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Organization: Idaho Recreation Council

Title:

Comments: August 8, 2018

Zach Peterson

Nez Perce-Clearwater National Forest

903 3rd Street

Kamiah, ID 83536

Dear Zach:

This letter is in response to your electronically sent letter dated July 26, 2018. Although your letter did not specifically ask for comments, the letter did provide additional information; specifically, the Draft Wild and Scenic Rivers Suitability Report (Report). After reviewing this additional information, we have identified new concerns that have not been included in any previous comments. These concerns involve four areas in the W&SR Report:

1. Item 3. The reasonably foreseeable potential uses of the land and water that would be enhanced, foreclosed, or curtailed if the area is included in the national system: There is a failure of the evaluation to accurately disclose the adverse impacts a suitable determination would have on project and to the public.
2. Item 3. The reasonably foreseeable potential uses of the land and water that would be enhanced, foreclosed, or curtailed if the area is included in the national system: There is a failure of the evaluation to accurately disclose the adverse impacts a suitable determination would have on future projects and projects cost.
3. Item 11. Support or opposition to designation: There appears to be a preference towards Clearwater Basin Collaborative in your process.
- 4.
- Item 13. The potential for water resources development: The Forest appears to not be realistic in its evaluation of potential dams.

1.

3. The reasonably foreseeable potential uses of the land and water that would be enhanced, foreclosed, or curtailed if the area is included in the national system: The Report does not accurately evaluate the impacts to future projects and to the public. The Report not only is totally silent on the adjacency provision of the W&S River Act, it is misleading by stating that the effects are limited to a quarter of mile from the river. The adjacency provision of the W&S River Act has been interpreted and upheld by the Courts.

The impact on projects goes beyond the quarter mile boundary for ORV's. There are three ORV's that are important for consideration and are involved in most of the eligible river; fish, wildlife and scenery. Any action outside of the quarter mile boundary that may adversely affects the river's ORV must be altered to protect that

ORV. For scenery that would be the viewshed from the river, for fisheries that could be the watershed for all side drainages and for wildlife it could be the entire range for that species. These are reasonably foreseeable impact since there are court cases to guide the analysis.

The Report says there would be no impact to travel or road maintenance. However, that is not the case when compared to other roads along existing W&S River. The Report needs to clearly identify these impacts. These impacts are reasonably foreseeable since they are incurring on other W&S Rivers, i.e. Lochsa, Selway, and others across the Nation

The Report also does not disclose how the ORVs are to be protected and enhanced. For example, the South Fork of the Clearwater identified fishing as an ORV. How will the river plan (if designated) protect this fishing opportunity? On other river, when use increases, permit systems or restriction are put into place. The report needs to disclose these possibilities for the public.

Later in the report you look at public support or opposition, however the public cannot decide without the information. It is misleading to suggest that there will be little impact from designation of these rivers as wild and scenic.

And lastly, the report needs to disclose that Forest Service policy may be more restrictive in the interim than an actual management plan. Forest Service policy for an eligible or suitable river is that the interpretation of protection (and therefore actions that may be allowed or not allowed) for that river is at the discretion of the District Ranger and cannot be challenged; there is no appeal process and cannot be litigated. There are existing decisions which supports this concern and are therefore reasonable and foreseeable to address in this report.

1.

3. The reasonably foreseeable potential uses of the land and water that would be enhanced, foreclosed, or curtailed if the area is included in the national system: The Report does not accurately evaluate the impacts on the cost of future projects. The Report does not disclose the increase in cost associated with each suitable river. The additional costs are reasonably foreseeable as the agency only must look at the cost to prepare NEPA document, analysis, and legal challenges for the exiting river. These additional costs have indirect effect on another project. The Forest has a fixed budget and the additional cost to administer each suitable river takes funds from other high priority projects whether it is restoration of streams, wildlife habitat, vegetation, or recreation. These are actions that would be foreclosed or curtailed for every dollar taken to administer these rivers.

2. 11. Support or opposition to designation: The Report (11. Support and opposition to designation) starts off with a short discussion describing, "In general", public support and opposition for additional river designations. But then the Report goes on to describe in detail the results of the Clearwater Basin Collaborative (CBC) by reciting their letter dated March 14, 2018.

The Forest had numerous public meeting early in the process followed by other public meeting (total of 22 meetings) and a comment period. The extensive discussion on CBC's comments minimizes all the people that participated in the public meetings and took the time to write and submit comments; only to be lumped into a general statement. On the other hand, CBC's comments are in such detail as to describe that the County

Commissioners were the only two that opposed designation and several members of CBC voted with thumbs sideways. Had snowmobiles or mtn bikers been represented in CBC there would have been 2 more thumbs down, but they are not included in CBC.

Because of the way this Report is drafted many questions now arise:

1.

1. Why did the Forest not summarize the number of publics who supported or opposed suitability and disclose them (from both the public meetings and submitted comments)?

2. Why did the forest not include wording from other public letters that describe in detail their concerns?

3. Why didn't the Forest just include CBC's comment as part of the general summary of comments?

4. Is CBC an official "Advisory Committee" under FACA, and if so, this should be disclosed.

5.

Does the Forest recognize CBC (a closed public group) to carry more weight than all of the publics that participated in all of the public meeting and took time to write responses?

The Forest needs to screen the comments before putting specific wording in this Report. For example, the Forest gives credibility to the statement, "[hellip] they have compromised in that they can support the listing of only 13 segments when suitability produced a list of 89 segments." Since the Forest chose to put this comment in this Report, without any response or clarification, the Forest has given the impression that compromising is a criterion for selecting a river as suitable or it's a numbers game. We are not aware of any Forest Service directives that indicate that suitability is a numbers game based on the number of eligible rivers or a compromise of a specific number of suitable rivers, but rather it is to be based on the river's merits and a defined criteria.

2.

13. The potential for water resources development: The Forest does not appear to be realistic in its evaluation of potential dams. The Report frequently states, "While dam construction is possible, it is unlikely." The statement that dam construction is possible is misleading and out of context. This is a statement that has no value in that almost anything is possible. Even if the river was designated as a W&S River by congress it is "possible" for Congress to remove it as a W&S River and create a dam.

We rely on the Forest to put issues in context. Given the number of T&E species in these waters and the Clean Water Act, the creation of a dam on any river on the Nez Perce -Clearwater NF is virtually impossible without an Act of Congress. Dam construction is more than unlikely on the forest; there are no current proposals and there are no reasonably foreseeable future proposals for any dam. The Report should clearly state that the risk from dam construction on any of these rivers does not exist. The next planning cycle can reevaluate at that time.

The use of the term reasonably foreseeable needs to be used consistently throughout the document. The Report seems to dismiss some issues as not being reasonably foreseeable, but then does not dismiss the creation of dam as a risk.

The Report refers to past identification of dam location utilizing a 1980 reference. This again is misleading and not put into context. This report is 38 years old and not relevant in 2018. No one in recent years (since the listing of fish) has proposed any dam nor has this report been re-evaluated or updated to include new information to make it relevant for this report. There is a greater likelihood that dams being removed than creating new ones.

Thank you for considering our comments.

Sincerely,

Sandra Mitchell

Executive Director