

## **CHAPTER 6**

---

# **AGENCY RESPONSES TO PUBLIC COMMENT**

# CHAPTER 6. AGENCY RESPONSES TO PUBLIC COMMENT

## 6.1 Responses to Public Comment

---

### A. Introduction

---

This section is divided into the following subsections: Background, Comment Analysis, Comment Response, and Additional Information.

The Forest Service has documented, analyzed, and responded to the public comments received on the Wild and Scenic River Suitability Study for National Forest System Lands in Utah Draft Environmental Impact Statement (DEIS). This Chapter describes comments received on the DEIS and provides the agency's response to those comments. This Chapter complies with section 40 CFR 1503.4, Response to Comments, of the National Environmental Policy Act (NEPA) regulations.

#### **Background**

During the public comment period on the DEIS running from December 7, 2007 to February 15, 2008, the public submitted approximately 2,558 separate pieces of input, called "responses." Of these, approximately 2,183 were form letters, while the remaining letters consisted of original responses or form letters with additional original text. Responses were received in a variety of forms including letters, faxes, e-mail, Web site responses, and public hearing comments.

Input received as comment on the Wild and Scenic River Suitability Study for National Forest System Lands in Utah DEIS was documented and analyzed by a government contractor, ICF Jones and Stokes, using a process developed and overseen by the U.S. Forest Service NEPA Services Group (NSG) / Content Analysis Team (CAT), a unit of the Washington Office Ecosystem Management Coordination branch. This content analysis process is designed to systematically manage large volumes of information while capturing the full range of public viewpoints and concerns. All submissions (letters, emails, faxes, and other types of input) are included in this analysis. The NSG conducts quality control on all products received before returning them to the Wild and Scenic Rivers Interdisciplinary Team.

#### **Comment Analysis**

Content analysis is a method developed by a specialized Forest Service unit, the NSG, for analyzing public comment. This method employs both qualitative and quantitative approaches. It is a systematic process designed to extract topics from each letter, evaluate similar topics from different responses, and identify specific topics of concern. Content analysis helps the interdisciplinary team organize, clarify, analyze, and be responsive to information the public provides to the agency.

The goals of the content analysis process are to:

- Ensure that every response is considered,
- Identify the concerns raised by all respondents,
- Represent the breadth and depth of the public's viewpoints and concerns as fairly as possible, and
- Present those concerns in such a way as to facilitate the Forest Service's consideration of comments.

Throughout the content analysis process, the content analysis team strives to identify all relevant concerns, not just those represented by the majority of respondents. Breadth and depth of comment are important. The content analysis process is not a vote-counting process. The process is designed to read each response, capture the meaning of each individual comment within that response, and provide that meaning to the interdisciplinary team and decision maker in a clear, understandable form.

Upon receipt of each response, each was assigned a unique identifier, and the type of respondent (individual, agency, elected official, etc.) and geographic origin was identified. Comment coders then read each response, highlighted substantive comments within each, and labeled each by subject area. From the 2,558 responses, NSG identified approximately 510 separate public comments in those responses.

Data entry personnel copied the highlighted comments verbatim into the database. Analysts organized them by topic, and divided them into separate, distinct public concern statements. They selected a representative variety of verbatim quotations from the database and displayed these after the concern statement. The NSG sent such concerns to Wild and Scenic Rivers Interdisciplinary Team of the Forest Service for review, action, and response.

The entire content analysis process described in this introduction is summarized in the document, *Utah National Forests Wild and Scenic Rivers Draft Environmental Impact Statement, Summary of Public Comment*. That document is located in the project record.

### **Comment Response**

The Wild and Scenic Rivers Interdisciplinary Team reviewed the public concern statements along with the sample quotations, considered the concerns, evaluated whether they triggered a change in the environmental analysis, and drafted responses. For some concerns, they reviewed the original letters or other input to ascertain the full context for the concern statement.

The Wild and Scenic Rivers Interdisciplinary Team provided any recommendations for improvements to the DEIS analysis or documentation to the decision makers of the Forest Service for review, consideration, and action. The agency provided responses to approximately 435 consolidated concerns in this Chapter of the Final Environmental Impact Statement (FEIS).

In general, the agency responded in the following five basic ways to the public comments as prescribed in 40 CFR 1503.4 – “An agency preparing a final EIS shall assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below, stating its response in the final statement. Possible responses are to:

**1. *Modifying alternatives including the proposed action.*** The Forest Service did not modify the proposed action which is to make preliminary recommendation of suitable additions to the National System from the 86 eligible river segments studied. However, following the collection of additional information from DEIS comments and further clarification of the definition of reasonably foreseeable water developments and other projects, the decision makers chose to modify Alternatives 3 and 4 as appropriate in 40 CFR 1503.4. This resulted in the movement of many river segments from Alternative 4 to Alternative 3.

**2. *Developing and evaluating alternatives not previously given serious consideration by the agency.*** Prior to the release of the DEIS, the Forest Service added Alternative 6, which was brought forward by some conservation groups and analyzed in the DEIS. No new alternatives were brought fourth from the public during the DEIS comment period. The Forest Service considered but did not analyze in detail a

variety of added alternatives that public comments suggested as described in the DEIS on pages 2-15 to 2-18. The Forest Service did add one new alternative and considered it in detail in the FEIS. It is titled Alternative 7 – Recommend river segments that reflect the broad range of public comments and emphasize specific suitability factors.

**3. *Supplementing, improving, or modifying the analyses.*** The Forest Service improved its analyses in a large number of areas. Following the collection of additional data, and review of the DEIS comments, some of the updates were in the Section 3.12 – Water Resources and Water Developments, and Appendix A – Suitability Evaluation Reports.

**4. *Making factual corrections.*** The Forest Service made a number of factual and technical corrections. For example, in the FEIS it removed graphical errors, updated Section 3.12 – Water Resources and Water Developments, and updated Appendix A – Suitability Evaluation Reports.

**5. *Explaining why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency’s position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.*** The public submitted several suggestions about national forest management in general, rather than this project in specific. This Chapter explains or summarizes in each resource section those comments, and why it was not necessary for the agency to analyze or respond to them in further detail. Usually the comments referred to an option or alternative considered but not analyzed in detail, as explained at the end of Chapter 2 (DEIS, pages 2-15 to 2-18). In addition, some comments clearly did not refer to the DEIS or wild and scenic rivers. In most cases, this Chapter explained that these were outside the scope of the analysis.

### **Additional Information**

Chapter 1 of FEIS contains Section 1.10 – Public Involvement that summarizes the public involvement activities that occurred during the scoping and DEIS public comment period. That summary sets the stage for this Chapter of the FEIS – Agency Responses to Public Comment.

Following each public concern is a list of number(s) that corresponds to the Utah National Forests Wild and Scenic Rivers Draft EIS, Summary of Public Comment.

Preceding each chapter of the FEIS is a new section titled, “Summary of Changes between Draft and Final EIS.” For convenience, it summarizes the main changes in the analysis and documentation that the agency made between the DEIS and the FEIS in response to public comment and other new information.

## **B. Public Involvement**

---

This section is divided into the following subsections: General, Tribal Governments, Federal Agencies, State Governments, County and Local Governments, Consistency with County Plans, Agency Involvement and Consistency with Plans, Programs, and Policies.

### **General**

**B1. The Forest Service should avoid undue influence from the Administration, local and non-local politicians, and special interest groups. [1-1, 1-3, 1-4, 1-5a, 1-5b, 1-6].**

**Response:** All public comments submitted during scoping and the DEIS were considered equally, whether from individuals or from groups. The content of comments is what matters. Various interest

groups and their State, Federal, local, and Congressional representatives have all engaged the Forest Service during the scoping and DEIS process. Throughout the process, the Forest Service has sought the broadest possible public involvement. In addition, the Forest Service has had numerous contacts with Congressional, Federal, State, and local officials through briefings, correspondence, and meetings.

During development of the scoping and DEIS no interest group's views or comments were given preferential treatment or consideration, nor did any interest group monopolize the environmental analysis processes.

**B2. The Forest Service should recognize that only Congress can include a river segment in the Wild and Scenic River System. [1-7].**

**Response:** The United States Congress is responsible for designation of wild and scenic rivers. The responsibility to manage designated rivers is delegated to the appropriate Federal land management agency, in this case the Forest Service for the rivers under consideration.

**B3. The Forest Service should ensure that all aspects of the designation process are publicly accessible and fully disclosed. [1-9].**

**Response:** The Forest Service has ensured that the study process is publicly accessible and fully disclosed. Since April 2007, a website has been maintained including study newsletters, public meeting notices, maps, list of rivers, and other relevant information (<http://www.fs.fed.us/r4/rivers/>). In addition, as part of the public involvement process, the Forest Service has listed the project on the Forest Service Schedule of Proposed Actions (SOPA) since April 2007 (<http://www.fs.fed.us/sopa/index.php>).

On April 30, 2007, a Notice of Intent to Prepare an Environmental Impact Statement was published in the Federal Register. At that time, approximately 2,700 postcards and scoping letters were mailed to libraries, government officials, organizations, and the public. News releases were sent to and appeared in various newspapers in Utah, Wyoming, and Colorado announcing project details and upcoming meetings. In May, June, and July 2007 the Forest Service in conjunction with the State of Utah held 17 public open houses, met with counties and regional association of governments (AOGs), Tribal Governments, and held informal meetings upon request. Fliers were posted in local towns to announce open houses. Approximately 290 people attended public open houses held in Lyman, Wyoming; Paradox, Colorado; and Moab, Castle Dale, Ephraim, Richfield, Cedar City, Escalante, Logan, Park City, Vernal, Heber City, Oakley, Provo, Saint George, Salt Lake City, and Monticello, Utah. County officials, Congressional staff, landowners, mining claimants, local residents, environmental group members, and others who had interest regarding the river segments attended the workshops.

Over 3,000 scoping comments were received. Scoping comments were summarized and posted on the website on July 23, 2007 (see project record Summary of Scoping Comments, Draft Version – July 19, 2007) and updated on January 9, 2008 (see project record Summary of Scoping Comments, Final Version – January 9, 2008). The Forest Service used the insights from the scoping comments to identify issues and concerns that were not identified through internal deliberations, to identify potential alternatives to the proposed action, and to obtain a preliminary assessment of potential environmental, social, and economic effects. The interdisciplinary team evaluated and considered the content of scoping comments during the design and analysis of the DEIS, and included them in the project record.

On December 7, 2007 a Notice of Availability was published in the Federal Register announcing the availability of the DEIS. Notices were published in newspapers and approximately 3,000 copies of the DEIS or postcards were sent to the public announcing availability of the DEIS. Ten public meetings were held January to February 2008 in Lyman, Wyoming and Provo, Escalante, St. George, Richfield,

Monticello, Huntington, Vernal, Ephraim, Salt Lake City, and Logan, Utah. The comment period for the DEIS ended February 15, 2008. The DEIS comment period elicited approximately 375 original responses and 2,183 organized campaign responses for a total of 2,558 total responses. All comments on the DEIS, oral or written or electronic, that were postmarked, e-mailed, or delivered by February 15, 2008, were included in the public comment content analysis process, recorded in a database, and summarized for use by the NSG and sent to the Wild and Scenic Rivers Interdisciplinary Team and the officials responsible for the decision. See response to comment B8.

Following designation of a segment by Congress, the Federal agency charged with the administration of the river segment will prepare a Comprehensive River Management Plan. The plan shall be coordinated with and may be incorporated into resource management planning for affected adjacent Federal lands. The plan shall be prepared after consultation with State and local governments and the interested public. (Wild and Scenic Rivers Act, Sec. 3(d)(d)).

**B4. The Forest Service should include the Spanish Fork Press in press release distribution. [1-10].**

**Response:** The administrative procedures at 36 CFR 215 require the Forest Service to publish notices in a newspaper of general circulation. The content of the notices is specified in 36 CFR 215. Information is published in the *Federal Register* on April 1 and October 1 in order to inform interested members of the public which newspapers the Forest Service will use to publish notices of proposed actions and notices of decision. This provides the public with constructive notice of Forest Service proposals and decisions, provides information on the procedures to comment or appeal, and establishes the date that the Forest Service will use to determine if comments or appeals were timely. On the Uinta National Forest, decisions made by the Uinta Forest Supervisor are published in The Daily Herald and on the Wasatch-Cache National Forest, for Forest Supervisor decisions are published in the Salt Lake Tribune. The Spanish Fork Press is limited circulation and decisions pertaining to Utah County are covered by The Daily Herald as required by 36 CFR 215.

**B5. The Forest Service should extend the public comment period. [1-11].**

**Response:** Prior to distributing the DEIS, the Forest Service considered that there may be requests for comment period extensions. As a result, the comment period was approximately 65 days, rather than the required 45 days (36 CFR § 215.5(b)(v)). The Forest Service's extensive public involvement efforts made it unnecessary to extend the public comment period for the DEIS beyond the published close of comment period date of February 15, 2008. The DEIS, released in December 2007, is based on a strong foundation of public comment and the best available science. Throughout scoping and the DEIS process, the Forest Service conducted extensive public involvement efforts to give as many interested people as possible an opportunity to help define the issues, alternatives, scope, and effects of the proposal. For a description of public involvement efforts, refer to response to comment B3.

**B6. The Forest Service should acknowledge the nature and the quantity of comments received during the scoping and DEIS process in Appendix A – Suitability Evaluation Reports. [1-12a, 1-12b, 1-13a, 1-13b, 1-14, 1-18].**

**Response:** Suitability factor 3 “Support or Opposition to Designation” has been updated in the FEIS, Appendix A – Suitability Evaluation Reports.

The DEIS comment period elicited approximately 375 original responses and 2,183 organized campaign responses for a total of 2,558 total responses (Summary of Public Comment: Utah National Forests Wild and Scenic Rivers DEIS, 2008, Appendices D and E). The nature of four organized campaign responses and the 375 comments are addressed in this Chapter of the FEIS.

The content analysis process is not a vote. In a vote, the only thing that matters is the count, whereas in land and resource management, many other factors to be considered are determined by law and national policy. Regardless of the number of comments received or the affiliation of the submitter, content analysis ensures that every concern is identified for consideration by the project team.

**B7. The Forest Service should clearly respond to all comments received during the scoping process. [1-15].**

**Response:** There is no statutory duty to respond to comments received during the scoping process, so the Forest Service did not choose to provide individual responses to them. The Forest Service posted a Summary of Scoping Comments on the Web as described in response to comment B3 and the DEIS, Section 1.10 – Public Involvement on page 1-12. The agency used the insights from the scoping comments to assess the level of controversy about this proposal, to identify issues and concerns that were not identified through internal deliberations, to identify potential alternatives to the proposed action, and to obtain a preliminary assessment of potential environmental, social, and economic effects. The interdisciplinary team evaluated and considered the content of scoping comments during the design and analysis of the DEIS, and included them in the project record.

This Chapter of the FEIS represents the Forest Service’s disclosure to citizens that their DEIS comments were received, considered, and addressed as part of the environmental analysis and decision-making processes, as required by the implementing regulations for NEPA (40 CFR 1503.4). Active public involvement and participation are critical to the process. Public comments are reflected in the scope of the proposed action; the development of alternatives to the proposed action; the analysis of potential social, economic, and environmental impacts; and in changes to the document between the DEIS and the FEIS.

**B8. The Forest Service should explain why comment letters are being sent to Sacramento, California instead of Utah. [1-20].**

**Response:** Input received as comment on the Wild and Scenic River Suitability Study for National Forest System Lands in Utah DEIS was documented and analyzed by a government contractor, ICF Jones and Stokes (located in Sacramento, California), using a process developed and overseen by the U.S. Forest Service NEPA Services Group (NSG) / Content Analysis Team (CAT), a unit of the Washington Office Ecosystem Management Coordination branch. This content analysis process is designed to systematically manage large volumes of information while capturing the full range of public viewpoints and concerns. Content analysis is intended to facilitate good decision making by helping the agencies involved clarify, revise, or incorporate technical information to prepare the FEIS. All submissions (letters, emails, faxes, and other types of input) are included in this analysis. The NSG conducts quality control on all products received before returning them to the Wild and Scenic Rivers Team.

As a Federal agency, the Forest Service is required to solicit public comment on draft documents involving significant actions under the NEPA. Further, the agencies are directed to “assess and consider [the resulting] comments both individually and collectively.” Comments are critical in shaping responsible management of public lands. During the formal comment period, the public commented on the DEIS and the alternative proposals, as well as the extent to which they achieve the purpose and need for the proposed action to make preliminary recommendation of suitable additions to the National Wild and Scenic Rivers System from the 86 eligible river segments studied on National Forests in Utah.

**B9. The Forest Service should not include the Little Provo Deer Creek segment in the suitability study for designation because there are no demonstrated commitments to protect this segment. [3-80b].**

**Response:** As described in the DEIS, Appendix A – Suitability Evaluation Reports on page A-380, it is correct that there are currently no demonstrated or potential commitment for public volunteers, partnerships, and/or stewardship commitments for management and/or funding of the river segment. However, this is only one of many suitability factors that will be considered. “The Pleasant Grove Ranger District which manages this river has a long history of high volunteerism. It is likely, that regardless of the support or potentially lack of it by the entities described on page A-380, that volunteers would come forward or could be found to help with management activities associated with a designated river” (Appendix A – Suitability Evaluation Reports).

### **Tribal Governments**

#### **B10. The Forest Service should coordinate with affected Native American tribes and document that consultation in the EIS. [1-40, 3-62].**

**Response:** Agency line officers on each of the National Forests in Utah offered to initiate formal Government-to-Government consultation with Tribal officials during scoping. This is noted in the DEIS, Chapter 1, page 1-9. The goal for these contacts was to share information, answer questions, and ensure that all parties had an adequate understanding of the proposal so they could effectively comment when the DEIS was released. In addition, Tribal officials received notification in the form of scoping and DEIS documents and a brief presentation which was given by Faye Krueger, Forest Supervisor on August 10, 2007 at the Utah Tribal Leaders meeting in Pocatello, Idaho. In September and October 2008, David R. Myers, Deputy Forest Supervisor of the Uinta-Wasatch-Cache National Forest made contact with affected tribes for National Forests in Utah and documented government-to-government consultation (Myers 2008). At this time, most of the tribal leaders indicated support of finding river segments suitable. The Forest Service has consulted with Tribal Governments and will continue to do so, as part of the ongoing process.

#### **B11. The Forest Service should not designate Hammond Canyon because the Forest Service has not properly consulted with the Ute Tribe. [3-62].**

**Response:** See response to comment B10. The Forest Supervisors or a designated government official for the National Forests in Utah consulted with Ute Tribal Governments, among other tribes.

The Manti-La Sal coordinated with the Ute Tribe. A letter with information was sent to the Ute Indian Tribe in Fort Duchesne, Utah, to the Ute Mountain Ute Tribe in Towaoc, Colorado, the White Mesa Ute Council in Blanding, Utah (July 17, 2007). In addition, Craig Harmon visited Betsey Chapoose on July 31, 2007 (King 2007).

The Fishlake National Forest also coordinated with the Ute Indian Tribe in Fort Duchesne, Utah (Carnahan 2007).

The Uinta National Forest consulted with the Northern Ute Indian Tribe in Fort Duchesne, Utah.

Kevin Elliott, Forest Supervisor of the Ashley National Forest sent a letter inviting Ute Tribe participation and comment on July 26, 2007 (Elliott 2007). J.R. Kirkaldie, Roosevelt/Duchesne District Ranger met and consulted with them during scoping on August 6, 2007 and gave them materials to review (Kirkaldie 2007). They were on the mailing list to receive the DEIS but the Ashley National Forest did not receive any comments either formally or informally. J.R. Kirkaldie also represented the Forest Service at a consultation meeting with the Ute Indian Tribal Business Committee concerning the DEIS on September 3, 2008. He explained the Forest Service was seeking any comments or concerns the tribe may have about

the DEIS. He presented the alternatives and answered questions the Business Committee asked about the project. Upon concluding his presentation of the DEIS and its alternatives, Ute Tribal Chairman - Curtis Cesspooch and the other Business Committee members agreed that they had no concerns or comments they wished to forward concerning the DEIS. They expressed their approval and support of Wild and Scenic River designations as they felt such designations would probably help preserve tribal values on historical tribal lands. They did say that as a normal procedural practice they would forward the DEIS to their water lawyer for review. The Business Committee expected no action from their water lawyer on the subject as he had already reviewed our previous scoping documents on the project and nothing concerning the tribe had come up at that time. They also told J.R. Kirkaldie they did not plan on sending the Forest Service any comment letter on the DEIS (because the meeting and prior letter and attachments sent to them on the DEIS was sufficient consultation).

**B12. The Forest Service should give all rivers in its proposal Wild and Scenic status to enhance the sustainability and longevity of tribal rights and the purpose of the reservation and because nothing in the Wild and Scenic Rivers Act diminishes or modifies the rights of Indian tribes. [2-41d, 2-41e].**

**Response:** The Forest Service does not have the ability to designate river segments, only Congress can confer on them Wild and Scenic River designation status. This proposal applies only to National Forest System lands, and does not apply to Reservation lands. See DEIS, page 3-200 regarding tribal lands. While there are potential positive effects to downstream Indian Reservations, such as maintaining the ORVs and free flow through the eligible or suitable segment on National Forest System lands by Wild and Scenic River designation, it is one of many factors that will be considered in the study process. The Forest Service has consulted with the Tribal Governments and will continue to do so, as an ongoing process (see response to comment B10).

Nothing in the final recommendation revokes any rights held by Tribes or others or alters or is inconsistent with any treaty rights held by Tribal Governments.

**B13. The Forest Service should consider the difficulty and the costs of acquiring the lands around Hammond Canyon owned by the White Mesa Ute Indians. [2-85].**

**Response:** The proposal applies only to National Forest System lands, and does not apply to Reservation Lands or Tribal Trust Lands. Designation neither gives nor implies Federal government control of private lands. The Federal government has no power to regulate or zone private lands including those lands owned by members of the White Mesa Ute Indians, regardless of whether they are Reservation lands or Tribal Trust Lands. A part of the study process is to consider land acquisitions needs and costs. At this time there has been no expressed need, nor are there any plans for the Forest Service to acquire lands around Hammond Canyon in order to protect or enhance wild and scenic river values.

**B14. The Forest Service should explain the reasons for rejecting Alternative 6 in the DEIS because NEPA requires such analysis and Alternative 3 would negatively affect Native American tribes. [4-57].**

**Response:** The Forest Service developed seven alternatives, including the no action and the six action alternatives, in response to issues raised by the public during the scoping and DEIS process. The DEIS presents the affected environment and environmental consequences in order for the responsible officials to compare the effects of the alternatives against each other. The effects of Alternative 3 were described in the FEIS, Chapter 3. Alternative 6 was not rejected by the Forest Supervisors in the DEIS, it remains under consideration until a decision is signed. See the Record of Decision (ROD) for the rationale for the choice of rivers and the selected alternative.

