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, 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 considered 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).

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

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. 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.

Comprehensive Plan requirements (16 U.S.C. §§ 1244(e), 1244(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), section of this paper. 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, selecting the rights-of-way, and in general establishing management direction that provides for the nature and purposes qualities and values of this National Scenic Trail.

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), 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 qualities and 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 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" (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 U.S. Forest Service described 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).

The Forest Service in response to Land Management Plan proposed directives comments on pages 22 and 47 states, "*FSH 1909.12, chapter 10, section 13.4 has been modified to indicate that the interdisciplinary team shall identify and evaluate available information about recreational settings and opportunities, including seasonal variation, using the recreation opportunity spectrum (ROS). An update of ROS information is not required during the assessment, though additional information not included in ROS may also be identified and included in the assessment process. 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 (36 CFR 219.19). The desired ROS class is not required to be the same as the existing ROS class.*

FSH 1909.12, chapter 20, section 23.23 states that 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. The interdisciplinary team may also create desired recreation opportunity spectrum classes to reflect seasonal variations. Desired winter recreation opportunity spectrum classes can be developed to depict changes in the location, mix and distribution of setting opportunities (both motorized and nonmotorized)."

"*The Agency substantially changed the section on sustainable recreation (FSH 1909.12, ch. 20, sec. 23.23a) to emphasize that the plan will include desired conditions for sustainable recreation using mapped desired recreation opportunity spectrum classes to address recreational settings. This mapping may be based on management areas, geographic areas, designated areas,*

independent overlay mapping, or any combination of these approaches. Desired recreation opportunity spectrum classes may be different from existing classes. Additional plan components, including standards and guidelines, to supplement and complement desired recreation opportunity spectrum classes may be developed as needed. The directives make clear that plan components for recreational trails are to be based on the desired condition for recreational settings and opportunities."

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 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 National Trail 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 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 analyses.

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 represent 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.[78] However, an agency may only take actions that are within the agency's legal authority (40 CFR § 1508.15). Clarifying early in the process who is responsible for achieving desired conditions will help to establish the key authorities or participation by others needed to achieve the overall desired conditions.

Healthy Forests Restoration Act and Agricultural Act of 2014

Hazardous Fuel Reduction on Federal Land, Section 102 (16 U.S.C. 6512), Authorized Hazardous Fuel Reduction Projects … *"(b) Relation to agency plans—An authorized hazardous fuel reduction project shall be conducted consistent with the resource management plan and other relevant administrative policies or decisions applicable to the Federal land covered by the project… (d) Exclusion of Certain Federal Land.—The Secretary may not conduct an authorized hazardous fuel reduction project that would occur on—(2) Federal land on which the removal of vegetation is prohibited or restricted by Act of Congress or Presidential proclamation (including the applicable implementation plan)*."

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. The National Trails System Act 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… To the extent practicable, efforts be made to avoid activities incompatible with the purposes for which such trails were established*."

[78] *See* CEQ 40 Questions

The CDNST Comprehensive Plan states, "*The primary policy is to administer the CDNST consistent with the nature and purposes for which this National Scenic Trail was established. The nature and purposes of the CDNST are to provide for high-quality scenic, primitive hiking and horseback riding opportunities and to conserve natural, historic, and cultural resources along the CDNST corridor… The rights-of-way for the trails will be of sufficient width to protect natural, scenic, cultural, and historic features along the trails and to provide needed public use facilities. Use the Recreation Opportunity Spectrum (ROS) system in delineating and integrating recreation opportunities in managing the CDNST… The CDNST is a concern level 1 travel route, and the scenic integrity objective is to be high or very high*…."

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 602(c)(3) designations do not change or exempt the Forest Service from complying with any other existing law, regulation and policy.

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.

Section 605(c) Limitations part (4) states, "*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— b. 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]*.

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. 1604) for the unit of the National Forest System containing the projects and activities.

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

implementing regulations direct agencies to "*rigorously explore and objectively evaluate all reasonable alternatives"* (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)(1)(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 them being 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 the environmental effects of the various alternatives.

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 character, 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 qualities and 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 qualities and 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 later. The latter approach is typically used in broad "*programmatic*" NEPA documents and subsequent site-specific documents that may be tiered to the umbrella 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 decide on and the effects can be meaningfully analyzed (40 CFR § 1508.22). However, NEPA processes allow for emergency actions where substantially 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 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*."

The Forest Service in 2016 established a CDNST plan component template to be used by Forest Supervisors to initiate the development of forest plan guidance in revised and amended plans. The Regional Foresters 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 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."

Unfortunately, this template has not been a useful foundation for establishing CDNST plan components and they must be modified if CDNST nature and purposes are to be protected. The suggested plan components fail to protect CDNST nature and purposes qualities and values, especially the need to address the National Trails System Act requirement to conserve the nationally significant scenic, historic, natural, and cultural qualities within the selected rights-of-way. The Regional Foresters' recommended Forest Plan Components should be described as being eliminated from detailed study, since the direction does not provide for the nature and purposes qualities and values of the CDNST.

Planning and management guidance enacted through Regional Forester or other correspondence may supplement, but does not supersede the guidance found in the National Trails System Act, Executive Orders, CDNST Comprehensive Plan, regulations, and directives. The Regional Foresters' formulation and adoption of this guidance was not in compliance with 16 U.S.C. § 1612(a) and 36 CFR § 216.3 processes.

A reasonable alternative to the Regional Foresters' plan component suggestions are those plan components that are presented in Chapter III Part J of this paper, which are consistent with the NTSA, CDNST Comprehensive Plan, FSM 2353.42, and 74 FR 51116. All reasonable alternatives must be rigorously explored and objectively evaluated, which allows for the public's ability to meaningfully participate in the NEPA review process. The EIS form, content and preparation must foster both informed decisions-making and informed public participation.

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 qualities and 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)). Furthermore, the quality or condition of the ecological characteristics of the National Scenic Trail management corridor should be described.

The NTSA states, "*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 § 1502.24/1502.23 (2020)).

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 are 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 qualities and 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 selected alternative. Chapter III Part D discusses the relationship between comprehensive planning and land and resource management planning in more detail.

The National Scenic Trail rights-of-way that encompass existing and high potential route segments, which is also known as the National Trail Management Corridor (16 U.S.C. § 1246(a)(2)), is 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 qualities and 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 § 1502.24/1502.23 (2020)) 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 (40 CFR § 1502.24 (2005), 40 CFR §

1502.23 (2020)), 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, "*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, Roaded Natural, Rural, and Urban ROS classes allow uses that would substantially interfere with the nature and purposes of an 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 an NST.

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.

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. 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.

The Forest Service has recently described in response to Forest Plan Objections[79] that, "*The concept of "programmatic" NEPA reviews is embedded in the Council on Environmental Quality (CEQ) regulations 40 CFR Parts 1500-1508, that address analyses of "broad actions." In 2014, CEQ issued guidance for the effective use of programmatic NEPA reviews (CEQ 2014). The final EIS for the revised plan fits under section III, where CEQ states when to use a programmatic and tiered NEPA review as a "decision to adopt formal plans, such as documents that guide or constrain alternative uses of Federal resources, upon which future Agency actions will be based…" As indicated by the 2014 CEQ guidance, programmatic NEPA reviews address the general environmental issues relating to broad decisions, such as those establishing the revised plan and can effectively frame the scope of subsequent site and project-specific Federal actions. Because impacts in a programmatic NEPA review typically concern environmental effects over a large geographic and time horizon, the depth and detail in programmatic analyses reflects the impacts that might result from making broad programmatic decisions… Ultimately, the final EIS is not a site-specific environmental analysis. The revised plan has been prepared in compliance with the 2012 planning rule. The proposed action includes Forestwide goals, objectives, and*

[79] http://nstrail.org/planning/riogrande_nf/riogrande_drod_proposed_plan_feis_objection_final.pdf

desired conditions, as well as management area specific desired conditions. The final EIS addresses the effects of the revised plan; which is a framework to guide resource management. The revised plan is a strategic, programmatic document that does not make project-level decisions or irreversible or irretrievable commitments of resources. Such commitments will be made through site-specific analysis that will include further public comment and collaboration opportunities, as required by law and at the discretion of future responsible officials, as part of the site-specific environmental analysis process" (Rio Grande National Forest Land Management Plan Revision, Reviewing Officer and Acting Deputy Regional Forester, Response to Eligible Objections, March 10, 2020).

The 2014 CEQ guidance further states, "*Programmatic NEPA reviews should result in clearer and more transparent decisionmaking, as well as provide a better defined and more expeditious path toward decisions on proposed actions… Programmatic NEPA reviews add value and efficiency to the decision-making process when they inform the scope of decisions and subsequent tiered NEPA reviews. Programmatic NEPA reviews can facilitate decisions on agency actions that precede site- or project-specific decisions and actions, such as mitigation alternatives or commitments for subsequent actions, or narrowing of future alternatives. They also provide information and analyses that can be incorporated by reference in future NEPA reviews. Programmatic NEPA reviews may help an agency look at a large or multi-faceted action without becoming immersed in all the details of future site- or project-specific proposals. Although a programmatic EIS may often be inadequate relative to an individual action, there is no reason to require a site-specific statement to duplicate the analysis in the PEIS. Using programmatic and subsequent tiered NEPA reviews effectively will allow for a focused review at the proper level*…."

Forest Plans and other programmatic planning decisions must constrain reasonable and foreseeable site-specific actions so that future actions are consistent with the requirements of the National Trails System Act and other land and resource protective laws. Otherwise, projects may be deemed consistent with a Forest Plan or RMP, but still be inconsistent with protected area legislation (e.g., National Trails System Act, Wilderness Act, and Wild and Scenic Rivers Act). A Land Management Plan must establish standard and guideline constraints providing a framework and scope for the subsequent tiered analysis of environmental impacts. For example, National Scenic Trails are potentially good candidates for programmatic NEPA documents that support the Comprehensive Plan for the National Scenic or Historic Trail. Any revised National Trail Comprehensive Plan EIS would include an assessment of how the programs would contribute to or reduce protections that provide for the nature and purposes of the National Trail. Discussions of effects on recreation opportunities, visual resources, and natural resources could then be incorporated by reference in subsequent tiered NEPA analyses. By identifying potential program impacts early, particularly cumulative and indirect impacts,

programmatic NEPA reviews provide opportunities to modify program components in order to avoid or mitigate adverse impacts when developing subsequent proposals. The cumulative effects of establishing the Regional Foresters' non-protective CDNST plan components on National Forest System lands has and will continue to lead to actions that degrade and substantially interfere with the nature and purposes of this National Scenic Trail. The status of CDNST land and resource management plan protections is summarized in **Appendix C**.

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 23.23l)
- 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 23.23l)
- 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 Motor Vehicle Use 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 or contribute to:

- Providing for the nature and purposes of the National Trail, including protecting the National Trail resources, qualities, values, and associated settings;
- The quality or condition of the ecological characteristics that would occur within the National Scenic Trail management corridor;
- Ensuring carrying capacity is not exceeded; and
- Preventing other uses from substantially interfering with the nature and purposes of the National Trail.

Providing for the nature and purposes of the CDNST normally includes providing for Primitive and Semi-Primitive Non-Motorized ROS settings and Scenic Character that is Naturally Evolving and Natural-Appearing. However, integrated resource management that address other needs can often occur, while not substantially interfering with the nature and purposes of the CDNST. These allowances can be described as allowed or unavoidable inconsistencies. Any recognized inconsistency adopted for the CDNST Management Area should be reviewed in the Environmental Impact Statement documenting the, "*will not substantially interfere with the nature and purposes of the trail*" analyses.

The Record of Decision that accompanies the approved plan and NEPA selected alternative needs to 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. The Record of Decision should describe that the selected alternative will not lead to actions that will substantially interfere with the nature and purposes of the CDNST.

Section VI. Grand Mesa, Uncompahgre, and Gunnison Plan DEIS

A. Action Alternatives

DEIS: The DEIS Volume I beginning on page 17 states, *"Plan direction is consistent with existing travel management plans, with the exception of some areas recommended as wilderness or special management areas. Site-specific travel decisions needed to bring travel plans in these*

areas into compliance with the revised forest plan would occur subsequent to the revised forest plan decision…

Comment: The Draft Forest Plan and the existing Gunnison Travel Plan do not protect the qualities and values of the CDNST. The Draft Plan if implemented would perpetually prevent the CDNST from being completed with a protected corridor on the GMUG National Forest. Of the alternatives presented in the DEIS, Alternative D best protects the CDNST qualities and values.

Quote Continues

The direction for these overlying areas builds on Forestwide and any underlying management area direction. An example of this is the congressionally and administratively designated trails overlay, which includes the Continental Divide National Scenic Trail. While direction for the Continental Divide National Scenic Trail would apply along the entirety of the trail in the GMUG, how the corridor is managed would be determined by the underlying management area direction, which adjusts as this trail traverses through several management areas, including Designated Wilderness (MA 1.1), Colorado Roadless Areas (MA 3.1), Mountain Resorts (MA 4.1), and General Forest (MA 5) …

Comment: The proposed underlying management direction does not protect the nature and purposes of the CDNST. The CDNST management corridor direction must provide for CDNST desired conditions with supporting standard, guidelines, and suitability determinations.

Quote Continues

Major spatial components that do not vary by action alternative: Although the spatial extent of these areas does not vary by action alternative, the management framework for each area does vary by action alternative due to interactions with suitable timber (area is included or excluded), varying scenic integrity objectives, and varying recreation opportunity settings (recreation opportunity spectrum).

> *Congressionally and Administratively Designated Trails – the Continental Divide National Scenic Trail and Old Spanish National Historic Trail, and the administratively designated trails Crags Crest and Bear Creek National Recreation Trails. Each trail is mapped to include the foreground viewshed (about one-half mile from either side of the trail tread). In the draft revised forest plan, designated trails encompass a mapped area of approximately 77,600 acres (2.5 percent of the GMUG) that overlie multiple other management areas. The forest plan also includes integrated direction for the Continental Divide National Scenic Trail and Old Spanish National Historic Trail to provide for the nature and purposes for which they were established…*

Comment: The CDNST management corridor did not use the ROS planning framework when establishing the mapped corridor for existing and high potential route segments, which may

lead to actions that substantially interfere with the nature and purposes of this National Scenic Trail.

