

Data Submitted (UTC 11): 7/2/2016 7:00:00 AM

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Comments: Comments on the Colville NF Draft Forest Plan and DEIS

Please find the attached Draft Forest Plan and DEIS formal comments and related information. Greg Warren

P.S. The CARA website is not functional at this time.

Rodney Smoldon, Forest Supervisor July 1, 2016 Colville National Forest

Forest Plan Revision 765 South Main St. Colville, WA 99114

Submittal: <https://cara.ecosystem-management.org/Public/CommentInput?project=45826;>

Dear Mr. Smolden,

Please accept the following comments regarding the Draft Colville National Forest Proposed Land Management Plan and DEIS. These comments address the planning and management of the Pacific Northwest National Scenic Trail (PNNST).

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PNNST Plan Component Recommendations

Many of the proposed PNNST plan components are desirable as discussed in the next section. However, the proposed management prescriptions allow uses and activities that would substantially interfere with maintaining or achieving the nature and purposes of this National Scenic Trail. I recommend that the PNNST Management Area direction be modified as described in this section. These changes would benefit the PNNST, while being consistent with the 1982 National Forest Management Act (NFMA) Planning Rule and NEPA CEQ regulations.¹

The revised Forest Plan Management Area direction needs to describe desired conditions, standards, and guidelines that provide for the nature and purposes of the PNNST. The nature and purposes of the PNNST should recognize hiker and equestrian activities as the primary recreational use as envisioned in the Study Report and protect the PNNST corridor as intended

¹ 36 CFR Part 220 does not lessen the applicability of the CEQ 40 CFR 1500 regulations (see 36 CFR 220.1(b)).

by the National Trails System Act (NTSA) and Executive Order 13195 - Trails for America. Management of activities and uses within this Management Area need to be compatible with the nature and purposes of the

PNNST (FSM 2353.11, FSM 2353.42, and FSH 1909.12 part 24.4). The NTSA Congressional Record and Study Report supports the nature and purposes of the PNNST as providing for high-quality, scenic, primitive hiking and horseback riding experiences and to conserve natural, historic, and cultural resources along the PNNST corridor. Other recreation and resource uses along the PNNST may be allowed only where there is a determination that the other use would not substantially interfere with the nature and purposes of the PNNST.

To be consistent with the NTSA, a Management Area location needs to only approximate the alignment of the route that is depicted on a map referenced in Public Law 111-11, which is displayed in Appendix A. When identifying the Management Area corridor, several location and management factors should be considered, including locating the PNNST in more primitive Recreation Opportunity Spectrum (ROS) classes where available and once located the management of the PNNST corridor should provide for a Primitive or Semi-Primitive Non-Motorized experiences on Federal lands. In addition, scenic management objectives of high or very high need to be met along the PNNST travel route where on federal lands. A reasonable location for a Management Area to avoid open roads is depicted in Appendix B, which is a location that could be refined by the planning team.

The Management Area should be of sufficient width to encompass resources, qualities, values and associated settings and the primary use or uses that are present or to be restored along the desirable (existing and potential) PNNST travel route. The extent of this Management Area recommendation is based on ROS criteria that identify 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; can include the existence of primitive roads and trails if closed to motorized use. More than 3 miles would tend to classify the area as Primitive another desirable setting especially in wilderness. The Forest Service Scenery Management System identifies that the middleground begins at 1/2-mile of the travel route. The relationship between the Scenery Management System and Recreation Opportunity Spectrum is discussed in Appendix C.

The development and management of National Scenic and Historic Trails must be based on many facets of the NTSA, other applicable laws, Executive Orders, regulations, and policies. Planning guidance for the National Trails System has been modified several times since the legislation was enacted in 1968. In 1976, the NFMA was passed requiring integrated plans (36 CFR 219.2 [1982]); as such, new and revised NFMA directed land management plans should not be predisposed by the 1968 NTSA guidance 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 of the National Trails System is discussed further in Appendix D. The legislative history of the NTSA is summarized in Appendix E.

Management Area Direction

The following table describes components of recommended PNNST Management Area direction.