## **Federal Agencies**

### **B15. The Forest Service should demonstrate that all federal agencies have consistently applied process review for evaluation of Wild and Scenic River segments. [1-22].**

**Response:** The Forest Service does not have the authority to regulate other Federal agencies and their study process. However, the Forest Service has been working closely with other Federal agencies and the State of Utah to ensure that the wild and scenic river study process is applied consistently. The Utah BLM and the State of Utah are cooperating agencies in the preparation of this EIS. Each has a separate Memorandum of Understanding created in 2007 with the Forest Service that specifies how each will participate in the process as described in the DEIS, Section 1.8 – Cooperating Agencies on page 1-8. The Forest Service has shared information with and relied on results from other agencies in the preparation of this FEIS.

Eight stream segments on the Dixie National Forest were found eligible for suitability consideration by an interagency planning process that included the Bureau of Land Management (BLM) (Grand Staircase Escalante National Monument) and the National Park Service (Glen Canyon National Recreation Area) (USDI BLM 2000). The results of that eligibility analysis are found within the Grand Staircase Escalante National Monument Management Plan and Final Environmental Impact Statement (USDI BLM 2000).

In order to be consistent across federal agencies, the Forest Service also considered two technical reports from the Interagency Wild and Scenic Rivers Coordinating Council titled “The Wild and Scenic River Study Process” (December 1999) and “The Wild and Scenic River Management Responsibilities” (March 2002). A report titled “Wild and Scenic River Review in the State of Utah – Process and Criteria for Interagency Use” (July 1996) was also utilized. The last paper was prepared to ensure that all federal agencies in Utah used consistent criteria and process steps for wild and scenic river studies.

### **B16. The Forest Service should involve the Inspector General to police any actions involving the U.S. Department of the Interior. [1-23].**

**Response:** This comment is outside the scope of this analysis. The Forest Service is part of the U.S. Department of Agriculture.

### **B17. The Forest Service should not consider the Bureau of Land Management (BLM) a cooperating agency. [1-24].**

**Response:** Federal agencies actively consider designation of Federal and non-Federal cooperating agencies in the preparation of analyses and documentation required by the NEPA. The Council on Environmental Quality (CEQ) regulations addressing cooperating agencies status (40 CFR §§ 1501.6 & 1508.5) implement the NEPA mandate that Federal agencies responsible for preparing NEPA analyses and documentation do so “in cooperation with State and local governments” and other agencies with jurisdiction by law or special expertise. (42 U.S.C. §§ 4331(a), 4332(2)).

The Forest Service considers it essential to include the BLM as a cooperating agency in this process because several river segments flow from the National Forest System lands to BLM public lands as described in the DEIS, Section 3.14 – Cumulative Effects Analysis, pages 3-194 to 3-204. The BLM is also doing concurrent wild and scenic river study planning which may affect future designation proposals in the State of Utah. The benefits of enhanced cooperating agency participation in the preparation of NEPA analyses include: disclosing relevant information early in the analytical process; applying available technical expertise and staff support; avoiding duplication with other Federal, State, Tribal and local procedures; and establishing a mechanism for addressing intergovernmental issues. Other benefits of

enhanced cooperating agency participation include fostering intra- and intergovernmental trust (e.g., partnerships at the community level) and a common understanding and appreciation for various governmental roles in the NEPA process, as well as enhancing agencies' ability to adopt environmental documents. It is incumbent on Federal agency officials to identify as early as practicable in the environmental planning process those Federal, State, Tribal and local government agencies that have jurisdiction by law and special expertise with respect to all reasonable alternatives or significant environmental, social or economic impacts associated with a proposed action that requires NEPA analysis. (Memorandum for the Heads of Federal Agencies 2002).

### **State Governments**

**B18. The Forest Service should ensure that the process is consistent with and complies with Utah State Code Section 63-38d-401(8). [1-25, 1-26, 2-28].**

**Response:** The Forest Service has considered Utah State Code section 63-38d-401(8) in its decision-making, but is not bound to comply with State law in its river recommendations. The proposed action requires public involvement in the suitability determination process, and coordination with appropriate Federal, State, county, local, and Tribal governments. Some river segments travel through National Forest System land, State land, and other Federal lands, and cooperative planning among affected agencies is essential (see DEIS, Section 3.14 – Cumulative Effects, page 3-194). The Forest Service and the State of Utah are cooperating agencies as described in the DEIS, Section 1.8 – Cooperating Agencies on page 1-8. As cooperating agencies, the Forest Service does carefully consider comments from the State of Utah; however, Utah State Code does not grant supremacy over the Federal lands and decision-making. Following a Forest Service suitability recommendation, the State of Utah may decide to send a separate recommendation to Congress. Nothing in the final designation, however, can relieve the Forest Service of the ultimate responsibility for decisions regarding management of National Forest System river segments. At times even cooperating agencies can agree to disagree on final decisions.

**B19. The Forest Service should revise the DEIS to include a detailed analysis of the State of Utah Code Section 63-38d-401(8) as it relates to each eligible segment. [5-81].**

**Response:** See response to comment B18. Some elements of the Utah Code Section 63-38d-401(8) are addressed throughout the DEIS and Appendices if it was relevant to the analysis.

**B20. The Forest Service should give greater weight to comments from the State and Counties because they represent all the people in their jurisdictions and the complexity of the document makes it difficult for individuals to respond meaningfully. [1-17].**

**Response:** While the State of Utah and county governments are very important partners with the Forest Service, the Forest Service is responsible for considering all comments on the Wild and Scenic River Suitability Study. The Forest Service weighs the input of all respondents regardless of source to ensure that all viewpoints are heard and considered. See also the response to comments B1 and B18.

**B21. The Forest Service should reject Alternative 1 because deferring suitability findings is inconsistent with Utah state law and county policy. [4-22].**

**Response:** The Forest Service is required under NEPA to consider the No Action alternative. See also response to comment B18.

### **County and Local Governments**

**B22. The Forest Service should coordinate with local governments and keep decision making as a local process with opportunities for local participation by local governments, as cooperators with Memorandum of Understandings (MOUs) and to comply with the Federal Land Policy Management Act. [1-27, 1-32a, 1-32b].**

**Response:** Decision making has not been removed from the local process nor has participation by local counties been excluded (see response to comment B3). To the extent consistent with the laws governing the administration of National Forest System lands, the Forest Service has coordinated with the land use planning and management programs of other Federal departments and agencies, the States, and local governments. This includes early notice and meetings with the counties and Associations of Governments (AOGs) and sending the counties and AOGs scoping and DEIS information. Through the State of Utah, a cooperating agency in this process, the counties were allowed the opportunity to review the DEIS prior to its distribution to the general public and the majority of the State of Utah's comments were incorporated into the DEIS (which included a summary of information from the counties). In addition, the analysis is consistent with State and local plans to the maximum extent it is also consistent with Federal law and the purposes of the Wild and Scenic Rivers Act. See response to comment B18.

Following the completion of analysis, each Forest Supervisor will make a decision and provide rationale in a ROD for which segments they are going to determine as suitable. The United States Congress is responsible for designation. Following designation of a segment by Congress, the Federal agency charged with the administration of the river segment will prepare a Comprehensive River Management Plan. There will be additional opportunities for consultation with State and local governments and the interested public.

**B23. The Forest Service should grant cooperating agency status to Sweetwater County, Sweetwater County Conservation District, Uinta County Conservation District, and Lincoln County, Wyoming. [1-31a, 1-31b, 1-31c].**

- **Because the existing MOU does not apply to Wyoming**
- **Because Wyoming local governments are entitled to be cooperating agencies according to NEPA and CEQ rules**
- **Because Wild and Scenic recommendations are likely to impinge on water rights in Wyoming**

**Response:** As of July 2008, cooperating agency status was granted for Sweetwater County, Sweetwater County Conservation District, Uinta County Conservation District, and Lincoln County, Wyoming. Water rights are addressed in response to comment section "S. Water Resources and Other Developments."

**B24. The Forest Service should coordinate with Garfield County to comply with coordination requirements. [1-32c].**

**Response:** The Forest Service has coordinated with state and local governments as described in response to comments B3 and B22.

Eligible river segments for the Dixie National Forest were compiled in two separate processes. River segments found eligible on the Escalante Ranger District were determined eligible during the Grand Staircase-Escalante National Monument planning process. This was an interagency process between the Bureau of Land Management, U.S. Forest Service, and National Park Service. Other river segments found eligible on the Dixie National Forest were determined eligible during forest planning. Eligibility determinations are not required to be done with NEPA analysis. However, cooperating agencies, including Garfield County, were consulted frequently throughout the process of determining eligibility.

County governments were provided regular briefings, working meetings, review of draft documents, and even field trips to discuss and experience rivers segments under consideration. Upon completion of eligibility and initiation of the Statewide Suitability effort, Garfield County and other local counties were informed of forest decisions. Past comments and objections to river segments were discussed.

Garfield County's opposition to designation was noted in the DEIS, Section 3.10 – Social and Economic Resources on page 3-145 and in Appendix A – Suitability Evaluation Reports on pages A-180, 188, 196, 204, 220, 228, 236, and 244.

**B25. The Forest Service should submit all studies to Wasatch County for review. [1-35].**

**Response:** Wasatch County was on the mailing list to receive a copy of the scoping letter and the DEIS and will remain on the mailing list for future documents.

**Consistency with County Plans**

**B26. The Forest Service should plan consistently with Wyoming local governments' general and land use plans to avoid interference with water rights or reductions in grazing rights. [1-29].**

**Response:** A local land use plan is not zoning nor does it grant supremacy over the federal lands. However, to the extent consistent with the laws governing the administration of National Forest System lands, the Forest Service has coordinated with the land use planning and management programs of other Federal departments and agencies, the States, and local governments. The Forest Service considers the planning direction of local government plans in preparation of its own studies. The analysis is consistent with State and local plans to the maximum extent it is also consistent with Federal law and the purposes of the Wild and Scenic Rivers Act.

See response to comment section "S. Water Resources and Other Developments" regarding water rights. See response to comment O1 regarding grazing rights, grazing was also described in the DEIS, Appendix A – Suitability Evaluation Reports.

**B27. The Forest Service should make a consistency determination as to Wyoming local land use plans to address significant potential downstream impacts on Wyoming local governments and their constituents. [1-28].**

**Response:** See response to comment B26. Social and economic impacts were analyzed in the DEIS, Chapter 3, Section 3.10 – Social and Economic Resources on pages 3-100 to 3-147. More specifically, West Fork Smiths Fork was analyzed in the DEIS on page 3-137 and in Appendix A – Suitability Evaluation Reports on pages A-442 to A-449. The FEIS, Section 3.10 – Social and Economic Resources, Table 3.10.45 - Consistency or inconsistency with social/economic aspects of county plan and or goals will be updated and Appendix A – Suitability Evaluation Reports will be updated in the FEIS. For water rights see response to comments in section "S. Water Resources and Other Developments."

**B28. The Forest Service should select Alternative 2 because it is consistent with Wyoming and Garfield County plans and policies and with numerous Wyoming organizations and constituencies. [4-23a, 4-23d].**

**Response:** All alternatives are being considered. See the ROD for the rationale for the choice of rivers and the selected alternative.

**B29. The Forest Service should acknowledge Wasatch County plans for Wild and Scenic Rivers**

**within its jurisdiction. [1-36].**

**Response:** The Wasatch County General Plan regarding Little Provo Deer Creek was acknowledged in the DEIS, Section 3.10 – Social and Economic Resources on page 3-147 and in Appendix A – Suitability Evaluation Reports on pages A-376 and A-378.

**B30. The Forest Service should coordinate with Wasatch County to comply with United States Law (42 U.S.C. 4331) and the Wasatch County General Plan. [1-34a].**

**Response:** This study is in compliance with NEPA (42 U.S.C. 4331). See response to comment B26 regarding compliance with county plans.

**B31. The Forest Service should not implement Alternative 3 and should not select Alternatives 5 or 6 because it is inconsistent with County plans and policies. [4-27b, 4-53c, 4-56b].**

**Response:** See response to comment B26.

#### **Agency Involvement and Consistency with Plans, Programs, and Policies**

**B32. The Forest Service should disclose the number of Wild and Scenic recommendations in the National System that have proceeded through the designation process as they were originally recommended by the Forest managers to clarify the intent of this EIS. [1-8].**

**Response:** Dating back to 1968, approximately 104 of the 165 designated segments in the National Wild and Scenic River System list the Forest Service as the Administering Agency or partner of another agency (<http://www.rivers.gov/publications/rivers-table.pdf>). However, information regarding original recommendations vs. final designations is unknown, not readily available, and the overall costs of obtaining data that is up to 40 years old, in some cases, could be exorbitant. The information is not essential to the decision makers in order for them to make a reasoned choice among the alternatives. The Forest Service has the responsibility to identify and study rivers that might be suitable for inclusion in the National Wild and Scenic Rivers System. It does not have any control over Congress on implementing any of its recommendations. At the present time there are 850 plus river segments identified as eligible or suitable within the Forest Service Candidate River database (Wild and Scenic River Fact Sheet 2008).

**B33. The Forest Service should consider the consistency of designation with other agency plans, programs, or policies. [1-21].**

**Response:** The Forest Service is considering which segments are being recommended by the Bureau of Land Management and the National Park Service. This is discussed in the DEIS in Section 3.14 – Cumulative Effects Analysis on pages 3-194 to 3-204. See response to comments B18 and B26.

**B34. The Forest Service should designate the Green River because the current management of property owned by the Utah Division of Wildlife Resources is consistent with designation. [3-25f].**

**Response:** This is described in the DEIS, Section 3.14 – Cumulative Effects and has been updated in the SER. A suitable determination for the Green River is being recommended in Alternatives 3, 5, 6, and 7. Appendix A – Suitability Evaluation Reports contains a description of the Green River on pages A-30 through A-40. See the ROD for the rationale for the choice of rivers and the selected alternative.

**B35. The Forest Service should consider the implications of a jurisdictional split across the Green River. [5-33].**

**Response:** The Green River was analyzed in the DEIS, Section 3.14 – Cumulative Effects Analysis. In addition, a map is displayed in the DEIS, Appendix A – Suitability Evaluation Reports, page A-30 and jurisdiction is described on page A-35. As noted, the southern side of the Green River is managed by the Utah Division of Wildlife Resources (UDWR) (river miles 5 to 7) and BLM (river miles 7 to 12.6) and the northern side is managed by the Ashley National Forest (river miles 5 to 12.6). Both the BLM and Ashley National Forest have found this segment eligible and it is currently classified as Scenic (DEIS, page 3-201).

**B36. The Forest Service should check the accuracy of the specified 12-mile distance from the dam on the Green River to the edge of Forest Service jurisdiction. [5-55].**

**Response:** The Ashley National Forest has reviewed the 12.6 mile distance and it is correct as described in the DEIS, Appendix A – Suitability Evaluation Reports on page A-30. Forest Service ownership is only on the north side of the river from miles 5 to 12.6. See response to comment B35.

**B37. The Forest Service should reconsider suitability for Lower Dry Fork Creek because it was not recommended by Bureau of Land Management. [3-32a].**

**Response:** The Vernal Field Office of the BLM did not find Lower Dry Fork eligible as noted in the DEIS on page 3-196. Although this will be taken into consideration in the ROD, the portion of the segment on National Forest System lands was found eligible, and therefore the Forest Service is considering it during this suitability study. The Forest Service does not have the authority to make suitability recommendations for other land management agencies such as the BLM. Lower Dry Fork would be determined “not suitable” for designation in Alternatives 2, 4, 5, 6, and 7. Appendix A – Suitability Evaluation Reports contains a description of Lower Dry Fork on pages A-78 through A-85. See the ROD for the rationale for the choice of rivers and the selected alternative.

**B38. The Forest Service should find the North Fork Virgin River suitable because the Bureau of Land Management portions of the river were found suitable and it would receive public support. [3-41a].**

**Response:** The Kanab Field Office, BLM and Zion National Park have found this segment eligible as noted in the DEIS in Section 3.14 – Cumulative Effects Analysis on pages 3-194 to 3-204. A suitable determination for North Fork Virgin River is being recommended in Alternatives 3, 5, 6, and 7. Appendix A – Suitability Evaluation Reports contains a description of North Fork Virgin River on pages A-166 through A-173. See the ROD for the rationale for the choice of rivers and the selected alternative.

**B39. The Forest Service should designate both segments of Dark Canyon and the associated tributaries to be consistent with Bureau of Land Management plans. [3-56].**

**Response:** The Monticello Field Office of the BLM determined Lower Dark Canyon was eligible as discussed in the DEIS in Section 3.14 – Cumulative Effects Analysis on pages 3-194 to 3-204. A suitable determination for Upper Dark, Horse Pasture, Peavine and Kigalia Canyons in Upper Dark Canyon and Lower Dark Canyon including Poison Canyon, Deadman Canyon, and Woodenshoe and Cherry Canyons is being recommended in Alternatives 5 and 6 and Hammond Canyon is being recommended in Alternatives 3 and 6. Appendix A – Suitability Evaluation Reports contains a description of Dark Canyon on page A-349 to A-359 and of Hammond Canyon beginning on page A-336. See the ROD for the rationale for the choice of rivers and the selected alternative.

**B40. The Forest Service should not designate Hammond Canyon because designation appears to be**

**inconsistent with the Forest Management Plan and Bureau of Land Management’s designation decisions. [3-62h].**

**Response:** The Monticello Field Office of the BLM did not find Hammond Canyon eligible as noted in the DEIS on page 3-196. Although this will be taken into consideration in the ROD, the portion of the segment on National Forest System lands was found eligible, and therefore the Forest Service is considering it during this suitability study. The Forest Service does not have the authority to make suitability recommendations for other land management agencies such as the BLM. Hammond Canyon would be determined “not suitable” for designation in Alternatives 2, 4, 5, and 7. See the ROD for the rationale for the choice of rivers and the selected alternative.

**B41. The Forest Service should modify Tables 4.14.1 and 4.14.2 to provide a complete assessment of segments extending onto lands administered by other agencies. [5-73].**

**Response:** Tables 4.14.1 and 4.14.2 have been renumbered in the FEIS as 3.14.1 and 3.14.2, respectively. Table 4.14.1 (now 3.14.1) describes all segments determined to be eligible on National Forest System lands in Utah that may connect or lie adjacent to other public lands and whether or not they will be analyzed further in Section 3.14 – Cumulative Effects Analysis as described in the DEIS on page 3-195. A clarifying statement has been added to the FEIS that, “all river segments that are not listed in the Table 3.14.1 do not extend onto lands administered by other federal agencies and therefore were not included in the table.” Table 4.14.2 has been updated in the FEIS to demonstrate whether segments determined eligible by the Forest Service are contiguous with other Federal agencies.

**B42. The Forest Service should provide detailed maps that show segments on adjacent land and their relationships to the proposed segments. [5-79].**

**Response:** A map detailing neighboring land manager’s segments including the National Park Service and BLM has been created and is located in Appendix B – BLM and NPS List of Rivers.

## **C. Alternatives**

---

This section is divided into the following subsections: General, Designation for all 86 River Segments, Alternatives 1, 2, 3, 4, 5, and 6, Ashley, Dixie, Fishlake, Manti-La Sal, Uinta-Wasatch-Cache National Forests, Future Generations, Multiple Use, River Segment Length, and Range of Alternatives.

### **General**

**C1. The Forest Service should identify the environmentally preferred alternative and provide an evaluation in the FEIS. [4-15].**

**Response:** This has been added to the FEIS, Section 2.6 – Environmentally Preferred Alternative and ROD. It is Alternative 1 – No action, maintain eligibility of all river segments. An evaluation of all alternatives considered in detail is presented in the FEIS, Chapter 3.

**C2. The Forest Service should pare the list of rivers down to the “best of the best” that go forward as the preferred alternative to ensure public support and sufficient agency funding. [4-12].**

**Response:** The Preferred Alternative is Alternative 7 as identified in the FEIS, Section 2.5 – Preferred Alternative. The rationale for the selected alternative is included in the Record of Decision (ROD).

Public support, agency funding, and recognition of river values are all suitability factors considered in the agency recommendation.

**C3. The Forest Service should acknowledge that non-designated areas of designated rivers and streams would be affected. [2-32].**

**Response:** This comment did not specify in what ways the non-designated areas upstream and downstream would be affected. The effects of designation are described in Chapter 3 – Affected Environment and Environmental Consequences of the DEIS.

**C4. The Forest Service should consider that segments located at the headwaters pose fewer concerns than downstream reaches in determining suitability where there are more existing uses and conflicts. [2-70].**

**Response:** Comment noted. The extent of existing uses and conflicts varies by river segment. In general headwaters pose fewer concerns but not always, it depends on the nature of each river, its location, and development history.

**C5. The Forest Service should move forward with Wild and Scenic River recommendations to protect the rivers as a hedge against global warming. [2-33b].**

**Response:** Comment noted. The Forest Service is increasingly aware of the effects of climate change, including global warming. River recommendations will protect free flow and river values until Congress acts upon the recommendations.

**C6. The Forest Service should retain all of the 497 miles of identified suitable Uinta Rivers in the proposal because these resources should be protected. [2-36].**

**Response:** Comment noted.

**C7. The Forest Service should designate at least 80 of the river segments as Wild and Scenic. [2-38].**

**Response:** This comment did not specify which 80 of the 86 river segments should be designated. Comment noted.

**C8. The Forest Service should not designate Utah’s rivers as Wild and Scenic for the following reasons:**

- **Because designation sacrifices private land and threatens domestic animals, wildlife, plants, human life, dwellings, and equipment.**
- **Because designation reduces management flexibility and no mechanism exists to undesignated.**
- **Because designation threatens the outstandingly remarkable value (ORV) it is intended to preserve.**
- **To avoid complicating recovery objectives. [2-44a, 2-44b, 2-44d, 2-44e].**

**Response:** River segments would be determined “not suitable” for designation in Alternative 2. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C9. The Forest Service should designate more areas along the Wasatch Front. [2-111].**

**Response:** Comment noted. The Forest Service is only considering river segments located on National Forest System lands that were found eligible for consideration during forest planning.

**C10. The Forest Service should protect the wild areas of Utah. [6-1].**

**Response:** The purpose and need for this project is to complete the process for determining which, if any, eligible rivers on the National Forests in Utah should be recommended for inclusion in the National Wild and Scenic Rivers System. See the purpose and need for the project in DEIS, pages 1-4 to 1-5.

**C11. The Forest Service should protect all remaining wild rivers because there is little wilderness remaining in the country. [6-23].**

**Response:** Comment noted. Decommissioning dams is outside the scope of the analysis. See the purpose and need for the project in DEIS, page 1-4 to 1-5.

**C12. The Forest Service should designate more river segments in the Wasatch-Cache and Ashley National Forests. [3-149].**

**Response:** Comment noted. The Forest Service is only considering river segments located on National Forest System lands that were found eligible for consideration during forest planning.

**C13. The Forest Service should not implement Alternatives 3, 5, or 6 because designating the Upper Uinta River could preclude efforts to meet future water needs. [4-46].**

**Response:** All alternatives are being considered. The Upper Uinta River is described in the DEIS, Appendix A – Suitability Evaluation Reports, page A-151. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C14. The Forest Service should implement Alternative 5 or 6 as the preferred alternative because they are more protective and better reflect the desires of the American people and they comply with the requirements of the Wild and Scenic Rivers Act. [4-51a, 4-51b].**

**Response:** The preferred alternative was identified in the FEIS, Section 2.5 – Preferred Alternative and in the ROD. All alternatives are being considered. See the ROD for the rationale for the choice of rivers and the selected alternative.

