

Data Submitted (UTC 11): 2/17/2022 7:45:18 PM
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Comments:
February 17, 2022
Ashley National Forest
Attention: Forest Plan Revision
355 North Vernal Avenue
Vernal, Utah 84078
AshleyForestPlan@usda.gov

RE: Comments on the Ashley National Forest Draft Environmental Impact Statement (DEIS), Draft Forest Plan, and Wild and Scenic Eligibility and Suitability Documentation

Dear Stacy Allen, Lars Christensen, and the Interdisciplinary Team,

American Rivers is pleased to submit these comments on the Ashley National Forest's DEIS and Draft Forest Plan. We appreciate the opportunity to provide questions, critiques, and proposed corrections to the DEIS, Draft Forest Plan, and associated draft eligibility and suitability reports regarding Wild and Scenic Rivers. As such, these comments - and those that American Rivers submitted in November 2019 - apply to all documents above, including the Forest's Draft Wild and Scenic Eligibility Report and Draft Wild and Scenic Suitability Report.

These comments will cover:

- *About American Rivers
- *Requirements Under the Wild and Scenic Rivers Act
- *The Draft Forest Plan, DEIS, and WSR Eligibility
- *Wild and Scenic Suitability
- *Climate Adaptation Benefits from Stream Protection
- *Expectations for Collaboration
- *Conclusion

About American Rivers

American Rivers believes a future of clean water and healthy rivers for everyone, everywhere is essential. Since 1973, we have protected wild rivers, restored damaged rivers, and conserved clean water for people and nature. With headquarters in Washington, D.C., and 300,000 supporters, members, and volunteers across the country, we are the most trusted and influential river conservation organization in the United States, delivering solutions for a better future. Because life needs rivers. Our Southwest River Protection Program has offices in Durango, CO; Moab, UT; and Flagstaff, AZ. We are deeply committed to the conservation of the most ecologically and culturally important rivers in the region. The Wild and Scenic eligible streams of the Ashley National Forest fall squarely into both categories.

Requirements Under the Wild and Scenic Rivers Act

The Wild and Scenic Rivers Act (WSRA) of 1968 is the strongest form of protection for free-flowing rivers in the U.S. and has inspired dozens of similar laws world-wide. It is considered one of America's bedrock environmental laws. Passed during the big dam-building era in our nation's history, the Act was meant to provide a balance between those rivers which we dam, divert, and exploit for economic development and those rivers which we retain as free-flowing for people and nature. To date, the National Wild and Scenic Rivers System protects just 13,413 miles of 226 rivers in 41 states, or less than 0.5% of U.S. rivers. At the same time, 92,071 dams impound

over 700,000 miles of river across the country. Clearly that balance has not yet been struck.

A key component of the Act that applies to planning is the requirement of land management agencies to inventory all Wild and Scenic (WSR) eligible streams named on a 7.5-minute USGS topographic map, as well as all streams proposed through public comments such as those submitted previously by American Rivers. Since the new Forest Plan will provide important administrative management for eligible streams and stream-related values for the next 20 years or more, it is essential that every qualified stream be included in the eligibility analysis.

The standard for WSR eligibility laid out in the Wild and Scenic Rivers Act is straightforward:

"A wild, scenic or recreational river eligible to be included in the system is a free-flowing stream and the related adjacent land area that possesses one or more of the values referred to in Section 1, subsection (b) of this Act..."

Direction in the WSRA, the 2012 Forest Planning Rule, and the Forest Service Handbook require that a stream must be found eligible if the stream segment is:

- (1) free flowing, and;
- (2) possesses at least one Outstandingly Remarkable Value (ORV).

The corresponding list of ORVs in Section 1 of the WSRA that need to be considered when determining eligibility are "...outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values..." The Forest Service Land Management Planning Handbook provides guidance regarding the assessment ORVs, instructing that such values must be river-related and "...a unique, rare, or exemplary feature that is significant when compared with similar values from other rivers at a regional or national scale."