PNNST Management Area Desired Conditions

The Management Area provides for the nature and purposes of the PNNST. The nature and purposes of the PNNST are to provide for high-quality, scenic, primitive hiking and horseback riding experiences and to conserve natural, historic, and cultural resources along the PNNST corridor. The PNNST corridor provides panoramic views of undisturbed landscapes in a tranquil scenic environment. The corridor is of sufficient width to encompass national trail resources, qualities, values, associated settings and the primary use or uses. This includes vistas, campsites, water sources and other important resource values. Primitive and Semi-Primitive Non-Motorized ROS class settings are predominate in the PNNST Management Area corridor.

PNNST Management Area Standards or Guidelines²

Scenery Management

Management actions must meet a Scenic Integrity Level of Very High or High.

Recreation Management

Management actions must be compatible with the ROS settings of Primitive class in wilderness and Semi-Primitive Non-Motorized class in non-wilderness.

Special Uses Management

Activities, uses, and events that would require a permit may not be authorized unless the activity, use, or event contributes to achieving the nature and purposes of the PNNST.

Minerals Management

Mineral leases are to include stipulations for no surface occupancy.

Permits for the removal of mineral materials are not to be issued.

Timber Production

2 See FSM 1110.8 for Degree of Compliance or Restriction "Helping Verbs" and "Mood of Verb" Definitions

The Management Area is not suitable for timber production. Timber harvest is not scheduled and does not contribute to the allowable sale quantity.

Vegetation Management

Vegetation may be managed to maintain or improve Threatened, Endangered, and Sensitive species habitat.

Vegetation may be managed to enhance CDNST values, such as to provide vistas to view surrounding landscapes and to conserve natural resources.

Lands Acquisition

Provide for land acquisitions to protect the nature and purposes of the PNNST. Land disposals along the PNNST corridor are prohibited.

Travel Routes

The PNNST travel route should fall into Trail Class 2 or 3 and have a Designed Use of Pack and Saddle Stock (FSH 2309.18).

Road construction and reconstruction is prohibited, except as allowed by NTSA Section 7(c) (16 U.S.C. 1246(c)).

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 PNNST 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 PNNST, as long as that use will not substantially interfere with the nature and purposes of the PNNST.

Bicycle use may be allowed where the use does not substantially interfere with the nature and purposes of the PNNST.

The PNNST travel route may not be used for a livestock driveway.

Other Uses Considerations

Other uses that could conflict with the nature and purposes of the PNNST may be allowed only where there is a determination that the other use would not substantially interfere with the nature and purposes of the PNNST (16 U.S.C. 1246(c)).

Where congressionally designated areas overlap, apply the management direction that best protects the values for which each designated area was established.

Implementation Strategies

Partnerships and volunteers are sustained or sought to lead and assist in PNNST programs. Volunteer and cooperative agreements will be developed with those volunteers and private organizations that are dedicated to

planning, protecting, developing, maintaining, and managing the PNNST in accordance with Sections 2(c), 7(h)(1), and 11 of the NTSA.

Advisory Committee

The planning team needs to consult with the PNNST Advisory Committee on the location of the PNNST Management Area and on proposed management direction. Parties should recognize that locating a Management Area and providing for appropriate management direction to protect National Scenic Trail values may be changed, after a requisite Forest Plan amendment processes, as a result of the completion of the PNNST Comprehensive Plan. However, the establishment of the Advisory Committee and their work on the Comprehensive Plan should not deter the Forest Service from establishing measures through the revision process to provide for the congressional intended nature and purposes of this National Scenic Trail, as required by NFMA planning regulations (36 CFR 219.2). The Comprehensive Plan was to be completed in 2011, and although progress is being made, a completed plan will take many more years to come to fruition.

Comments on the Draft Colville Forest Plan

The following are specific observations, comments, and recommendations on the Draft Forest Plan:

Page 70, FW-STD-LG-01 - Stock Driveways

I support the standard, "Do not authorize stock driveways along nationally designated (Recreation and Scenic) trails."

Page 90 - NATIONALLY DESIGNATED TRAILS

The discussion addresses scenery along the PNNST travel route. However, the discussion should also address providing for Primitive and Semi-Primitive Non-Motorized ROS settings. The establishment of these ROS settings along the PNNST corridor are of critical importance to providing for National Scenic Trail values. See Appendix C for a discussion of the relationship between the Scenery Management System and Recreation Opportunity Spectrum.

Page 90, MA-DC-NT-01 - National Recreation Trails.

All references and discussions to National Scenic Trails need to be moved to the National Scenic Trail section.