Quote Continues

- *Expanded and updated suitable timber. In general, approximately twice as much acreage is identified as "may be suitable" in step 1 of the suitability process. This occurred for two reasons: 1) unlike the 1982 Planning Rule, the 2012 Planning Rule does not require exclusions based on economic feasibility; and 2) the plan revision team took a more inclusive approach to account for relatively outdated, error-prone timber and other spatial data. From the "may be suitable" starting point, for each action alternative, select management areas were then excluded in accordance with the theme of the alternative for step 2 of the suitability process…*

Comment: The plan improperly identifies Semi-Primitive Non-Motorized and Semi-Primitive Motorized ROS settings for timber production. This was in error, since the effects of timber production are not desired conditions of these ROS settings.

Quote Continues

Alternative A … The Continental Divide National Scenic Trail, Old Spanish National Historic Trail, and other national recreation trails in the GMUG would continue to be managed in accordance with their enabling legislation and agency policy…

Comment: The statement is not factual. The current management of the CDNST is not in compliance with the requirements of the National Trails System Act.

Quote Continues

Alternative B … The Continental Divide National Scenic Trail, Old Spanish National Historic Trail, and other national recreation trails in the GMUG would be managed with a cohesive set of plan direction within mapped management corridors…

Alternative C … The Continental Divide National Scenic Trail, Old Spanish National Historic Trail, and other national recreation trails in the GMUG would be managed with a cohesive set of plan directions within mapped management corridors…

Comment: Alternatives B and C do not establish plan components that protect the CDNST qualities and values and should be modified or discarded.

Quote Continues

Alternative D … The Continental Divide National Scenic Trail, Old Spanish National Historic Trail, and other national recreation trails in the GMUG would be managed with a cohesive set of plan directions within mapped management corridors. However, the trail corridors would not be included within areas suitable for timber production…

Comment: Managing for Naturally Evolving or Natural-Appearing Scenic Character, Scenic Integrity Objectives of Very High or High, and Primitive or Semi-Primitive Non-Motorized settings could accommodate many management practices, such as prescribed fire, and in limited situations timber harvest, to sustain ecosystem integrity and diversity. However, in most cases complex early seral forest ecosystems that result from fire and insect events fully support or are compatible with the nature and purposes of the CDNST.

The CDNST rights-of-way corridor may contain campsites, shelters, and related-public-use facilities. Other uses 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. To protect CDNST values, the extent of the established CDNST Management Area or National Trail Management Corridor must be based on compatible Scenic Integrity and Recreation Opportunity Spectrum allocations along the CDNST travel route and high potential route segments.

It is appropriate that the trail corridors not be included within areas identified for timber production.

Quote Continues

Public feedback also requested the Continental Divide National Scenic Trail be identified as a management area. Because it intersects so many management areas, for ease of mapping, the Continental Divide National Scenic Trail is identified as a corridor. There is no functional difference between the implementation of the two different mapping terms…

Semi-primitive Settings and Surface Development / Timber Harvest – Public feedback requested that primitive and semi-primitive non-motorized settings be found unsuitable for timber harvest, surface disturbance associated with oil and gas operations, and other discretionary mineral development. This concept for timber harvest was not carried forward, as it would not meet the need for continued fuels reduction even within more remote, non-motorized areas of the national forests, and timber harvest can be a byproduct of fuels treatments."

Comment: The Draft Plan improperly identifies Semi-Primitive Non-Motorized and Semi-Primitive Motorized ROS settings for timber production. This was in error, since timber production is not a desired condition of these ROS settings.

The Plan should establish Roaded Modified ROS settings in areas where fuels reduction with roads and timber harvests are desired. 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.

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. 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.

Summary Comment: None of the alternatives were developed following the ROS planning framework as used in the development of the Planning Rule and PEIS. Alternatives B and C should be modified or discarded. Of the alternatives presented in the DEIS, Alternative D best protects the CDNST qualities and values. Alternative D may provide for CDNST qualities and values, except along identified high potential route segments.

Alternative D should be modified or a new Alternative F developed to add an additional eligible Wild and Scenic River in Cochetopa Creek drainage and to enlarge the Cochetopa Creek Proposed Wilderness, West Baldy, and Lake Branch proposed recommended Wilderness. Also, a Texas Creek proposed Wilderness should be added to this alternative.

B. Road and Trail Considerations and Reasonable Alternatives

DEIS: Transportation information is important to several programs and resources including timber, wildlife, watershed, soil, recreation, and National Trails. The DEIS does not provide an overview of the status of the existing transportation system and does not take a hard look at the effects of the transportation system on several important resources and special areas.

The NEPA document should include a review of the miles of National Forest System roads and trails that are projected for each alternative.

The EIS effects analysis should review in narratives and cross tabular data (with geospatial data available to the public) the following relationships for each alternative:

- Miles of projected permanent and temporary roads by established ROS class,
- Miles of projected permanent and temporary roads in Semi-Primitive Non-Motorized and Semi-Primitive Motorized ROS settings that are also identified as being suitable for timber production.
- Miles of projected permanent and temporary roads in soils with a Severe or Very Severe erosion hazard,
- Miles of projected permanent and temporary roads in the CDNST Management Corridor,
- Miles of projected designated motor vehicle use trails by established ROS class,
- Miles of projected designated motor vehicle use trails in the CDNST Management Corridor, and
- Acres of each established ROS class that is found in the CDNST Management Corridor.

A new Alternative F should be developed in a Supplemental DEIS with a foundation of Alternative D and informed by the analyses that are described above. Alternative F could potentially reduce the number of roads in areas of erosive soils, reduce public motor vehicle use on roads and trails in Primitive, and Semi-Primitive Non-Motorized ROS settings, and reduce miles of permanent and temporary roads in Semi-Primitive Non-Motorized ROS settings.

C. Sustainable Recreation

DEIS: The DEIS Volume 1 on page 342 describes the recreation resource and lists the inventoried existing summer Recreation Opportunity Spectrum settings in the GMUG National Forests – [Recreation opportunity spectrum class designations are only applied to National Forest System lands and do not include private lands within the GMUG boundary]

"*Affected Environment … As the overall intensity and duration of national forest visits increase, dispersed recreation can pose health and safety concerns (i.e., littering, escaped campfires, and human waste) and resource impacts (i.e., vegetation removal, trampling, soil erosion, wildlife disturbance, etc.). Creation of unauthorized trails is an ongoing problem in many parts of the GMUG that can cause negative resource impacts.*

Access issues, drought, climate change, invasive and noxious species, livestock grazing, infrastructure, and motorized travel will continue to affect hunting, fishing, and other wildlife-related recreation activities. Decreased levels of Forest Service personnel and increasing recreation demand and uses are major obstacles to meeting 1991 forest plan management direction to meet public demand for developed recreation facilities and manage dispersed recreation. If shortages in Forest Service personnel continue, trails and facilities will continue to be difficult to manage at the full-service level, and more facilities, trails, and sites may be decommissioned. Barriers to visitation and recreation use by minorities, low income families, and other underrepresented groups will continue to be a challenge for the GMUG."

Comment: The Affected Environment should also review in a Supplemental DEIS existing vegetation management practices, including the associated road construction, that are occurring in Semi-Primitive Non-Motorized and Semi-Primitive Motorized ROS settings.

This section should also describe in narratives, maps, and cross tabular data (with geospatial data available to the public) areas that exhibit evidence of extensive forest management activities that are dominant on the landscape, including having high road densities, heavily logged areas, extensive vegetation management, highly visible mining, oil and gas, or other similar uses and activities. These areas should be identified as Roaded Modified ROS settings.

The following information should be presented in the Affected Environment section of the EIS: The 2018 Recreation Assessment report beginning on page XV states, "*The Forest's existing summer ROS was inventoried and mapped by using the Forest Service's National Recreation*

Opportunity Spectrum Inventory Mapping Protocol, a geographic information system (GIS) mapping procedure (USDA Forest Service 2017) that identifies mapping criteria and provides repeatable instructions to inventory, map, and classify existing ROS settings. This National mapping protocol is used to reduce variations within and across Forest Service administrative boundaries and help the agency effectively communicate recreation settings and opportunities on the Forest to the public. This protocol focuses on providing a product which informs existing conditions for the forest plan assessment phase of the three phase planning framework (FSH 1909.12 Chapter 10, section 13.4). It is also used as a starting point for integrating with other resource values and deriving desired ROS settings later in the plan revision process (FSH 1909.12 Chapter 20, section 23.23) …

The product is an existing condition inventory of ROS settings during the summer season, and mapped inconsistencies with those recreation settings. The settings mapped in this inventory protocol reflect existing travel management decisions. Inconsistencies with the mapped recreation opportunities occur when there is a motorized administrative route and/or use in an otherwise non-motorized setting. Inconsistencies with mapped recreation opportunities also occur when landscape modifications (areas heavily altered by vegetation management, timber harvest, utility infrastructure, etc.) detract from an otherwise naturally-appearing setting. The GMUG's 2016 mapped Existing Scenic Integrity (ESI) was used to capture setting inconsistencies in regards to landscape modifications. Areas reflecting Low or Very Low ESI within mapped Primitive, Semi-Primitive Non-Motorized, Semi-Primitive Motorized, and Roaded Natural recreation settings were marked within the mapped setting as "physical setting inconsistencies".

Inconsistencies with the existing ROS settings are documented in this process, but do not change the overall ROS settings mapped and identified. Rather, the inconsistencies are used with the ROS settings mapped in this process to provide an overall existing condition for ROS and help identify places that may need management actions to improve consistency with desired conditions as those are developed in the forest plan revision process."

Inventoried Existing Summer ROS settings on the GMUG

ROS Class Designations across the GMUG				
P	SPNM	SPM	RN	R
435,000 acres	1,338,400 acres	767,800 acres	415,300 acres	9,000 acres
15%	45%	26%	14%	< 1%

This report on page lxvii states, "*The existing Recreation Opportunity Spectrum (ROS) was mapped site specifically with the Forest Plan; however, we are unable to locate a complete set of maps. The plan does not specify acreages or locations of different settings to maintain, other than desired range of acceptable recreation setting within management areas. The*

management intent for ROS appears to have been to let it change as a by-product of other management activities, as opposed to an objective to be managed for, other than in a few specific management areas. Management activities that occurred did not need to consider changes to the setting/impacts to recreation. Yet the recreation value of the GMUG has increased to the extent that managing for recreation can no longer simply be a byproduct of other management on the GMUG. In order to ensure that desired recreation settings are maintained, a spatial map of desired recreation settings (summer and winter) is needed. Consider direction to manage toward those desired conditions for recreation, integrated with the full spectrum of multiple use activities that occur on the GMUG." I agree.

DEIS: The DEIS Volume I beginning on page 343 describes Environmental Consequences. "*Environmental Consequences – Analysis Framework: The environmental consequences analysis for recreation focuses on management direction that differentiates outcomes between alternatives. Several quantitative measurement indicators will be used to compare the difference in recreation opportunities and management approaches based on management direction between alternatives. In addition, a qualitative discussion of the similarities and differences will aide comparison of the alternatives…*

The National Recreation Opportunity Spectrum Inventory Mapping Protocol, August 2019 states, "*This National inventory protocol identifies mapping criteria and provides repeatable instructions to inventory, map, and classify existing Recreation Opportunity Spectrum (ROS) settings based on forest recreation opportunities and off-forest influences (e.g. motorized routes of other jurisdiction). The product is an existing condition inventory of ROS settings, mapped inconsistencies with those settings, and mapped unique or special opportunities. The settings mapped in this inventory protocol reflect travel management decisions. Inconsistencies with the mapped recreation opportunities may occur due to unauthorized or administrative uses. Inconsistencies with the existing ROS settings are documented in this process, but do not change the overall ROS settings mapped and identified. Rather the inconsistencies are used with the ROS settings mapped in this process to provide an overall existing condition for ROS and help identify places that may need management actions to improve consistency with desired conditions…*

Since the early 1980s, the Recreation Opportunity Spectrum (ROS) has been used as a framework to identify, classify, plan, and manage a range of recreation settings for both existing and desired conditions. ROS remains the best available framework for recreation planning. Six distinct settings: urban, rural, roaded natural, semi-primitive motorized, semi-primitive non-motorized, and primitive are defined using specific physical, social, and managerial criteria…

The physical characteristics are defined by the absence or presence of the sights and sounds of people, size, and the amount of environmental modification caused by human activity and authorized uses.

> *Remoteness - Remoteness from the sights and sounds of people is used to indicate greater or lesser amounts of social interaction and corresponding primitive to urban influences as one moves across the spectrum. The further one is from the sights and sounds of humans, the more remote the setting and more remote one feels. Remoteness is measured by the distance from motorized use on roads and trails.*
>
> *Size - The size of an area is used to indicate greater or lesser potential for self-sufficiency related to a sense of vastness, where large, relatively undeveloped areas tend to provide a sense of vastness and smaller, developed areas less so as one moves across the spectrum.*
>
> *Evidence of Humans - The evidence of humans criteria is used to indicate varying degrees of modifications to the natural landscape as one moves across the spectrum. Authorized uses affecting this criteria include such things as: vegetation treatments, oil and gas development, livestock grazing, recreation developments and other infrastructure. Landscapes may vary from naturally appearing to heavily altered as one moves across the spectrum. Site management may also factor into this criteria. Site management refers to the amount or degree of on-site modification (e.g., vegetation manipulation, landscaping) and the level or scale of development of constructed features (e.g., parking areas, campgrounds, trails, administrative facilities, buildings and other structures) …*
>
> *Physical Characteristics - In previous mapping steps, the evidence of humans criteria was only applied to differentiate between Roaded Natural, Rural, and Urban ROS settings. In this step, the evidence of humans criteria may also be applied to Primitive, Semi-primitive Non-motorized and Semi-primitive Motorized settings to identify inconsistences with those settings. The overall inventoried ROS setting will not be changed in Primitive, Semi-primitive Non-motorized and Semi-primitive Motorized settings, but will be mapped as an inconsistency…."*

Comment: The National Recreation Opportunity Spectrum Inventory Mapping Protocol adequately describes ROS setting characteristics; however, the DEIS recreation analysis framework allowed for incongruent physical, social, and operational components, so the GMUG process did not result in an effective approach for ensuring the integration of compatible resource allocations in land management planning.