**Designation for all 86 River Segments**

**C15. The Forest Service should include an alternative that would designate all 86 river segments in its proposal as Wild and Scenic for the following reasons:**

- **To protect them from American corporations. [2-41c].**
- **Because they best represent Utah’s ORVs and because no clear criteria for determining otherwise has been provided. [2-39].**
- **Because so little is left of American wilderness that what remains should be preserved. [2-40a].**
- **Because not a single river has been designated in Utah. [2-40b].**
- **To support the Utah Comprehensive Wildlife Conservation Strategy’s “wet” priorities. [2-40g].**
- **To protect waterways and water. [2-40h].**

- To meet the requirements of NEPA. [4-11a].
- To show a proper range of alternatives. [4-11b].
- To disclose the greatest net public benefits possible and to analyze a viable option of providing stronger standards. [4-11c].
- To protect entire riverine ecosystems and watersheds. [4-11d].
- To protect water resources that are needed in a time of climate change and the attendant drying of the West. [4-11e].
- To protect wildlife, ecosystems, human health, and recreational opportunities. [6-4b].
- To provide areas for peace and quiet. [6-4c].

**Response:** A “Find suitable all river segments that were determined to be eligible” alternative was considered, but dismissed from detailed study. The reason it was dismissed is displayed in the DEIS, Section 2.3 – Alternatives Considered but Dismissed from Detailed Study on pages 2-15 to 2-16.

**C16. The Forest Service should identify as its preferred alternative one that would recommend protections for all eligible segments as Wild and Scenic. [4-16].**

**Response:** See response to comment C15. The preferred alternative is identified in the FEIS, Section 2.5 – Preferred Alternative and in the ROD. See the ROD for the rationale for the choice of rivers and the selected alternative.

#### **Alternative 1**

**C17. The Forest Service should revise Alternative 1 because it is not truly a “No Action” Alternative and does not accurately describe current protections for eligible segments. [4-17].**

**Response:** Alternative 1 does reflect the status quo. This is easy to see for the Wasatch-Cache and Uinta National Forests that have final revised land and resource management plans (forest plans). It is harder to see for the other four Forests with older plans that are relatively silent on wild and Scenic River issues. However, each of these Forests have completed eligibility studies incorporated by reference into the DEIS. These river segments would receive the full protection of free flow and river values as dictated by Forest Service policy until better site specific standards and guidelines are added through forest plan revision or in a forest plan amendment in the ROD.

**C18. The Forest Service should ensure that the protections currently in effect are accurately described in Alternative 1. [4-18].**

**Response:** See response to comment C17. River protections take many forms. Forest plans provide standards and guidelines. Agency policy provides direction. Regulations and laws provide specific requirements. In total each of these forms of direction would be sufficient to ensure that eligible river segments maintain their eligibility under Alternative 1.

**C19. The Forest Service should select Alternative 1 if the protections described are actually in effect because this would be the most protective of the alternatives. [4-20].**

**Response:** All alternatives are being considered. See the ROD for the rationale for the choice of rivers and the selected alternative. Short of actual river designation by Congress, all alternatives provide roughly the same level of protection to free flow and river values of eligible and suitable river segments through application of agency policy and/or forest plan standards and guidelines for each river respectively based on the status of current forest planning.

**C20. The Forest Service should identify Alternative 1 as the environmentally preferable alternative because the protections described would result in more protections than the other alternatives. [4-21].**

**Response:** The environmentally preferred alternative has been identified in the FEIS in Section 2.6 – Environmentally Preferred Alternative and the ROD. It is Alternative 1 – No action, maintain eligibility of all river segments. See the ROD for the rationale for the choice of rivers and the selected alternative.

### **Alternative 2**

**C21. The Forest Service should select Alternative 2 to ensure that rivers on the North Slope of the Uinta Mountains are not included and because designation is not needed. [4-24c, 4-25a].**

**Response:** All alternatives are being considered. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C22. The Forest Service should select Alternative 2 because it is consistent with Wyoming and Garfield County plans and policies and with numerous Wyoming organizations and constituencies for the following reasons:**

- **To refrain from over-regulation. [4-23b].**
- **To be consistent with the suitability criteria established by the Wild and Scenic Rivers Act. [4-23c].**
- **Because the other action alternatives are inconsistent with the Federal Land Policy and Management Act and local and state government plans, are not in the public's interest, and do not meet suitability criteria. [4-23e].**

**Response:** All alternatives are being considered. See the ROD for the rationale for the choice of rivers and the selected alternative. See response to comment B26.

### **Alternative 3**

**C23. The Forest Service should revise the DEIS to evaluate the broader ecological context of rivers determined to be unsuitable to include areas in Alternative 3 whose ecological and recreational value is greater than the sum of their parts. [4-9].**

**Response:** Ecological and recreational values were considered and described in the DEIS on pages 3-17, 3-52, and 3-92.

**C24. The Forest Service should explain the criteria used to determine which rivers best represent Utah ORVs. [2-15].**

**Response:** The Forest Supervisors looked at issues developed from Forest Service personnel, other Federal agencies, scoping comments, information from public meetings, and direction from the Wild and Scenic River Act to develop various themes for the alternatives. The Forest Supervisors then determined which river segments fit into each alternative based on the criteria, which is listed by alternative and described in Chapter 2 of the DEIS. The criteria used in Alternative 3 include the following:

- 1) Recognized those segments that contribute uniqueness and/or diversity of ORVs to a National System as represented by the best examples on the National Forests in Utah.
- 2) Reasonably foreseeable future projects has been defined as those Federal or Non-Federal projects not yet undertaken that are based on information presented to the Wild and Scenic Rivers

Interdisciplinary Team which includes: completed and approved plans, project documents that are in the final stages of the NEPA process (e.g., final or draft environmental impact statement or an environmental assessment), or projects that are documented as approved and ready to implement.

As described in Alternative 3 in the DEIS on page 2-2, the Forest Supervisors chose river segments that would contribute regional uniqueness to the Wild and Scenic Rivers System that would also have the least affect on reasonably foreseeable future water resources projects (dam, diversion, and other modification of the waterway (Wild and Scenic Rivers (WSR) Act 16B)) or other activities (e.g., potential road building projects, mining, etc.) that would result in an irretrievable commitment or loss of ORVs. This alternative contributes to the diversity of the National System while having the least adverse economic effect to the State of Utah.

Choosing the “best” is recognized as subjective and is based on the Forest Supervisors experience, their knowledge of their local river values and attributes, and their knowledge of the National System. The Forest Supervisors in Utah recognize that this decision will not completely satisfy every group or individual, however, they feel their choices would be recognized by most people as “best” representing Utah river values and ORVs as a contribution to the National System.

**C25. The Forest Service should include explanations for eliminating segments from the Alternative 3. [4-5].**

**Response:** When choosing segments for an alternative generally the Forest Supervisors choose those segments that best meet the criteria, thereby excluding all others. Segments were not included in Alternative 3 in the DEIS for the following reasons:

- River segments did not best represent Utah ORVs in the opinion of the Forest Supervisors.
- Recommending a river segment as suitable would have major impacts to future planned development, including reasonably foreseeable future water resources projects (e.g., dam, diversion, and other modification of the waterway (WSR Act 16B)) or other activities (e.g., potential road building projects, mining, etc.) that have completed and approved plans, project documents that are in the final stages of the NEPA process (e.g., final or draft environmental impact statement or an environmental assessment), or projects that are documented as approved and ready to implement.
- River segments did not contribute regional uniqueness and/or diversity of ORVs to the Wild and Scenic Rivers System.
- The river segment could have adverse economic effects to the State of Utah.

**C26. The Forest Service should implement Alternative 3 for the following reasons:**

- **Because Wild and Scenic designation is unnecessary or undesirable for the Logan River. [4-26a].**
- **Because the eligible segments in Emery County are not included in this alternative. [4-26b].**
- **Because it does not include Fish and Gooseberry Creeks. [4-26d].**

**Response:** All alternatives are being considered. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C27. The Forest Service should not implement Alternative 3 because it would negatively impact recreation, local businesses, and municipal water uses and because it excludes Beaver Creek, Logan River, Spawn Creek, and the Left Hand Fork. [4-27a, 4-27c].**

**Response:** All alternatives are being considered. See the ROD for the rationale for the choice of rivers

and the selected alternative.

**C28. The Forest Service should not consider an alternative more stringent than Alternative 3. [4-29].**

**Response:** All alternatives are being considered. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C29. The Forest Service should add more rivers to Alternative 3 for the following reasons:**

- **To create a better balance between the miles of water development on rivers and the miles of protected rivers. [4-30a].**
- **To provide more protections for wildlife and plant species. [4-30b].**
- **To more accurately represent the national interest. [4-30c].**

**Response:** Comment noted. This comment was general in nature and the names of additional river segments were not suggested. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C30. The Forest Service should add the following rivers to Alternative 3 because they meet the criteria: the rivers of the South Slope of the Ashley National Forest; Whiterocks River-Upper Whiterocks, East Fork Whiterocks, West Fork Whiterocks; Shale Creek and tributaries; Upper Yellowstone Creek; Garfield Creek; Manning Creek; Lower Dark Canyon; Upper Dark Canyon; East Fork Blacks Fork; Boundary Creek; Logan River; Beaver Creek; Blacksmith Fork River; and Ostler Fork. [4-40, 4-31, 4-39, 4-43, 4-44].**

**Response:** These river segments were not chosen by the Forest Supervisors for Alternative 3 because they did not meet the criteria, as described on page 2-2 of the DEIS. In general known or expected conflicts with water development projects, lack of best representative ORVs and contribution to the National System were all reasons these rivers were not included in Alternative 3. However, Ostler Fork was reevaluated and since it did not have any reasonably foreseeable projects, it was added to Alternative 3.

**C31. The Forest Service should add all the rivers from Alternative 5 to Alternative 3 because most of the rivers in Alternative 5 meet the criteria for Alternative 3. [4-45].**

**Response:** These river segments were not chosen by the Forest Supervisors for Alternative 3 because they did not meet the criteria, as described on page 2-2 of the DEIS. However, following a reevaluation of reasonably foreseeable water developments, many of the segments in Alternative 5 were included in Alternative 3.

#### **Alternative 4**

**C32. The Forest Service should select Alternative 4 as the preferred alternative because it more closely represents the present condition and local use of the rivers. [4-47].**

**Response:** The preferred alternative was identified in the FEIS, Section 2.5 – Preferred Alternative and the ROD. All alternatives are being considered. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C33. The Forest Service should review the rivers in Alternative 4 and include all of those lacking active plans for development because rivers not included are unlikely to ever receive protection**

**under the Wild and Scenic Rivers Act. [4-48].**

**Response:** The Forest Supervisors clarified the definition of reasonably foreseeable future projects which was defined as those Federal or Non-Federal projects not yet undertaken that are based on information presented to the Wild and Scenic Rivers Interdisciplinary Team which includes: completed and approved plans, project documents that are in the final stages of the NEPA process (e.g., final or draft environmental impact statement or an environmental assessment), or projects that are documented as approved and ready to implement. Following a review of public comments, new or updated information received, and water developments and other activities, the Forest Supervisors determined that only three water development projects were reasonably foreseeable including those on: Fish and Gooseberry Creek, Lower Left Fork of Huntington, and Huntington Creek. The Forest Supervisors reviewed Alternative 4 and determined that all segments most at risk of future planned development were included in this alternative. The FEIS was updated which resulted in most of the river segments originally in Alternative 4 moving to Alternative 3.

**C34. The Forest Service should clarify why the rivers in Alternative 3 are not also included in Alternative 4. [4-49].**

**Response:** Alternative 3 includes those segments having the least affect on existing or reasonably foreseeable future water resources projects and other developmental activities. Alternative 4 includes segments that could be adversely affected by existing or reasonably foreseeable future water resources projects and other developmental activities. Therefore, those segments without reasonably foreseeable water resources projects and other developmental activities are included in Alternative 3 and those that segments that have reasonably foreseeable water resources projects and other activities are included in Alternative 4.

#### **Alternative 5**

**C35. The Forest Service should select Alternative 5 because it includes a broader selection of segments. [4-52].**

**Response:** All alternatives are being considered. See the ROD for the rationale for the choice of rivers and the selected alternative.

#### **Alternative 6**

**C36. The Forest Service should include in the DEIS the ranking of segment importance used to develop Alternative 6 to focus decision makers on segments where tradeoffs between protection and development are most profound. [4-6].**

**Response:** Alternative 6 was submitted by a coalition of environmental groups, including Utah Rivers Council, Utah Environmental Congress, and Grand Canyon Trust in response to scoping. In this alternative, a suitable determination would be made for 40 river segments including 216 miles classified as Wild, 113 miles classified as Scenic, and 112 miles classified as Recreational to protect the most outstanding river segments that represent the diversity of river systems in Utah and those segments that face future threats to development as recognized by these groups. This alternative represents the viewpoint of conservation groups interested in wild and scenic river designations.

The conservation groups considered a number of factors to create an alternative that represents the diversity of river systems in Utah and protects the most outstanding rivers and those that face future threats. The list of rivers in this alternative was arrived at after a careful qualitative and quantitative

analysis and review. This lengthy process involved an initial sorting of rivers, further research, additional sorting, and multiple reviews by numerous individuals and organizations.

The first step in the process was to rank all the eligible river segments based on the Outstandingly Remarkable Values (ORVs) identified in the eligibility phase of review (both those identified by the Forest Service and those identified by other independent sources), granting points for different ORVs. This allowed a heavier “weighting” of some values (largely fish and wildlife) while also acknowledging the importance of multiple ORVs (even where those ORVs were “weighted” less).

After this quantitative review and ranking, the river segments went through a more qualitative review. The conservation groups considered current and future threats to the river segment, possible public support for protection (both local and national), representation of different riparian systems and areas with special status systems (e.g., rare habitat for a species), and/or any additional value provided by protecting multiple pieces of a system (such as a headwaters area or upstream/downstream stretches).

This combination of a quantitative ranking and a qualitative review generated the list of top qualifying river stretches. The overall goals of this analysis were to advocate for the best of the best. In other words, the conservation alternative includes those river segments that best represent the diversity of values and river systems here in Utah, those with the most public support, and those outstanding river segments that face threats, which if not protected may be irreparably harmed.

The weights and factors used are specific to the conservation groups involved in the rankings. Other groups may have chosen other weights and factors depending on their values, personal bias, objectives, and desired outcomes. The Forest Supervisors reviewed the basis for Alternative 6 and were advised by the conservation group process prior to making their own value judgments in the FEIS.

**C37. The Forest Service should select Alternative 6 for the following reasons:**

- **Because it recommends a reasonable number of river segments and better reflects the intent of the Wild and Scenic Rivers Act. [4-54a].**
- **Because it would provide more protection of ORVs and would avoid conflict with Executive Order 12898 and the Forest Service environmental justice policy. [4-54b].**
- **Because it includes Logan River among the protected rivers. [4-54c].**

**Response:** All alternatives are being considered. See the ROD for the rationale for the choice of rivers and the selected alternative. None of the alternatives conflict with Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations as described in the DEIS, Section 3.18 – Environmental Justice, page 3-205.

**C38. The Forest Service should amend Alternative 6 to include Ashley Gorge Creek and Lower Dry Fork Creek because these segments should be protected for their high biological value. [4-55].**

**Response:** Ashley Gorge Creek and Lower Dry Fork Creek did not meet the criteria for Alternative 6 as described on pages 2-12 to 2-15 of the DEIS. The conservation groups did not include these two segments in their submittal. See response to comment C36.

**Ashley National Forest**

**C39. The Forest Service should not designate Ashley Creek, Anderson Creek, or the Whiterocks River to protect the future of these segments. [3-11].**

**Response:** Anderson Creek was not determined eligible. Ashley Gorge Creek would be determined “not

suitable” for designation in Alternatives 2, 4, 5, 6 and 7 and Whiterocks River would be determined “not suitable” for designation in Alternatives 2, 3, 4, and 7. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C40. The Forest Service should designate Whiterocks Canyon to keep it safe, clean, and pristine. [3-16a].**

**Response:** A suitable determination for Upper, East Fork, and West Fork Whiterocks River is being recommended in Alternatives 5 and 6 and Middle Whiterocks River is being recommended in Alternative 6. Appendix A – Suitability Evaluation Reports contains a description of Whiterocks River segments on pages A-54 through A-77. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C41. The Forest Service should designate the Green River as Scenic because it has many ORVs. [3-26a].**

**Response:** Classification is a reflection of the current level of development and access along a river segment. The Green River was found to have a number of ORVs. A suitable determination for the Green River (classified as Scenic) is being recommended in Alternatives 3, 5, 6, and 7. Appendix A – Suitability Evaluation Reports contains a description of ORVs beginning on page A-31. See the ROD for the rationale for the choice of rivers and the selected alternative.

**Dixie National Forest**

**C42. The Forest Service should not designate Moody Wash because it does not possess unique characteristics. [3-43c].**

**Response:** In order to be considered as eligible, Moody Wash must be free flowing and possess at least one outstandingly remarkable value. Moody Wash was described in the DEIS, Appendix A – Suitability Evaluation Reports on page A-206. Moody Wash would be determined “not suitable” for designation in Alternatives 2, 4, and 7. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C43. The Forest Service should designate East Fork Boulder Creek because it meets the criteria, there would be little cost, it has significant scenic values and the Suitability Evaluation Report does not disqualify them. [3-44a, 3-147].**

**Response:** A suitable determination for East Fork Boulder Creek is being recommended in Alternative 5. Appendix A – Suitability Evaluation Reports contains a description of East Fork Boulder Creek beginning on page A-174. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C44. The Forest Service should not designate East Fork Boulder Creek to protect it from public overuse. [3-45a].**

**Response:** East Fork Boulder Creek would be determined “not suitable” for designation in Alternatives 2, 3, 4, 6, and 7. See the ROD for the rationale for the choice of rivers and the selected alternative. Current Forest Service management acknowledges the special values of river and riparian areas, these management considerations should provide some protection from “overuse” regardless of wild and scenic river considerations.

### **Fishlake National Forest**

**C45. The Forest Service should designate Slickrock Canyon because the Suitability Evaluation Report does not disqualify the segment. [3-147].**

**Response:** A suitable determination for Slickrock Canyon is being recommended in Alternative 5. Appendix A – Suitability Evaluation Reports contains a description of Slickrock on page A-214. See the ROD for the rationale for the choice of rivers and the selected alternative.

### **Manti-La Sal National Forest**

**C46. The Forest Service should not designate Upper Dark Canyon because its boundaries are not definitive and its characteristics render it extremely difficult to manage. [3-55d].**

**Response:** Upper Dark Canyon would be determined “not suitable” for designation in Alternatives 2, 3, 4, and 7. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C47. The Forest Service should designate both Dark Canyon and Hammond Canyon because including one of these segments should not preclude the other and because the SER does not disqualify them. [3-59, 3-147].**

**Response:** A suitable determination for Upper Dark, Horse Pasture, Peavine and Kigalia Canyons in Upper Dark Canyon and Lower Dark Canyon including Poison Canyon, Deadman Canyon, and Woodenshoe and Cherry Canyons is being recommended in Alternatives 5, 6 and Hammond Canyon is being recommended in Alternatives 3 and 6. Appendix A – Suitability Evaluation Reports contains a description of Dark Canyon on page A-349 to A-359 and of Hammond Canyon beginning on page A-336. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C48. The Forest Service should not designate Hammond Canyon because local residents do not support designation. [3-62b].**

**Response:** Hammond Canyon would be determined “not suitable” for designation in Alternatives 2, 4, 5, and 7. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C49. The Forest Service should designate Fish and Gooseberry Creeks because there is public support for designation and to fulfill the purpose of the Wild and Scenic Rivers Act. [3-63a, 3-64].**

**Response:** A suitable determination for Fish and Gooseberry Creeks is being recommended in Alternatives 4 and 6. Appendix A – Suitability Evaluation Reports contains a description of Fish and Gooseberry Creeks beginning on page A-309. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C50. The Forest Service should not designate Fish and Gooseberry Creeks for the following reasons:**

- **To preserve the power and the liberties of the people. [3-68a].**
- **Because it should be protected through means other than a Federal act. [3-68b].**
- **Because the U.S. Congressional delegation and the Six-County Association of Governments oppose designation. [3-68c].**
- **To be consistent with previous findings. [3-68d].**
- **Should not designate Fish Creek because Sanpete County residents and officials oppose designation. [3-70a].**

**Response:** Fish and Gooseberry Creeks would be determined “not suitable” for designation in Alternatives 2, 3, 5, and 7. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C51. The Forest Service should not designate Mill Creek Gorge for the following reasons:**

- **Because it is not suitable for designation. [3-77e].**
- **Because local residents do not support designation. [3-77b].**
- **Because its boundaries are not definitive and its characteristics render it extremely difficult to manage. [3-77d].**
- **Because it includes a Research Natural Area and the public rarely accesses it. [3-77f].**

**Response:** Mill Creek Gorge would be determined “not suitable” for designation in Alternatives 2, 3, 4, 6, and 7. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C52. The Forest Service should designate Huntington Creek and the Lower Left Fork of Huntington Creek to protect it from development. [3-73].**

**Response:** A suitable determination for Huntington Creek and the Lower Left Fork of Huntington Creek is being recommended in Alternatives 4 and 6. Appendix A – Suitability Evaluation Reports contains a description of Huntington Creek on page A-283 and of Lower Left Fork of Huntington Creek on page A-323. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C53. The Forest Service should protect the rivers of the Abajo Mountains. [6-42].**

**Response:** Chippean and Allen Canyons are in the Abajo mountains. The Forest Service does not have the ability to designate river segments, only Congress can confer on them Wild and Scenic River designation status. Chippean and Allen Canyons did not meet the criteria of Alternatives 3, 4, 5, 6, or 7. Appendix A – Suitability Evaluation Reports contains a description of Chippean and Allen Canyons on page A-342. See the ROD for the rationale for the choice of rivers and the selected alternative.

#### **Uinta-Wasatch-Cache National Forest**

**C54. The Forest Service should not include the Little Provo Deer Creek segment in the suitability study for designation because this river segment has no outstanding or remarkable value other than Cascade Springs. [3-80d].**

**Response:** Little Provo Deer Creek would be determined “not suitable” for designation in Alternatives 2, 4, and 5. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C55. The Forest Service should designate Blacks Fork because of its scenic, historical, and cultural resources. [3-84a].**

**Response:** A suitable determination for East Fork Blacks Fork is being recommended in Alternative 5 and West Fork Blacks Fork is being recommended in Alternatives 3 and 5. Appendix A – Suitability Evaluation Reports contains a description of ORVs on pages A-415 to A-428. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C56. The Forest Service should designate 3 miles of Blacks Fork, 6 miles of Beaver Creek, and 20 miles of the high country river course of the Provo River. [3-87].**

**Response:** A suitable determination for East Fork Blacks Fork (10 miles) is being recommended in Alternative 5 and West Fork Blacks Fork (12 miles) is being recommended in Alternatives 3 and 5. Appendix A – Suitability Evaluation Reports contains a description of Blacks Fork on pages A-415 to A-428.