Page 91, MA-DC-NT-02 - National Scenic Trails.

The desired condition should also describe to provide for Primitive or Semi-Primitive Non-Motorized ROS class settings.

Page 92, MA-DC-NT-03 - Pacific Northwest Scenic Trail Interim Management.

The draft Plan states, "Outside of congressionally designated wilderness, the Pacific Northwest National Scenic Trail's Comprehensive Plan will identify the nature and purpose of the trail, along with trail uses. Other uses of a National Scenic Trail corridor must not substantially interfere with its nature and purposes. Where segments of the Pacific Northwest National Scenic Trail interim route overlays open Forest System Roads, the motorized use on the road may continue. Motorized use identified on the motor vehicle use map would continue on open National Forest System roads that are utilized as sections of the interim Pacific Northwest National Scenic Trail route."

This desired condition description does not reflect the requirements of the NFMA and NSTA. The revised Colville Forest Plan must provide for one integrated plan. Regarding designated wilderness, the congressionally mandated PNNST Comprehensive Plan must address all segments of the PNNST including sections in wilderness. Regarding roads, motor vehicle use on roads may occur in only limited situations as per the requirements of the NTSA Section 7(c) provisions. The Comprehensive Plan should define the nature and purposes of the PNNST, but this is not an absolute requirement of the NTSA Section 5(e). As such, the revised Plan should establish a definition of nature and purposes that is consistent with the intent of the NTSA. The Plan should state that the PNNST Comprehensive Plan direction may modify the Forest Plan direction after requisite amendment processes. With these considerations, I propose the desired condition statement be redrafted as follows:

"Pacific Northwest National Scenic Trail Desired Condition. The PNNST provides for high-quality, scenic, primitive hiking and horseback riding experiences and conserves natural, historic, and cultural resources along

the PNNST corridor. The PNNST provides panoramic views of undisturbed landscapes in a tranquil scenic environment. The corridor is of sufficient width to encompass national trail resources, qualities, values, associated settings and the primary use or uses. This includes vistas, campsites, water sources and other important resource values. Sections of the recognized PNNST travel route that are on National Forest System trails are managed as located PNNST travel route sections. Roads that are open to motor vehicle use and that are currently used as interim PNNST travel routes are not considered to be located sections of the PNNST."

Page 92, MA-STD-NT-01 - Pacific Northwest National Scenic Trail.

Standards - Management Actions. Standards need to address scenery and ROS allocations using normal protocols, such as: (1) Management activities must meet a Scenic Integrity Level of Very High or High; and (2) Management actions must be compatible with the ROS settings of Primitive class in wilderness and Semi-Primitive Non-Motorized class in non-wilderness.

Page 92, Guidelines MA-GDL-NT-01 - Uses.

The following guideline is inconsistent with the NTSA, "Where segments of the Pacific Northwest National Scenic trail overlay National Forest System roads open to motorized use, the motorized use on the road may continue." I recommend changing this to, "National Forest System roads should not be identified as the official location of the PNNST travel route. Subject to regulations, motor vehicle use of National Forest System roads that are used as interim PNNST travel route connectors may be allowed."

Page 93, MA-SU-NT-01 - Suitable Uses.

I recommend that this section focus on use that is "Not Suitable." Instead, identify use that does not support desired conditions, such as, "The Management Area is not suitable for timber production. Timber harvest is not scheduled and does not contribute to the allowable sale quantity."

Summary of NFMA Planning Concerns

The draft plan is not in compliance with NFMA planning requirements, including:

*Scope and applicability requirements (36 CFR 219.2), since the PNNST management direction was not adequately integrated into the planning process.

*Forest Plan content requirements (36 CFR 219.11), since multiple-use prescriptions are inconsistent with motor vehicle use and other requirements of the NTSA.

*Forest planning process requirements (36 CFR 219.12(f)), since alternatives did not address appropriate management direction and establish a reasonable location for the PNNST Management Area.

Comments on the DEIS

There are several issues with the DEIS with the principle concern being that the PNNST Management Area direction is inconsistent with the National Trails System Act. In summary, the PNNST management direction must provide for desirable ROS class settings and limit the use of motor vehicle use as required by NTSA Section 7(c).

The following is a summary of NEPA issues and concerns:

DEIS, Page 24 - Other Topics Related to the Decision.