The National Recreation Opportunity Spectrum Inventory Mapping Protocol improperly avoids assessing administrative and permitted roads. ROS setting inconsistencies need to be addressed in the revised plan. As stated in the protocol, "*Inconsistencies with the existing ROS settings are*

documented in this process, but do not change the overall ROS settings mapped and identified. Rather the inconsistencies are used with the ROS settings mapped in this process to provide an overall existing condition for ROS and help identify places that may need management actions to improve consistency with desired conditions." For example, in areas where timber product is a desired condition, the established ROS class should be a Roaded Modified setting. Where Semi-Primitive Non-Motorized ROS settings are the desired condition, roads should be decommissioned.

The EIS recreation analysis framework should review the rationale for allowing unfettered timber production, timber harvests, and road construction in Semi-Primitive Non-Motorized and Semi-Primitive Motorized ROS settings. These actions are inconsistent with the ROS planning framework as referenced in the planning rule and used in the PEIS. These vegetation management practices would result in a Roaded Modified ROS setting with effects that are not disclosed in the DEIS.

The proposed plan and DEIS alternatives are proposing to promote road construction in Semi-Primitive Non-Motorized and Semi-Primitive Motorized ROS classes. The EIS must identify the general extent and location of the temporary and permanent road system associated with these ROS settings and provide a rational explanation of why these inconsistencies is to be allowed in these more primitive ROS classes. The NEPA document must disclose that timber production, extensive vegetation management, and supporting roads are incompatible with Primitive and Semi-Primitive ROS settings.

ROS class definitions need to be expanded to add descriptions of Non-Recreation Uses, Evidence of Humans, and Naturalness characteristics. Primitive and Semi-Primitive ROS classes must constrain some management actions such as mechanical treatments of vegetation that utilize heavy equipment and permanent or temporary roads if these desired ROS class opportunities as described in the 1986 ROS Book and referenced in the planning rule PEIS are to be protected.

Quote Continues

Alternative D is the most restrictive management option for recreation. Special management areas, areas to be analyzed as wilderness, and wildlife management areas all contain restrictions on trail construction and visitor use types, and the combined acreage of these protected areas is 1,681,000 acres (table 152). This would restrict motorized and mechanized uses on a substantial portion of the GMUG. Non-motorized, wildlife-dependent activities would be enhanced under alternative D…

Comment: The general statement that, "*Alternative D is the most restrictive management option for recreation*" demonstrates a bias towards providing for certain recreation activities vs.

protecting recreation settings from resource development. Alternative D provides the greatest opportunity for recreationists that are seeking a Primitive or Semi-Primitive Non-Motorized ROS setting experience.

Quote Continues

Conclusion - The draft revised forest plan is consistent with 36 CFR 219.10(a) because the effects of plan direction would provide ecosystem services and multiple uses through integrated resource management because it integrates sustainable recreation management with other resources by providing summer and winter recreation opportunity spectrum direction on a Forestwide basis. This recreation opportunity spectrum direction integrates physical settings, social desires, and managerial actions with multiple uses and resources such as timber, range, and wildlife. Furthermore, the inclusion of recreation standards in wildlife management areas further integrates recreation into planning with other resources. Alternative B would integrate recreation with other resources in a balanced way, providing a mix of motorized and non-motorized settings. Alternative C would provide the most motorized opportunities, even opportunities in some critical wildlife habitat. Beyond effects on wildlife, alternative C would have negative impacts on other non-motorized forms of recreation in areas that were not problematic before the draft revised forest plan. Finally, in alternative D most of the GMUG would be managed as non-motorized, preserving a large amount of habitat. However, because alternative D classifies several popular motorized areas as non-motorized management, motorized opportunities would be greatly reduced."

Comment: The conclusion should address the effects of identifying Semi-Primitive Non-Motorized and Semi-Primitive Motorized ROS settings for timber production.

Summary Comment: Established ROS plan components do not protect Semi-Primitive Non-Motorized and Semi-Primitive Motorized ROS settings from being degraded to Roaded Modified ROS setting conditions as a result of timber production and vegetation management practices.

Managing Semi-Primitive Non-Motorized and Semi-Primitive Motorized ROS settings for timber production would lead to management actions that degrade these areas to a Roaded Modified ROS setting condition. In areas of timber production, the spread of non-native vegetation (e.g., noxious weeds) and reoccurring harvests for timber purposes, stand tending, road construction and reconstruction, travel route closures to public use, and other development activities are incompatible with the desired conditions of these ROS settings. The lasting effects of timber production activities (roads, timber harvest) as well as short-term effects (logging trucks, noise) degraded recreation, scenic, historic, natural, and cultural qualities. Roaded Modified ROS settings should be associate with areas identified as being suitable for timber production.

The EIS effects analysis should describe the consequences of establishing Roaded Modified ROS settings in narratives, maps, and cross tabular data (with geospatial data available to the public). A Supplemental DEIS should present the distribution of ROS Desired Conditions similar to Table 22 as found in the proposed 2007 Forest Plan:

Forest Setting	ROS Setting Summer	Grand Mesa	Gunnison Basin	North Fork Valley	San Juans	Uncompahgre Plateau	ROS in Percent
Wilderness[1]	Pristine	0	148,500	50,700	67,900	6,400	9%
	Primitive	0	242,400	64,200	49,000	7,700	12%
	Semi-Primitive	0	26,000	15,200	4,700	22,000	2%
Backcountry settings	SPNM	84,900	146,000	59,200	48,400	86,100	14%
	SPM	31,000	209,500	18,600	32,400	60,400	12%
General Forest Roaded Settings	RN-NM	25,600	40,600	87,800	38,900	34,700	8%
	RN	160,600	455,800	182,600	56,500	352,400	41%,
	RM	6,100	4,700	2,800	2,400	9,200	1%
Rural Setting	R	7,900	11,500	300	2,000	0	1%
Total by Geographic Area[2]		316,100	1,285,000	481,400	302,200	578,900	2,963,600

The technical guide "Recreation Opportunity Setting as a Management Tool" provides an integrated model for recreation and other resource management on NFS lands. The guide for each ROS class described compatible recreation, timber, wildlife, range, and water resource relationships. The concepts in this technical guide may be useful in formulating the direction in the final plan.

D. Scenic Resources

DEIS: The DEIS Volume 1 beginning on page 354 states, "*Affected Environment Scenic character is a combination of the physical, biological, and cultural images that gives an area its scenic identity and contributes to its sense of place. Scenery varies depending on existing natural features including vegetation, water features, landform and geology, cultural features, and management activities (such as buildings, structures, or manipulations of the land or vegetation). Cultural features and management activities may contribute to scenic character when these elements have historical backgrounds, have nostalgic connotations, reflect the cultural legacy of an area, or create a visually pleasing complement to the scenic character. Research shows there is a high degree of public agreement regarding scenic preferences and that people tend to value most highly the more visually attractive and natural-appearing landscape (USDA Forest Service 1995) …*

Vegetation Management - Vegetation management activities would be conducted to improve forest health and resilience to wildfire, disease, and insect infestation, and in time enhance and protect long-term scenic quality under all alternatives. However, these actions also would temporarily impact scenic resources. Activities including tree removal, depending on the intensity of the treatment, can have varying consequences on scenery. Mechanical treatments could change the character of the landscape in the short-term where activities occur. Some

management activities may have visually dominant effects in the short term, which may be out of step with adopted scenic integrity objectives. Activities such as large-scale vegetation management projects to restore ecosystem resiliency provide short-term changes such as ground disturbance, stumps, slash, and burnt vegetation.

Effects of Alternative D - To provide for sustainable recreation, scenic integrity objectives were integrated with desired recreation opportunity spectrum classes to reduce and eliminate inconsistencies between the two systems. Inconsistencies where utility corridors overlap with semi-primitive non-motorized or semi-primitive motorized are assigned a low scenic integrity objective.

Alternative D proposes high a scenic integrity objective where utility corridors overlap with the Continental Divide National Scenic Trail, San Juan Skyway, and Grand Mesa Scenic Byway corridors. A high scenic integrity objective would provide for a natural-appearing character with the most scenery design considerations applied in these overlapping multiple use areas."

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

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

E. Timber Suitability

DEIS: The DEIS Volume I beginning on page 383 states, "*Lands suitable for timber production were determined following the 2012 Planning Rule. The draft revised forest plan (appendix 8) describes this process and results from the suitability analysis in more detail. Lands that may be suitable for timber production are the same for all alternatives and total 986,500 acres (table 157). These lands are physically and biologically capable of timber production and have not been administratively withdrawn*…

Comment: It is not factual to state that, "*Lands suitable for timber production were determined following the 2012 Planning Rule*." The Plan is not in compliance with:

- 36 CFR § 219.11(a)(1)(i) – Lands not suited for timber production – Statute prohibits timber production on the land
- 36 CFR § 219.11(a)(1)(iii) Lands not suited for timber production – Timber production not compatible with desired conditions

Suitability is inconsistent with the National Trails System Act Section 7(c) as implemented using the ROS planning framework and as informed by the Planning Rule and PEIS.

Quote Continues

"Effects of Recreation Program Direction on the Timber Program – Draft revised forest plan direction for the Continental Divide National Scenic Trail outlines how that trail should not be used for timber pile landings or as a temporary road except where the trail is currently co-located on an open road. Hauling or skidding along a co-located portion of the trail may be allowed when no other haul route or skid trail options are available and impacts to the trail infrastructure are minimized. In addition, any new temporary or permanent roads along the Continental Divide National Scenic Trail, while clearly limited, would be possible if determined to be the only prudent and feasible option and would need to be designed to minimize impacts to the trail. As such, draft revised forest plan direction for the Continental Divide National Scenic Trail will have a minimal impact on the timber program.

FW-GDL-REC-16 indicates that national forest management decisions and activities, including timber and vegetation management activities, should be consistent with the desired recreation opportunity spectrum setting parameters that correspond with broadscale desired summer and winter recreation opportunity spectrum allocations and maps…

Recreation opportunity spectrum tables in the draft revised forest plan containing setting prescriptions indicate that:

- *For primitive settings, vegetation is natural, with no treatments except fire use.*
- *For semi-primitive non-motorized settings, vegetation treatments enhance forest health and mimic natural vegetation patterns.*
- *For semi-primitive motorized settings, vegetation treatments improve forest health and mimic natural vegetation patterns.*
- *For roaded natural settings, vegetation treatment are evident but in harmony with the scenic character.*
- *For rural settings, vegetation treatments are often visible, but blend with the landscape."*

Comment: National Forest System lands include not only areas that are managed for general multiple use programs, but also areas where management actions are restricted by legislation such as the Wilderness Act, Wild and Scenic Rivers Act, and National Trails System Act. Vegetation management actions must reflect the values of each special area and must not substantially interfere with the nature and purposes of National Scenic and Historic Trails.

Quote Continues

"The majority of the suitable timber area, under each alternative, is in the semi-primitive non-motorized and semi-primitive motorized settings. Given the plan direction for these settings, most vegetation management treatments will need to enhance or improve forest health and mimic natural vegetation patterns. Current and planned vegetation management activities on the GMUG reduce stand density (increasing resilience to insects and disease), reduce fuels, and/or improve wildlife habitat and generally mimic natural vegetation patterns. Given the focus on forest health in all of these activities, though not always the primary purpose and need, this plan direction, while new, should have a little to no impact on the timber program. Hazard tree removal is generally done along roadsides and near campgrounds and would likely be occurring in the roaded natural settings."

Comment: Semi-Primitive Non-Motorized and Semi-Primitive Motorized ROS settings are not compatible with timber production and associated road development. The plan should establish a Roaded Modified ROS setting for those areas with timber production is to be the norm.

Primitive and Semi-Primitive ROS classes must constrain some management actions such as mechanical treatments of vegetation that utilize heavy equipment and permanent or temporary roads if these desired ROS class opportunities as described in the 1986 ROS Book and used in the Planning Rule PEIS are to be protected.

The proposed timber management program would have a significant impact on the recreation programs in more primitive ROS settings.

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

The rule provides overall direction for how plans are developed, revised, and amended. Section 219.11(a)(1)(iii) requires that where timber production would not be compatible with desired conditions and objectives established by the plan, including those established in accordance with the requirements for suitability (§ 219.8), diversity (§ 219.9), and multiple use (§ 219.10), the responsible official shall identify such lands as not suitable for timber production.

Timber production is inconsistent with Semi-Primitive Non-Motorized and Semi-Primitive Motorized ROS setting desired conditions. These areas are characterized by a predominantly natural or natural-appearing environment of moderate-to-large size. Natural setting may have

subtle modifications that would be noticed, but not draw the attention of an observer wandering through the area (SPNM). Natural setting may have moderately dominant alterations, but would not draw the attention of motorized observers on trails and primitive roads within the area (SPM) – ROS Book.

The purpose of timber production is the purposeful growing, tending, harvesting, and regeneration of regulated crops of trees to be cut into logs, bolts, or other round sections for industrial or consumer use, which is in stark contrast and clearly incompatible with protecting the purposes for which National Scenic Trails are established.

A Roaded Modified ROS setting should be established where timber production and harvest are to be the norm. Roads are an integral part of this class and provide a range of opportunities for users of high clearance vehicles on dirt roads to passenger cars on pavement. Roads may be closed to recreational use to meet other resource management objectives. In addition to roads, a full range of trail types and difficulty levels can be present in order to meet recreation objectives… The natural setting is often heavily altered as this environment and access throughout are often the result of intensive commodity production. Harvest activities should protect user-established sites from alteration and provide access to them. It should be used to meet other recreation needs such as providing trailhead access, parking areas, and a diversity of travelway opportunities.

F. National Scenic and Historic Trails

DEIS: The DEIS Volume I beginning on page 408 states, "*National Scenic and Historic Trails – Affected Environment – Approximately 130 miles of the Continental Divide National Scenic Trail traverse the Gunnison Ranger District of the GMUG National Forests, from the district's southern boundary with the Rio Grande National Forest, along its eastern boundary with the Pike-San Isabel National Forest, and north to boundary with the White River National Forest. The Continental Divide National Scenic Trail is primarily to be managed for non-motorized use, although much of the trail is currently located on open roads or motorized trails. It is also currently located within a more developed recreation opportunity spectrum class than is desirable for a national scenic trail, which may have impacts on scenic integrity and other natural, historic, and cultural resources along the corridor…*

Comment: The National Trails System Act of 1968, 82 Stat. 919, as amended, provides that the CDNST, "*shall be administered*" "by the Secretary of Agriculture" so located as to "*provide for maximum outdoor recreation potential and for the conservation and enjoyment*" of "*nationally significant scenic, historic, natural, or cultural qualities*." It empowers and requires that the Secretary of Agriculture select the CDNST rights-of-way which informs the National Scenic Trail corridor location and width. The establishment of the CDNST thus constitutes an overlay on the management regime otherwise applicable to public areas managed by land management

agencies. The NTSA and E.O. 13195 - Trails for America in the 21st Century - limits the management discretion the agencies would otherwise have by mandating the delineation and protection of the CDNST rights-of-way (aka National Trail Management Corridor) for the purpose of providing for the nature and purposes of the CDNST.