In addition, stream segments found to be eligible under the Wild and Scenic Rivers Act shall not be allowed to slip from one preliminary classification level - essentially a measure of development at the time it was inventoried - to a lower classification by the agency. For instance, a stream preliminarily classified as "scenic" cannot be allowed by the land management agency to move to a level of development that would make its classification "recreational." Likewise, a "wild" classified section cannot be allowed to inadvertently qualify for a "scenic" classification.

The Draft Forest Plan, DEIS, and WSR Eligibility

Appendix F in the Draft Forest Plan, the "Wild and Scenic Rivers Suitability Report", is presented without previous publication of a Final Wild and Scenic Rivers Eligibility Report, and thus without providing required responses and analysis of date presenting in comments submitted in November 2019 on the Draft WSR Eligibility Report.

Specifically, American Rivers, in comments on the Draft Wild and Scenic Eligibility Report dated November 8, 2019, listed 22 river segments that were found WSR suitable in 2008, noting that those stream segments must retain that 2008 suitability unless the Forest documents legitimate changed circumstances that warrant removal of that suitability. It appears that such documentation does not exist. These streams are:

1. Middle Main Sheep Creek - 5 miles; ORVs: Geologic/Hydrologic, Wildlife
2. Lower Main Sheep Creek - 4 miles; ORVs: Recreational, Geologic/Hydrologic, Fish, Wildlife
3. Carter Creek - 16 miles; ORVs: Historic, Cultural
4. Cart Creek Proper - 10 miles; ORV: Cultural

5. Pipe Creek - 6 miles; ORV: Cultural
6. Reader Creek - 6 miles; ORVs: Scenic, Recreational, Geologic/Hydrologic, Fish
7. White Fork Whiterocks River - 11 miles; ORVs: Scenic, Recreational
8. Upper Whiterocks River - 4 miles; ORVs: Scenic, Recreational
9. East Fork Whiterocks River - 4 miles; ORV: Scenic
10. Middle Whiterocks River - 9 miles; ORV: Scenic
11. Lower Dry Fork Creek - 7 miles; ORVs: Geologic/Hydrologic, Wildlife, Historic, Cultural
12. South Fork Ashley Creek - 15 miles; ORVs: Geologic/Hydrologic, Scenic, Wildlife
13. Black Canyon - 10 miles; ORVs: Wildlife, Scenic, Geologic/Hydrologic
14. Ashley Gorge Creek - 10 miles; ORVs: Scenic, Geologic/Hydrologic
15. Upper Rock Creek - 21 miles; ORV: Scenic
16. Fall Creek - 6 miles; ORV: Scenic
17. West Fork Rock Creek - 13 miles; ORVs: Scenic, Historic
18. Upper Lake Fork River - 35 miles; ORVs: Scenic
19. Oweep Creek - 20 miles; ORV: Scenic
20. Upper Yellowstone Creek - 33 miles; ORVs: Scenic, Geologic/Hydrologic, Wildlife
21. Garfield Creek - 17 miles; ORV: Cultural
22. Shale Creek and Tributaries - 10 miles; ORVs: Historic, Cultural

In those same comments from November 8, 2019, American Rivers documented WSR eligibility qualifications for 11 additional stream segments. Unless analyzed and documented as not eligible by the Forest, those segments must be found eligible and be correspondingly subject to protective management prescriptions under the Forest Plan. We do not see analysis of the evidence American Rivers provided in the DEIS, which is required by law and policy. Stream segments and previous evidence provided includes:

1. East Fork Farm Creek - 3 miles; Classification Wild; OPV: Wildlife

The draft eligibility evaluation confirms that the corridor along East Fork Farm Creek contains important habitat for white-tailed ptarmigan, suggesting that the habitat is not sufficiently outstanding when considered across the region of comparison.

Habitat for this imperiled species is essential enough at every location it occurs and should therefore be considered exemplary, thus qualifying East Fork Farm Creek with an ORV for wildlife. The presence of such important habitat in multiple locations does not diminish its importance at any one location.

In addition, Utah Division of Wildlife Resources notes that the East Fork Farm Creek corridor contains seasonal or year-long habitat for dusky grouse, ruffed grouse, and snowshoe hare, affirming addition of ORV for wildlife.

