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September 1, 2017

Re: Nez Perce Clearwater National Forests Wild and Scenic River Analysis

Dear Planning Team,

We are pleased to offer these comments on the Wild and Scenic River analysis for the Nez Perce and Clearwater forest plan revision.

The Proposed Suitability Analysis Should Not Be Conducted

The Forests are proposing to conduct a “suitability” determination as part of the planning process without legal basis. While the Forest Service cites their own directives as allowing suitability determinations, directives are entirely optional, not legally binding, and in this case conflict with the legally binding 2012 Forest Planning Rule. The planning rule requires the Agency to:

“Identify the eligibility of rivers for inclusion in the National Wild and Scenic Rivers System, unless a systematic inventory has been previously completed and documented and there are no changed circumstances that warrant additional review.” *See 2012 Forest Planning Rule § 219.7(c)(2)(vi).*

That is it. There is no requirement or provision for a suitability determination. The preamble regarding § 219.7 states:

“The responsible official [in developing a proposal] would also assess potential wilderness areas, eligible wild and scenic rivers...”

Again, there is no mention of suitability. The Forest Planning Rule further clarifies that plans must protect eligible rivers until their suitability is determined at some later date, if ever:

“The plan components for a new plan or plan revision must provide for: (v) Protection of wild and scenic rivers as well as the protection of those rivers eligible for inclusion in the national wild and scenic river system to protect the values for which they might be included in the system until their suitability is determined;” *See 2012 Forest Planning Rule § 219.10(b)(v).*

Again, this statement confirms that the Plan must establish eligible rivers and protect them until their suitability is determined. The term “until” clearly indicates that suitability occurs after the plan is completed, if at all.

The planning rule does not allow the Forest Service to conduct suitability determinations as part of the planning process. As we have shared in prior comments, this policy derives from the Wild and Scenic Rivers Act, which rightly allows and envisions suitability determinations to be conducted only on Congressional study rivers – not eligible streams. Suitability does not apply to planning, and any attempt to strip eligible streams of protections during planning would not be legal, regardless of what the Forest Service calls the process it uses to do so.

We are extremely concerned that the Forest Service is considering embarking on a new practice of releasing eligible streams from the protections afforded them by the 2012 Planning Rule, through a process that violates the 2012 Planning Rule. In addition to the dire precedent now under consideration – likely to be rolled out on the 50th anniversary of the Wild and Scenic Rivers Act – we are deeply concerned about the loss of protection for some of the finest streams in America. Please do not conduct the “suitability” determination you are considering.

Support for Eligible Wild and Scenic Rivers and Requested Changes

We would like to acknowledge and voice our appreciation for the Forests' consideration of several additional eligible streams that are outstanding whitewater runs and otherwise outstanding rivers. We feel that these choices are well reasoned and supported. We previously filed an eligibility report and several rounds of comments with supporting information for these streams' outstanding and remarkable values and need not reiterate that information here.¹ The inland salmon and steelhead streams of the Clearwater watershed are national treasures, whose fisheries grandeur was known by past generations and hopefully will be known by future generations as well. Each are whitewater recreation gems with clean cold water and stunning scenery. Hot springs, waterfalls, ancient cedars and other features create unique and sublime river environments. This watershed is special.

We ask that you correct a map and table error that placed Old Man Creek in the Selway Watershed. Old Man Creek flows into the Lochsa River near the world famous Pipeline wave. Old Man is remarkable in its inaccessibility that is likely unparalleled on the Forest. Doug Ammons made an infamous and unsuccessful attempt to secure a first descent of Old Man Creek many years ago, and every few years the Creek thwarts another group seeking a first descent. This is a rare quality in the United States.

Several streams preliminarily recommended for eligibility have Outstandingly Remarkable Values that were not recognized in the preliminary Forest Service findings. Specifically, we ask that the Forest Service reconsider Recreation ORV's for the following streams based on their rare, unique, or exemplary paddling values: Little North Fork Clearwater, Big Sands Creek, and Fish Creek, for reasons described below.

The Little North Fork of the Clearwater is a special stream for paddlers and unique on the Forest because it is a non-permitted, multi-day, beautiful whitewater run of moderate difficulty with exceptional opportunities for solitude, camping, and fishing. Compared to the 2 other multi-day runs on the Forest, it is far easier than Meadow Creek, and does not require a hard-to-get permit like the Selway.

¹ <https://www.americanwhitewater.org/content/Document/fetch/documentid/1171/.raw>

We consider Big Sands Creek to be among, if not *the*, most challenging commonly run whitewater river on the Forest, which grants paddlers the chance to paddle through an un-trailed glaciated canyon with remarkable solitude. This is Bud Moore country: off the beaten path, deep in the Bitterroots. The rapids have memorable character, and require a high level of challenge and Wilderness skills.

Fish Creek is the opposite of Big Sands in some regards. It boasts a commonly paddled and easily accessed delightful whitewater run that is within the skill level of most paddlers who travel to the Lochsa to paddle. There are very few creeks around Missoula and the Lochsa Country that allow paddlers to translate river-running skills to creeks. Fish Creek does just this, and is an ideal training river for paddlers trying to safely make the transition from river running to creek boating. In addition to this exemplary and important niche, Fish Creek is just an outstanding whitewater run with consistent difficulty, excellent lines, and no objective hazards.

We fully support prior USFS inventories that found rivers and streams eligible. These contain many outstanding whitewater rivers, which have addressed in prior comments. We'd like to voice our support for new eligibility determinations for the following streams in the June 2017 Analysis, which we find exemplary even among the other proposed new eligible streams.

- Weitas Creek
- Big Sands Creek
- Storm Creek
- American River
- Red River
- Warm Springs Creek
- Old Man Creek
- Elk Creek
- Crooked Fork
- Rhoda Creek
- Salmon River

We request that the Forests reconsider the Potlatch River for eligibility. The Draft Inventory includes a finding that the East Fork of the Potlatch is eligible. We request that the eligible reach be extended downstream on the main potlatch until the end of the Forest Service lands. The majority of the whitewater occurs on Forest Service land, in a beautiful wooded canyon. The surrounding landscape is severely affected by timber harvest and other forms of human modification, making the Potlatch Canyon a special scenic and recreational resource in the area. The Little Boulder Campground offers fishermen, paddlers, and sightseers a developed and safe point from which to launch explorations of the canyon.

Thank you for considering these comments.

Sincerely,

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