The affected environment review fails to describe the environment of the area to be affected by the alternatives under consideration. The affected environment section must describe the degree to which CDNST qualities and values are being protected, including the protection of desired recreation settings, scenic integrity, and providing for the conservation purposes along the existing CDNST travel route within the presumed CDNST rights-of-way corridor.

The affected environment does not describe the environment of the CDNST rights-of-way/corridor to be affected or created by the alternatives under consideration. What is the degree to which current management direction is protecting the values for which each National Trail was designated, including protecting cultural landscapes, recreation settings, scenic integrity, and addressing the conservation purposes of National Scenic and Historic Trails?

Additional Affected Environment review considerations are found in Section V Part D of these comments.

Quote Continues

Environmental Consequences – The existing forest plan direction for the Continental Divide National Scenic Trail is minimal, but it did establish a sizeable corridor in which scenery was to be managed to the highest levels possible. The trail was to be managed for foot and horse, while allowing pre-existing motorized uses to continue. However, management of the trail is further guided by the 2009 Continental Divide National Scenic Trail Comprehensive Plan. The draft revised forest plan direction would build upon the basic framework in the existing forest plan and address a variety of other uses: no energy and mineral materials sites would be allowed within one-half mile of the trail, no motorized events would be allowed, it would be an avoidance area for larger special use infrastructure, and more direction is aimed at retaining the natural appearance and primitive nature of the trail and its surroundings. Provisions ensure continuous recreational access during timber harvest and other forest management activities. The overall effect of the proposed direction on the Continental Divide National Scenic Trail would be more comprehensive protection of the nature and purposes of the trail. Additionally, the objective to move the trail off of roads would further improve the trail setting in the long term.

Comment: Environmental Consequences review considerations are found in Section V Part E of these comments. Forest Service CDNST plan components are reviewed in Section IV Part B of these comments.

Quote Continues

Alternative D would remove the trail overlay area from the area suitable for timber production, which may result in fewer commercial timber harvests in the vicinity of the trail relative to the other alternatives. There may be fewer interruptions to recreationist experiences and fewer visible impacts of harvest. But there may also be fewer opportunities for opening vistas or harvesting dead timber, which could result in a long-term difference in the scenic quality of the trail and trail middle-ground.

Comment: Viewing natural and natural-appearing landscapes is the desired scenic integrity objective for the CDNST. The selected CDNST rights-of-way and the located travel route should consider opportunities to view vistas.

Quote Continues

Where the trail intersects the utility corridor overlay, the scenery objective would vary by alternative, from low in alternative C, to medium in alternative B, to high in alternative D. The visual impact of future development in the corridor would need to be mitigated accordingly. Alternative B represents a balanced approach to future utility development in these established corridors as well as to the natural-appearing setting of the trail.

Comment: Utility corridors should be evaluated and considered as a ROS setting inconsistency.

Quote Continues

The recreation setting in alternative B would range from roaded natural (most developed) to primitive (least developed). Approximately 56 percent would be managed as primitive and semi-primitive non-motorized settings, while 44 percent would be managed as semi-primitive motorized and roaded natural settings due to the presence of existing roads and motorized trails in and crossing the trail corridor, as well as locations in which the trail is co-located on an existing road. In alternative C, approximately 5 percent more area of the trail overlay would be managed in a motorized setting. In alternative D, 99 percent of the trail overlay would be managed in a non-motorized setting.

Comment: Implementation of Alternative B would lead to actions that substantially interfere with the nature and purposes of the CDNST. The percentages quoted in the DEIS are not accurate, since the plan did not use the ROS planning framework protocols to determine ROS class settings.

Quote Continues

The 1983 forest plan provided no direction for the Old Spanish National Historic Trail. The effect of the proposed plan and alternatives would be to manage the trail and its corridor for its nature and purposes. The objective FW-OBJ-DTRL-17 would further the interpretation of the trail

for the public, and standards and guidelines would address a variety of uses: no energy and mineral materials sites would be allowed within one-half mile of the trail, it would be an avoidance area for larger special use infrastructure, and unplanned fire and prescribed fire would be managed such that the scenic and historic character of the trail would be maintained…

Comment: Unplanned fire and prescribed fire should be the primary management tools for maintaining or achieving CDNST corridor desired vegetation conditions.

Quote Continues

Cumulative Effects for the National Trails – As the population of Colorado increases, so too does the demand for recreation on public lands. More trail users are anticipated on the designated trails in the GMUG, which would result in more direct experiences on and awareness of the trails, but could also lead to wear and tear on the trail, use conflicts, or dispersed camping impacts. There may be demand for more motorized trails that may cross portions of the trails, which would impact the setting in their general vicinity."

Comment: The Regional Forester's and Forest Supervisor's CDNST plan components are leading to revised Forest Plan decisions that do not provide for protecting the nature and purposes of the CDNST. A recent example of CDNST qualities and values being degraded is the approval of the 2021 Lujan Pass Timber Management project. The implementation of this project will have effects that substantially interfere with the nature and purposes of the CDNST. The Rio Grande Forest Plan maps indicate that the established ROS class for this Management Area is Roaded Natural and Semi-Primitive Motorized. These ROS settings do not provide for the nature and purposes of the CDNST. The timber sale area is highly visible from the CDNST travel route as it passes through the Gunnison Ranger District. The action will result in a scenic objective level of low.

The revised plan and timber sale decisions do not honor the "Continental Divide National Scenic Trail and The Colorado Trail Reroute Lujan to La Garita Wilderness" 2013 Environmental Assessment reroute decision.

The cumulative effects discussion is too narrow. The discussion needs to address both the recreation and conservation purposes of the CDNST both locally and broader.

Summary Comment: The National Trails System Act, 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 describes 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*." Managing for Naturally Evolving or Natural-Appearing Scenic Character, Scenic Integrity Objectives of Very High or High, and Primitive or Semi-Primitive Non-Motorized settings provide for the nature and purposes of the CDNST.

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

The revised Forest Plan direction is inconsistent with and not supportive of the 2009 CDNST Comprehensive Plan direction. The identification and selection of the rights-of-way (16 U.S.C. § 1246(a)(2)) may lead to varying degrees of effects, but most often a National Scenic Trail management corridor would be the primary area for addressing the effects analysis. Effects on scenic integrity and ROS class conditions should be based on analysis of the effects of the allowable uses.

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.

Timber production is incompatible with achieving National Trails System Act objectives and the CDNST nature and purposes desired conditions. The purpose of timber production is the purposeful growing, tending, harvesting, and regeneration of regulated crops of trees to be cut into logs, bolts, or other round sections for industrial or consumer use, which is in stark contrast and clearly incompatible with protecting the purposes for which National Trails are established. The CDNST rights-of-way/management corridor is not suitable for timber production (36 CFR 219.11(a)(1)(i) and (iii)).

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 Roaded 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 EIS must disclose effects of the proposed action and alternatives on scenic integrity and ROS class conditions. Utilizing the ROS and Scenery Management System will help ensure that NEPA assessments are systematic and accurately describe the affected environment and expected outcomes from each alternative. The EIS should recognize that 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 a National Scenic Trail if the allocation desired conditions are realized.

The EIS needs to address the expected effects of each alternative on CDNST nature and purposes values as measured through Recreation Opportunity Spectrum and Scenery Management System planning frameworks, which are the accepted Best Available Science and Methodology and Scientific Accuracy analysis systems. The proposed plan and alternatives do not disclose that vegetation management practices are constrained to only those actions that do not substantially interfere with the nature and purposes of National Scenic and Historic Trails.

G. Designated Wilderness

DEIS: The DEIS Volume I on page 410 states, "*The wilderness area categories in the 1983 plan (8, 8A, 8B, 8C) are carried forward in the draft plan alternatives (1, 1.1 A, 1.1 B, 1.1 C), as well as*

the associated direction for each category. Plan direction from the 1983 plan that repeated law, regulation, and policy is omitted, consistent with the approach throughout the draft plan of avoiding redundancy. Additional plan components in the action alternatives would make permanent the forest orders that have been renewed repeatedly; there would be no change to management on the ground, but the agency's process hurdle of renewing orders would be removed."

Comment: The FEIS fails to review the Affected Environment and Environmental Consequences of the proposed management direction on wilderness character. This NEPA analysis deficiency needs to be corrected in the Supplemental DEIS.

H. Eligible Wild and Scenic Rivers

DEIS: The DEIS Volume I beginning on page 410 states, "*Affected Environment – In the current forest plan, no streams are managed as eligible, as no eligibility report has been adopted and finalized. Although the 2007 proposed forest plan effort included a draft eligibility report, the report and plan were not adopted. For the current planning effort, an eligibility study has again been conducted. A total of 13 segments and their tributaries represented in approximately 118 miles were found to be eligible for wild and scenic river status. Most segments are located within wilderness or other congressionally designated areas (Tabeguache and Roubideau). A detailed description of each eligible segment's location, preliminary classification, and outstandingly remarkable values is contained in appendix 11 of the draft revised forest plan*...

Under all alternatives, approximately 36,700 acres would be managed as eligible corridors. Eligible segments classified as scenic and recreational would be included in the areas suitable for timber production in alternatives B and C, but they are excluded from suitable timber production in alternative D. Per existing policy, a range of vegetation management and timber harvest practices are allowed if these practices are designed to protect users or protect, restore, or enhance the river environment, including the long-term scenic character (FSH 1909.12, chapter 84.3, 9b). Alternatives B and C could have more commercial timber production within scenic and recreational segments, but would still be subject to this policy as well as the draft revised forest plan mapped scenic integrity objectives. However, more timber production could result in more short-term impacts to scenic character and recreational access, would alter the vegetation structure, and would change existing wildlife habitat. Commercial timber harvest may still occur within alternative D, but the primary purpose would be objectives other than commercial production."

Comment: The analysis process screening did not adequately address unique Outstandingly Remarkable Values of Cochetopa Creek. I recommend that a 12-mile stretch of Cochetopa Creek be identified as an eligible Wild and Scenic River. Total eligible area is approximately

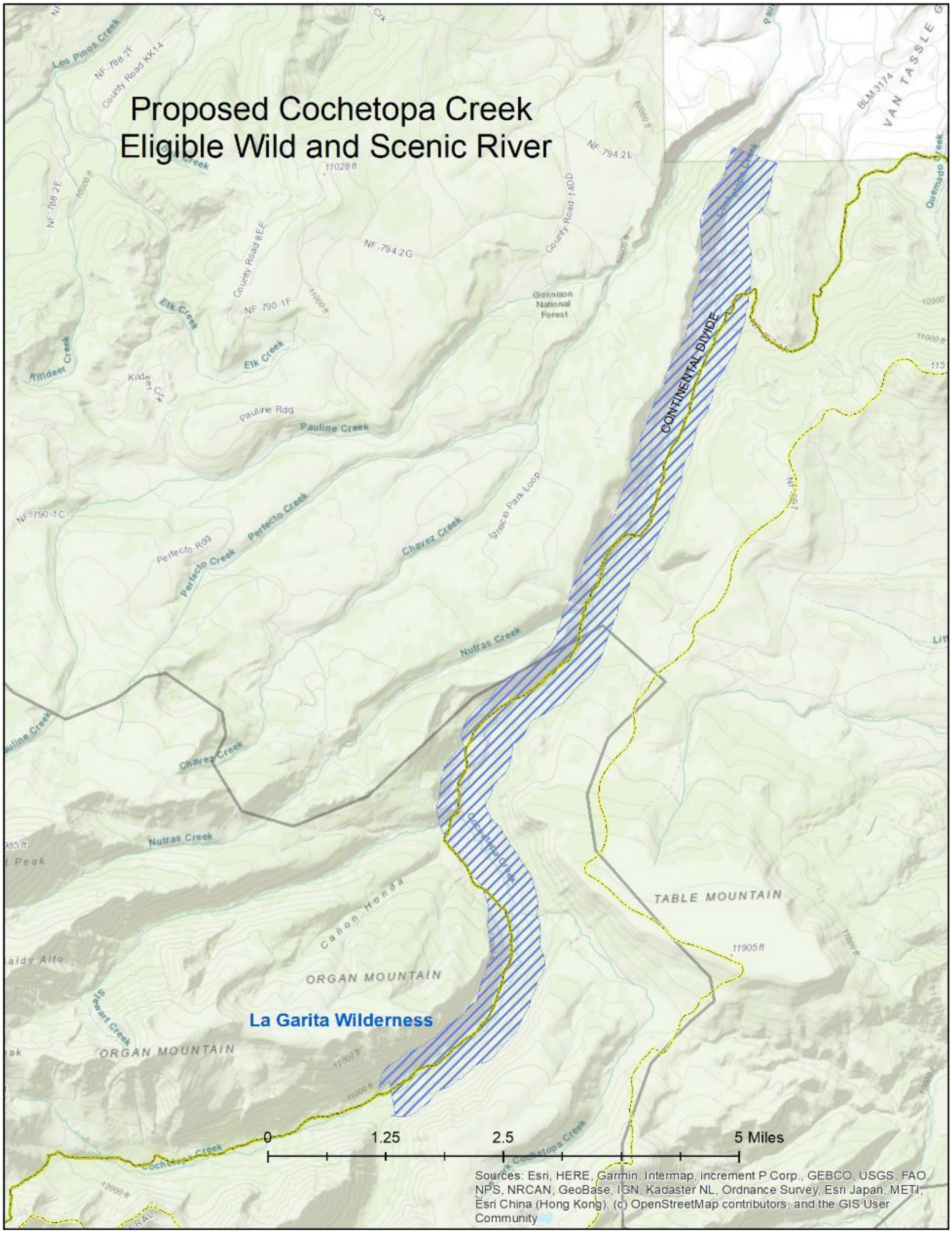
4,000 acres on the Gunnison Ranger District. This river segment is uniquely located with two Congressional designations: Wilderness and National Scenic Trail.

Outstandingly Remarkable Values are Fish and Wildlife (Ecological and Botanical Values). Preliminary Classification is Wild in Wilderness and Scenic outside. This segment of Cochetopa Creek is meandering through wetlands that provide a high level of habitat diversity. The river provides uniquely diverse or high-quality habitat for fish and wildlife species indigenous to the region.