The DEIS describes that, "It is outside the authority of the Forest to move any boundary established by Congress. Congressionally designated areas on the Colville National Forest include the Salmo-Priest Wilderness and the Pacific Northwest National Scenic Trail. Changes to these congressionally designated areas are not included in the forest plan revision effort." This statement is incorrect for National Scenic Trails. The Secretary of the Agriculture is assigned the authority to select the rights-of-way for the PNNST, which would be the principal "boundary"

for this National Trail. The rights-of-way is yet to be selected; however, the Forest Plan must strive to protect a PNNST Management Area corridor, which is to be located within the extent of the expected rights-of-way.

DEIS, page 41 - Management Area, National Designated Trails.

The DEIS states, "Management direction is for all nationally designated trails located within the administrative boundaries of National Forest System lands. The corridor where management direction applies consists of the visible foreground, which is generally one-half mile in width either side of the centerline of the trail, including viewpoints, water sources, campsites, and spur trails to these features." I support this direction, but it is incomplete without also establishing Primitive or Semi-Primitive Non-Motorized ROS class indicators and standards to the Management Area direction.

DEIS, page 572 - The Pacific Northwest National Scenic Trail

The DEIS states, "...The final location of the PNT would be determined when its legislatively mandated Comprehensive Plan is finalized... Therefore, sections of the PNT (as shown on the alternative maps) are likely to change upon completion of the PNT's Comprehensive Plan. Forest Plan direction for the National Scenic Trail Corridor Management Area would apply to the most current location of the trail as determined by the Comprehensive Plan and published in the Federal Register... Once the Comprehensive Plan for the trail is complete, work would start to identify trail routes where none exist and to move the trail off its existing road alignments. The trail is open to non-motorized uses. However, mountain bikes are not allowed on sections of the trail where their use is otherwise prohibited, such as in designated wilderness. In addition, motorized uses are allowed on the sections of trail currently located on open national forest system roads."

The Comprehensive Plan was to be completed within two years of the designation of the PNNST in 2009, and although progress is being made in the development of the plan, the completion date

could be many years out. As such, it would be prudent and consistent with NEPA, to address most of the NTSA planning requirements as part of the development of the revised Colville Plan. If the Comprehensive Plan direction is substantially different then direction found in the revised plan an amendment would transpire. Therefore, any lack of or inappropriate direction that is established in the revised Colville Plan would be corrected or adjusted through the Forest Plan amendment process.

The forest should engage the Advisory Committee in the development of the final Forest Plan to identify a sustainable Management Area corridor and to establish appropriate management direction. This approach would be consistent with the NTSA, NFMA, and NEPA. The Advisory Committee would continue to be involved in the development of the Comprehensive Plan with its required components. In addition, the Council should be consulted to assist with defining the nature and purposes of the PNNST and with identifying the rights-of-way, especially where non-Federal land is involved.

Until the PNNST rights-of-way is selected and the corridor is located, the Forest Service must not undertake any major Federal action which (1) may adversely impact potential PNNST nature and purposes values and corridor locations, (2) limit the choice of reasonable alternatives, and (3) prejudice ultimate rights-of-way and locations decisions (40 CFR 1506.1).

DEIS - PNNST Effects Disclosure

The DEIS fails to disclose the effects of the proposed PNNST management direction that does not establish ROS settings that protect PNNST nature and purposes (values). 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 PNNST. 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 values of the PNNST.

DEIS, Pages 315-Table 116, 326-Table 121, 331-Table 125, 334-Table 126, 338-Table 128, 579-Table 192 -

Affected Environment and Environmental Consequences

These DEIS tables do not display PNNST information. The PNNST information needs to be added to the EIS tables to be consistent with the disclosure requirements of NEPA.

DEIS, Page 577 - Environmental Effects Summary

"Management direction for Nationally Designated Trails and Roads would remain the same across all alternatives. No new scenic byways, or national recreation trails are proposed under any alternative. These special designation areas would continue to be managed to protect the values for which they were designated. Direction specific to the Pacific Northwest National

Scenic Trail (PNT) developed through the PNT's trail Comprehensive Plan would be incorporated into the new forest plan when completed in 2018 to 2019."