A suitable determination for Middle Fork Beaver Creek (11 miles) and West Fork Beaver Creek (10 miles) is being recommended in Alternatives 3, 5, and 6 and Beaver Creek (9 miles) is being recommended in Alternative 6. Appendix A – Suitability Evaluation Reports contains a description of Middle Fork Beaver Creek and West Fork Beaver Creek on pages A-394 to A-407 and Beaver Creek on pages A-524 and A-579.

A suitable determination for North Fork Provo River (1 mile) is being recommended in Alternatives 3 and 6. Appendix A – Suitability Evaluation Reports contains a description of North Fork Provo River on page A-360.

See the ROD for the rationale for the choice of rivers and the selected alternative.

**C57. The Forest Service should not designate Little Bear Creek, Little Bear Spring to mouth because it is impractical. [3-98].**

**Response:** Little Bear Creek: Spring to mouth would be determined “not suitable” for designation in Alternatives 2, 4, 5, and 7. Appendix A – Suitability Evaluation Reports contains a description of Little Bear Creek on page A-559. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C58. The Forest Service should designate Little Bear Creek as Scenic. [3-99].**

**Response:** A suitable determination for Little Bear Creek with a classification of Scenic is being recommended in Alternatives 3 and 6. Appendix A – Suitability Evaluation Reports contains a description of Little Bear Creek on page A-559. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C59. The Forest Service should designate proposed segments of the Logan River for the following reasons:**

- **Because all eligible segments of a river system should be designated to ensure adequate protection. [3-104a].**
- **Because the ORVs of the river recognized in the 1990s continue to be a compelling rationale for designation. [3-105c].**
- **To preserve opportunities for solitude and contemplation. [3-107a].**
- **Because of its uniqueness. [3-107d].**

**Response:** A suitable determination for Logan River is being recommended in Alternatives 3 and 6. Appendix A – Suitability Evaluation Reports contains a description of Logan River on pages A-508 through A-523. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C60. The Forest Service should release remaining segments in the Logan Ranger District from suitability in Alternative 3. [3-118].**

**Response:** As described in the DEIS on page 2-2, in Alternative 3, 43 river segments would not be recommended for inclusion in the National System.

**C61. The Forest Service should designate Temple Fork as Scenic. [3-120, 3-121].**

**Response:** A suitable determination for Temple Fork as Scenic is being recommended in Alternatives 3 and 6. Appendix A – Suitability Evaluation Reports contains a description of Temple Fork on page A-538. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C62. The Forest Service should not designate Temple Fork, source to mouth. [3-123].**

**Response:** Temple Fork: Source to mouth would be determined “not suitable” for designation in Alternatives 2, 4, 5, and 7. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C63. The Forest Service should designate Bunchgrass Creek as Scenic. [3-125].**

**Response:** A suitable determination for Bunchgrass Creek as Scenic is being recommended in Alternatives 3 and 6. Appendix A – Suitability Evaluation Reports contains a description of Bunchgrass Creek on page A-559. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C64. The Forest Service should designate 6 miles of the wild Main Fork Weber River. [3-127].**

**Response:** The Forest Service does not have the ability to designate river segments, only Congress can confer on them Wild and Scenic River designation status. The Main Fork Weber River did not meet the criteria of Alternatives 3, 4, 5, 6, or 7. Appendix A – Suitability Evaluation Reports contains a description of Main Fork Weber River on page A-565. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C65. The Forest Service should include Red Butte Creek in the alternatives. [3-134].**

**Response:** The Forest Service does not have the ability to designate river segments, only Congress can confer on them Wild and Scenic River designation status. Red Butte Creek did not meet the criteria of Alternatives 3, 4, 5, 6, or 7. Appendix A – Suitability Evaluation Reports contains a description of Red Butte Creek on page A-609. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C66. The Forest Service should designate Left Hand Fork Blacksmiths Fork because it has been damaged by over-use and should be restored [3-137a] because of its ORVs. [3-137b].**

**Response:** The Forest Service does not have the ability to designate river segments, only Congress can confer on them Wild and Scenic River designation status. Left Hand Fork Blacksmiths Fork did not meet the criteria of Alternatives 3, 4, 5, 6, or 7. Appendix A – Suitability Evaluation Reports contains a description of Left Hand Fork Blacksmiths Fork on page A-501. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C67. The Forest Service should remove Left Hand Fork Blacksmiths Fork from all DEIS action alternatives. [3-139].**

**Response:** The Forest Service does not have the ability to designate river segments, only Congress can confer on them Wild and Scenic River designation status. Left Hand Fork Blacksmiths Fork did not meet the criteria of Alternatives 3, 4, 5, 6, or 7. Appendix A – Suitability Evaluation Reports contains a description of Left Hand Fork Blacksmiths Fork on page A-501. See the ROD for the rationale for the

choice of rivers and the selected alternative.

**C68. The Forest Service should designate Spawn Creek as Wild. [3-132].**

**Response:** A suitable determination for Spawn Creek as Scenic is being recommended in Alternatives 3 and 6. When the Wasatch-Cache determined Spawn Creek was eligible, they also determined a tentative classification of Scenic because it is accessible in places by Forest Service Road 20164 and Spawn Creek Trail 2134. Appendix A – Suitability Evaluation Reports contains a description of Spawn Creek on page A-545. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C69. The Forest Service should not designate Spawn Creek. [3-133].**

**Response:** Spawn Creek would be determined “not suitable” for designation in Alternatives 2, 4, 5, and 7. Appendix A – Suitability Evaluation Reports contains a description of Spawn Creek on page A-545. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C70. The Forest Service should designate the area from the Provo River to Trial Lake down Mirror Lake Highway. [3-95].**

**Response:** This river segment is referred to as Provo River: Trial Lake to U35 Bridge. A suitable determination for Provo River: Trial Lake to U35 Bridge is being recommended in Alternatives 3 and 6. Appendix A – Suitability Evaluation Reports contains a description of Provo River on page A-587. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C71. The Forest Service should designate Middle Fork Weber River to preserve its primitive environment and the waterfall it contains. [3-126].**

**Response:** A suitable determination for Middle Fork Weber River: Source to Forest Boundary is being recommended in Alternative 5. Appendix A – Suitability Evaluation Reports contains a description of Middle Fork Weber River on page A-572. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C72. The Forest Service should recommend Boundary Creek as suitable. [3-154].**

**Response:** A suitable determination for Boundary creek is being recommended in Alternative 6. Appendix A – Suitability Evaluation Reports contains a description of Boundary creek on page A-488. See the ROD for the rationale for the choice of rivers and the selected alternative.

**Future Generations**

**C73. The Forest Service should designate all river segments as wild and scenic to preserve them for future generations. [2-33e, 2-41b, 6-2]. The Forest Service should select Alternative 6. [4-54d]. More specifically, the Forest Service should designate Whiterocks River, Green River, Fish and Gooseberry Creeks, Logan River, East Fork Blacks Fork, West Fork Blacks Fork, and Stillwater River. [3-12d, 3-25a, 3-63a, 3-65b, 6-36b, 6-44b, 6-46].**

**Response:** Some commenters, who support a suitability determination, indicate an interest in providing protection for future generations because they value the clean air and water, habitat, species diversity, and other social and ecological characteristics these areas provide. This concern is directly addressed by the proposed Alternatives 3 through 7.

See response to comment C40 for Whiterocks River, C41 for Green River, C49 for Fish and Gooseberry Creeks, C59 for Logan River, and C55 for East Fork Blacks Fork and West Fork Blacks Fork.

A suitable determination for Stillwater Fork is being recommended in Alternatives 3, 6, and 7. Appendix A – Suitability Evaluation Reports contains a description of Stillwater Fork on page A-465. See the ROD for the rationale for the choice of rivers and the selected alternative.

**C74. The Forest Service should protect all the rivers in Utah’s Forests as a hedge against global warming and for future generations. [6-24a, 6-24b].**

**Response:** See response to comment C5 regarding global warming and C73 regarding future generations.

**C75. The Forest Service should select Alternative 2 to ensure access to needed water supplies by future generations. [4-24a].**

**Response:** Some commenters who support Alternative 2 indicate a concern for future generations. Their concern is that future generations will not be able to participate in their current way of life which is dependent on resource use, and that future generations will not have access to public land. Chapter 3 of the DEIS disclosed the likely short and long-term effects of the alternatives on access to and use of river corridors.

**Multiple Use**

**C76. The Forest Service should select Alternative 2 because designation is not needed to protect the rivers and would impede multiple use management. [4-25b].**

**Response:** Protection of river values comes in many forms. Wild and Scenic River protection preserves free flow and maintains or enhances its ORVs. It is a high standard of protection. Similar protections could be provided by other designations, forest plan direction, standards and guidelines, but Wild and Scenic River designation represents Congressional decision to protect the river for all citizens of the United States in perpetuity, not subject to administrative changes. In this sense it is a multiple-use option. Wild and Scenic River designation does not adversely affect multiple-use per se, but it could constrain or limit the suite of multiple uses allowed on or within the designated river corridor to only those other uses compatible with preserving free flow and maintain or enhancing the ORVs of the river.

All alternatives comply with the laws governing the Forest Service. The Multiple-Use Sustained-Yield Act (MUSYA) authorizes and directs that national forests be managed under principles of multiple use and to produce a sustained yield of products and services, and for other purposes. It does not require multiple uses on all acres, but recognizes a broad range of uses contained within the National Forests. It also directs that National Forests shall be administered for outdoor recreation, range, timber, wilderness, watershed, and wildlife and fish purposes. The National Forest Management Act (NFMA) requires the use of the MUSYA to provide the substantive basis for forest planning and projects. As used in the proposed alternatives, sustainability embodies these congressional mandates including the requirements of the Federal Land Policy and Management Act (FLPMA), Resources Planning Act (RPA), NFMA, and other laws. The interrelated and interdependent elements of sustainability are social, economic, and ecological as described in the DEIS, Chapter 3. The proposed alternatives are intended to be responsive to the desires and needs of present and future generations of Americans, for the multiple uses of National Forest System lands. Proposed site-specific (multiple use) activities would be analyzed in a separate NEPA document.

**C77. The Forest Service should continue to manage Little Provo Deer Creek for multiple-use**

**benefits. [2-105].**

**Response:** The Forest Service will continue to manage the Little Provo Deer Creek for multiple use as directed by the Multiple-Use Sustained-Yield Act. See response to comment C76.

**C78. The Forest Service should not designate rivers or streams within the Blacks Fork watershed including Blacks Fork or East Fork Smiths Fork to allow for multiple uses such as grazing, timber harvest, and maintenance of forest health. [3-89, 3-91c]. The Forest Service should not designate East Fork Smiths Fork because designation could harm the historic uses of this area. [3-136]. The Forest Service should not designate the Blacks Fork River or any of its tributaries located on the North Slope of the Uintas Mountains to preserve the rights and interests of the land’s historical stewards and the economic benefit to Uinta County. [3-90].**

**Response:** See response to comment C76. Blacks Fork and East Fork Smiths Fork would be determined “not suitable” for designation in Alternative 2, and East Fork Blacks Fork would be determined “not suitable” for designation in Alternatives 2, 3, 4, 6, and 7; West Fork Blacks Fork would be determined “not suitable” for designation in Alternatives 2, 4, 6, and 7; East Fork Smiths Fork would be determined “not suitable” for designation in Alternatives 4, 6, and 7. See the ROD for the rationale for the choice of rivers and the selected alternative. Water development is discussed in response to comments in section “S. Water Resources and Other Developments,” grazing is discussed in response to comment O1, and timber management is discussed in R1.

**C79. The Forest Service should analyze and disclose the rationale and justification for proposing segments to the Wild and Scenic Rivers System within the multiple-use mandate. [2-17].**

**Response:** See response to comment C76. See the ROD for the rationale for the choice of rivers and the selected alternative.

### **River Segment Length**

**C80. The Forest Service should not designate Utah’s rivers as Wild and Scenic because all evaluated segments are too short to justify inclusion. [2-44c]. More specifically, the Forest Service should not designate any segments in the Dixie National Forest, Moody Wash, White Pine Creek, or the Logan River from its confluence with Beaver Creek to the Idaho state line. [3-30, 3-40, 3-43e, 3-101].**

**Response:** To be determined eligible, a river must be free-flowing and, with its adjacent land area, possess one or more ORVs, and recommended classification as Wild, Scenic, or Recreational. As long as these criteria are met, length is not a critical factor in determining eligibility or recommending a river as suitable. Many rivers of short length have already been designated by Congress to be part of the National System. For example, the Horsepasture River in North Carolina is 4.2 miles in length, and the Yellow Dog in Michigan is 4.0 miles. Three river segments in Puerto Rico vary from 2.1 to 4.5 miles in length.

### **Range of Alternatives**

**C81. The Forest Service should develop a set of alternatives based on providing an array of preservation schemes to meet the requirements of NEPA. [4-13].**

**Response:** Alternatives were developed to meet the requirements of NEPA. For this proposal a very large or even an infinite number of possible reasonable alternatives exists. Because there is potentially a very large number of alternatives, the Forest Supervisors developed a reasonable number of alternatives

to analyze and compare in the EIS as described in Chapter 2 of the DEIS. An array of preservation schemes is presented in Alternatives 3, 4, 5, 6, and 7.

## **D. Laws, Regulations, and Policy**

---

This section is divided into the following subsections: Wild and Scenic Rivers Act, National Environmental Policy Act (NEPA) / Administrative Procedure Act (APA), National Forest Management Act (NFMA), Forest Service Handbook (FSH), Federal Land Policy and Management Act (FLPMA), Other, and Dual Protections.

### **Wild and Scenic Rivers Act**

**D1. The Forest Service should not have bifurcated the process into separate eligibility and suitability determinations because it is not appropriate to meet the requirements of the Wild and Scenic Rivers Act. [2-1].**

**Response:** Over the past decade, National Forests in Utah have evaluated river segments on the National Forests for their potential eligibility for designation into the National Wild and Scenic Rivers System (National System). Suitability analysis is the next step in wild and scenic river analysis; however, due to timing constraints, budget issues, and workload considerations the National Forests in Utah chose to delay suitability determinations until this study. The Wild and Scenic Rivers Act does not require that a suitability determination be made at the same time as the eligibility study. All eligibility documents prepared by the National Forests in Utah are being considered and are integral to the development of the DEIS, FEIS, and ROD. The majority of the information from eligibility determinations contributed to the information in Appendix A – Suitability Evaluation Reports.

**D2. The Forest Service should not consider political criteria over outstandingly remarkable values (ORVs) or other legal standards because it violates the Wild and Scenic Rivers Act. [2-20].**

**Response:** Congress' designation of wild and scenic rivers is an inherently political action. Evaluating their suitability for designation does and should consider the social/political environment along with the biological and physical environment. Support or opposition to designation and the potential for water resources development is described in FSH 1909.12\_80, Sec. 82.41 - Basis for Suitability as a factor to consider in a suitability analysis. The Forest Supervisors have considered this as well as other factors in their suitability determinations. Consideration of this factor does not violate the Wild and Scenic Rivers Act.

**D3. The Forest Service should revise the Alternative 3 because Federal law and FSH or regulation does not permit using development of surrounding lands as a criterion for excluding rivers from suitability recommendations. [4-28a].**

**Response:** The Forest Supervisors decided to include a suitability factor regarding “an evaluation of the adequacy of local zoning and other land use controls in protecting the river’s ORVs by preventing incompatible development” DEIS, page 1-4. This is described as one of the suitability factors that may be considered in the FSH, Section 82.41 – Basis for Suitability, #8. In this construct, the Forest Supervisors are considering whether local zoning and land use controls that apply to private lands near or adjacent to suitable federal wild and scenic rivers are sufficient to help aid in protecting ORVs on a river segment once designated by Congress. In their evaluation those river segments which did not have local private land controls or zoning that would support river designations were rated lower than those having

compatible controls. This criterion applies mainly to river segments with a significant amount of private land near or adjacent to the study river segments. River segments entirely within the National Forest or other federal lands would not be affected by these criteria. In evaluating a river for designation the compatibility of adjacent private land zoning is a factor that can affect the cost of management, the ability to achieve objectives for preserving free flow, and for maintaining or enhancing the ORVs of the river.

**D4. The Forest Service should revise Alternative 3 because using the threat of future water development as a criterion for determining the suitability of a river is contrary to the intent of the Wild and Scenic Rivers Act. [4-28b].**

**Response:** The Wild and Scenic Rivers Act was passed partially in response to concerns over water resource development projects and the desire to preserve some rivers in their natural condition. In practice less than 1% of the Nation's rivers have been designated within the Wild and Scenic Rivers System. Many rivers and streams have been dammed or modified in order to provide for flood control, river navigation, recreational use, and hydro-electric power generation. The Wild and Scenic Rivers Act is complementary to other development actions necessary for the health and well being of the citizens of the United States. It is appropriate to consider the development needs of local communities, regions and States against the value of preserving free flow and ORVs for selected river segments.

The Forest Supervisors chose to show this contrast between development and preservation by creating mutually exclusive Alternatives 3 and 4. These alternatives recognize the best rivers in Utah, some with potentially conflicting river developments and others without. By comparing and contrasting between these segments the reader can begin to understand the complexities of designation, the resource trade-offs, the environmental benefits and the economic effects of wild and scenic river designation.

**National Environmental Policy Act (NEPA) / Administrative Procedure Act (APA)**

**D5. The Forest Service should comprehensively study the effects of adding a river segment to the Wild and Scenic Rivers System. [5-25].**

**Response:** The scope, content, and documentation of NEPA analysis in a DEIS is a comprehensive study of the effects of adding a river segment to the National System as required by NEPA. Regulations implementing NEPA are issued by the Council on Environmental Quality and are found at 40 CFR part 1500. Agency direction on NEPA compliance is found in 36 CFR 220. The effects of a river segment addition is evaluated in the DEIS on the following pages: local and state economies and tourism (pages 3-100 to 3-147); private property rights (pages 1-15 to 1-16 and 3-194 to 3-204); agricultural and industrial operations and interests (pages 3-75 to 3-92); water rights, water quality, and water resource planning (pages 3-152 to 3-188); and access to and across river corridors in both upstream and downstream directions from the proposed river segment (pages 3-95 to 3-100).

**D6. The Forest Service should revise the DEIS and improve the quality of information provided regarding Mamie and Pine Creek because sufficient information is not provided to make a reasonable decision. [5-1].**

**Response:** This information was updated in Appendix A – Suitability Evaluation Reports.

**D7. The Forest Service should have engaged in NEPA analysis as part of the eligibility determination process on the Dixie National Forest to ensure sufficient public involvement and compliance with NEPA. [2-2].**

**Response:** To be eligible for inclusion, a river must be free-flowing and, with its adjacent land area,

possess one or more “outstandingly remarkable” values. The determination of eligibility is an assessment that does not require a decision or approval document, although the results of this inventory need to be documented as a part of the plan document or plan set of documents. (FSH 1909.12\_80, Sec. 82.1).

The Fishlake and Dixie National Forests have made available as part of their planning documents, the following eligibility documents: Draft Eligibility Determination of Wild and Scenic Rivers on the Fishlake and Dixie National Forests (December 2004); Fishlake and Dixie National Forests Wild and Scenic River Eligibility Evaluation (April 2007); and Fishlake and Dixie National Forests Wild and Scenic River Eligibility Evaluation (June 2007). These are available on the Web at: <http://www.fs.fed.us/r4/dixie/projects/lmp/docs/wsr/index.shtml> and <http://www.fs.fed.us/r4/rivers/index.shtml>.

Eligible river segments for the Dixie National Forest were compiled in two separate processes. River segments found eligible on the Escalante Ranger District were determined eligible during the Grand Staircase-Escalante National Monument planning process. This was an interagency process between the Bureau of Land Management, U.S. Forest Service, and National Park Service. Other river segments found eligible on the Dixie National Forest were determined eligible during forest planning. Eligibility determinations are not required to be done with NEPA analysis. However, cooperating agencies, including Garfield County, were consulted frequently throughout the process of determining eligibility. County governments were provided regular briefings, working meetings, review of draft documents, and even field trips to discuss and experience rivers segments under consideration. Upon completion of eligibility and initiation of the Statewide Suitability effort, Garfield County (and other local counties) were informed of forest decisions. Past comments and objections to river segments were discussed. Finally, the Dixie National Forest followed interagency guidelines for determining eligibility of river segments. Under the interagency guidelines and a statewide MOU (Utah) for wild and scenic rivers, the region of comparison for potential ORVs was identified. In most cases this region of comparison approximated the boundaries of the State of Utah. Therefore, the Dixie National Forest considered National Park Service and other public lands across the State of Utah as a region of comparison for eligibility determinations.

**D8. The Forest Service should implement a rating system that emphasizes in-depth evaluation and legal criteria to ensure compliance with NEPA and the Administrative Procedures Act. [2-13].**

**Response:** Suitability evaluation is an inherently subjective process. The Forest Supervisors looked at issues developed from Forest Service personnel, other Federal agencies, scoping comments, information from public meetings, and direction from the Wild and Scenic River Act to develop various themes for the alternatives. The Forest Supervisors then determined which river segments fit into each alternative based on the criteria, which are listed by alternative, described in Chapter 2 of the DEIS. In addition to developing themes for the alternatives, there was an effort to ensure a wide range of alternatives with differing numbers of rivers. Each river was also evaluated separately on its own merits to determine if it should be recommended. There was no effort to pre-determine which rivers were considered more likely to be recommended and there was no priority given to listing rivers in more than one alternative to ensure that a river would be designated.

When the alternatives were developed it was recognized that there were many more ways to organize alternatives and the merits of a river should not be limited by an alternative. Therefore, the selection of rivers to recommend for designation was not constrained by the alternatives. The alternatives were used to display direct, indirect, and cumulative effects from designating river segments. See response to comment C81.

**D9. The Forest Service should use objective criteria for designation and should provide the**

**administrative record supporting removal of rivers from the suitability list to comply with the Administrative Procedures Act. [2-19].**

**Response:** Evaluation of ORVs was completed during eligibility studies. The ORVs were described by river segment in the DEIS, Appendix A – Suitability Evaluation Reports. Criteria were described in Chapter 2 by alternative. If river segments did not meet the criteria, they were not recommended as suitable in that alternative. See the Record of Decision (ROD) for the rationale for the choice of rivers and the selected alternative.

**D10. The Forest Service should clarify the nature of the DEIS, the final agency action, and the point where an injured party could seek judicial relief. [5-2].**

**Response: Response:** The ROD documents a preliminary administrative recommendation for wild and scenic river designation and qualifies as a legislative EIS. Following the publication of the ROD in the Newspaper of Record(s), there is a 45-day appeal period in which appellants can appeal the decision.

The ROD will contain a preliminary administrative recommendation on suitable river segments which is not appealable. The ROD will also contain forest plan amendments where applicable. The amendments to forest plans of management direction and actual allocation of management areas as a result of the recommendation is appealable, as well as the process or technical adequacy of the analysis.

Following the close of the 45-day appeal period, there is a 45-day review period. The appeal will be reviewed by an Appeal Reviewing Officer and an Appeal Deciding Officer will also review and decide whether to issue either an affirm or remand of the decision. If the project is affirmed and in the event of multiple appeals, the date of the disposition of the last appeal controls the implementation date.