Cochetopa Creek is a good example of a regionally significant healthy and diverse riparian and wetland vegetation. These riparian and wetland areas are critical to ecosystem integrity, and provides for flood control, floodplain and streambank stability, water quality protection, peat accumulation, and wildlife, rare plant, and aquatic habitat. Root masses stabilize streambanks, slow floods, filter sediment, and prevent erosion, and above-ground vegetation provides essential habitat for terrestrial and aquatic organisms as well as nutrient input into aquatic ecosystems. Vegetation can also shade streams, moderating water temperatures thereby impacting the structure of in-stream communities. Moreover, riparian and wetland systems are crucial for floral diversity; in Colorado, more than 40 percent of all plant species occur in wetlands. As riparian and wetland areas are the interface between terrestrial and aquatic ecosystems, the health of these ecosystems is closely interrelated to the surrounding watershed (Forest Plan Aquatic and Riparian Ecosystems Assessment).

Policy direction stating, "*Per existing policy, a range of vegetation management and timber harvest practices are allowed if these practices are designed to protect users or protect, restore, or enhance the river environment, including the long-term scenic character*" is inconsistent with the Scenery Management System and is not clearly associated with protecting the Outstandingly Remarkable Values of eligible rivers.

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


Proposed Cochetopa Creek
Eligible Wild and Scenic River
CONTINENTAL DIVIDE
La Garita Wilderness
ORGAN MOUNTAIN
TABLE MOUNTAIN
Nutras Creek
Chavez Creek
Perfecto Creek
Pauline Creek
Elk Creek
Gunnison National Forest
0
1.25
2.5
5 Miles
Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

I. Recommended Wilderness

DEIS: The DEIS Volume I beginning on page 412 states, "*Action alternatives B and D would recommend additional wilderness. The total recommended by alternative is indicated in table 165. The wilderness analysis (appendix 6 of this draft environmental impact statement) provides detail regarding how these areas were carried forward in alternatives, including some of the trade-offs for managing them as wilderness. Further impacts on different resources and programs from managing these areas as wilderness are included in the resource sections throughout this chapter*."

Comment: Alternative D should be modified or a new Alternative F developed that enlarges the Cochetopa Creek, West Baldy Lake Branch, and Texas Creek proposed recommended Wilderness. Increasing the size of existing wilderness and recommend would benefit wilderness character and wilderness characteristics of the recommended standalone areas.

Recommending these areas for Wilderness would contribute to the conservation purposes of the CDNST and be fully compatible with the nature and purposes of this National Scenic Trail.

J. Glossary Terms

DEIS: The DEIS Volume 1 on page 443 describes Overlay: "*Overlays are mapped and represent areas with more specific emphases and direction. These include scenic integrity objectives, desired recreation opportunity spectrum settings; designated trails; scenic byways; eligible wild and scenic river segments; and utility corridors. The direction for these areas builds on Forestwide and any underlying management area direction. An example of this is the designated trails overlay, which includes the Continental Divide National Scenic Trail. While Continental Divide National Scenic Trail direction would apply along the entirety of the trail in the GMUG, how the corridor is managed would be impacted by the underlying management area direction, which adjusts as this trail traverses through several management areas, including Designated Wilderness (1.1), Colorado Roadless Areas (3.1), Mountain Resorts (4.1), and General Forest (5).*"

ROS characteristics are described on page 446: "*Recreation opportunity spectrum – Also known as recreation setting (see entry below). Allocations that identify a variety of recreation experience opportunities categorized into six classes on a scale from primitive to urban. Each class is defined in terms of the degree to which it satisfies certain recreation experience needs, based on the extent to which the natural environment has been modified, the type of facilities provided, the degree of outdoor skills needed to enjoy the area, and the relative density of recreation use….*"

Comment: Modify the glossary description of "Overlay" by stating that, "*Overlays are mapped and represent areas with more specific emphases and direction. These include scenic integrity*

objectives, desired recreation opportunity spectrum settings; designated trails; scenic byways; eligible wild and scenic river segments; and utility corridors. ~~The direction for these areas builds on Forestwide and any underlying management area direction~~. An example of this is the designated trails overlay, which includes the Continental Divide National Scenic Trail. While Continental Divide National Scenic Trail direction would apply along the entirety of the trail in the GMUG, how the corridor is managed ~~would~~ [may] be impacted by the underlying management area direction, which adjusts as this trail traverses through several management areas, including Designated Wilderness (1.1), Colorado Roadless Areas (3.1), Mountain Resorts (4.1), and General Forest (5). [Insert:] *Conversely, the underlying management direction may be constrained by the standards, guidelines, and suitability for the Continental Divide National Scenic Trail. The most constraining standards, guidelines, and suitability determinations control when there are overlapping plan components*."

ROS characterizations are incomplete. ROS class desired conditions must be compatible with the 1986 ROS Book descriptions. The definitions in Draft Plan and DEIS should be modified:

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

- Semi-Primitive Motorized ROS Class Desired Conditions. Setting: The area is predominantly a natural-appearing environment. Concentration of users is low, but there is often evidence of other users. Experience: Moderate probability of experiencing isolation from the sights and sounds of humans, independence, closeness to nature, tranquility, and self-reliance in an environment that offers a high degree of challenge and risk. Opportunity to have a high degree of interaction with the natural environment. Opportunity to use motorized equipment. Evidence of Humans: Natural setting may have moderate alterations, but would not draw the attention of motorized observers on trails and primitive roads within the area. The area provides for motorized recreation opportunities in backcountry settings. Vegetation management does not dominate the landscape or detract from the experience of visitors. Visitors challenge themselves as they explore rugged landscapes.
- Roaded Natural ROS Class Desired Conditions. Setting: The area is predominantly natural-appearing environments with moderate evidences of the sights and sounds of human activities. Such evidences usually harmonize with the natural environment. Interaction between users may be low to moderate, but with evidence of other users prevalent. Resource modification and utilization practices evident, but harmonize with the natural environment. Conventional motorized use is provided for in construction standards and design of facilities. Experience: About equal probability to experience affiliation with other user groups and for isolation from sights and sound of humans. Opportunity to have a high degree of interaction with the natural environment. Challenge and risk opportunities associated with a more primitive type of recreation are not very important. Practice and testing of outdoor skills might be important. Opportunities for both motorized and non-motorized forms of recreation are possible. Evidence of Humans: Natural settings may have modifications, which range from being easily noticed to strongly dominant to observers within the area. However, from sensitive travel routes and use areas these alternations would remain unnoticed or visually subordinate. The landscape is generally natural with modifications moderately evident. Concentration of users is low to moderate, but facilities for group activities may be present. Challenge and risk opportunities are generally not important in this class. Opportunities for both motorized and non-motorized activities are present. Construction standards and facility design incorporate conventional motorized uses. The Roaded Modified subclass includes areas that exhibit evidence of extensive forest management activities that are dominant on the landscape, including having high road densities, heavily logged areas, highly visible mining, oil and gas, wind energy, or other similar uses and activities. Scenic Integrity Objective is Low.
- Rural ROS Class Desired Conditions. Setting: Area is characterized by substantially modified natural environment. Resource modification and utilization practices are to enhance specific recreation activities and to maintain vegetative cover and soil. Sights and sounds of humans are readily evident, and the interaction between users is often moderate to high. A considerable number of facilities are designed for use by many

people. Facilities are often provided for special activities. Moderate densities are provided far away from developed sites. Facilities for intensified motorized use and parking are available. Experience: Probability for experiencing affiliation with individuals and groups is prevalent as is the convenience of sites and opportunities. These factors are generally more important than the setting of the physical environment. Opportunities for wildland challenges, risk-taking, and testing of outdoor skills are generally unimportant except for specific activities like downhill skiing, for which challenge and risk-taking are important elements. Evidence of Humans: Natural setting is culturally modified to the point that it is dominant to the sensitive travel route observer. May include intensively managed wildland resource landscapes. Pedestrian or other slow-moving observers are constantly within view of the culturally changed landscape.

H. References Cited

Draft Plan: The Draft Plan on page 123 cites references.

Comment: The following references should be cited in the Forest Plan in the appropriate selections and listed as references:

- USDA Forest Service. 2020. Chapter 2350 – Trail, River, and Similar Recreation Opportunities. (WO Amendment 2300-2020-1)
- Visitor Perceptions of Bark Beetle Impacted Forests in Rocky Mountain National Park, Colorado by Christa Cooper Sumner, and Jeffrey A. Lockwood. 2020.
- USDA Forest Service. 2013. "Continental Divide National Scenic Trail and The Colorado Trail Reroute Lujan to La Garita Wilderness" 2013 Environmental Assessment.
- USDA Forest Service. 1990. Chapter 2310 of Forest Service Manual 2300 – Planning and Data Management. (WO Amendment 2300-90-1)
- USDA Forest Service. 1986. ROS Book 1986.
- USDA Forest Service. 1986. Recreation Opportunity Setting as a Management Tool Technical Guide by George Stankey, Greg Warren, and Warren Bacon. Pacific Northwest Region.
- Visitor Preferences for Visual Changes in Bark Beetle-Impacted Forest Recreation Settings in the United States and Germany by Arne Arnberger and others. 2017
- The forgotten stage of forest succession: Early-successional ecosystems on forest sites by Mark E Swanson and others. 2010.
- An Assessment of Frameworks Useful for Public Land Recreation Planning by McCool, Clark, and Stankey, General Technical Report PNW-GTR-705. 2007.

I. Species of Conservation Concern Determinations

DEIS: The DEIS Volume II, Appendix 3, beginning on page 69 states, "*The plan components that address ecological conditions necessary for each species contained in the draft regional forester list of species of conservation concern are identified in table 51. Determinations in accordance with FSH 1909.12.23.13c.2 are indicated…*

Rocky Mountain bighorn sheep - Rocky, steep, or rugged terrain for escape cover with open grass- dominated habitats nearby for foraging. Summer range at high elevation and winter range in valley bottoms or where snow depth is minimal (Beecham et al. 2007).

Comment: The Rocky Mountain Bighorn Sheep should be identified as a Species of Conservation Concern, which would be consistent with the Rio Grande National Forest decision. Some domestic sheep allotments on the Forest are in and near occupied range and suitable range of Rocky Mountain bighorn sheep. There is a potential risk of contact occurring between domestic sheep and Rocky Mountain bighorn sheep. Research shows that contact between bighorn sheep and domestic sheep and goats can lead to transmission of respiratory disease and pneumonia in bighorn sheep, which could potentially affect the ability of bighorn sheep populations to persist over time. To promote healthy populations of bighorn sheep that persist over time, domestic sheep stocking and distribution should be managed to minimize risk of contact with Rocky Mountain bighorn sheep.

The complexities, disease history, and mechanisms or causal agents leading to epizootic disease events are still not fully understood in the wild. The best available science suggests that maintaining spatial or temporal separation of the species is a prudent step when the management objective is to maintain bighorn sheep populations. The GMUG National Forest should minimize bighorn and domestic sheep interactions. Every effort should be made to reduce the risk of contact with domestic sheep.

J. Wilderness Evaluation

DEIS: The DEIS Volume II, Appendix 6, on page 177 states, "*Continental Divide National Scenic Trail: Comments request that the evaluation criterion specifically consider the presence of any national scenic or historic trail segments within evaluation polygons. Comments were also provided concerning the Gunnison Ranger District Travel Plan decision (dated June 28, 2010) in regard to requirements of the 2009 Continental Divide National Scenic Trail Comprehensive Plan and portions of the Continental Divide National Scenic Trail that coincide with the Monarch Crest Trail. Additional comments recommend that the analysis step address the conservation benefits of overlapping wilderness, wild and scenic river, and national scenic trail designations. Comments also urge the Forest Service to acknowledge the proposed Continental Divide*

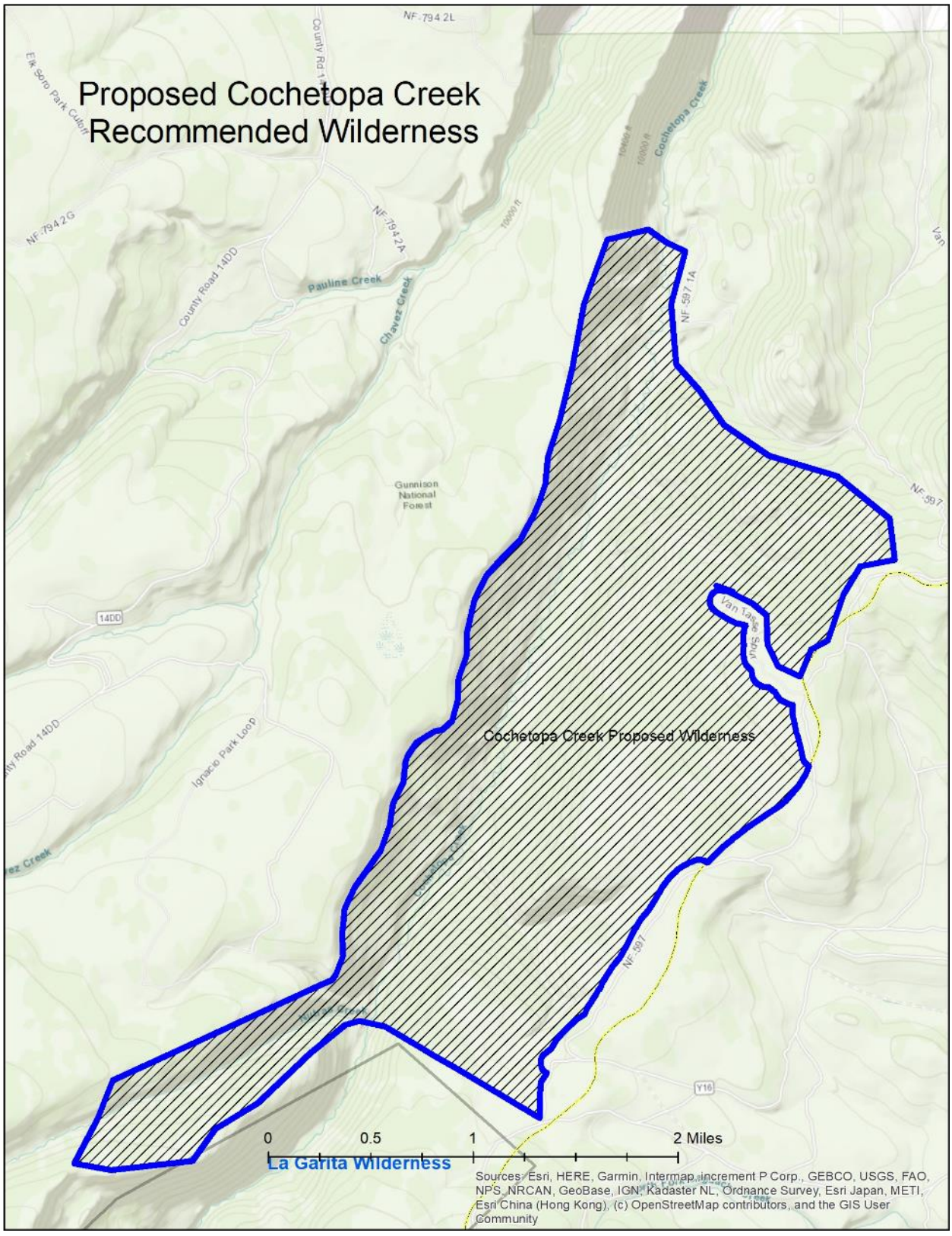
Wilderness and Recreation Act in relation to the Continental Divide National Scenic Trail and the GMUG forest planning, including the GMUG wilderness process.