PNNST values are not protected in the proposed Forest Plan and in the alternatives to the proposed action. However, this can be achieved if the management direction recommended in these comments is adopted and if the planning team identifies a reasonable location for the PNNST Management Area by moving the corridor location from National Forest System open roads. It should be noted that the forthcoming Comprehensive Plan would be incorporated in the Plan following Forest Plan amendment processes.

Summary of NEPA Concerns

The DEIS is not be in compliance with NEPA planning requirements, including:

- *Reasonable range of alternatives (40 CFR 1502.14), since the management direction for PNNST is inconsistent with the requirements of the NTSA and alternative Management Area locations are not considered.
- *Affected environment (40 CFR 1502.15), since the PNNST description is not adequate for the understanding of the environment of the area to be affected or created. This would include not describing the nature and purposes of the PNNST.
- *Environmental consequences (40 CFR 1502.16, 40 CFR 1508.7, and 40 CFR 1508.8), since the effects of the proposed action and alternatives on the PNNTS are not described. This would include not disclosing the effects of prescriptions that would allow activities and use that may substantially interfere with the nature and purposes of the PNNST.
- *Scope (40 CFR 1502.25) due to connected actions, cumulative actions, and impacts which requires that the PNNST management direction to be fully integrated into the Forest Plan and addressed in the EIS.
- *In addition, the Forest Service proposed action and alternatives (1) may adversely impact the PNNST designated area, (2) limit the choice of reasonable alternatives to be considered in the comprehensive planning process, and (3) prejudice ultimate rights-of- way and locations decisions (16 USC 1246(a), 16 USC 1246(c), and 40 CFR 1506.1).

Thank you for considering these comments. Greg Warren
NSTrail.org

Appendix A - Pacific Northwest National Scenic Trail - Public Law 111-11 Route

Appendix B - Potential PNNST Management Area Corridor

Colville National Forest Vicinity

Appendix C - SMS and ROS Relationship

The relationship between the Scenery Management System and the Recreation Opportunity Spectrum systems are discussed in the Landscape Aesthetics Handbook. Landscape Aesthetics - A Handbook for Scenery Management (Agricultural Handbook Number 701); Appendix F - 1 - Recreation Opportunity Spectrum: "Recreation planners, landscape architects, and other Forest Service resource managers are interested in providing high quality recreation settings, experiences, and benefits for their constituents. This is accomplished, in part, by linking the Scenery Management System and the Recreation Opportunity Spectrum (ROS) System. In addition, providing a single constituent inventory and analysis for both systems is helpful in coordinating management practices.

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

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

In the past, there have been apparent conflicts between The Visual Management System sensitivity levels and ROS primitive or semi-primitive classes. One apparent conflict has been where an undeveloped area, having little existing recreation use and seldom seen from sensitive travel routes, was inventoried using The Visual Management System. The inventory led to a "sensitivity level 3" classification, and thus apparently contradicted ROS inventory classes of primitive or semi-primitive non-motorized or semi-primitive motorized. Using criteria in The Visual Management System, in a variety class B landscape with a sensitivity level 3, the initial visual quality objective is "modification" or "maximum modification," depending on surrounding land classification. However, because of factors such as few social encounters, lack of managerial regimentation and control, and feelings of remoteness, the same area having little existing recreation use may establish an ROS primitive, semi-primitive nonmotorized, 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 become 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 are dependent on more than the number of viewers or users, and the key is that both the Scenery Management System and ROS are first used as inventory tools. Land management objectives are established during, not before, development of alternatives. Where there does appear to be a conflict in setting objectives for alternative forest plans, the most restrictive criteria should apply. An example might be an undeveloped land area in a viewshed managed for both middleground partial retention and semi-primitive non-motorized opportunities. Semi-primitive non-motorized criteria are usually the more restrictive.

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

harmoniously if properly utilized. In all these examples, there are management decisions made for other resources that result in protection and enhancement of landscape settings."

Appendix D - Development and Management of the National Trails System

The development and management of National Trails must be based on many facets of the NTSA, other applicable laws, Executive Orders, regulations, and policies. Planning guidance for the National Trails System has been modified several times since the legislation was enacted in 1968. In 1976, the National Forest Management Act (NFMA) was enacted requiring integrated plans; as such, new and revised NFMA directed land management plans, and the comprehensive planning for NSHTs, should not be predisposed by the 1968 NTSA guidance 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 PNNST:

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

(2)The NTSA, Section 3(a)(2) describes location criteria as, "National scenic trails, established as provided in section 5 of this Act, which will be extended trails so located [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..."