2. East Fork White Rocks River - Additional ORV Proposed (Wildlife) - 3 miles; Classification Scenic; ORV: Wildlife, Scenic

The draft eligibility evaluation confirms that the corridor along East Fork White Rocks River contains important habitat for white-tailed ptarmigan, suggesting that the habitat is not sufficiently outstanding when considered across the region of comparison.

Habitat for this imperiled species is essential enough at every location it occurs and should therefore be considered exemplary, thus qualifying East Fork White Rocks River with an ORV for wildlife. The presence of such important habitat in multiple locations does not diminish its importance at any one location.

In addition, Utah Division of Wildlife Resources notes that the East Fork White Rocks River corridor contains seasonal or year-long habitat for dusky grouse and snowshoe hare, affirming addition of ORV for wildlife.

3. Farm Creek - 3 miles; Classification Wild; ORV: Wildlife

The draft eligibility evaluation confirms that the corridor along Farm Creek contains important habitat for white-tailed ptarmigan, suggesting that the habitat is not sufficiently outstanding when considered across the region of comparison.

Habitat for this imperiled species is essential enough at every location it occurs and should therefore be considered exemplary, thus qualifying Farm Creek with an ORV for wildlife. The presence of such important habitat in multiple locations does not diminish its importance at any one location.

In addition, Utah Division of Wildlife Resources notes that the Farm Creek corridor contains seasonal or year-long habitat for dusky grouse, ruffed grouse, and snowshoe hare, affirming addition of ORV for wildlife.

4. Fivemile Creek - 5 miles; Classification Wild; ORVs: Ecological, Botany

The draft eligibility evaluation confirms that the corridor of Fivemile Creek contains rare tall willow habitat. The possibility that this habitat is fed by flows from another stream is not relevant to a consideration of this ORV and of eligibility for Fivemile Creek. The presence of the habitat constitutes the ORV where it is located-along Fivemile Creek.

Furthermore, it is likely that flows from Left Fork Indian Canyon are supplemented by flows in Fivemile Creek, again, because that is the location of the habitat.

5. K P Creek - 3 miles; Classification Wild; ORVs: Ecological, Botany, Wildlife

The draft eligibility evaluation notes the presence along K P Creek of rare spiked big sagebrush community, as well as the potential presence of species of special concern spiked big sagebrush community.

The evaluation also notes the potential presence species of special concern-Goldrich blazing star, Untermann daisy, green threadleaf. The Wild and Scenic Rivers Act specifies that ORVs are to be part of river-related adjacent land (not required to a "river-dependent" standard suggested in the draft eligibility evaluation). The botanical values along this stream are river related. ORVs for ecological and for botany are appropriate.

In addition, Utah Division of Wildlife Resources notes that the K P Creek corridor contains seasonal or year-long

habitat for dusky grouse and snowshoe hare, suggesting addition of ORV for wildlife.

6. Minnie Creek - 2 miles; Classification Scenic; ORVs: Ecological, Botany, Wildlife

The draft eligibility evaluation notes the presence along Minnie Creek of rare spiked big sagebrush community, as well as the potential presence of species of special concern spiked big sagebrush community.

The evaluation also notes the presence species of special concern potential-Goldrich blazing star, Untermann daisy, green threadleaf. The Wild and Scenic Rivers Act specifies that ORVs are to be part of river-related adjacent land (not required to a "river-dependent" standard suggested in the draft eligibility evaluation). The botanical values along this stream are river related.

ORVs for ecological and for botany are appropriate.

In addition, Utah Division of Wildlife Resources notes that the Minnie Creek corridor contains seasonal or year-long habitat for dusky grouse and snowshoe hare, suggesting addition of ORV for wildlife.

7. Mosby Creek - 5 miles; Classification Scenic; ORVs: Ecological, Wildlife

The draft eligibility evaluation notes the rare feature of Calcareous or rich fen along Mosby Creek, a unique and ecological essential feature in any southwestern location. The fens warrant an ecological ORV.

In addition, Utah Division of Wildlife Resources notes that the Mosby Creek corridor contains seasonal or year-long habitat for dusky grouse, ruffed grouse, snowshoe hare, and imperiled greater sage-grouse, suggesting addition of ORV for wildlife.