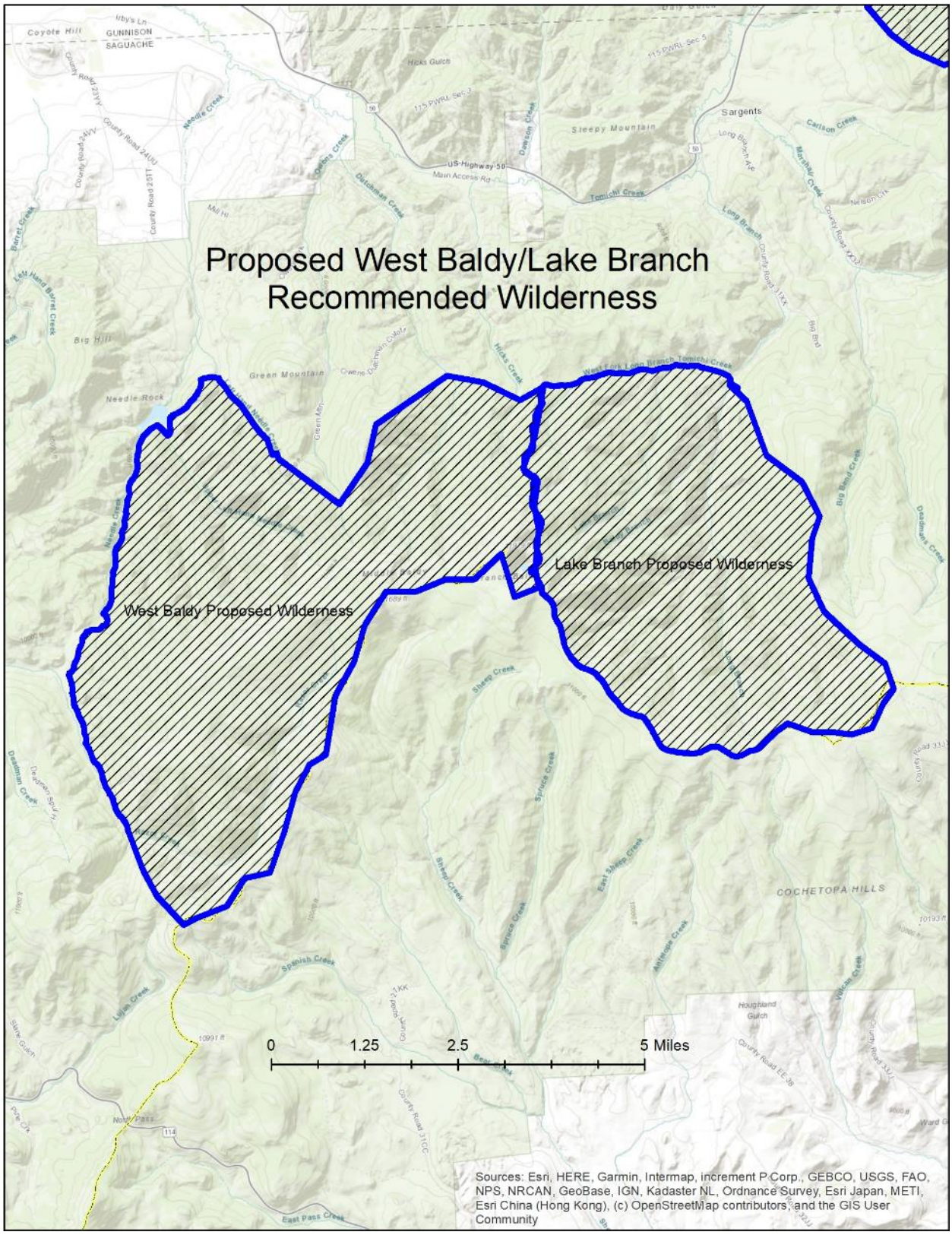
A bullet has been added to the "Evaluation Considerations" column within both Question 4b and Question 4c. Primitive-type recreation opportunities that the Continental Divide National Scenic Trail offer (primitive hiking and horseback riding) are also considered in relation to Question 2b. Comments regarding management direction for congressionally designated trails and other special designations will be noted and considered throughout the forest plan revision process, which includes both the wilderness and wild and scenic river processes…."

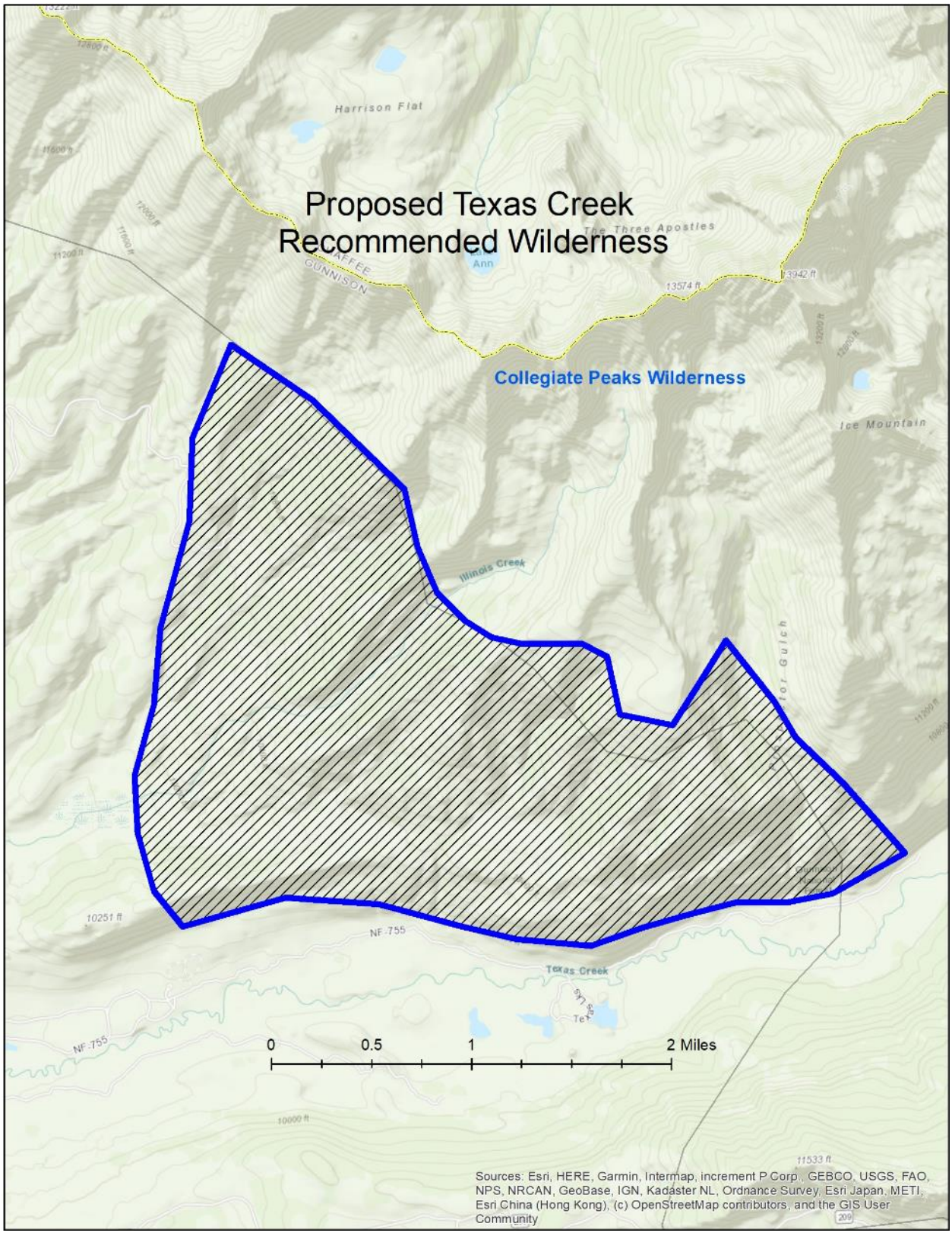
Comment: The National Trails System Act states, "*national scenic trails, established as provided in section 5 of this Act, which will be extended trails so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, 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.*"

The Continental Divide National Scenic Trail potential rights-of-way/management corridor is found within the following roadless areas: Texas Creek #167, Sanford Basin #170, Mirror Basin #169, Agate Creek #173, Cochetopa Hills #165, Cochetopa #141/#143, Carson #73, and Cataract #62. Recommending these areas be designated as wilderness would be consistent with the nature and purposes of the CDNST.

Alternative D should be modified or a new Alternative F developed that identifies Cochetopa Creek (3,600 acres), West Baldy-Lake Branch (26,700 acres), and Texas Creek (3,800 acres) as Recommended Wilderness. The wilderness characteristics of the identified areas would be protected or restored with the identified supporting plan components. These areas would contribute to the Wilderness Preservation System if designated.


Proposed Cochetopa Creek
Recommended Wilderness
Cochetopa Creek Proposed Wilderness
La Garita Wilderness
0
0.5
1
2 Miles
Gunnison National Forest
Pauline Creek
Chavez Creek
Ignacio Park Loop
County Road 14DD
NF-794 2L
NF-794 2G
NF-794 2A
NF-597 1A
NF-597
14DD
Y16
Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community


Proposed West Baldy/Lake Branch
Recommended Wilderness
West Baldy Proposed Wilderness
Lake Branch Proposed Wilderness
0
1.25
2.5
5 Miles
Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community


Proposed Texas Creek
Recommended Wilderness
Collegiate Peaks Wilderness
Harrison Flat
The Three Apostles
Ice Mountain
Illinois Creek
Texas Creek
NF-755
0
0.5
1
2 Miles
Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

Section VII. 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(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...

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.

"(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 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 Section 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*

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) preserving significant natural, historical, and cultural resources (16 U.S.C. § 1244(f)); (3) avoiding activities that would be incompatible with the purposes for which the CDNST was established (16 U.S.C. § 1246(c)); (4) contributing to achieving outdoor recreation, watershed, and wildlife and fish multiple-use benefits (16 U.S.C. § 528); and (5) locating, protecting, and providing for the connectivity of a section of a congressionally designated National Scenic Trail.

area in order to insure continued maximum benefits from the land.... [80]" 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); 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 states, "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,*

[80] The BLM in MS-6280 states, "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)).

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.*"

Legislative History for the National Trails System Act is provided in House Report 1631 accompanying H.R. 4865 states, *"The Secretary of the Interior shall select the rights-of-way for trails designated as national scenic trails… 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 trail system segment "*to harmonize with and complement any established multiple use plans*[81]..." (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 describing that National Scenic Trails are, "*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)), (2) requiring the identification of all significant natural, historical, and cultural resources to be preserved (16 U.S.C. § 1344(f)(1)), and (3) 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)).

[81] NTSA Section 7(a)(2) is reviewed in the, "Development and Management" section of this paper.

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.

S*enate Report 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 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 and 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)

Electric bicycles are considered motorized vehicles and are restricted to designated motorized routes on National Forest System lands. E-bikes may be ridden on designated motorized routes shown on Motor Vehicle Use Maps (MVUMs), including on National Forest System (NFS) roads open to all vehicles; NFS trails open to all vehicles; NFS trails open to vehicles 50 inches or less; NFS trails open to motorcycles only; and NFS trails open to e-bikes as a special designation.

E. Study Report, Comprehensive Plan, and Policy

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). The Chief in 2009 amended the 1985 CDNST Comprehensive Plan and issued conforming FSM 2353.4 policy, which is in conformance with the Forest and Rangeland Renewable Resources Planning Act of 1974 public participation processes for the formulation of standards, criteria, and guidelines applicable to Forest Service programs (36 CFR § 216.3).

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...[82] *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*."

5. 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 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…

[82] http://www.nps.gov/appa/naturescience/upload/AT_Resource_Management_Plan_Ch_1.pdf

(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.[83]

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.

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[83] This section of the Planning Rule is further detailed in the Forest Service planning directive FSH 1909.12 part 24.43, which addresses Planning Rule omissions where direction for wilderness and wild and scenic rivers were improperly given more attention than National Scenic Trails as explained in the following Planning Rule Federal Register Notice response to comments: "*A comment was received on the preferred alternative, asking if the lists in the definition of designated areas were exhaustive. Response: The Department clarified the definition of designated areas in the final rule.... The final rule provides direction for wilderness and wild and scenic rivers in § 219.10(b) separately from other designated or recommended areas because their associated legislation contains specific requirements for the Secretary of Agriculture. The final rule in § 219.10(b)(1)(vi) provides for appropriate management of other designated or recommended areas, which would include areas such as congressionally designated national historic trails*" (77 FR 21244). The explanation that, "*wilderness and wild and scenic rivers in § 219.10(b) separately from other designated or recommended areas because their associated legislation contains specific requirements for the Secretary of Agriculture*" should have led to a similar treatment of National Scenic and Historic Trails, which requires the Secretary to address more planning complexities than either wilderness or wild and scenic rivers. The Secretary must address several NTSA requirements including: (1) developing comprehensive plans for a National Trails (16 USC 1244(e) or (f)), (2) selecting the rights-of-way (16 USC 1246(a)(2)), (3) determining the nature and purposes of the designated National Trail (16 USC 1246(c)), and (4) preventing uses and activities from substantially interfering with nature and purposes qualities and values. In addition, the 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 (16 USC 1246(i)).