(3)The NTSA, Section 7(a)(2) is important for it directs the establishment of the PNNST 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 PNNST and many other National Trails.

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

(a) What is a "segment of the National Trails System?" To place this in context, it is important to recognize that the components of the "National Trails System," includes National Recreation Trails (NRTs), National Scenic Trails (NSTs), National Historic

Trails (NHT), and Side or Connecting Trails. A simple definition of a segment is, "one of the parts into which something can be divided." The parts of the National Trails System would be each congressionally and administratively designated National Trail component.

(b)What is intended by the 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 described that, "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 - now expired).

(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." Though, this is confusing 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 1960.³

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

(5)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

³ 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"

Secretary charged with the administration of the trail. Reasonable efforts shall be made to provide sufficient access opportunities to such trails and, to the extent practicable, efforts be made to avoid activities incompatible with the purposes for which such trails were established. The use of motorized vehicles by the general public along any national scenic trail shall be prohibited...." This section was also adopted in 1968 and has clear implications to the development and management of NSHTs. It is implicit that the nature and purposes of each designated NSHT be established to not only understand acceptable uses along a National Trail, but also for guiding the selection of the rights-of-way and the establishment of a NSHT management corridor.

(6)In 1978, the NTSA was amended adding Section 7(k) to address the management and development issues associated with private land along a NSHT stating, "For the conservation purpose of preserving or enhancing the recreational, scenic, natural, or historical values of components of the national trails system, and environs thereof as determined by the appropriate Secretary, landowners are authorized to donate or otherwise convey qualified real property interests to qualified organizations consistent with section 170(h)(3) of the Internal Revenue Code of 1954, including, but not limited to, right-of-way, open space, scenic, or conservation easements...." This direction is specific to private land, but identifies the importance "of preserving or enhancing the recreational, scenic, natural, or historical values" along a National Trail.

(7)In 1978, the NTSA was amended adding Section 5(e) to require the development of a Comprehensive Plan directing that, "a comprehensive plan for the management, and use...."

(8)In 1982, planning regulations for the NFMA were established requiring the development of one integrated plan. The principle role of a Plan, in regards to the requirements of 36 CDR 219.2, is to identify the optimum location for the PNNST corridor and then protect the PNNST corridor to achieve the nature and purposes of this National Scenic Trail. Management direction must relate to attaining the goals and objectives of a Management Area as addressed in 36 CFR 219.2 and 36 CFR 219.11(c). Other key sections that relate to planning for the PNNST, include 36 CFR 12(f), 36 CFR 219.12(g), and 36 CFR 219.21.

(9) 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.

(10) In 2009, Omnibus Public Land Management Act (P.L. 111-11, 16 U.S.C. 7202) authorized and designated the PNNST.

Appendix E - Summary of the NTSA Legislative History

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, states that, "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."

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

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

"In order to provide for the ever-increasing outdoor recreation needs of an expanding population and in order to

promote the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas and historic resources of the Nation, trails should be established...within scenic areas and along historic travel routes of the Nation which are often more remotely located."

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

"National scenic trails, established as provided in section 5 of this Act, which will be extended trails so located (emphasis added) as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass. National scenic trails may be located so as to represent desert, marsh, grassland, mountain, canyon, river, forest, and other areas, as well as landforms which exhibit significant characteristics of the physiographic regions of the Nation."

National Scenic and Historic Trails -

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

"(26) Pacific Northwest National Scenic Trail -- (A) IN GENERAL - The Pacific Northwest National Scenic Trail, a trail of approximately 1,200 miles, extending from the Continental Divide in Glacier National Park, Montana, to the Pacific Ocean Coast in Olympic National Park, Washington, following the route depicted on the map entitled 'Pacific Northwest National Scenic Trail: Proposed Trail', numbered T12/80,000, and dated February 2008 (referred to in this paragraph as the 'map'). (B) AVAILABILITY OF MAP - The map shall be on file and available for public inspection in the appropriate offices of the Forest Service. (C) ADMINISTRATION - The Pacific Northwest National Scenic Trail shall be administered by the Secretary of Agriculture. (D) LAND

ACQUISITION - The United States shall not acquire for the Pacific Northwest National Scenic Trail any land or interest in land outside the exterior boundary of any federally- managed area without the consent of the owner of the land or interest in land."