8. Poison Creek - 2 miles; Classification Wild; ORVs: Ecological, Wildlife

The draft eligibility evaluation notes the presence along Poison Creek of rare spiked big sagebrush community, as well as the potential presence of species of special concern spiked big sagebrush community, warranting ecological ORV.

In addition, Utah Division of Wildlife Resources notes that the Poison Creek corridor contains seasonal or year-long habitat for dusky grouse, ruffed grouse, and snowshoe hare, suggesting addition of ORV for wildlife.

9. Reynolds Creek - 3 miles; Classification Scenic; ORVs: Fish, Wildlife, Ecological, Botany

The draft eligibility evaluation notes the very important Reynolds Creek stream habitat for imperiled Colorado River cutthroat trout, warranting ORV for fish.

The evaluation also notes important habitat in the stream's corridor for rare white-tailed ptarmigan, warranting ORV for wildlife.

In addition, the stream corridor contains tall willow plant community, important to an array of struggling endemic and migratory birds.

In each instance, the evaluation suggests that the habitat is not sufficiently outstanding when considered across the region of comparison, qualifying as ORV for ecological and botany.

Habitat for these important, even imperiled, species is essential enough at every location it occurs and should therefore be considered exemplary, thus qualifying East Fork Farm Creek with an ORV for wildlife. The presence

of such important habitat in multiple locations does not diminish its importance at any one location.

In addition, Utah Division of Wildlife Resources notes that the Reynolds Creek corridor contains seasonal or year-long habitat for dusky grouse, affirming addition of ORV for wildlife.

10. Sixmile Creek - 6 miles; Classification Wild; ORVs: Botany, Wildlife

The draft eligibility evaluation notes the likely presence along Sixmile Creek of rare spiked big sagebrush community, as well as the potential presence of species of special concern spiked big sagebrush community.

The evaluation also notes the presence species of special concern potential-Goldrich blazing star, Untermann daisy, green threadleaf. The Wild and Scenic Rivers Act specifies that ORVs are to be part of river-related adjacent land (not required to a "river-dependent" standard suggested in the draft eligibility evaluation). The botanical values along this stream are river related.

ORVs for ecological and for botany are appropriate.

In addition, Utah Division of Wildlife Resources notes that the Sixmile Creek corridor contains seasonal or year-long habitat for dusky grouse and snowshoe hare, suggesting addition of ORV for wildlife.

11. Spring Creek 1 - 3 miles; Classification Scenic; ORVs: Ecological, Botany

The draft eligibility evaluation notes the presence along Spring Creek 1 of habitat for a highly complex and integrated community of endemic species Dinosaur buckwheat, short-flower crypanth, Lake Fork gilia, shrubby bedstraw, thrifty goldenweed, thistleleaf penstemon, Huber pepperweed, readily warranting ORVs for ecological and botany.

The Wild and Scenic Rivers Act specifies that ORVs are to be part of river-related adjacent land (not required to a "river-dependent" standard suggested in the draft eligibility evaluation). The botanical values along this stream are river related.

We expect the Forest to analyze, document, and publish its finding for all 11 rivers listed above, as required by law. We urge the agency to find these rivers to be WSR eligible due to the abundance of evidence we have provided. If the agency disagrees, we expect a refutation of each data point made above.

Wild and Scenic Suitability

We were surprised to read that the Forest has now decided to pursue a WSR suitability determination, when one was not listed or proposed by the Forest previously during the planning process, especially when the Forest has not yet even published a final WSR eligibility inventory that documents consideration of previously submitted comments and evidence. This nonstandard process violates agency policy and deserves a hard look by the Forest to avoid potential formal objections.

An agency must finalize its eligibility report before performing a suitability determination on streams found to be eligible. As our comments reflect in the section above, the Forest has not yet fulfilled its obligations under a WSR eligibility inventory. Therefore, any analysis or decision on WSR suitability is premature, being built upon incomplete, arbitrary, and capricious WSR eligibility inventory data.

For American Rivers' part, we recommend that the Forest drop its suitability determination entirely and instead focus on completing its eligibility report in accordance with the WSRA, 2012 Planning Rule, and Forest Service Handbook; and then incorporating those findings into the Draft Forest Plan.