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

FSM 2310 (WO Amendment 2300-2020-1) guidance is inconsistent with the Recreation Opportunity Spectrum planning framework and the comprehensive planning requirements of the Wild and Scenic Rivers Act and National Trails System Act.

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

The amended policy makes substantial changes to the recreation planning policy direction without the benefit of 36 CFR § 216 public involvement processes. This policy replaces FSM 2310 (WO Amendment 2300-90-1). The 1990 directive provided the following direction:

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:

6. *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.*

7. *Use the ROS system to develop standards and guidelines for proposed recreation resource use and development.*
8. *Use the ROS system guidelines to describe recreation opportunities and coordinate with other recreation suppliers.*
9. *Recognize individual National Forests need not provide recreation opportunities in each ROS class.*
10. *Do not provide urban opportunities with appropriated or other public funds. Channel urban class provided by private sector funds to private land if available…*

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…."

FSM 2310 (WO Amendment 2300-2020-1) "Digest" describes substantive changes as: "*2311* – *Replaces obsolete direction on Resource Opportunities in Recreation Planning with direction on Corporate Data and Tools that have been in place for over 20 years.*" This "Digest" statement is factually inaccurate. The use of the ROS planning framework and the ROS User Guide continue to be relevant, especially for addressing the recreation resource in forest planning. The 2012 Forest Service planning rule and 2015 planning directives properly identified the ROS planning framework and Scenery Management System as the best management tools and science for addressing recreation and scenic resources in forest planning. The ROS User Guide is consistent with the principles described by the Interagency Visitor Use Management Council.

The recreation setting is the surroundings or the environment for the recreational activities. The planning rule describes that the recreation setting is the social, managerial, and physical attributes of a place that, when combined, provide a distinct set of recreation opportunities. The Forest Service uses the Recreation Opportunity Spectrum to define recreation settings and

categorize them into six distinct classes: primitive, semi-primitive non-motorized, semi-primitive motorized, roaded natural, rural, and urban.

The 1986 ROS Book, which repeated the 1982 ROS User Guide information, was the basis for the 2012 Planning Rule/PEIS and 2015 planning directives, and relied on the for the development of the 2009 CDNST Comprehensive Plan and FSM 2353 conforming directives. As the Recreation Planning National Program Manager, I prepared comments on the draft FSH 1909.12 planning directives that were based in part on the FSM 2310 direction to use the 1986 ROS Book technical guidance for addressing NFMA and planning rule requirements (16 U.S.C. § 1604(f)(1) and 36 CFR §§ 219.1(f), 219.3, 219.6(b)(9), 219.8(b)(2), 219.10(a)(1) & (b)(1), and 219.19 definitions for Recreation Opportunity and Setting).

It is incorrect to infer that the 2012 planning rule and 2015 Planning directives guidance for the recreation resource were based on "*obsolete direction*." The 2020 "Digest" and the substance of the 2020 FSM 2310 direction has improperly influenced an objection review of the Custer-Gallatin proposed revised plan.[84] The 2020 FSM 2310 digest and policy needs to be revised.

In response to comments on the draft planning directives the Forest Service states, "*The Agency substantially changed the section on sustainable recreation (FSH 1909.12, ch. 20, sec. 23.23a) to emphasize that the plan will include desired conditions for sustainable recreation using mapped desired recreation opportunity spectrum classes to address recreational settings. This mapping may be based on management areas, geographic areas, designated areas, independent overlay mapping, or any combination of these approaches. Desired recreation opportunity spectrum classes may be different from existing classes. Additional plan components, including standards and guidelines, to supplement and complement desired recreation opportunity spectrum classes may be developed as needed. The directives make clear that plan components for recreational trails are to be based on the desired condition for recreational settings and opportunities.*"

The 2015 Forest Service planning directives require the establishment of mapped ROS settings through Forest Planning processes (FSH 1909.12 – Part 23.23a). Mapped ROS classes based on the 1986 ROS Book class descriptions would help ensure the integration of multiple use programs through Forest Plan decisions. The ROS class descriptions and policy direction as modified by FSM 2310 (WO Amendment 2300-2020-1) diminishes the usefulness of having mapped ROS settings and using the ROS as a management tool.

The ROS planning framework was not intended to never change, but modifications to ROS class characteristics definitions should only occur through robust public involvement processes, based on science that supports modifying ROS characteristic definitions, and to improve

[84] http://nstrail.org/planning/gallatin_nf/Final_CG_LMP_Objection_Response_April_15_2021.pdf

readability. The amended FSM 2310 direction does not meet any of these need for change criteria. Furthermore, effects of any change to ROS class characteristics need to be disclosed.

FSM 2350 (2300-2009-2/2300-2020-1 as enacted through 74 FR 51116)

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), 1244(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), 1246(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)). [85]

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

[85] 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.

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 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). 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

principal tools for obtaining the best scientific information for the condition of the recreation resource.

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:

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.
4. 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)). [86] The designated area 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

[86] 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)).

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.[83]

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

> 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 these selected rights-of-way. The MA or NTMC extent and associated plan components must provide for the nature and purposes of this NST.

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-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.

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.

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 measurable 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.[87]

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[87] 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

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[88] to assess both motorized and nonmotorized use along the route. In addition, Forest Supervisors are required to identify the minimum road system (MRS) needed for safe and efficient travel and for administration, utilization, and protection of NFS lands.

Section VIII. CDNST Regulatory Planning Framework

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

- USDA DR 1074-001 – Scientific Integrity in policymaking that relates to the development, analysis, and use of data for decision-making.
- 36 CFR § 216 (16 U.S.C. § 1612(a)) – To give adequate notice and an opportunity to comment upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs.
- 16 U.S.C. § 1242(a)(2) – National Scenic Trail Purpose is … for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass.
- 16 U.S.C. § 1244(f) – The responsible Secretary shall ... submit ... a comprehensive plan for the acquisition, management, development, and use of the trail, including but not limited to, the following items: Specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved ... an identified carrying capacity of the trail and a plan for its implementation … a protection plan for high potential route segments….
- 16 U.S.C. § 1246(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

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.

[88] http://www.nstrail.org/pdf_documents/fs_guidelines_for_road_mixed_use_analysis_EM-7700-30_2005.pdf

thereof of the availability of appropriate maps or descriptions in the Federal Register.

- 16 U.S.C. § 1246(c) – National scenic trails may contain campsites, shelters, and related-public-use facilities. Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted by the Secretary charged with the administration of the trail… To the extent practicable, efforts be made to avoid activities incompatible with the purposes for which such trails were established. The use of motorized vehicles by the general public along any National Scenic Trail shall be prohibited... Other uses along the historic trails and the Continental Divide National Scenic Trail, which will not substantially interfere with the nature and purposes of the trail, and which, at the time of designation, are allowed by administrative regulations, including the use of motorized vehicles, shall be permitted."
- E.O. 13195 – Trails for America in the 21st Century – Federal agencies will ... protect, connect, promote, and assist trails of all types throughout the United States. This will be accomplished by: ... (b) Protecting the trail corridors associated with national scenic trails...to the degrees necessary to ensure that the values for which each trail was established remain intact....
- Executive Order 11644 and 11989 – Use of off-road vehicles on the public lands.
- 36 CFR 212 Subpart B - Designation of Roads, Trails, and Areas for Motor Vehicle Use (§§ 212.50 - 212.57)
- 36 CFR § 212 Subpart C - Over-Snow Vehicle Use (§§ 212.80 - 212.81)
- CDNST Comprehensive Plan
    - Chapter III.E, Land Management Plans (74 FR 51124) – The final amendments are consistent with the nature and purposes of the CDNST identified in the 1976 CDNST Study Report and 1977 CDNST Final Environmental Impact Statement adopted by the Forest Service in 1981 (40 FR 150). The final amendments and directives will be applied through land management planning and project decisions following requisite environmental analysis.
    - Chapter IV.A, Nature and Purposes (74 FR 51124) – Administer the CDNST consistent with the nature and purposes for which this National Scenic Trail was established. The CDNST was established by an Act of Congress on November 10, 1978 (16 USC 1244(a)). The nature and purposes of the CDNST are to provide for high-quality scenic, primitive hiking and horseback riding opportunities and to conserve natural, historic, and cultural resources along the CDNST corridor.
    - Chapter IV.B.2, Rights-of-Way Extent (74 FR 51119) – The rights-of-way for the trails will be of sufficient width to protect natural, scenic, cultural, and historic features along the trails and to provide needed public use facilities....
    - Chapter IV.B.4, Scenery Management (74 FR 51124) –The CDNST is a concern level 1

route, with a scenic integrity objective of high or very high.[89]

- Chapter IV.B.5, Recreation Management (74 FR 51125) – Manage the CDNST to provide high-quality scenic, primitive hiking and pack and saddle stock opportunities. Backpacking, nature walking, day hiking, horseback riding, nature photography, mountain climbing, cross-country skiing, and snowshoeing are compatible with the nature and purposes of the CDNST. Bicycle use may be allowed on the CDNST (16 U.S.C. 1246(c)) if the use is consistent with the applicable land and resource management plan and will not substantially interfere with the nature and purposes of the CDNST. Use the ROS system in delineating and integrating recreation opportunities in managing the CDNST.[90]
- FSM 2353.44b(10) – Bicycle use may be allowed on the CDNST (16 U.S.C. 1246(c)), using the appropriate trail design standards, if the use is consistent with the applicable CDNST unit plan (FSM 2353.44b(2) and will not substantially interfere with the nature and purposes of the CDNST (FSM 2353.42).
- Chapter IV.B.6. Motorized Use (74 FR 51125) – Motor vehicle use by the general public is prohibited by the National Trails System Act unless that use:
    - Is necessary to meet emergencies;
    - Is necessary to enable adjacent landowners or those with valid outstanding rights to have reasonable access to their lands or rights;
    - Is for the purpose of allowing private landowners who have agreed to include their lands in the CDNST by cooperative agreement to use or cross those lands or adjacent lands from time to time in accordance with Forest Service regulations; or
    - Is on a motor vehicle route that crosses the CDNST, if that use will not substantially interfere with the nature and purposes of the CDNST;
    - Is designated in accordance with 36 CFR Part 212, Subpart B, on National Forest System lands or is allowed on public lands and:
        - ❖ The vehicle class and width were allowed on that segment of the CDNST prior to November 10, 1978, and the use will not substantially interfere with the nature and purposes of the CDNST or
        - ❖ That segment of the CDNST was constructed as a road prior to November 10, 1978; or
    - In the case of over-snow vehicles, is allowed in accordance with 36 CFR Part 212, Subpart C and the use will not substantially interfere with the nature and purposes of the CDNST.
    - FSM 2353.44b(11) – Motor vehicle use by the general public is prohibited on the CDNST, unless that use is consistent with the applicable CDNST unit plan and: [repeats Comprehensive Plan Chapter IV.B.6 list and refers to CDNST

[89] Landscape Aesthetics, A Handbook for Scenery Management, Agricultural Handbook Number 701

[90] This reference is to ROS classes as defined in the 1982 and 1986 ROS User Guides, which was the basis for the sustainable recreation direction in the Planning Rule as informed by the Planning Rule PEIS

unit plan].

- 16 U.S.C. § 1604(f)(1) – Form one integrated plan
- 36 CFR § 219.1(f) – Compliant with all applicable laws
- 36 CFR § 219.3 – Best Available Scientific information
- 36 CFR § 219.7 – Plan Components (where they apply)
- 36 CFR § 219.9(a)(1) - Ecosystem Integrity
- 36 CFR § 219.10(a) – Integrated Resource Management for Multiple Use.
- 36 CFR § 219.10(b)(1)(i) – Sustainable recreation
- 36 CFR § 219.10(b)(1)(vi) – Management of other designated areas
- 36 CFR § 219.11(a)(1)(i) – Lands not suited for timber production – Statute prohibits timber production on the land
- 36 CFR § 219.11(a)(1)(iii) Lands not suited for timber production – Timber production not compatible with desired conditions
    - FSH 1909.12 part 22 – Requirements for an Integrated Plan
    - FSH 1909.12 part 22.1 – Plan Components
    - FSH 1909.12 part 23 – Resource Requirements for Integrated Plan Components
    - FSM 2310.3 (WO Amendment 2300-90-1) – Recreation Planning
    - FSM 2382.1 – Scenery Management System
    - FSH 1909.12 part 23.23a – Sustainable Recreation Resources
    - FSH 1909.12 part 23.23f – Scenery, Aesthetic Values, and Viewsheds
    - FSM 2353.4 – National Scenic Trails – CDNST (74 FR 51125) [91]
    - FSH 1909.12 part 24.43 - National Scenic and Historic Trails
- 40 CFR § 1502.13 – Purposed and Need
- 40 CFR § 1502.14 – Proposed Action and Alternatives
- 40 CFR § 1502.15 – Affected Environment
- 40 CFR §§ 1502.16, 1508.7 (2020), 1508.8 (2020) – Environmental Consequences
- 40 CFR § 1502.24 – Methodology and Scientific Accuracy (2005)
- 40 CFR § 1502.23 – Methodology and Scientific Accuracy (2020)
- 40 CFR § 1503.4(a) – Response to Comments (2005)

[91] http://nstrail.org/main/fsm_2350_2300_2009_2_cdnst.pdf

Section IX. Glossary

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

- Conservation (Forest Service). The protection, preservation, management, or restoration of natural environments, ecological communities, and species. (36 CFR § 219.19)
- 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.]:
  - 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.
  - Conserve. For the purposes of National Scenic Trails (36 CFR § 219.10(b)(1)(vi)) conserve is the protection, preservation, management, or restoration of natural environments, ecological communities and species as informed by 16 U.S.C. §§ 1242(a)(2), 1246(k); 16 U.S.C. §§ 1244(f)(3), 1246(i); and 16 U.S.C. §§ 1241(a), 1244(f)(1).
  - 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.]
  - 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.]
  - 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.]
  - 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.]

- 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.

- 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 those 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.