If the appeal is affirmed, the preliminary recommendation will receive further review and possible modification by the Chief of the Forest Service, Secretary of Agriculture, and the President of the United States before a final recommendation is made to Congress. The Congress has reserved the authority to make final decisions on designation of rivers as part of the National System.

**National Forest Management Act (NFMA)**

**D11. The Forest Service should revise the DEIS to account for recent changes to the Planning Rule and clarify how needed modifications to forest plans will provide promised protections of suitable river segments because the changes to the Planning Rule preclude inclusion of commitments in forest plans that will constrain actions. [4-1].**

**Response:** This amendment is proceeding under the transition provisions of the 2008 Rule (36 CFR 219.14), which allow amendments using the procedures of the 1982 rule for forest plan amendments. Currently, all of the forest plans in Utah were prepared under the 1982 planning rule. This amendment would be in effect at least until any forest plan is revised. At the time of revision, the responsible official will have the choice to carry over existing decisions (36 CFR 219.7(a)(5). Additionally, the 2008 rule contains provision for standards if the responsible official determines they are necessary (36 CFR 219.7(a)(3).

**D12. The Forest Service should clarify whether the forest plan standards will provide levels of protection for recommended segments that would be greater than those afforded under Alternative 1 to facilitate accurate comparison of effects across alternatives. [4-2].**

**Response:** In Alternative 1 suitability findings would be deferred and current management practices

would continue. All 86 river segments (a total of 840 miles) would continue to be managed as “eligible” for their potential inclusion into the National System, and the Forest Service would continue to use its existing authorities to protect free flow, water quality, ORVs, and recommended tentative classifications (interim management outlined in FSH 1909.12, Chapter 80 - Wild and Scenic River Evaluation).

In most cases, the same levels of protection would exist under the recommended river segments and Alternative 1. Management would continue to be in accordance with existing laws and regulations and land and resource management plans.

**D13. The Forest Service should adequately analyze the potential effects of the forest plan amendments required under the action alternatives. [5-26].**

**Response:** The forest plan amendments will reflect the selected alternative. The effects of each alternative have been analyzed and disclosed in the EIS; thus, for whichever alternative is selected, the EIS includes the effects of the associated forest plan amendments.

**Forest Service Handbook (FSH)**

**D14. The Forest Service should not rely on the Forest Service Handbook for authority to protect eligible river segments because the Forest Service Handbook does not have the force of law. [4-3].**

**Response:** The comment is correct insofar as it points out that courts have held some provisions of the Forest Service Handbook and Manual system do not have the force and effect of law and may not be legally enforced by third parties. However, under an array of federal laws, the Forest Service has been granted authority and direction for the management of National Forest System lands, including but not limited to the National Forest Organic Act, National Forest Management Act, Multiple Use Sustained Yield Act, and the Wild and Scenic Rivers Act. Under these authorities, the Forest Service may adopt internal direction through its Manual and Handbook systems regarding the management of lands under its administration. This authority is specifically recognized in 16 U.S.C. 1612(a) and 36 CFR 216. Acting pursuant to these authorities, the Chief of the Forest Service has issued direction for the management of lands found to be eligible or suitable for inclusion in the Wild and Scenic Rivers System pending action by Congress to designate or decline to designate specific rivers.

**D15. The Forest Service should determine whether interim protections exceed the scope of the proposed action and should demonstrate a compelling need for interim protections. [5-11].**

**Response:** Interim protection does not exceed the scope of the proposed action. Interim protection applies to our agency actions, projects where we have discretionary authority. Land management plans will be amended to provide interim protection. This is the standard procedure when any river is recommended as suitable. The purpose of interim protection is to maintain the free-flowing status of the river and protect ORVs until such a time as Congress chooses to take action on these rivers. Without interim protection a dam or other land management activity could proceed that would eliminate the free-flowing condition or eliminate the ORV before Congress has a chance to consider designation. The time frame for Congress can range from almost immediately to several years and sometimes beyond ten years. Interim protection is quite important when rivers are not considered for several years.

**D16. The Forest Service should suspend interim protection to protect existing and potential water resource development. [5-12].**

**Response:** See response to comment D14. The Forest Service provides internal direction to field units through its directives system, consisting of the Forest Service Manual (FSM) and Forest Service

Handbooks (FSH). The FSM and FSH assist field units in implementing programs established by statutes and regulations. Because a river segment identified for study through agency planning processes is not protected under the Wild and Scenic Rivers Act, protection of its free flow, water quality, and ORVs occurs through agency authority. The FSH states, “The protection necessary to maintain a section 5(d)(1) study river as a potential wild and scenic river may be modified or discontinued for identified rivers upon a finding of ineligibility or nonsuitability (FSH 1909.12\_80, Sec. 82.51 – Management Guidelines for Eligible or Suitable Rivers).” Therefore, until such time as a finding of ineligibility or nonsuitability occurs the Forest Service will continue to manage eligible segments as described in FSH 1909.12\_80.

**D17. The Forest Service should acknowledge that its interim protection of eligible or suitable river segments is illegal. [5-13]. The Forest Service should not manage eligible river segments as if they might be included in the Wild and Scenic River System because Congress has conferred no such authority on the Forest Service. [5-14].**

**Response:** The Forest Service does not manage eligible or suitable river segments as if they were designated wild and scenic rivers. Instead interim protection is meant to just protect the values and free-flow of the river segment until Congressional action occurs. See response to comment D15.

**D18. The Forest Service should address the impacts of removing interim protection measures. [5-9].**

**Response:** As described in Chapter 3 of the DEIS (see Alternative 2 by resource area) and summarized in Chapter 2, Table 2.4.2 under Alternative 2, if interim protections are removed, protection of river values would revert to the direction provided in the underlying land and resource management plans. Segments are already being managed with existing laws and regulations.

**D19. The Forest Service should take action to ensure that the protections described in Alternative 1 are actually in effect because this would provide the best protection for the rivers. [4-19].**

**Response:** See response to comment D15.

**D20. The Forest Service should implement a moratorium on any proposed land use authorization that could adversely affect eligibility of a segment to ensure that segments currently eligible would remain so through the designation process. [5-15].**

**Response:** Current Forest Service policy at FSH 1909.12\_80, Sec. 82.5 states that to the extent the Forest Service is authorized by statute, a Responsible Official may authorize site-specific projects and activities on National Forest System lands within river corridors eligible or suitable only where the project and activities are consistent with the following:

1. The free-flowing character of the identified river is not modified by the construction or development of stream impoundments, diversions, or other water resources projects.
2. Outstandingly remarkable values of the identified river area are protected.
3. For all Forest Service identified study rivers, classification must be maintained as inventoried unless a suitability study (decision) is completed that recommends management at a less restrictive classification (such as from Wild to Scenic or Scenic to Recreational).

This level of protection has been shown to be adequate to protect river values and free-flow without requiring a moratorium on other actions in order to protect wild and scenic river values.

**D21. The Forest Service should allow existing facilities, management actions, and approved uses until designation decisions have been made. [6-25].**

**Response:** In general existing facilities, uses and management actions are allowed to continue after wild and scenic river determinations are made. See also response to comment D20.

### **Federal Land Policy and Management Act**

#### **D22. The Forest Service should have coordinated with Wasatch County during eligibility to comply the Federal Land Policy Management Act. [1-34b].**

**Response:** To be eligible for inclusion, a river must be free-flowing and, with its adjacent land area, possess one or more ORVs. The determination of eligibility is an assessment that does not require a decision or approval document, although the results of this inventory need to be documented as a part of the plan document or plan set of documents. (FSH 1909.12\_80, Sec. 82.1). The eligible river segments were part of the forest planning and the National Environmental Policy Act (NEPA) processes, and meet the standards outlined in the Federal Land Policy Management Act.

The Uinta National Forest did invite participation from and coordinate with Wasatch County and others in the Wild and Scenic Rivers inventory process. The Forest contacted the County and others through several mailings, and in response received several letters from the County commenting on Wild and Scenic River eligibility and the inventory process. See below:

2/3/1997: Forest Plan Revision Newsletter #1 mailed to entire Uinta Forest Planning mailing list (about 700 entities including Wasatch County asking them to respond with topics of interest in upcoming revision (wild and scenic rivers inventory and interim protection was specifically identified as one of these areas).

3/12/1997: Letter to interested shareholders initiating wild and scenic river eligibility inventory on the Uinta portion of the Uinta-Wasatch-Cache National Forest. Letter mailed to those who responded to Uinta National Forest Plan Revision Newsletter #1 indicating interest in wild and scenic rivers. This letter included a preliminary inventory and Forest Plan Revision Newsletter #2 (describes wild and scenic river eligibility inventory process, how to participate, contains preliminary list of rivers being considered, and identifies availability of detailed narratives of each segment).

4/2/1997: District Ranger Robert Riddle met with LaRen Provost, Wasatch County Commissioner Chairman, and Robert Mathis, Wasatch County Planner, regarding wild and scenic rivers. Neither County representative supported wild and scenic river eligibility/designation in the County.

7/7/1997: Letter from Sharon Mayes Atkinson, Assistant County Planner, responding to Forest inquiries about wild and scenic rivers inventory and documenting County's concerns about eligibility of rivers in the County.

10/6/1997: A Draft report on wild and scenic rivers inventory sent to those interested for comment and review. The Inventory mailed to about 200 who indicated interest (including Wasatch County Commission). A letter was mailed to another 500 notifying them of report's availability.

11/4/1997: Wasatch County letter signed by Robert Mathis (County Planner) with County policy opposing roadless areas and wild and scenic rivers.

11/18/1997: Wasatch County letter from County Commissioner LaRen Provost acknowledging receipt of Draft Wild and Scenic Rivers inventory (mailed 10/6/97) and opposition to this. This letter also expressed his concern he had not received report until 11/17/97.

11/19/1997: Wasatch County letter to Supervisor Karp, Chief Dombeck, Governor Levitt, senators and Congressman Canon of county policy opposing roadless and wild and scenic rivers in the County.

12/15/1997: Wasatch County letter to Ranger Robert Riddle opposing roadless and wild and scenic rivers in the county, and notifying Ranger Riddle of a new County ordinance stating such.

Winter 1997-1998: Meeting with Wasatch County to discuss wild and scenic rivers inventory (documented in response to comments [#6-1] in Inventory, page G-15).

5/5/1998: Wild and Scenic Rivers Inventory completed and final report mailed to those who commented on draft report. This included Robert Mathis (County Planner) and LaRen Provost (Chair, Wasatch County Commissioners).

11/8/1999: Ranger Julie King contacted Wasatch County Commission Chairman LaRen Provost and discussed the Analysis of the Management Situation and Needs for Change (Wild and Scenic Rivers were one of these) for the Uinta Forest Plan revision.

UNF LRMP Revision: Wild and scenic rivers were identified specifically as a need for change in the scoping document, AMS, and NEPA documents for the Uinta Forest Plan Revision. Wild and scenic rivers inventory results were summarized in Appendix D to the EIS's, and referred to and incorporated in the Forest Plan. Wasatch County was involved throughout the revision process. In responding the scoping and the DEIS, the County did not comment specifically on wild and scenic rivers eligibility or inventory.

## **Other**

**D23. The Forest Service should use the instruction booklet, “Wild and Scenic River Review in the State of Utah – Process and Criteria for Interagency Use.” [5-7].**

**Response:** The Interagency Whitepaper, “Wild and Scenic River Review in the State of Utah – Process and Criteria for Interagency Use (July 1996)” was considered as described in the DEIS, Section 1.3 – Wild and Scenic Rivers Act, page 1-3.

## **Dual Protections**

**D24. The Forest Service should revise the suitability studies to include analysis of whether designation is the best method of protecting the river and alternative protection methods. [2-6, 2-18, 5-82].**

**Response:** The Forest Service, as required by the Wild and Scenic Rivers Act and Forest Service policy, is responsible to evaluate potential additions to the National Wild and Scenic River System, including some river areas located in wilderness or inventoried roadless areas. If the decision makers feel designation is the best method of protecting the river, this will be described in the ROD rationale.

Information regarding “Special Designations” was described in Appendix A – Suitability Evaluation Reports of the DEIS by river segment. This included information such as if the segment was located in a wilderness area, inventoried roadless area, research natural area, a description of the forest plan management prescription, etc.

The location of a river segment, or the kind of plan under which it is managed (e.g., wilderness, resource management plan, etc.), does not limit or enhance its status as a potential wild and scenic river. The

process of considering and evaluating rivers that are potential additions to the National Wild and Scenic Rivers System begins with eligibility determinations. Forest Service policy specifies that “a river segment must be free-flowing and must possess at least one river-related value considered to be outstandingly remarkable.” No other factors are considered in determining the eligibility of a river segment.

Designation determinations, similarly, are not limited or enhanced by the management status of a river. In other words, the potential for a river segment to be recommended to Congress for inclusion in the National Wild and Scenic Rivers System has nothing to do with whether the segment is in a wilderness or inventoried roadless area.

If a segment is located in a wilderness area, for example, and is designated by Congress, a river management plan must be developed. If the designation overlaps an area managed as wilderness, or other special designation, there would be no conflict in implementing the required wild and scenic river management actions. The most stringent action would be implemented. The Wilderness Act and the Wild and Scenic Rivers Act, though similar, have different protective provisions.

Designation under the Wild and Scenic Rivers Act will ensure that the free-flowing character of designated rivers and the ORVs identified during the evaluation process will receive special management attention by the Forest Service. Other designations may or may not provide the same level of protection.

Redundancy in protection / dual designation was dismissed as a key issue because it did not drive an alternative (see DEIS, Section 1.11 – Other Issues, page 1-16).

**D25. The Forest Service should expand its discussion of how designation would afford additional protections, enhance ORVs, and vary across boundaries. [5-17].**

**Response:** See response to comment D24.

**D26. The Forest Service should demonstrate the need for a suitability determination and analyze the Roadless Rule as a connected action. [2-23].**

**Response:** The DEIS, Section 1.4 – Purpose and Need (page 1-4) establishes the purpose and need for the suitability determinations of this analysis. By law the Wild and Scenic Rivers Act requires agencies to evaluate river segments for their potential inclusion in the Wild and Scenic Rivers System. As an agency practice eligibility and suitability determinations have been made through forest planning. With the current changes in the Forest Service Planning Rule, other methods of completing the wild and scenic river study are acceptable. In *Forest Guardians, et al. v. United States Forest Service*, No. 02-0161, (D.D.C. March 7, 2003) the courts ruled the Forest Service had discretion on the timing and workload for suitability determinations. See also response to comment D24.

The Roadless Rule is currently in effect and its restrictions on road building and timber cutting would apply within inventoried roadless areas (36 CFR Part 294 Roadless Area Conservation; Final Rule; January 12, 2001). The area of overlap with potential wild and scenic river segments is only partial. The Roadless Rule provides a complementary set of requirements that would help protect river values. Appendix A – Suitability Evaluation Reports describes whether each segment is located in, or partially in an inventoried roadless area, approximately how much of the segment is in the Inventoried roadless area.

**D27. The Forest Service should acknowledge the wide range of federal and state protections that already exist. [2-29].**

**Response:** Comment noted.

**D28. The Forest Service should not eliminate a river from consideration based on the existence of other protections because a Wild and Scenic designation provides protections not afforded by other designations and the Wild and Scenic Rivers Act provides for dual designations. [2-31a, 2-31b].**

**Response:** See response to comment D24. Dual designation (duplicate regulations) is not considered to be a problem because in the case of dual designation the most stringent management requirements would apply.

**D29. The Forest Service should not move forward with the proposed action and should not designate segments because existing Forest Service management and regulations are sufficiently protective and are appropriately controlled by Forest Service managers and users. [2-34e, 2-44f, 2-49]. More specifically, the Forest Service should not designate evaluated river segments in southwestern Utah, Whiterocks Canyon, Moody Wash, East Fork Boulder Creek, Pine Creek, Death Hollow Creek, Slickrock Canyon, Cottonwood Canyon, The Gulch, Steep Creek, Gooseberry Creek, Huntington Creek, Lower Left Fork of Huntington Creek, Left Hand Fork Blacksmiths Fork, Blacks Fork, or Smiths Fork. [3-17, 3-43, 3-45f, 3-46a, 3-48b, 3-49b, 3-50b, 3-51b, 3-52b, 3-74a, 3-76a, 3-138, 3-153, 2-50, 3-71b, 3-91b].**

**Response:** We agree that present legislation and regulations allow us to do an appropriate job in protecting the environment and the river values and free flow of rivers within this study. However, the Forest Service, as required by the Wild and Scenic Rivers Act and Forest Service policy, is responsible to evaluate potential additions to the National Wild and Scenic River System, including some river areas located in wilderness areas. In some cases, wild and scenic river management may provide necessary tools to protect the river segments. See the ROD for the rationale for the choice of rivers and the selected alternative.

**D30. The Forest Service should not designate Hammond Canyon because Archaeological Resources Protection Act (ARPA), NEPA, NFMA, and FLPMA provide adequate protections for the cultural resources in the canyon. [3-62c, 3-62i].**

**Response:** Regardless of a suitable recommendation of a river segment, the nature of this proposed undertaking will not affect archaeological or historic sites. Archaeological and historic sites are protected from looting, vandalism, and development by The National Historic Preservation Act; The Historic Sites Act of 1935; The Antiquities Act of 1906; and the Archaeological Resources Protection Act (ARPA).

Hammond Canyon would be determined “not suitable” for designation in Alternatives 2, 4, 5, and 7. Appendix A – Suitability Evaluation Reports contains a description of Hammond Canyon beginning on page A-336. See the ROD for the rationale for the choice of rivers and the selected alternative.

**D31. The Forest Service should not designate river segments where water quality is a concern because they are already adequately protected. [2-61].**

**Response:** As noted in the DEIS environmental consequences section for water quality, implementation of any alternatives, including no action would have minimal impacts on water quality because management and protection of water quality and Drinking Water Source Protection Zones (DWSPZs) is required by the State and of Federal agencies regardless of this study as per Federal and State laws (DEIS, pages 3-174 to 3-187). The Forest Service is required to minimize detrimental impacts to water quality from other management activities and to ensure that all beneficial uses are preserved.

**D32. The Forest Service should acknowledge and not use the designation process to duplicate protection already extended by the Wilderness Act or improperly increase wilderness. [2-30, 2-48]. More specifically, the Forest Service should not designate any of the streams in the Uintas Mountains (High Uintas Wilderness Area), Dark Canyon, North Fork Provo River, Blacks Fork, or Smiths Fork because they are already Congressionally designated and protected by Wilderness Areas. [3-54b, 3-82a, 3-91a, 3-152].**

**Response:** The Forest Service, as required by the Wild and Scenic Rivers Act and Forest Service policy, is responsible to evaluate potential additions to the National Wild and Scenic River System, including some river areas located in wilderness areas. The Wilderness Act and the Wild and Scenic Rivers Act, though similar, have different protective provisions. See response to comment D24.

**D33. The Forest Service should designate rivers in the High Uintas Wilderness Area and in the present roadless areas. [2-107, 3-150, 3-151]. The Forest Service should designate all river segments within roadless areas in the Wasatch-Cache and Ashley National Forests because designation will afford additional protection against complacency and loss of these assets. [3-148]. The Forest Service should designate Main Fork Weber River and Middle Fork Weber River because designation would be completely consistent with existing management plans and inventoried roadless areas. [3-128].**

**Response:** The Forest Service, as required by the Wild and Scenic Rivers Act and Forest Service policy, is responsible to evaluate potential additions to the National Wild and Scenic River System, including some river areas located in inventoried roadless areas. The Wild and Scenic Rivers Act and the Roadless Area Conservation Rule (1/12/2001) have different protective provisions. See response to comment D24.

**D34. The Forest Service should not designate Fish Creek because the segment is also in an inventoried roadless area. [3-70f].**

**Response:** See response to comments D24 and D33.

**D35. The Forest Service should not designate Mill Creek Gorge because it is already protected by other special management designations. [3-77a].**

**Response:** The Forest Service, as required by the Wild and Scenic Rivers Act and Forest Service policy, is responsible to evaluate potential additions to the National Wild and Scenic River System, including some river areas located in research natural areas or a semi primitive non-motorized Recreation Opportunity Spectrum (ROS) setting. The Wild and Scenic Rivers Act and management of research natural areas contain different protective provisions. ROS is another planning tool, but it does not provide any protections.

Mill Creek Gorge did not meet the criteria of Alternatives 2, 3, 4, 5, 6, or 7. Appendix A – Suitability Evaluation Reports contains a description of it on pages A-272 to A-277. See the ROD for the rationale for the choice of rivers and the selected alternative.

**D36. The Forest Service should not designate Carter Creek because adequate protections already exist. [3-24].**

**Response:** The Forest Service, as required by the Wild and Scenic Rivers Act and Forest Service policy, is responsible to evaluate potential additions to the National Wild and Scenic River System, including some river areas located in National Recreation Areas.

Carter Creek would be determined “not suitable” for designation in Alternatives 2, 3, 4, 6, and 7. Appendix A – Suitability Evaluation Reports contains a description of it on pages A-16 to A-22. See the ROD for the rationale for the choice of rivers and the selected alternative.

## **E. Determination of Eligibility and Suitability** \_\_\_\_\_

This section is divided into the following subsections: Determination of Eligibility which includes: Forest Eligibility Determinations, Region of Comparison, Classification Adjustments, Mileage Adjustments and Determination of Suitability.

### **Determination of Eligibility**

#### **Forest Eligibility Determinations**

**E1. The Forest Service should consider for designation Butts, Arch, and Texas Canyons, the North Fork of Whiskers, including Whisker’s Draw; Notch Canyon, Posey Canyon, Leeds Creek Ashdown Creek, Rattlesnake Creek, and the Santa Clara River. [3-146, 2-104, 3-156, 3-144, 3-145].**

**Response:** Rivers must first be found eligible in individual Forest Eligibility processes to be considered in the second stage, this suitability evaluation. These rivers were not found eligible. Please refer to individual forest eligibility reports found at [www.fs.fed.us/r4/rivers/](http://www.fs.fed.us/r4/rivers/).

**E2. Forest eligibility analysis not done correctly. [2-102, 2-104, 3-19, 3 -38, 3-80].**

**Response:** Forest eligibility analysis was done correctly. Forests completed eligibility analysis according to the Wild and Scenic River Act, direction, and agency policy. Evaluation of river eligibility is an objective process conducted by agency professionals, primarily the Forest Service, and in the case of the Dixie and Fishlake National Forest coordinated with the BLM and National Park Service. See response to comment B15. Eligibility identified the free flowing nature of the segment, at least one outstandingly remarkable value (ORV), and tentative classification. The Forest Service does not have the ability to designate river segments, only Congress can confer on them Wild and Scenic River designation status.

**E3. The Forest Service should more closely involve Wyoming local governments in the eligibility study phase. [1-27].**

**Response:** During eligibility, the Wyoming Farm Bureau was on the mailing list to receive documents from the Ashley National Forest. Open houses were held in Manila, Utah and Green River, Wyoming on July 15, 2004. Informal contacts were made through regular meetings of Flaming Gorge District Ranger and Wyoming commissioners.

Uinta County and its citizens were closely involved during the Wasatch-Cache National Forest’s eligibility study and further recognized as a cooperating agency during Forest Plan Revision as the eligibility phase was finalized. Countless meetings were held with the Uinta County Planner, the Uinta County Commissioners, and the Uinta County Resource Committee to address their concerns about many issues, one of which was Wild and Scenic Rivers.