If the Forest can catch up on its work on WSR eligibility by first considering and documenting all proposed WSR eligible streams, and then still have enough time to go through a full suitability determination under NEPA and the APA, the 22 streams listed above and the four streams proposed for Wild and Scenic eligibility by the Forest in the 2019 Draft Wild and Scenic Eligibility Report should of course be found suitable, and correspondingly subject to protective management under the Forest Plan.

The Forest's finding of these four streams to be not-suitable was premature and seems to be based on a very narrow set of factors - mainly deference to the State of Utah's desires for federal public lands. It does not appear that the Forest has incorporated any of the other evidence provided for suitability, which includes:

1. Dowd Creek - 3.1 miles; Classification Recreational/Scenic; ORVs: Cultural, Wildlife, Climate Adaptation

Extensive artifacts indicate extended and repeated human occupation in the corridor along Dowd Creek, affirming the stream's importance for human habitation and appeal for human creativity and security, and a corresponding cultural ORV. Research and educational opportunities abound.

Modern accessibility enhances the stream's value to modern people, even while highlighting importance of carefully protecting the corridor and its artifacts from damage or removal. The Forest should reconsider classification scenic, at least for the middle portion of the stream-appropriate for a segment that is neither crossed nor directly paralleled by roads-to enhance protection of the stream and its corridor.

In addition, Utah Division of Wildlife Resources notes that the Dowd Creek corridor contains seasonal or year-long habitat for dusky grouse, ruffed grouse, and snowshoe hare, suggesting addition of ORV for wildlife.

2. Honslinger Creek - 2.3 miles; Classification Recreational; ORVs: Cultural, Wildlife, Climate Adaptation

High concentration of ancient shelter sites and attendant artifacts indicate extended and repeated human occupation in the corridor along Honslinger Creek, affirming the stream's importance to human habitation and security and a corresponding cultural ORV. Research and educational opportunities are abundant.

Modern accessibility enhances the stream's value to modern people, even while highlighting importance of carefully protecting the corridor and its artifacts from damage or removal.

In addition, Utah Division of Wildlife Resources notes that the Honslinger Creek corridor contains seasonal or year-long habitat for dusky grouse, ruffed grouse, and snowshoe hare, suggesting addition of ORV for wildlife.

3. North Skull Creek - 1.8 miles; Classification Wild; ORVs: Cultural, Wildlife, Climate Adaptation

Rare remnants of ancient human habitation along North Skull Creek-including storage structures and possible burial sites-warrant a cultural ORV. Research and education opportunities are abundant

North Skull Creek is close enough to similarly recognized cultural values along Dowd Creek and Honslinger Creek (as well as other sites in the vicinity) to suggest human interaction and exchange in the general area. This warrants additional research and the importance of carefully protecting the stream and its corridor for that purpose.

North Skull Creek's remote location, and fitting classification wild, will help with that protection.

In addition, Utah Division of Wildlife Resources notes that the North Skull Creek corridor contains seasonal or year-long habitat for imperiled greater sage-grouse, suggesting addition of ORV for wildlife.

4.Spring Creek 2 - 6.8 miles; Classification Recreational/Scenic; ORV: Cultural, Climate Adaptation

High concentration of ancient shelter sites and attendant artifacts indicate extended and repeated human occupation in the corridor along Spring Creek 2, affirming the stream's importance to human habitation and security and a corresponding cultural ORV. Research and educational opportunities are abundant along this uniquely long stream segment.

Spring Creek 2's proximity to similarly recognized cultural values along Dowd Creek and Honslinger Creek suggests human interaction and exchange throughout the watershed. This warrants additional research and the importance of carefully protecting the stream and its corridor for that purpose.

Modern accessibility enhances the stream's value to modern people, even while highlighting importance of carefully protecting the corridor and its artifacts from damage or removal. The Forest should reconsider classification scenic, at least for the middle portion of the stream-appropriate for a segment that is neither crossed nor directly paralleled by roads-to enhance protection of the stream and its corridor.