- 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.” (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 Sections 3, 5(f) and 7(b), (c), (d), (e), 7(f), (i), and (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. An opportunity to participate in a specific recreation activity in a particular recreation setting to enjoy desired recreation experiences and other benefits that accrue. Recreation opportunities include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air.
- Recreation Opportunity Spectrum (Forest Service). The Recreation Opportunity Spectrum planning framework is the recognized framework for stratifying and defining classes of outdoor recreation environments, activities, and experience opportunities. 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 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 settings, activities, and opportunities for obtaining experiences have been arranged along a continuum or spectrum divided into six classes. 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 terms "recreation opportunity spectrum setting" and "recreation opportunity spectrum class" are synonymous and used interchangeably.

- 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.
- Recreation Setting Characteristics (BLM H-8320-1). Recreation Setting Characteristics are categorized as physical, social, and operational components that are further subdivided into specific characteristics (attributes). These characteristics are categorized across a spectrum of classes that describe a range of qualities and conditions of a recreation setting, for example primitive to urban. The RSC approach may be useful in recreation resource inventories; however, applying recreation setting components and characteristics separately does not resolve inconsistencies between the physical, social, and operational recreation settings components and characteristics. The Recreation Opportunity Spectrum planning framework should be used to establish desired ROS settings in land and resource management plans.
- Restoration. The process of assisting the recovery of an ecosystem that has been degraded, damaged, or destroyed. Ecological restoration focuses on reestablishing the composition, structure, pattern, and ecological processes necessary to facilitate terrestrial and aquatic ecosystems sustainability, resilience, and health under current and future conditions. (36 CFR § 219.19)
- Scenic Attractiveness (Forest Service). The scenic importance of a landscape based on human perceptions of the intrinsic beauty of landform, rockform, waterform, and vegetation pattern. Reflects varying visual perception attributes of variety, unity, vividness, intactness, coherence, mystery, uniqueness, harmony, balance, and pattern. It is classified as: A-Distinctive. B-Typical or Common. C-Undistinguished.
- 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). The scenery management system is the framework for developing plan components related to scenic character. This framework for scenery management is described in Landscape Aesthetics - A Handbook for Scenery Management (Agriculture Handbook 701). Note that the term "scenic character" replaces the term "landscape character" in the FSH 1909.12 Planning Handbook.

- Scenic Integrity Levels (Forest Service). Scenic integrity is defined as the degree of direct human-caused deviation in the landscape, such as temporary and permanent roads, timber harvests, or activity debris. Indirect deviations, such as a landscape created by human suppression of the natural role of fire, are not included. 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 (Forest Service). Scenic integrity objectives in the context of the forest plan are equivalent to desired conditions. Scenic integrity describes the state of naturalness or a measure of the degree to which a landscape is visually perceived to be "complete." The highest scenic integrity ratings are given to those landscapes that have little or no deviation from the landscape character valued by constituents for its aesthetic quality. Scenic integrity is the state of naturalness or, conversely, the state of disturbance created by human activities or alteration. 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.
- Scenic Quality (Forest Service). The essential attributes of landscape that when viewed by people, elicit psychological and physiological benefits to individuals and, therefore, to society in general.
- 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.

Section X. Specialized and Expert Knowledge

The information in this handbook supplements and clarifies agency planning processes. This handbook provides a description and summary of relevant National Trails System Act requirements that offer foundational rationale for understanding and providing for the nature and purposes of the Continental Divide National Scenic Trail. In addition, this handbook provides guidance for applying the Recreation Opportunity Spectrum and Scenery Management/Visual Resource System planning frameworks throughout a planning area.

My professional expertise is in dispersed recreation and designated area management and natural resource planning.[92] I was a Wildlife Biologist on the Cebolla Ranger District. I was the principal resource specialist in of the development and considerations of the final amendments to the CDNST Comprehensive Plan and final directives (Federal Register, October 5, 2009, 74 FR 51116). I coauthored a Recreation Opportunity Spectrum Technical Guide with Warren Bacon and George Stankey. My academic experience includes receiving a M.S. in Wildland Recreation Management and a B.S. in Wildlife Biology with Distinction. Assessments are also based on recreation research and handbooks including:

1. The Recreation Opportunity Spectrum: A Framework for Planning, Management, and Research, General Technical Report PNW-98,[93] 1979, by Roger Clark and George Stankey;
2. ROS Users Guide 1982 (and ROS Book 1986) (U.S. Department of Agriculture, Forest Service. ROS Users Guide. Washington, DC: U.S. Department of Agriculture, Forest Service);
3. Recreation Opportunity Setting as a Management Tool Technical Guide,[94] 1986, by George Stankey, Greg Warren, and Warren Bacon;
4. Landscape Aesthetics, A Handbook for Scenery Management, Agricultural Handbook Number 701, 1995;
5. Studies in Outdoor Recreation: Search and Research for Satisfaction. Studies in Outdoor Recreation: Search and Research for Satisfaction by Robert Manning, 2010, and
6. Other similar publications and papers.[95]

[92] http://nstrail.org/gwarren_experience.htm
[93] http://nstrail.org/carrying_capacity/gtr098.pdf
[94] http://nstrail.org/carrying_capacity/ros_tool_1986.pdf
[95] http://nstrail.org/references.htm

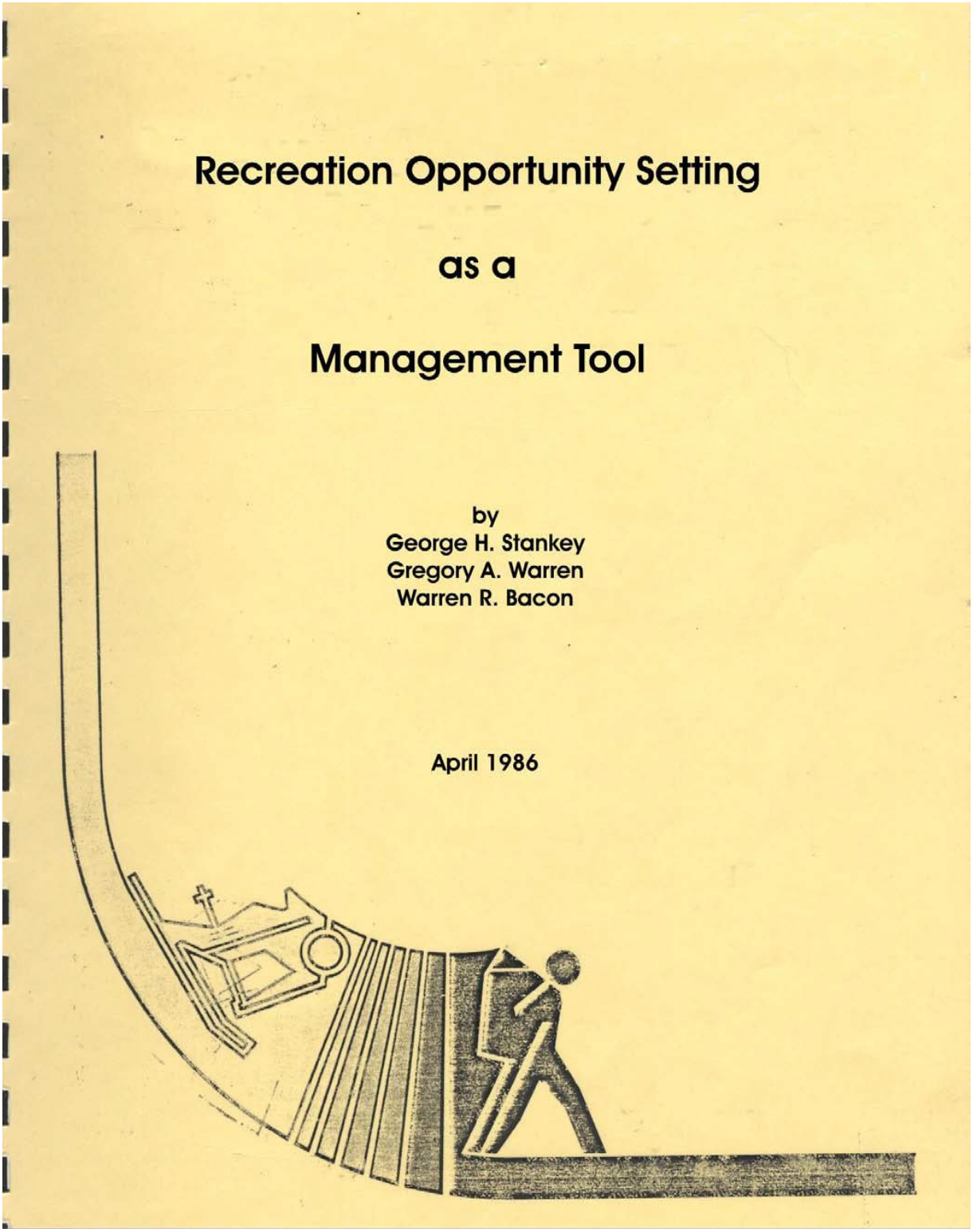
Appendix A. Integrated Planning Strategy for the CDNST.

2009 Comprehensive Plan Stage 1	Land Management Plan Stage 2	CDNST Field-Level Plan Stage 3

The comprehensive plan establishes national direction (FSM 2353.01d(5)) that implements foundational provisions of the National Trails System Act, which includes establishing:
• The Nature and Purposes of the CDNST
• Objectives
• Selecting the Rights-of-Way Corridor
• Guidance for resource management practices as related to:
  ○ Visual Resource
  ○ Recreation Resource
  ○ Motorized Use
  ○ Special Use Permits
  ○ Trail and Facilities
  ○ Carrying Capacity
  ○ Monitoring and Evaluation
• Supported by the 1976 CDNST Study Report, 1977 CDNST Final Environmental Statement and E.O. 13195 – Trails for America, and was established through a 36 CFR § 216.3 process.
	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):
	• Identifying objectives
	• Identifies and preserves significant natural, historical, and cultural resources.
	• Establishes the extent of the CDNST Management Area (FS) or National Trail Management Corridor (BLM).
	• Provides for protecting or achieving the nature and purposes through establishing supporting plan components:
	  ○ Desired Conditions
	  ○ Objectives
	  ○ Standards (Thresholds)
	  ○ Guidelines
	  ○ Suitability of Lands
	  ○ Management actions,
	  ○ Allowable use decisions
	  ○ Monitoring
	• Developed following programmatic Environmental Impact Statement processes that emphasize ROS and Visual Quality planning principles, and addresses *management actions* and *other uses* that may be allowed (16 USC 1246(c)).
		Field-level site-specific planning that is consistent with the Comprehensive Plan, and agency regulations and policies:
		• Identifies and preserves significant natural, historical, and cultural resources (site-specific).
		• Identifies and displays the segments of the CDNST that traverse the unit.
		• 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.
		• Provides for development, signing, construction, and maintenance.
		• Establishes carrying capacity (LAC) for segments.
		• Establishes monitoring programs to evaluate site-specific conditions.
		• Developed following site-specific Environmental Impact Statement or Environmental Assessment processes that emphasize ROS and Visual Quality planning principles, and addresses *implementation actions* and *other uses* that may be allowed (16 USC 1246(c)). Prescribe regulations governing the use, protection, management, development, and administration (16 USC 1246(i)).

CDNST comprehensive planning Stages 2 and 3 may be combined if requisite programmatic and site-specific NEPA requirements are satisfied.		

Appendix B – ROS as a Management Tool. The text of this handbook is posted online at http://nstrail.org/carrying_capacity/ros_tool_1986.pdf.



Appendix C. 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
Glacier National Park					CDNST is mainly protected due to National Park status. Recommend working with the Blackfeet Tribe to improve the connection to East Glacier.
Flathead National Forest					Recommend conducting an optimum location review.
Butte Field Office - BLM					Need to amend or revise the RMP to address the requirements of the CDNST Comprehensive Plan and BLM Directive MS-6280, Chapter 4 – National Scenic and Historic Trails Planning.
Helena - Lewis and Clark National Forest					CDNST is protected where located in designated Wilderness. The 2021 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. 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.
Dillon Field Office - BLM					Need to amend or revise the RMP to address the requirements of the CDNST Comprehensive Plan and BLM Directive MS-6280, Chapter 4

					– National Scenic and Historic Trails Planning.
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.
Salmon Field Office - BLM					Need to amend or revise the RMP to address the requirements of the CDNST Comprehensive Plan and BLM Directive MS-6280, Chapter 4 – National Scenic and Historic Trails Planning.
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 National Forest					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.
Yellowstone National Park					CDNST is mainly protected due to National Park status. An optimum location review should be conducted.
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.
Rock Springs Field Office - BLM					Need to amend or revise the RMP to address the requirements of BLM Directive MS-6280, Chapter 4 – National Scenic and Historic Trails Planning.
Lander Field Office - BLM					An optimum location review should be conducted.
Rawlins Field Office - BLM					Need to amend RMP to address the requirements of the CDNST Comprehensive Plan and BLM Directive MS-6280, Chapter 4 planning direction. Field Office should lead effort to secure permanent private land access.
Medicine-Bow NF					Medicine Bow Landscape Vegetation Analysis Project 2020 decision failed to address the requirements of the National Trails System Act and is inconsistent with Forest Plan ROS setting allocations. 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 revised or amended to address the requirements of the CDNST Comprehensive Plan and FSH 1909.12 - 24.43 – National Scenic and Historic Trails.
Kremmling Field Office - BLM					The Field Office should continue to work with the FS to secure private land access.
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.
Rocky Mountain National Park					East-shore corridor planning should occur in collaboration with the Forest Service.
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.
Pike-San Isabel NF					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.
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					The 2020 revised Plan fails to address the requirements of the National Trails System Act. A plan amendment needs to address the requirements of the CDNST Comprehensive Plan and FSH 1909.12 - 24.43 – National Scenic and Historic Trails.
Gunnison Field Office - BLM					Need to amend or revise the RMP to address the requirements of the CDNST Comprehensive Plan and BLM Directive MS-6280, Chapter 4 – National Scenic and Historic Trails Planning.
Tres Rios Field Office - BLM					Need to amend the 2015 RMP to address the requirements of the CDNST Comprehensive Plan and BLM Directive MS-6280, Chapter 4 – National Scenic and Historic Trails Planning.
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.
Rio Puerco Field Office - BLM					Need to amend or revise the RMP to address the requirements of the CDNST Comprehensive Plan and BLM Directive MS-6280, Chapter 4 – National Scenic and Historic Trails Planning.
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.
Socorro Field Office - BLM					Need to amend or revise the RMP to address the requirements of the CDNST Comprehensive Plan and BLM Directive MS-6280, Chapter 4 – National Scenic and Historic Trails Planning.
El Malpais National Monument					The NPS should continue to work with the FS and BLM to find an optimum location.
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.