### **Region of Comparison**

**E4. The Forest Service should include in the DEIS an adequate and consistent assessment of**

**whether ORVs are extraordinary when compared to other, similarly situated rivers. [5-16].**

**Response:** During the eligibility studies, the Forests considered the following:

- In order to be assessed as outstandingly remarkable, a river-related value must be a unique, rare, or exemplary feature that is significant at a comparative regional or national scale. A river-related value would be a conspicuous example of that value from among a number of similar examples that are themselves uncommon or extraordinary. (FSH, Chapter 80, 82.14, page 14)
- The interdisciplinary team must identify the area of consideration that will serve as the basis for meaningful comparative analysis. This area of consideration is not fixed; it may be a national forest, grassland, prairie, or comparable administrative unit, a portion of a state, or an appropriately scaled physiographic or hydrologic unit. Once the area of consideration is identified, a river's values can then be analyzed in comparison with other rivers. (FSH, Chapter 80, 82.14, page 14)
- Comparative regions should not be so large as to deem outstandingly remarkable rivers to only those that stand out as the very best in the nation, nor so small that most rivers qualify as exemplary in some way. Within each region, like rivers should be assessed against each other to allow comparison of similar types of river resources. (USDI BLM, NPS and USDA FS 1996).

Each Forest defined an appropriate Region of Comparison. The Uinta and Wasatch-Cache National Forests delineated a Region of Comparison for each resource value defined in section 1(b) of the WSRA (e.g., scenic, geologic, etc.). The Ashley, Fishlake and Dixie, and Manti-La Sal National Forests delineated the Region of Comparison by ecological sections (i.e., broad areas of similar regional climate, geomorphic process, stratigraphy, geologic origin, and drainage networks) and by values, with the exception that the Region of Comparison for the Historical Value was based on State boundaries, political divisions and subdivisions. The Regions of Comparison for the eight segments on the Dixie NF (analyzed in the GSENM Management Plan) were analyzed by outstandingly remarkable value.

Thus ORVs are river-related and unique, rare or exemplary and significant at a comparative regional or national scale. This information is described in the individual forest eligibility reports located at [www.fs.fed.us/r4/rivers](http://www.fs.fed.us/r4/rivers).

**E5. The Forest Service should acknowledge that ORVs do not require rarity to qualify a river as Wild and Scenic. [2-10].**

**Response:** The respondent is correct that the ORV may be either unique, rare, or exemplary according to Forest Service Handbook procedures. See response to comment E4.

**E6. The Forest Service should demonstrate that proposed river segments contain outstandingly remarkable water related value within a region of comparison. The Forest service should not designate the Upper Whiterocks, East Fork Whiterocks, Middle Whiterocks, Slickrock Canyon, Cottonwood Canyon Rivers or East Fork Boulder, Pine, Death Hollow, Steep Creeks, as the identified ORV is not unique to in the its region. [2-9, 3-20, 3-22, 3-23, 3-45, 3-46, 3-48, 3-49, 3-50, 3-51, 3-52].**

**Response:** See response to comment E4.

**E7. The Forest Service should not designate Cart Creek or Lower Main Sheep Creek because the streams are not regionally or nationally significant. [3-6, 3-4].**

**Response:** The Ashley National Forest found a regionally significant cultural outstandingly remarkable value (ORV) for Cart Creek. It also found Lower Main Sheep Creek ORVs of Recreation, Geologic/Hydrologic, Fisheries, Wildlife and other similar values (ecology) significant at a regional level.

See the Forest eligibility report for more information available at [www.fs.fed.us/r4/rivers](http://www.fs.fed.us/r4/rivers).

**E8. The Forest Service should evaluate a reasonable region of comparison around Dixie National Forest, because nearby National Parks were not adequately considered. [3-39].**

**Response:** The Dixie National Forest included the National Parks in their analysis as seen in the region of comparison maps available in their eligibility reports at [www.fs.fed.us/r4/rivers](http://www.fs.fed.us/r4/rivers).

**Classification Adjustments**

**E9. The Forest Service should designate White Pine Creek as Wild. [3-129].**

**Response:** A suitable determination for White Pine Creek is being recommended as Scenic in Alternatives 3 and 6. Appendix A – Suitability Evaluation Reports contains a description of why White Pine Creek was classified as Scenic on page A-532. This information is described in the Wasatch-Cache Revised Forest Plan, Appendix VIII – Protection Standards for Eligible Wild and Scenic River Segments which is located at [www.fs.fed.us/r4/rivers](http://www.fs.fed.us/r4/rivers). Classification is tentative until designation. See the Record of Decision (ROD) for the rationale for the choice of rivers and the selected alternative.

**E10. Little Provo Deer Creek should not be classified as Recreational. [3-81].**

**Response:** During eligibility the forest identified the free flowing nature of the segment and that it has an ORV. The river was given a tentative classification of Recreational based on the level of development in the river corridor, not the type of recreation that occurs on the river. A parallel road which fords the stream several times is compatible with a Recreational classification.

**E11. The Forest Service should designate Beaver Creek as Recreational. [3-115].**

**Response:** The Forest Service does not have the ability to designate river segments, only Congress can confer on them Wild and Scenic River designation status. A suitable determination for Beaver Creek (9 miles) is being recommended as Recreational in Alternatives 3 and 6. Appendix A – Suitability Evaluation Reports contains a description of Beaver Creek on pages A-524 and A-579.

**E12. The Forest Service should not designate the Green River because existing built elements make the segment ineligible or the Green River should be designated as Recreational. [3-27, 3-28].**

**Response:** The Green River meets the requirements for a Scenic classification as identified in the Forest Service Handbook 1909.12\_80, Sec. 82.3 – Classification, because the stream and stream corridor is or has the following:

- Free of impoundments.
- Accessible in places by roads.
- Roads may occasionally reach or bridge the river. The existence of short stretches of conspicuous or longer stretches of inconspicuous roads.
- Water quality and flow sufficient to maintain ORVs.

For all Forest Service identified study rivers, classification must be maintained as inventoried unless a suitability study (decision) is completed that recommends management at a less restrictive classification (such as from Wild to Scenic or Scenic to Recreational).

**E13. The Forest Service should not designate Middle Beaver Creek or West Beaver Creek because they do not qualify as Scenic segments. [2-110].**

**Response:** The lower parts of Middle Fork Beaver and West Fork Beaver are classified as Scenic as identified in the Forest Service Handbook 1909.12\_80, Sec. 82.3 – Classification, because the stream and stream corridor is or has the following:

- Free of impoundment.
- Largely primitive and undeveloped. No substantial evidence of human activity.
- Presence of small communities or dispersed dwellings or farm structures is acceptable.
- The presence of grazing, hay production or row crops is acceptable.
- Evidence of past logging or ongoing timber harvest is acceptable provided the forest appears natural from the river bank.
- Accessible in places by road.
- Roads may occasionally reach or bridge the river. The existence of short stretches of conspicuous road or longer stretches of inconspicuous roads or railroads is acceptable.

For all Forest Service identified study rivers, classification must be maintained as inventoried unless a suitability study (decision) is completed that recommends management at a less restrictive classification (such as from Wild to Scenic or Scenic to Recreational).

**E14. The Forest Service should not designate West Fork Whiterocks River because the eligibility for this segment was not properly analyzed and it does not meet suitability criteria. [3-19].**

**Response:** See response to E3. The Scenic classification given to West Fork Whiterocks River relates not to its ORV, but to the level of development in the river corridor. A road crosses the segment but does not parallel it significantly.

#### **Mileage Adjustments**

**E15. The Forest Service should designate Temple Fork and change the segment to “source to confluence with Spawn Creek.” [3-122].**

**Response:** The Temple Fork Segment was found eligible from its source to its confluence with the Logan River based on the fact that its ORV, Fish could be found in that stretch and protecting the whole segment would be important to protect the ORV, as is related in the SER (see DEIS, Appendix A – Suitability Evaluation Reports, page 539). A suitable determination for Temple Fork is being recommended in Alternatives 3 and 6. Appendix A – Suitability Evaluation Reports contains a description of the Temple Fork on pages A-538 to A-544. Final determination of suitability of the segment as well as length and classification will be found in the ROD.

**E16. The Forest Service should combine South Fork, North Fork, and Ashley Gorge Creeks and designate the entire 24-mile segment. [3-10].**

**Response:** The Forest Supervisors will determine which segments are suitable for designation. See the ROD for the rationale for the choice of rivers and the selected alternative.

**E17. The Forest Service should reconsider for designation only the Wild class segment of High Creek on the Logan Ranger District. [3-119].**

**Response:** Neither section of High Creek met the criteria of Alternatives 3, 4, 5, 6, or 7. Appendix A – Suitability Evaluation Reports contains a description of it on page A-86. See the ROD for the rationale for the choice of rivers and the selected alternative.

## **Determination of Suitability**

**E18. The Forest Service should submit the full array of eligible segments for Congressional review. [2-3].**

**Response:** The analysis and descriptions of all river segments will be sent to Congress for review along with a recommendation from the Forest Service. It is possible that Congress could choose segments that aren't in the list of segments recommended by the Forest Service for suitability. See also response to comment C15.

**E19. The Forest Service should reconsider which rivers have been determined to be suitable because many of the evaluated rivers do not meet the criteria established by Congress. [2-5].**

**Response:** The Forest Service feels these river segments do meet eligibility criteria. To be determined eligible, a river must be free-flowing and, with its adjacent land area, possess one or more outstandingly remarkable values (ORVs). Please refer to individual forest eligibility reports found at: [www.fs.fed.us/r4/rivers/](http://www.fs.fed.us/r4/rivers/). See response to comment C80 regarding length and comment D24 regarding roadless, wilderness, and other protections.

**E20. The Forest Service should not recommend any segments in Garfield County because the DEIS does not provide a valid basis for recommendation. [2-103].**

**Response:** The DEIS provides a comparative analysis of the effects of implementing alternatives that would or would not recommend segments as suitable. Eligibility is discussed in various forest documents and is available on the web under "eligibility Reports" at: <http://www.fs.fed.us/r4/rivers/index.shtml>.

**E21. The Forest Service should retain the same classifications for rivers across all alternatives because potential development should not affect classification. [4-14].**

**Response:** Classification is determined by the development and access that currently exist on a river segment. In a suitability study classification as Wild, Scenic, or Recreational could change from one alternative to the other to account for future projects that could be accommodated by a classification change. In this study classification did not change among any of the alternatives. However, in some cases, errors in classification were discovered between eligibility and suitability. Classification was changed and rationale noted in the DEIS on North Fork Virgin River (page 3-6), The Gulch (page 3-6), West Fork Smiths Fork (page 3-10), and High Creek (page 3-10).

**E22. The Forest Service should take a systems approach to suitability determinations because protection of larger river systems often contributes more to overall river system integrity. [2-14].**

**Response:** One of the suitability factors the Forest Service is considering is contribution to river system or basin integrity. This was described by river segment in the DEIS in Appendix A – Suitability Evaluation Reports.

**E23. The Forest Service should weigh whether a river is in an inventoried roadless area and the presence of connected eligible rivers in the determination of suitability because these factors enhance a river's core values. [2-22].**

**Response:** The information regarding inventoried roadless area was described in the DEIS in Appendix A – Suitability Evaluation Reports under the "Suitability Report" section under "special designations" by

river segment. One of the suitability factors the Forest Service is considering is contribution to river system or basin integrity. This was described by river in the DEIS in Appendix A. See response to comment D24 regarding roadless.

**E24. The Forest Service should not use support or opposition to designation as a factor for suitability because adequate participation by both local and national citizens may not be possible. [2-26].**

**Response:** All public comments submitted during scoping and the DEIS were considered equally, whether from individuals or from groups both locally and nationally. The content of comments is what matters. User groups and their State, local, and Congressional representatives have all engaged the Forest Service during the scoping and DEIS process. Throughout the process, the Forest Service has sought the broadest possible public involvement. Responses to the DEIS were received from 35 states. See response to comment B3.

During development of the scoping and DEIS no interest group's views or comments were given preferential treatment or consideration, nor did any interest group monopolize the environmental analysis processes, as described in response to comment B1.

The Forest Supervisors decided to document as a basis for suitability, support or opposition to designation as described in the FSH 1909.12, Sec. 82.41. This basis for suitability is also recommended as a possible consideration in The Wild and Scenic River Study Process (December 1999; page 18). Support or opposition has been described in Appendix A – Suitability Evaluation Reports by river segment.

**E25. The Forest Service should use a conservative approach to recommending rivers as Wild and Scenic to comply with the original intent of Congress. [2-12].**

**Response:** Comment noted.

**E26. The Forest Service should use consistent and clear criteria for determining suitability of rivers to clarify the reasoning behind decisions related to the West Fork Blacks Fork. [2-16a].**

**Response:** A suitable determination for West Fork Blacks Fork is being recommended in Alternatives 3 and 5. Appendix A – Suitability Evaluation Reports contains a description of West Fork Blacks Fork on pages A-415 through A-421. See the ROD for the rationale for the choice of rivers and the selected alternative.

There are 11.9 miles of the West Fork Blacks Fork being recommended as suitable because it met the criteria for Alternatives 3 and 5. This segment begins at the source and ends at the National Forest System lands before traveling through sections of private land. During eligibility, the forest determined the river segment was eligible with a logical terminus at the private land for a total of 11.9 miles.

**E27. The Forest Service should use consistent and clear criteria used by other federal agencies for determining suitability of rivers to ensure support from the State of Utah. [2-16b].**

**Response:** See response to comment B15.

**E28. The Forest Service should give equal weight to each of the suitability factors to determine the highest and best use of each segment. [2-21].**

**Response:** Suitability is inherently subjective. The Forest Supervisors are not required to give equal

weight to all the suitability factors. The preference and application of factors can vary river by river, segment by segment. See the ROD for the rationale for the choice of rivers and the selected alternative.

**E29. The Forest Service should use ORVs as the primary criterion for suitability and only use extremely important potential development activities as a secondary criterion to respect the intent of the Wild and Scenic Rivers Act. [2-24].**

**Response:** See response to comment E28. The Forest Supervisor used the ORVs as key criteria for making their suitability determinations. For a description of ORVs, see DEIS, Appendix A – Suitability Evaluation Reports.

**E30. The Forest Service should clarify methods used to determine which rivers are suitable to eliminate the appearance of bias and illogic. [2-4].**

**Response:** See the ROD for the rationale for the choice of rivers and the selected alternative.

**E31. The Forest Service should explain its reasons for excluding segments of eligible rivers in the Uinta Mountains from suitability status. [4-4].**

**Response:** See the ROD for the rationale for the choice of rivers and the selected alternative.

## **F. Scenery**

---

This section is divided into the following subsections: Scenic ORV eligibility considerations, comments concerned with protecting scenic ORVs for certain river segments as well as errata corrections.

### **Scenic ORV Eligibility Considerations**

**F1. Some of the Scenic outstandingly remarkable value (ORV) eligibility determinations were based on vistas seen from the river, as opposed to river-related vistas.**

**Response:** The commenter is correct that ORVs must be river related. This has been further clarified in the FEIS, Appendix A – Suitability Evaluation Reports. The Forest Service Handbook (FSH 1909.15\_80, Sec. 82.14 – Outstandingly Remarkable Values) describes Scenic ORVs “should be directly river-related. That is, they should:

1. Be located in the river or on its immediate shorelands (within 1/4 mile on either side of the river);
2. Contribute substantially to the functioning of the river ecosystem; and/or
3. Owe their location or existence to the presence of the river.

### **Designate Segments in Order to Protect Scenery**

**F2. The Forest Service should designate East Fork Blacks Fork and Dark Canyon because of their scenic values. [3-85, 6-35].**

**Response:** Many rivers are scenic, but not outstandingly remarkable for the region of comparison. These determinations were made by the Forests during the eligibility stage of the Wild and Scenic River designation process. The ORV identified for East Fork Blacks Fork is Ecology specifically for the diversity of riparian communities including broad meadows and narrow conifer communities with a variety of associated under story species (DEIS, Appendix A – Suitability Evaluation Reports, page A-423). The ORVs for Upper and Lower Dark Canyon Rivers are geologic and cultural and are described in

the DEIS, Appendix A – Suitability Evaluation Reports, page A-351 and A-357.

**F3. The Forest Service should designate Roc Creek, Green River, and Death Hollow to protect their scenic ORVS. [3-29, 6-35].**

**Response:** Roc Creek is determined suitable in Alternatives 3 and 5 and its Scenic ORV was identified at eligibility. Please refer to the Appendix A – Suitability Evaluation Reports, page 112.

Green River is determined suitable in Alternatives 3, 5, 6, and 7 and its Scenic ORV was identified at eligibility. Please refer to the Appendix A – Suitability Evaluation Reports, page 31.

Death Hollow Creek is determined suitable in Alternatives 3, 5 and 7 and its Scenic ORV was identified at eligibility. Please refer to the Appendix A – Suitability Evaluation Reports, page 199. The scenic values of these areas will continue to be protected through the forest plan.

See the ROD for the rationale for the choice of rivers and the selected alternative.

**Errata**

**F4. The Forest Service should correct page 3-17 to reflect 27 segments in Alternative 6, not 17 and modify Table 3.3a.1 to correctly show whether the South Fork of Ashley Creek is recommended under any action alternative. [5-61, 5-68].**

**Response:** Thank you, comment noted and document corrected.

## **G. Recreation**

---

This section considers comments related to recreation.

**Recreation**

**G1. The Forest Service should move forward with Wild and Scenic River recommendations to preserve rivers and riparian areas from off-road vehicle use. [2-33].**

**Response:** The Forest Service is moving forward with recommendations. As described in FSH 1909.2 82.51 – Management Guidelines for Eligible or Suitable Rivers: motorized travel on land may be permitted, but is generally not compatible with a Wild classification. However, limited motorized uses that are compatible with identified values and unobtrusive trail bridges may be allowed. With a Scenic or Recreational classification, motorized travel on land or water may be permitted, prohibited, or restricted to protect the river values.

Following designation of a river by Congress, motors are allowed on designated wild and scenic rivers subject to congressional intent and river management objectives defined in legislation and through the river planning process. Generally, access routes within the river corridors would continue to be available for public use. However, if that type of use adversely impacted the ORVs identified for the river area, the route could be closed or regulated. (A Compendium of Questions & Answers Relating to Wild & Scenic Rivers 2006).

Acceptability may be determined by historical or valid rights involved, or subject to, specific legislative language, if provided, for motorized vehicles. Motorized use on land or water is best determined by the

river management planning process and considers factors such as impacts (positive or negative) on river values, user demand for such motorized recreation, health and safety to users, and acceptability with desired experiences and other values for which the river was designated. (A Compendium of Questions & Answers Relating to Wild & Scenic Rivers 2006).

**G2. The Forest Service should give all rivers in its proposal Wild and Scenic Status to preserve outdoor opportunities and fly fishing opportunities. [2-42a, 2-42b].**

**Response:** A “Find suitable all river segments that were determined to be eligible” alternative was considered, but dismissed from detailed study. The reason it was dismissed is displayed in the DEIS, Section 2.3 – Alternatives Considered but Dismissed from Detailed Study on pages 2-15 to 2-16.

Statewide the recreation activity most common to the segments rated high for the recreation outstanding remarkable value (ORV), is fishing. With close proximity to the urban areas fishing and other outdoor recreation activities are recognized as ORVs. However, not all rivers are suitable for Wild and Scenic status due to development projects and other mitigation. See the ROD for the rationale for the choice of rivers and the selected alternative.

**G3. The Forest Service should designate more miles of Utah’s rivers for Wild and Scenic status and should designate Whiterocks Canyon to protect its recreational value. [2-43, 3-16].**

**Response:** While it is important to protect the recreational value of our forests, it is also important to maintain the recreational value for the miles proposed to be designated as Wild and Scenic. The Forest Service has selected the rivers that have ORVs (including the Recreational ORV) and that meet the criteria listed in the Wild and Scenic Rivers Act. Each river has its own ORVs to the communities and it is not possible to select and maintain every river as wild and scenic.

A suitable determination for Upper, East Fork, and West Fork Whiterocks River is being recommended in Alternatives 5 and 6 and Middle Whiterocks River is being recommended in Alternative 6. Appendix A – Suitability Evaluation Reports contains a description of Whiterocks River segments on pages A-54 through A-77. See the Record of Decision (ROD) for the rationale for the choice of rivers and the selected alternative.

**G4. The Forest Service should designate the Green River as Scenic for the following reasons: to protect it as a trout fishery and endangered species; because it is a Blue Ribbon Fishery; and because it provides high-quality recreation opportunities. [3-25, 3-26].**

**Response:** Comment G4 is just one example of the many comments expressing the importance of maintaining the free-flowing river recreation opportunities of the river being considered for designation. The point made by these comments is one of the key purposes of the Wild and Scenic River Act. This study/FEIS recognizes the importance of these values and is carefully considering them, along with other values, in making a final recommendation.

A suitable determination for the Green River (classified as Scenic) is being recommended in Alternatives 3, 5, 6, and 7. Appendix A – Suitability Evaluation Reports contains a description of ORVs beginning on page A-31. See the ROD for the rationale for the choice of rivers and the selected alternative.

**G5. The Forest Service should find the North Fork Virgin River suitable because it provides high quality recreation. [3-41].**

**Response:** The North Fork Virgin River area is a popular and unique recreation destination. People’s

enjoyment of free-flowing rivers is one of the reasons for the Wild and Scenic River Act. This interest in free-flowing rivers and the recreational opportunities it provides are important factors the forest supervisors consider, among others, in determining which rivers to recommend for designation.

A suitable determination for North Fork Virgin River is being recommended in Alternatives 3, 5, 6, and 7. Appendix A – Suitability Evaluation Reports contains a description of North Fork Virgin River on pages A-166 through A-173. See the ROD for the rationale for the choice of rivers and the selected alternative.

**G6. The Forest Service should not designate Pine Creek, Mamie Creek, Death Hollow Creek, Slickrock Canyon and the Gulch because recreation use is low. Designation would increase traffic to the area increasing stream and stream band degradation and adversely affect wildlife. [3-46, 3-47, 3-48, 3-49, 3-51, 3-94].**

**Response:** The quality of recreation resources is not necessarily always correlated with the quantity of recreation users. The areas noted in this comment are for the most part very remote and rugged, but nonetheless offer an opportunity to explore and enjoy a unique setting and have a world-class recreation experience.

National designation would create more public interest thereby initially increasing use. Recreation use may increase for a few years but will then taper down and gradually level off to pre-designation conditions (DEIS, Section 3.8 – Recreation, page 3-93).

Pine Creek, Mamie Creek, Death Hollow Creek, Slickrock Canyon and the Gulch would be determined “not suitable” for designation as follows: Pine Creek in Alternatives 2, 4, 6, and 7; Mamie Creek in Alternatives 2, 4, and 6; Death Hollow Creek in Alternatives 2 and 4; Slickrock Canyon in Alternatives 2, 3, 4, 5, 6, and 7; and The Gulch in Alternatives 2, 4, 6, and 7. See the ROD for the rationale for the choice of rivers and the selected alternative.