NTSA sec. 5(e) (16 U.S.C. 1244(e)) - "(e) Within two complete fiscal years of the date of enactment of legislation designating a national scenic trail, except for the

Continental Divide National Scenic Trail and the North Country National Scenic Trail, as part of the system, and within two complete fiscal years of the date of enactment of this subsection for the Pacific Crest and Appalachian Trails, the responsible Secretary shall, after full consultation with affected Federal land managing agencies, the Governors of the affected States, the relevant advisory council established pursuant to section 5(d), and the Appalachian Trail Conference in the case of the Appalachian Trail, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, 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 (along with high potential historic sites and high potential route segments in the case of national historic trails), details of any anticipated cooperative agreements to be consummated with other entities, and an identified carrying capacity of the trail and a plan for its implementation;

(2) an acquisition or protection plan, by fiscal year for all lands to be acquired by fee title or lesser interest, along with detailed explanation of anticipated necessary cooperative agreements for any lands not to be acquired; and

(3) 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 PNNST. Pursuant to Section 5(a), the PNNST was authorized and designated on November 10, 1978. Section 7(a)(2) states that the, "...Secretary shall select the rights-of-way for national scenic and national historic trails and shall publish notice thereof of the availability of appropriate maps or descriptions in the Federal Register; Provided, That in selecting the rights-of-way full consideration shall be given to minimizing the adverse effects upon the adjacent landowner or user and his operation. Development and management of each segment of the National Trails System [i.e., National

Recreation Trails, National Scenic Trails, National Historic Trails, and Connecting and Side Trails] shall be designed to harmonize with and complement any established multiple-use plans for the specific area in order to insure continued maximum

benefits from the land....⁴" The legislative requirement for the Secretary of Agriculture to take action and select the PNNST rights-of-way should be addressed by establishing PNNST Management Area corridors in Land Management Plans (FSM 2353.44b); the requirement should be met on BLM public lands by establishing National Trail Management Corridors (NTMC) in Resource Management Plans. The establishment of PNNST MAs and NTMCs could facilitate PNNST comprehensive planning (16 U.S.C. 1244(f)), selecting and publishing the PNNST 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 PNNST was established and designated...."

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

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

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

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

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...."

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."

Proposed legislation describes the selection of Routes for National Scenic Trails - "The Secretary...shall select the rights-of-way.... Such rights-of-way shall be (1) of sufficient width and so located to provide the maximum retention of natural conditions, scenic and historic features, and primitive character of the trail area, to provide campsites, shelters, and related public-use facilities, and to provide reasonable public access; and (2) located to avoid, insofar as practicable, established highways, motor roads, mining areas, power transmission lines, existing commercial and industrial developments, range fences and improvements, private operations, and any other activities that would be incompatible with the protection of the trail in its natural condition and its use for outdoor recreation...." Congress considered these qualitative requirements for selecting and designing the rights-of-way in HR 4865, but did not enact the specific direction in NTSA Section 7(a). Instead, the enacted legislation inserts in Section 7(a) more conceptual direction for selecting and designing the rights-of-way, including (1) "consideration of minimizing adverse effects" and (2) designing each segment "to harmonize with and complement any established multiple use plans..." (16 U.S.C. 1246(a)(2)). The enacted legislation made other modifications to HR 4865, including (1) changing the definition of a National Scenic Trail to broaden the statement of purpose (16 U.S.C. 1242(a)) and (2) added a requirement to make efforts to avoid activities incompatible with the purpose for which such trails were established (16 U.S.C. 1246(c)). House and Senate Reports are silent on the reasons for these changes.

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

Senate Report No.95-636, 1978: "The Act was intended to insure that long-distance, high-quality trails with substantial recreation and scenic potential were afforded Federal recognition and protection.... The fourth amendment modifies section 7(g) of the 1968 act to modify the restriction on the use of eminent domain to provide that the secretary may acquire in fee title and lesser interest no more than an average of 125 acres per mile. Experience with the trail has demonstrated that additional authority is needed to insure the acquisition of a corridor

5 NTSA Section 7(a)(2) is reviewed in the, "Development and Management" section of this paper.

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.

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..."

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...."