Rationale presented in Appendix F are insufficient for rejecting Wild and Scenic suitability for these four streams. Essentially, the proposed not-suitable determinations rely on two points of evaluation-opposition to suitability by State of Utah, and the possibility of using other authorities and management prescriptions. All other suitability criteria are met, according to the Forest's Draft Suitability Report.

Provisions of the Forest Service Land Management Planning Handbook addressing Wild and Scenic suitability outline 13 criteria for determining suitability. Criteria 11-support or opposition to designation-notes that, "The interest in designation or non-designation by other Federal agencies, state, local and Tribal governments...should be considered." That is, lack of support from the State of Utah should be a consideration - but not a determining factor - in combination with the other criteria.

The Forest's response, in Appendix F, to Suitability Criteria 8-adequacy of local zoning or other land use controls in protecting the river's ORVs-does not specify how particular authorities or management criteria would be incorporated into the Forest Plan to preserve the free-flowing condition and ORVs identified for the four eligible streams.

Correspondingly, the four streams identified by the Forest as Wild and Scenic eligible should either: a) retain eligibility, forgoing suitability determinations at this time, or b) be found suitable in a final suitability determination.

In either instance-retained eligibility or a suitable finding-ORVs for wildlife and climate adaptation should be added, as noted in stream-specific comments above, discussed below, and summarized here:

- 1.Dowd Creek - ORVs: Cultural, Wildlife, Climate Adaptation
- 2.Honslinger Creek - ORVs: Cultural, Wildlife, Climate Adaptation
- 3.North Skull Creek - ORVs: Cultural, Wildlife, Climate Adaptation
- 4.Spring Creek 2 - ORVs: Cultural, Climate Adaptation

Climate Adaptation Benefits from Stream Protection

As noted in American Rivers' November 8, 2019, WSR eligibility comments, additional values should be carefully considered, and appropriately protected, in the Forest Plan. The four eligible streams are uniquely located and intact, providing broad migration corridors and opportunities for climate adaptation.

Along with many similar sources, Adaptation Partners, the interagency research service funded by the U.S. Forest Service to coordinate resource and data sources toward "science-based management partnerships

focused on climate change adaptation in the western United States," notes that climate adaptation considerations should include:

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

A common form of adaptation, extensively documented for many species, involves a general shifting of overall or seasonal range. Most frequently, these shifts move upstream and otherwise up in elevation.

Correspondingly, additional consideration should be given to the potential eligibility and suitability of headwaters streams and other higher-elevation portions of streams to anticipate and accommodate those upward-moving adaptations of sensitive species, as one primary function of Wild and Scenic protections is the maintenance of connectivity.

Expectations for Collaboration

American Rivers asks that the Forest work with Native American Tribes regarding potential sacred sites, cultural values, and indigenous knowledge pertaining to the management of Wild and Scenic eligible streams under the WSR, particularly as they relate to potential documented Cultural ORVs in each potentially eligible stream reach. Collaboration with the Ute Indian Tribe and other Forest-associated Tribes should be documented in both the Draft Forest Plan and DEIS, as well as the Final Forest Plan and FEIS.

Conclusion

We have provided several statutory requirements, policy expectations, resources, data, and descriptions of values pertaining to the Wild and Scenic eligibility and suitability of streams on the Ashley National Forest in these comments. It is essential that the Forest analyze and document the evidence that we have provided here and in our comments submitted in November 2019, as required by law.

In summary, our asks include:

1. Formal WSR eligibility analysis and documentation of findings for all streams and all data that we provided in November 2019 and in these comments, as required by law.
2. Incorporation of new data on ORVs, including Wildlife, Climate Adaptation, Cultural ORVs, and other, from American Rivers and other commentors and Tribes in such eligibility analyses.
3. Finalization and publication of the Forest's WSR Eligibility Inventory before considering embarking on a WSR suitability determination, as required by law and policy. Our recommendation would be to drop the new suitability analysis altogether at this point in the process.

We would be more than happy to discuss anything written in these comments, either in person or remotely. Please use American Rivers as a resource and partner in this process to inventory and protect important free-flowing headwaters streams of the Ashley National Forest under Wild and Scenic eligibility.

Sincerely,

Michael Fiebig
Director, Southwest River Protection Program
American Rivers