**G7. The Forest Service should designate Fish and Gooseberry Creeks to protect their recreational value and to make the wildlife, the fishermen, and the people of Carbon County happy. [3-66].**

**Response:** Many people commented that the quality of the local creeks was an important aspect of their life and that free-flowing creeks improve their quality of life and recreational value. People’s enjoyment of free-flowing rivers and creeks is one of the reasons for the Wild and Scenic River Act. The interest of the community in free-flowing rivers and the quality of life they provide is one of the important factors the forest supervisors consider, among others, in determining which rivers to recommend for designation.

A suitable determination for Fish and Gooseberry Creeks is being recommended in Alternatives 4 and 6. Appendix A – Suitability Evaluation Reports contains a description of Fish and Gooseberry Creeks beginning on page A-309. See the ROD for the rationale for the choice of rivers and the selected alternative.

**G8. The Forest Service should not designate Fish and Gooseberry Creeks because designation would allow less management flexibility and more responsibility. [3-68].**

**Response:** We are not proposing to put more responsibility on the community or decline flexibility in our management of these areas. Fish and Gooseberry Creeks would be determined “not suitable” for designation in Alternatives 2, 3, 5, and 7. See the ROD for the rationale for the choice of rivers and the selected alternative.

**G9. The Forest Service should designate proposed segments of the Logan River for the following**

reasons:

- **Because it has been designated as a Blue Ribbon Fishery.**
- **To preserve its scenery and recreational fishing value.**
- **To preserve the economic value of the river system to the region.**
- **Because the recreational values should trump water development projects.**
- **Because it offers superb kayaking opportunities.**
- **Because it offers high quality recreation.**
- **To preserve opportunities for solitude and contemplation. [3-105, 3-106, 3-107].**

**Response:** Comment G9 gives a few examples of many comments expressing the importance of maintaining the free-flowing river recreation opportunities of the rivers being considered for designation. The points made show many key purposes of the Wild and Scenic River Act. This study/FEIS recognizes the importance of these values and is carefully considering them, along with other values, in making a final recommendation.

A suitable determination for Logan River is being recommended in Alternatives 3 and 6. Appendix A – Suitability Evaluation Reports contains a description of Logan River on pages A-508 through A-523. See the ROD for the rationale for the choice of rivers and the selected alternative.

**G10. The Forest Service should not designate White Pine Creek, source to mouth to preserve the feasibility of an off-highway vehicle trail. [3-130].**

**Response:** See response to comment G1. White Pine Creek has been tentatively classified as Scenic. As described in FSH 1909.2 82.51 – Management Guidelines for Eligible or Suitable Rivers: New roads are permitted to parallel the river for short segments or bridge the river if such construction fully protects the river values (including river’s free-flowing character). Bridge crossings and river access are allowed. New trail construction must be compatible with and fully protect identified values. Any proposed off-highway vehicle trails proposed on Federal land adjacent to the eligible river segment would be analyzed in a separate NEPA document, outside of this process.

White Pine Creek would be determined “not suitable” for designation in Alternatives 2, 4, 5, and 7. See the ROD for the rationale for the choice of rivers and the selected alternative.

**G11. The Forest Service should recommend Stillwater Fork for designation because of its scenic and recreational values. [3-140].**

**Response:** A suitable determination for Stillwater Fork is being recommended in Alternatives 3, 6, and 7. Appendix A – Suitability Evaluation Reports contains a description of Stillwater Fork on page A-466. See the ROD for the rationale for the choice of rivers and the selected alternative.

The trail and river segments are very popular for photography, painting, horseback riding, fishing, and hiking. Many of the other rivers provide some of the same opportunities but these segments were considered the ones that would make the most significant contribution to the National System of Wild and Scenic Rivers.

**G12. The Forest Service should designate headwaters of the Bear River because it provides high-quality recreation. [3-141].**

**Response:** The above comment is just one example of the many comments expressing the importance of maintaining the free-flowing river recreation opportunities of the rivers being considered for designation.

The Study/FEIS recognizes the importance of recreation on these segments and is carefully considering them, along with other values, in making a final recommendation. While each segment provides outstanding remarkable recreation opportunities we understand that kayaking, fishing, and hiking activities in this area are unique. Many of the other rivers are being considered but these segments were the ones that would make a significant contribution to the National System of Wild and Scenic Rivers.

A suitable determination for the Left, Right, and East Forks Bear River is being recommended in Alternatives 3 and 6. Appendix A – Suitability Evaluation Reports contains a description on page A-480. See the ROD for the rationale for the choice of rivers and the selected alternative.

**G13. The Forest Service should consider the study prepared by the State of Utah and Utah State University on Wild and Scenic Rivers. [5-6].**

**Response:** The Forest Service is working in conjunction with the State of Utah on Wild and Scenic Rivers. At the time of the DEIS the study was not complete therefore we were not able to include it, however the Utah State University *Final Report: Wild and Scenic River Study* (Keith et al. 2007) will be included in the Final EIS.

**G14. The Forest Service should provide information supporting the assertion that river segments below Highway 12 are regularly used by residents of Wayne County. [5-60].**

**Response:** The river segments and areas below Highway 12 are not recreation “hot spots” and we have no specific recreation numbers for this area. Quality of recreation opportunities is not always correlated with quantity of users, particularly in remote areas like these. We are not recommending these river segments based on recreation numbers, these segments are adjacent to segments that have already been recommended for designation by the Grand Staircase Escalante National Monument. Additionally, vast numbers (quantifiable) of people are visiting the adjacent areas to these river segments that have been highlighted by the recognition of the GSENM. By including the segments on National Forest System land we are strengthening the river systems that are being recommended.

**G15. The Forest Service should modify page 3-92 to reflect the period over which the referenced 11 million visits to National Forests occurred. [5-63].**

**Response:** The 11 million visits was an average number of annual visits from 2002- 2004. These numbers were collected from the National Visitor Use Monitoring survey that occurred on each forest between 2002 and 2004. These surveys take place every five years.

**G16. The Forest Service should correct the DEIS to reflect that Posey Trail is No. 166 not No. 116. [5-75].**

**Response:** This information has been updated in the Final EIS.

**G17. The Forest Service should not designate Henry’s Fork because designation could impede access to King’s Peak. [3-135, 3-69d].**

**Response:** As described in the DEIS, Appendix A – Suitability Evaluation Reports on page A-387, this river segment extends 8 miles from Henry’s Fork Trailhead to Henry’s Fork Lake and is located in the High Uintas Wilderness. Recreation is one of the ORVs found on the Henry’s Fork segment and is described as “the shortest and probably the easiest access to Kings Peak” with the existing trail system (page A-388).

Henry's Fork has been tentatively classified as Wild. With a Wild classification, new trail construction should generally be designed for nonmotorized uses and unobtrusive trail bridges may be allowed as long as they are compatible with identified values. If improvements to access are needed, it would have to be compatible with the existing designation of Wilderness or the Wild and Scenic Rivers Act and would be analyzed in a separate NEPA process.

## **H. Fish and Other Aquatic Species/Habitat**

---

This section is divided into the following subsections: Fish and Aquatic Habitat Outstandingly Remarkable Values (ORVs) and Fish Species/Habitat.

### **Fish and Aquatic Habitat Outstandingly Remarkable Values (ORVs)**

**H1. The Forest Service should differentiate by cutthroat trout species in the DEIS because some species have special status. [5-32].**

**Response:** Table 3.5.1 will be updated to reflect the appropriate subspecies where known. Much of this information is already found in Table 3.3c.1

### **Fish Species/Habitat**

**H2. The Forest Service should not designate river segments with endangered aquatic species because they are already adequately protected. [2-58].**

**Response:** Aquatic species can be added or removed from the United States Department of Interior's "Endangered" or "Threatened" species list. Merely having an "Endangered" species in a river segment will not preclude the river segment from being altered. Having a river segment identified as Wild, or Scenic, or Recreational may help prevent a species from being listed or may provide sufficient protection to cause a species to be delisted. Existing laws (including the Endangered Species Act), policy and directives would protect endangered aquatic species. River segments would be determined "not suitable" for designation in Alternative 2.

**H3. The Forest Service should ensure that designation would not affect agreements already in place for the Endangered Fishes Recovery Program [2-75].**

**Response:** We agree. This should occur prior to making the final decision on which rivers are to be recommended under the Wild and Scenic Rivers Act.

**H4. The Forest Service should implement a charge on fishing licenses for river protection and conservation. [2-80].**

**Response:** This comment is outside the scope of the analysis. See the purpose and need for the project in DEIS, page 1-4 to 1-5. License fees are approved by State governments.

**H5. The Forest Service should designate Reader Creek because of its role in cutthroat trout recovery. [3-14].**

**Response:** A suitable determination for Reader Creek is being recommended in Alternatives 3, 5, and 6. Appendix A – Suitability Evaluation Reports contains a description of Reader Creek on pages A-47 through A-53. See the Record of Decision (ROD) for the rationale for the choice of rivers and the

selected alternative.

**H6. The Forest Service should designate the Green River to protect endangered species. [3-25].**

**Response:** A suitable determination for the Green River is being recommended in Alternatives 3, 5, 6, and 7. Appendix A – Suitability Evaluation Reports contains a description of ORVs beginning on page A-31. See the ROD for the rationale for the choice of rivers and the selected alternative.

**H7. The Forest Service should designate the Green River as Scenic because it supports trout fishing and endangered species. [3-26].**

**Response:** See response to comment H6.

**H8. The Forest Service should designate Moody Wash to protect the potential habitat for special-status fish species. [3-42].**

**Response:** A suitable determination for the Moody Wash is being recommended in Alternatives 3, 5, and 6. Appendix A – Suitability Evaluation Reports contains a description beginning on page A-206. See the ROD for the rationale for the choice of rivers and the selected alternative.

**H9. The Forest Service should designate East Fork Boulder Creek because the segment contains a viable population of Colorado River cutthroat trout. [3-44].**

**Response:** A suitable determination for the East Fork Boulder Creek is being recommended in Alternative 5. Appendix A – Suitability Evaluation Reports contains a description beginning on page A-174. See the ROD for the rationale for the choice of rivers and the selected alternative.

**H10. The Forest Service should designate Fish and Gooseberry Creeks to protect the fishery of Scofield. [3-63].**

**Response:** A suitable determination for Fish and Gooseberry Creeks is being recommended in Alternatives 4 and 6. Appendix A – Suitability Evaluation Reports contains a description of Fish and Gooseberry Creeks beginning on page A-309. See the ROD for the rationale for the choice of rivers and the selected alternative.

**H11. The Forest Service should designate proposed segments of the Logan River for the following reasons: to protect habitat for wildlife and special-status species; to protect Bonneville cutthroat trout; and to protect Bonneville cutthroat trout from grazing impacts. [3-105].**

**Response:** A suitable determination for Logan River is being recommended in Alternatives 3 and 6. Appendix A – Suitability Evaluation Reports contains a description of Logan River on pages A-508 through A-523. See the ROD for the rationale for the choice of rivers and the selected alternative.

**H12. The Forest Service should designate proposed segments of the Logan River to preserve its Bonneville cutthroat trout population. [3-106].**

**Response:** See response to comment H11.

**H13. The Forest Service should not designate proposed segments of the Logan River because designation is unnecessary to protect Bonneville cutthroat trout and may interfere with their future management. [3-111].**

**Response:** The Logan River would be determined “not suitable” for designation in Alternatives 2, 4, 5, and 7. See the ROD for the rationale for the choice of rivers and the selected alternative. Designation of the segments of Logan River as “Scenic” or “Recreational” is not the only way to provide protection of the native Bonneville cutthroat trout. Forest plans and other documents also provide varying ranges of protection.

**H14. The Forest Service should not designate White Pine or Spawn Creek because they do not house Bonneville cutthroat trout. [3-131].**

**Response:** White Pine Creek and Spawn Creek would be determined “not suitable” for designation in Alternatives 2, 4, and 5 (White Pine Creek) and Alternatives 2, 4, and 5 (Spawn Creek). See the ROD for the rationale for the choice of rivers and the selected alternative.

Bonneville cutthroat trout are found in Spawn Creek. The cutthroat trout in White Pine Creek are suspected to be of the Bonneville subspecies.

See:

Lentsch, L; Y. Converse and J. Perkins. 1997. Conservation Agreement and strategy for Bonneville cutthroat trout (*Oncorhynchus clarki utah*). Utah Division of Wildlife Resources. Salt Lake City, Utah Pub. 97-19. Page 43.

Cowley, P. 2000. Fish surveys conducted in the Logan River Drainage by the Wasatch-Cache National Forest during 1999. Wasatch-Cache National Forest, Salt Lake City, Utah. Pages 11 and 14.

**H15. The Forest Service should designate headwaters of the Bear River because of its importance to fish. [3-141].**

**Response:** A number of headwater Bear River tributaries are considered for and recommended as suitable for designation. These include the Hayden Fork, Ostler Fork, Stillwater Fork and Left and Right Forks of the East Fork Bear River in Alternatives 3 and 6, and Ostler Fork and Stillwater Fork in Alternative 7. And an additional stream considered under Alternative 6 includes Boundary Creek which are all headwaters of the Bear River.

**H16. The Forest Service should recommend West Fork Smiths Fork as suitable. [3-155].**

**Response:** A suitable determination for West Fork Smiths Fork is being recommended in Alternative 3. Appendix A – Suitability Evaluation Reports contains a description on pages A-442 through A-449. See the ROD for the rationale for the choice of rivers and the selected alternative.

**H17. The Forest Service should protect the Logan River because it is one of the last intact river systems in Utah and it supports and protects Bonneville cutthroat trout and other species. [6-45].**

**Response:** Designation of the Logan River segments is considered under Alternatives 3 and 6.

## **I. Wildlife (Terrestrial) Species/Habitat** \_\_\_\_\_

This section considers comments related to wildlife species and their habitat.

## **Wildlife Species/Habitat**

### **I1. The Forest Service should value the interests of wildlife and the public over the interests of profiteers and politicians. [1-2].**

**Response:** See response to comment B1. In the process of recommending streams or stream segments for designation under the Wild and Scenic Rivers Act the first step is to determine eligibility by looking at the stream for outstandingly remarkable values (ORVs) including fish and wildlife, among others. The second step that we are evaluating at this time is suitability that pulls in the social, economic and political aspects of designation. As the decision makers consider which streams or stream segments to recommend as suitable, they weigh both the eligibility and suitability in the proposal that will be sent to Congress.

### **I2. The Forest Service should give all rivers in its proposal Wild and Scenic status to protect aquatic animals and plants and to provide sanctuary for endangered and threatened animals. [2-40].**

**Response:** The Forest Service does not have the ability to designate river segments, only Congress can confer on them Wild and Scenic River designation status. A “Find suitable all river segments that were determined to be eligible” alternative was considered, but dismissed from detailed study. The reason it was dismissed is displayed in the DEIS, Section 2.3 – Alternatives Considered but Dismissed from Detailed Study on pages 2-15 to 2-16.

Aquatic animals and plants, and all species, in river systems are protected through several different means such as wilderness designation, roadless areas, and goals, objectives, standards and guidelines in forest plans. The Forest Service is required to provide habitat for all native and desired non native species and this is considered in all management decisions.

### **I3. The Forest Service should not designate river segments for the protection of special-status species wildlife habitat because these areas are already protected by existing laws and regulations and standards provided in forest plans. [2-59].**

**Response:** We agree and have attempted not to recommend suitable segments based on protection of special status species habitat. Rivers that are selected to be recommended as suitable will meet some or all of the criteria of the selected alternative. See the ROD for the rationale for the choice of rivers and the selected alternative.

### **I4. The Forest Service should ensure that designation would not restrict future wildlife habitat improvements because riparian habitats are important for wildlife. [2-60].**

**Response:** The Act requires that ORVs of a designated stream or stream segment be protected. Any proposed work within a designated stream would have to maintain protection of the values that made the stream eligible and free flow.

Fish and wildlife habitat structures can generally be constructed and placed in wild and scenic rivers. Construction and maintenance of minor structures for the protection, conservation, rehabilitation, or enhancement of fish and wildlife habitat is acceptable, provided they do not have a direct and adverse effect on the values of the river, including its free-flowing nature. Structures should be compatible with the river’s classification, allow the area to remain natural in appearance, and harmonize with the surrounding environment. An analysis should be conducted to assess the effect on river values. (A Compendium of Questions & Answers Relating to Wild & Scenic Rivers - Revised 2006)

In “A Compendium of Questions & Answers Relating to Wild & Scenic Rivers (Revised 2006),” it states that the following types of structures may be permitted, even though they may affect the free-flowing nature of the river, if:

1. They mimic normal, naturally occurring events (as opposed to catastrophic) such as trees falling in and across the river, boulders falling in or moving down the river course, minor bank sloughing or undercutting, island building, and the opening or closing of existing secondary channels.
2. They do not create unusual hazards or substantially interfere with existing or reasonably anticipated recreation use of the river such as fishing, kayaking, canoeing, rafting, tubing and swimming.
3. They do not prevent naturally occurring events such as bank erosion, channel shifting, island building, and bed load or debris movement.

In addition, the following types of structures may be considered to harmonize with the river environment if:

1. They are made of native materials, e.g., logs, boulders, rocks (not rip-rapping), vegetation, and so forth.
2. Construction materials are kept natural in appearance, e.g., logs with bark as opposed to being peeled.
3. Materials are placed in locations, positions, and quantities which mimic natural conditions.
4. Anchoring materials, cables, rebar, etc., are installed in such a manner as to be visually acceptable.

**I5. The Forest Service should designate Lower Dark Canyon as Wild to protect Mexican spotted owls. [3-57].**

**Response:** A suitable determination for Lower Dark Canyon including Poison Canyon, Deadman Canyon, and Woodenshoe and Cherry Canyons is being recommended in Alternatives 5 and 6. Appendix A – Suitability Evaluation Reports contains a description of Lower Dark Canyon on pages A-349 to A-359. See the ROD for the rationale for the choice of rivers and the selected alternative. All species on National Forest system lands are protected through several different means such as wilderness designation, roadless areas, and goals, objectives, standards and guidelines in forest plans. The Forest Service is required to provide habitat for all native and desired non native species and this is considered in all management decisions.

**I6. The Forest Service should designate Hammond Canyon as Wild because it is habitat for Mexican spotted owls. [3-61].**

**Response:** A suitable determination for Hammond Canyon classified as Scenic is being recommended in Alternatives 3 and 6. Hammond Canyon met criteria for a Scenic classification. Appendix A – Suitability Evaluation Reports contains a description of Hammond Canyon beginning on page A-336. See the ROD for the rationale for the choice of rivers and the selected alternative.

Criteria that was used to distinguish between wild and scenic are listed on page 1-3 of the DEIS under the heading of “Tentative Classification.” All species on National Forest System lands are protected through several different means such as wilderness designation, roadless areas, and goals, objectives, standards and guidelines in forest plans. The Forest Service is required to provide habitat for all native and desired non native species and this is considered in all management decisions.

**I7. The Forest Service should designate Fish and Gooseberry Creeks for the following reasons: to protect them for wildlife, plants and the people of Utah; to preserve the freedom of the wildlife; and to preserve southwestern willow flycatcher habitat. [3-63].**

**Response:** A suitable determination for Fish and Gooseberry Creeks is being recommended in Alternatives 4 and 6. Appendix A – Suitability Evaluation Reports contains a description of Fish and Gooseberry Creeks beginning on page A-309. See the ROD for the rationale for the choice of rivers and the selected alternative. All species on National Forest system lands are protected through several different means such as wilderness designation, roadless areas, and goals, objectives, standards and guidelines in forest plans. The Forest Service is required to provide habitat for all native and desired non native species and this is considered in all management decisions.

The 1998 report, “Southwest Willow Flycatchers Surveys on U.S. Forest Service Lands in Utah,” did say that Fish and Gooseberry Creeks were “an outstanding example of good riparian habitat,” the surveys did not find any southwest willow flycatchers on these streams. Where willow fly catchers are found on these streams, they were not the southwestern willow fly catcher. The U.S Fish and Wildlife Service’s, “Endangered, Threatened, Proposed and Candidate Species, Utah Counties,” (November 2007) list shows the southwestern willow fly catcher in Emery, Garfield, Grand, Iron, Kane, San Juan, Washington, and Wayne Counties. This will be clarified in the Final EIS, Appendix A – Suitability Evaluation Reports.

**18. The Forest Service should designate proposed segments of the Logan River to protect habitat for moose and elk. [3-105e].**

**Response:** A suitable determination for Logan River is being recommended in Alternatives 3 and 6. Appendix A – Suitability Evaluation Reports contains a description of Logan River on pages A-508 through A-523. See the ROD for the rationale for the choice of rivers and the selected alternative. All species on National Forest System lands are protected through several different means such as wilderness designation, roadless areas, and goals, objectives, standards and guidelines in forest plans. The Forest Service is required to provide habitat for all native and desired non native species and this is considered in all management decisions.

**19. The Forest Service should designate Whiterocks River because it is home to Rocky Mountain goats. [3-12].**

**Response:** A suitable determination for Whiterocks River is being recommended in Alternatives 5 and 6. Appendix A – Suitability Evaluation Reports contains a description on pages A-54 through A-77. See the ROD for the rationale for the choice of rivers and the selected alternative. All species on National Forest System lands are protected through several different means such as wilderness designation, roadless areas, and goals, objectives, standards and guidelines in forest plans. The Forest Service is required to provide habitat for all native and desired non native species and this is considered in all management decisions.

**110. The Forest Service should designate Left Hand Fork Blacksmiths Fork because it provides wildlife habitat. [3-137].**

**Response:** Left Hand Fork Blacksmiths Fork did not meet the criteria of Alternatives 3, 4, 5, 6, or 7. Appendix A – Suitability Evaluation Reports contains a description of Left Hand Fork Blacksmiths Fork on page A-501. See the ROD for the rationale for the choice of rivers and the selected alternative. All species on National Forest system lands are protected through several different means such as wilderness designation, roadless areas, and goals, objectives, standards and guidelines in forest plans. The Forest Service is required to provide habitat for all native and desired non native species and this is considered in all management decisions.

**111. The Forest Service should designate headwaters of the Bear River because of this segment’s**

**importance to migratory birds and other wildlife. [3-141].**

**Response:** A number of headwater Bear River tributaries are considered for and recommended as suitable for designation. These include the Hayden Fork, Ostler Fork, Stillwater Fork and Left and Right Forks of the East Fork Bear River in Alternatives 3 and 6, and Ostler Fork and Stillwater Fork in Alternative 7, and an additional stream considered under Alternative 6 includes Boundary Creek which are all headwaters of the Bear River.

It is true that the Bear River is very important to migratory birds that use the Bear River Bird Refuge at its mouth into the Great Salt Lake. Protection of these headwaters under the Wild and Scenic Rivers Act will add little to the protection already provided by the Wilderness Act.

The headwaters of the Bear are important to many species of wildlife but not any more important than the headwaters of most other drainages on the Uinta Mountains.

**I12. The Forest Service should modify Section 3.3d – Wildlife Values, to clarify whether any eligible segments overlap designated habitat for threatened and endangered species. [5-56].**

**Response:** Some stream segments on National Forests in the southern part of the state are within designated critical habitat for federally listed species. Just because an area is designated as critical habitat for a species does not mean that everything within the area is critical habitat. Habitat is only critical if it has all the elements listed in the Federal Register by the Fish and Wildlife Service. No overlay was completed to show overlap because protection as critical habitat is sufficient to protect an area that meets the Federal Register elements for a particular species.

**I13. The Forest Service should modify Table 3.13.1 to clarify the meaning of the footnotes and to which table they refer. [5-72].**

**Response:** This chart was copied directly from that provided by the Fish and Wildlife Service. Footnotes A and B define the acronyms “PIF” as Partners in Flight and “BCC” as Birds of Conservation Concern. Footnote C explains that species listed in bold type are PIF species, those in regular type are BCC species and an \* indicates they are on both lists. We feel that no changes in the table are needed.

**I14. The Forest Service should protect wildlife. [6-3].**

**Response:** Wildlife species in river systems are protected through several different means such as existing laws, wilderness designation, roadless areas, and goals, objectives, standards and guidelines in forest plans. The Forest Service is required to provide habitat for all native and desired non native species and this is considered in all management decisions. Wild or scenic river designation is another method of providing protection.

**I15. The Forest Service should preserve the roadless condition of areas surrounding Fish and Goose Creeks to protect elk calving habitat. [6-38].**

**Response:** These areas are presently being managed as “Semi primitive recreation, non motorized” by the Manti-La Sal National Forest. In planning that is now in progress on the Forest that designation would not change.

**I16. The Forest Service should protect Fish and Gooseberry Creeks because wild species depend on these ecosystems. [6-36].**

**Response:** See response to comment I7. A suitable determination for Fish and Gooseberry Creeks is being recommended in Alternatives 4 and 6. All species on National Forest System lands are protected through several different means such as existing laws, wilderness designation, roadless areas, and goals, objectives, standards and guidelines in forest plans. The Forest Service is required to provide habitat for all native and desired non native species and this is considered in all management decisions.

## **J. Cultural Resources**

---

This section contains response to comments related to cultural resources.

### **Cultural Resources**

#### **J1. The Forest Service should designate Whiterocks River because of its historical significance and its significance for Native Americans. [3-12].**

**Response:** A suitable determination for the Upper Whiterocks River and the East Fork of the Whiterocks River is being recommended in Alternatives 5 and 6. Appendix A – Suitability Evaluation Reports contains a description on pages A-60 to A-69. See the Record of Decision (ROD) for the rationale for the choice of rivers and the selected alternative.

#### **J2. The Forest Service should designate the Green River as Scenic because of its historical significance. [3-26].**

**Response:** A suitable determination for the Green River with a classification of Scenic is being recommended in Alternatives 3, 5, 6, and 7. Appendix A – Suitability Evaluation Reports contains a description on pages A-30 to A-40. See the ROD for the rationale for the choice of rivers and the selected alternative.

#### **J3. The Forest Service should not designate Pipe Creek. [3-36].**

**Response:** The Pipe Creek segment would be determined “not suitable” for designation in Alternatives 2, 3, 4, 6, and 7. Appendix A – Suitability Evaluation Reports contains a description on pages A-41 to A-46. See the ROD for the rationale for the choice of rivers and the selected alternative.

#### **J4. The Forest Service should designate East Fork Blacks Fork and Blacks Fork. [3-86].**

**Response:** A suitable determination for East Fork Blacks Fork is being recommended in Alternative 5 and West Fork Blacks Fork in Alternatives 3 and 5. Appendix A – Suitability Evaluation Reports contains a description of East Fork Blacks Fork on pages A-422 to A-427 and Blacks Fork on pages A-435 to 441. See the ROD for the rationale for the choice of rivers and the selected alternative.

#### **J5. The Forest Service should designate Left Hand Fork Blacksmiths Fork because of its cultural resources. [3-137].**

**Response:** During eligibility, the Wasatch-Cache National Forest did not find any outstandingly remarkable cultural values for Left Hand Fork Blacksmiths Fork. Left Hand Fork Blacksmiths Fork did not meet the criteria of Alternatives 3, 4, 5, 6, or 7. Appendix A – Suitability Evaluation Reports contains a description of it on pages A-501 to A-507. See the ROD for the rationale for the choice of rivers and the selected alternative.

**J6. The Forest Service should revise the description of cultural resources at Hammond Canyon to clarify where the sites are located and whether the sites are river related [5-39a] and to include information that should have been gathered during consultation with Native American Tribes. [3-39].**

**Response:** The eligibility description of cultural resources was reevaluated and updated in the DEIS prior to its release in 2007. See Appendix A – Suitability Evaluation Reports on page A-338 which contained the correct information. See response to comment B10 regarding consultation.

## **K. Geologic and Hydrologic Values**

---

This section contains response to comments related to Geologic Outstanding Remarkable Values (ORVs)/Features. Hydrologic values are addressed in the water section “S. Water Resources and Other Developments.”

### **Geologic ORVS**

**K1. The Forest Service should designate proposed segments of the Logan River to preserve its unique geologic features. [3-105].**

**Response:** The respondent desires that the Logan River be designated to preserve its unique geologic features. The Forest Service has recognized these unique geologic features as an ORV in the DEIS, Table 3.2.1 on page 3-9, recognizes the Geologic ORV for the Logan River (lower segment), Appendix A – Suitability Evaluation Reports on pages 517 to 518 describes the Geology as an “unparalleled cross section of the geologic structure and middle and lower Paleozoic carbonate stratigraphy...”

A suitable determination for the Logan River is being recommended in Alternatives 3 and 6. Appendix A – Suitability Evaluation Reports contains a description of Logan River on pages A-508 through A-523. See the Record of Decision (ROD) for the rationale for the choice of rivers and the selected alternative.

**K2. The Forest Service should designate proposed segments of the Logan River because it is one of two unique canyons in the Western United States. [3-105b].**

**Response:** The respondent does not specify why this river is one of two unique canyons in the Western United States. In order to be assessed as outstandingly remarkable, a river-related value must be a unique, rare or exemplary feature that is significant at a comparative regional or national scale (The Wild and Scenic River Study Process – Eligibility, page 12). Therefore, inherent to this study, the Forest Service has recognized these unique values as ORVs for all of the segments. The ORVs specific to the Logan River are described in Appendix A – Suitability Evaluation Reports as Geologic, Fish, Scenery, and Recreation ORVs, page A-509 describes the Logan River as having a unique fishery, page A-512 unique habitat for fish is recognized by the Forest Service and the State of Utah. Appendix A – Suitability Evaluation Reports on pages A-517 to 518 describes the Geology as an “unparalleled cross section of the geologic structure and middle and lower Paleozoic carbonate stratigraphy...”

A suitable determination for the Logan River is being recommended in Alternatives 3 and 6. Appendix A – Suitability Evaluation Reports contains a description of Logan River on pages A-508 through A-523. See the ROD for the rationale for the choice of rivers and the selected alternative.

### **Hydrologic (For Water Comments See “Water Resources and Other Developments”)**

## L. Ecology

---

This section is divided into the following subsections: General, Designate Segments to Protect Ecological Values, and Errata

### General

**L1. The Forest Service should give all rivers in its proposal Wild and Scenic status to avoid a patchwork of protection and protect complete ecosystems. [2-40, 2-43].**

**Response:** A “Find suitable all river segments that were determined to be eligible” alternative was considered, but dismissed from detailed study. The reason it was dismissed is displayed in the DEIS, Section 2.3 – Alternatives Considered but Dismissed from Detailed Study on pages 2-15 to 2-16. The nature of the Wild and Scenic legislation is to protect some rivers over others, leading to an inevitable patchwork if we are lucky, but most likely an island effect. The alternative is to provide all rivers the same protection offered through the goals, objectives, standards and guidelines in forest plans without the limited additional protection of Wild and Scenic designation.

**L2. The Forest Service should give special emphasis to the High Uinta ecosystem. [2-106].**

**Response:** The Forest Service, as required by the Wild and Scenic Rivers Act and Forest Service policy, is responsible to evaluate potential additions to the National Wild and Scenic River System, including some river areas located in wilderness areas. The Wilderness Act and the Wild and Scenic Rivers Act, though similar, have different protective provisions. The Wilderness protection already provided to the High Uinta ecosystem provides an additional layer of protection for aquatic animals and plants, and all species, in river systems in addition to the goals, objectives, standards and guidelines in forest plans. The Forest Service is required to provide habitat for all native and desired non native species and this is considered in all management decisions. See the Record of Decision (ROD) for the rationale for the choice of rivers and the selected alternative.

### Designate Segments to Protect Ecological Values

**L3. The Forest Service should designate South Fork Ashley Creek because it spans more life zones and East Fork of Blacks Fork to preserve its near –perfect physiognomy. [3-9, 3-97].**

**Response:** The sensitive plant species in these areas have a degree of legal protection from direct and indirect impacts. Many criteria including botanical resources are considered in recommending rivers for Wild and Scenic River designation. The South Fork Ashley Creek did not meet the criteria of Alternatives 3, 4, 5, 6, or 7. Appendix A – Suitability Evaluation Reports contains a description of it on page A-86.

A suitable determination for East Fork Blacks Fork is being recommended in Alternative 5 and West Fork Blacks Fork is being recommended in Alternatives 3 and 5. Appendix A – Suitability Evaluation Reports contains a description of ORVs on pages A-415 to A-428. See the ROD for the rationale for the choice of rivers and the selected alternative.

**L4. The Forest Service should designate Dark Canyon, Hammond Canyon, Shale Creek, Fish and Gooseberry because of their contribution to river system/basin integrity. [3-9, 3-53, 3-60, 3-62, 3-97].**

4-32, 6-36].

**Response:** Protection of riparian areas and riverine ecosystems were part of the considerations in determining which rivers to recommend. These same values are also protected by several standards and guidelines in the forest plans. Contribution to river system or basin integrity is described in the DEIS, Appendix A – Suitability Evaluation Reports.

### **Errata**

**L5. The Forest Service should correct page 3-58 to reflect 93 miles in Alternative 5, not 97 miles. [5-62].**

**Response:** Thank you, comment noted and FEIS corrected.

## **M. Botanical Resources**

---

This section contains response to comments related to botanical resources.

### **Botanical Resources**

**M1. The Forest Service should not designate river segments with outstanding botanical resources because they are already adequately protected. [2-57].**

**Response:** Botanical species in river systems are protected through several different means such as existing laws such as the Endangered Species Act, wilderness designation, roadless areas, and goals, objectives, standards and guidelines in forest plans. Wild or scenic river designation is another method of providing protection.

**M2. The Forest Service should designate proposed segments of the Logan River to protect habitat for special-status, endangered, and candidate species. [3-105e].**

**Response:** See response to comment I2. The Forest Service does not have the ability to designate river segments, only Congress can confer on them Wild and Scenic River designation status. Plants (including endangered and candidate species) in river systems are protected through several different means such as the Endangered Species Act, wilderness designation, roadless areas, and goals, objectives, standards and guidelines in forest plans. The Forest Service is required to provide habitat for all native and desired non native species and this is considered in all management decisions.

**M3. The Forest Service should present the botanical impacts of the alternatives in comparative form to provide a clear choice among options. [5-31].**

**Response:** As outlined in the DEIS, Section 3.4 – Botanical Resources on page 3-63 “Rare Plants The viability of rare plant species and their respective habitats will be promoted with implementation of standards and guidelines, inventory and monitoring, and adherence to Forest Service directives for threatened, endangered, proposed, and sensitive plant species and the Endangered Species Act (ESA). Consistent implementation of standards and guidelines and adherence to Forest Service Management Policy across all National Forest System lands for all alternatives is mandatory for Threatened, endangered, or sensitive (TES) plant species conservation.”

The DEIS on page 3-63 describes in the Evaluation of Risk and Uncertainty section that the DEIS does

not directly authorize any “potentially ground disturbing, or habitat altering projects” and should a project be proposed it would have to undergo additional analysis under Forest Services management policy and NEPA and ESA and that “This Forest Service management policy will be employed at a species level in all alternatives to ensure its mandates are achieved and that sensitive species are conserved.”

In addition, the DEIS displayed Table 2.4.2 which is a “Comparison of Environmental Effects by Alternative.”

## **N. Mineral Resources**

---

This section is divided into the following subsections: Effects of designation on Extractive Industries and Errata.

### **Effects of Designation on Extractive Industries**

#### **N1. The Forest Service should protect resources from extractive industries. [6-7].**

**Response:** Mining, logging, and grazing are all multiple-use activities considered to be appropriate land uses on most areas of National Forest System lands. Grazing is discussed in response to comment O1 and timber management is discussed in response to comment R1.

Designating rivers to specifically curtail mining would be inappropriate in most cases and would be misleading. A Wild designation, when appropriate, would not preclude the continuance of existing valid mining claims. Existing and future mining claims would continue. The primary purpose of the Wild and Scenic River Act is to designate rivers to maintain their free flowing character and protect or enhance the outstandingly remarkable values (ORVs) identified for each river. Other existing multiple-use activities should complement these goals. In some cases practices may have to be modified to protect or enhance ORVs, but in most cases designation of a river will have more to do with maintaining the existing environment rather than requiring a dramatic curtailment of existing activities.

#### **N2. Designation would limit mining and oil and gas exploration because designation creates difficulties in meeting the nation’s energy needs. [2-46, 2-51, 2-52].**

**Response:** We agree that oil, gas, and mining activities are important for the local economies of some towns in Utah as well as the energy future of the U.S. Designation will not cause a significant impact on mining activities because no mining will be shut down and there will not be any significant new constraints on the mining activities presently being conducted. Therefore, there will not be any impact on the local economies. See response to comment N1.

#### **N3. Concern the Forest Service should not designate Fish Creek, Bunchgrass, White Pine Creeks because designation would negatively impact current and future oil, gas, and mineral development. [2-53, 3-69, 3-124, 3-130].**

**Response:** Huntington Creek and part of Fish Creek are classified as Recreational. Bunchgrass and White Pine, and the other part of Fish Creek segments are classified as Scenic. Federal lands within the boundaries of river segments, designated and classified as Scenic, or Recreational, are not withdrawn from the mining and mineral leasing laws under the Wild and Scenic Rivers Act. Future Mining claims in designated corridors can be patented only as to the mineral estate and not the surface estate, subject to proof of discovery prior to the effective date of designation. Where the State and Institutional Trust Lands Administration (SITLA) owns both the surface and subsurface there is no limit as private land is

not affected by Wild and Scenic designation.

Federal lands within the boundaries of river segments (generally one-quarter mile from the ordinary high water mark on both sides of the river), designated and classified as Wild, are withdrawn from appropriation under the mining and mineral leasing laws (Section 9 of the Wild and Scenic Rivers Act). No new mining claims or mineral leases can be filed. However, if mines exist within the boundaries of the eligible river segments they would continue to operate, subject to valid and existing rights and would be encouraged to incorporate standards which protect the ORVs.

**N4. The Forest Service should not designate Fish Creek to preserve its viability for gold prospecting. [3-70].**

**Response:** Individuals can pan or suction dredge for gold in designated wild and scenic rivers depending on whether the collecting activity is commercial or non-commercial in nature and subject to river-administering agency regulation. Mining under the 1872 mining law is a commercial and business activity tied to valid existing rights of claims and is regulated as such (36 CFR 228, 43 CFR 3809, 8365, et al.). Non-commercial locatable mineral collecting for recreational purposes (e.g., hobby collecting, rock-hounding, gold panning, sluicing, or dredging) may be authorized by the BLM or the Forest Service depending on the amounts collected, size and scale of activity, resource values impacted, and river management objectives. This collecting is subject to state, local and other federal regulations and would be analyzed in a separate process.

**N5. The Forest Service should not designate Huntington Creek because coal mining operations require crossing Huntington Creek. [3-76b].**

**Response:** Huntington Canyon is currently classified as a Recreational river. Existing and future mining would operate in the corridor, as described in the DEIS on pages 3-81 to 3-82. Holders of mining claims with valid existing rights are allowed to conduct operations necessary for the development, production, and processing of the mineral resource. Mechanical transport, motorized equipment and access to utility corridors may be used after a determination that they are the minimum necessary. However, these activities and the reclamation of all disturbed lands must minimize the effect on the surrounding character of the river. The state highway would continue to be maintained and upgraded with additional river crossings built utilizing construction techniques which protect the river values and free flow (DEIS p 3-95).

**Errata**

**N6. The Forest Service should modify Table 3.6.1 to correctly show whether Carter Creek is recommended under Alternative 5. [5-69].**

**Response:** Thank you. The FEIS has been updated.

## **O. Range/Grazing**

---

This section contains response to comments related to Range/Grazing.

**Range/Grazing**

**O1. The Forest Service should recognize that grazing is incompatible with Wild and Scenic designation. [2-76]. The Forest Service should not designate the Blacks Fork watershed, East Fork**

**Boulder Creek, Fish Creek, West Fork Blacks Fork, Hammond Canyon, Upper Dark Canyon, or Mill Creek because designation could reduce, limit, and negatively affect grazing. [2-78, 3-45b, 3-45d, 3-70h, 3-92b, 6-15, 6-16, 6-17].**

**Response:** In most cases, this is not true. As described in the DEIS, Section 3.7 – Range, on pages 3-84 to 3-91, during the eligibility determination, the National Forests in Utah used classification criteria to determine classification as Wild, Scenic, or Recreational rivers. One attribute, among many, was to look at shoreline development and past or ongoing grazing and agricultural production. In general, for a Wild classification a limited amount of domestic livestock grazing or hay production is acceptable. For a Scenic classification, the presence of grazing, hay production, or row crops is acceptable. For a Recreational classification, lands may have been developed for the full range of agricultural and forestry uses. (FSH 1909.12, Sec. 82.3 – Exhibit 01). Therefore, river segments with grazing may be found eligible and recommended as suitable.

It is not the intent of this process to directly address the management of grazing on National Forest System lands; see the purpose and need for the project in DEIS, pages 1-4 to 1-5. Generally, existing agricultural practices (e.g., livestock grazing activities) and related structures would not be affected by designation. However, if a river segment is designated by Congress, grazing is subject to evaluation during the development of the Comprehensive River Management Plan by the river-administering agencies in order to determine whether such uses and activities are consistent with protecting and enhancing the ORVs. Grazing and other uses can continue if and when consistent with protecting and enhancing river values. If these grazing activities or uses are determined inconsistent, then changes in livestock and/or grazing practices may be required. (Refer to DEIS, Section 3.7 – Range, pages 3-84 to 3-91).

**O2. The Forest Service should designate Whiterocks Canyon and Logan River from its confluence with Beaver Creek to the Idaho state line as Scenic to protect it from damage caused by grazing. [3-16c, 3-100].**

**Response:** See response to comment O1.

**O3. The Forest Service should not designate river segments where the environmental impacts of livestock grazing are of concern because grazing is already regulated by forest plan standards and guidelines. [2-77].**

**Response:** See response to comment O1. Livestock grazing is managed in accordance with existing laws and regulations, each forest's land and resource management plan's standards and guidelines, individual allotment management plans, and annual operating instructions or plans. The Forest Service, as required by the Wild and Scenic Rivers Act and Forest Service policy, is responsible to evaluate potential additions to the National Wild and Scenic River System.

**O4. Designation of a river segment should not directly conflict with preferred management practices in allotment management plans in Alternative 3 because current drought conditions (seven years) and implementation of best management practices have temporarily reduced current livestock numbers which could result in a long-term reduction to livestock numbers. [4-8].**

**Response:** See response to comment O1.

**O5. The Forest Service should include measures and discussion of potential grazing conflicts. [5-40].**

**Response:** See response to comment O1. Currently, there are no grazing activities or uses that have been determined inconsistent with a suitability recommendation that would require changes in livestock numbers and/or grazing practices on the Ashley, Dixie, Fishlake, Manti-La Sal, or Uinta-Wasatch-Cache National Forest. Currently grazing is not impacting ORVs, classification, or “Free-flowing” character and with proper management of grazing these values can be protected. (Refer to DEIS, Section 3.7 – Range, pages 3-84 to 3-91).

**O6. The Forest Service should modify Table 3.3a.1 to correctly show whether the South Fork of Ashley Creek is recommended under any action alternative. [5-68].**

**Response:** Table 3.3a.1 has been corrected.

**O7. The Forest Service should support grazing activities. [6-14].**

**Response:** This comment is outside the scope of the analysis. See the purpose and need for the project in DEIS, page 1-4 to 1-5.

**O8. The Forest Service should consider banning grazing along the Logan River if it degrades stream banks and fisheries. [6-18].**

**Response:** This comment is outside the scope of the analysis. It is not the intent of this process to directly address the management of grazing on National Forest System lands; see the purpose and need for the project in DEIS, Section 1.4 – Purpose of and Need for Action on pages 1-4 to 1-5.

## **P. Roads / Rights of Way / Access / Easements** \_\_\_\_\_

This section is divided into the following subsections: Roads/Right of Way, Access, and Easements - Utility.

### **Roads/Right of Way**

**P1. The Forest Service should ensure that designation would not impede the state’s ability to meet transportation needs. Accordingly, the state is concerned that designating Little Cottonwood Creek, Huntington Creek, Logan River, Lower Logan River, Provo River, Hayden Fork, Beaver Creek, Green River and Lower Main Sheep Creek may impact a state road or U.S. Highway. The state is opposed to any designation that may hinder, delay, or unduly burden the state's ability to maintain and expand the roadway corridor. [2-55, 3-111].**

**Response:** As indicated on page 3-95 of the DEIS existing roads will continue to receive maintenance and bridges, and be replaced and upgraded as necessary. Future state and federal highways or existing state highways within designated corridors may need to modify their construction approach. In the case that one of these rivers were designated the consulting requirements with the Federal Highway Administration (FHWA) for proposed projects involving construction, modification, maintenance, or improvement of roads, bridges, or transportation corridor actions include the following: Federal wild and scenic river-administering agencies need to work with the FHWA pursuant to Section 4(f) of the Department of Transportation Act of 1966 in protecting the values for which the river was designated and in accordance with the river management plan. Any FHWA projects which may affect free flow (i.e., bridges, roadway improvements, etc.) are also subject to evaluation by the river-administering agency under Section 7 of the Act (or in the case of Section 2(a)(ii) rivers, the NPS will evaluate for non-federal

lands).

In some cases the requirements will not change because there are already special requirements. Highway 89 along the Logan River is a good example because it is already designated a National scenic byway, state scenic highway and Forest Service Scenic byway. The net impact of potential constraints has not been quantified. The FEIS will address this issue in descriptive terms because there are so many variables. The FEIS will also address Utah Department of Transportation (UDOT) maintenance activities as well. Generally, the biggest impact with State highway improvements is associated with river crossings. When bridge designs include significant retaining structures of rip-rap upstream of a bridge to protect the under footings, the impact to the free flowing character of the river becomes an issue under Section 7 of the Act. In some cases a Section 7 analysis will preclude or modify a proposed bridge crossing.

**P2. The Forest Service should designate proposed segments of the Logan River to protect Logan River from the effects of auto and truck accidents, to protect the river from careless road maintenance, and to complement the National Scenic Byway status of Highway 89. [3-104, 3-107].**

**Response:** The lower section of the Logan River is classified as a Recreational river due to the fact that Highway 89, a national scenic byway parallels the segment in its entirety and crosses the river several times. Designation of the segment would not change the use of the road nor the ability of UDOT to maintain and improve the road. UDOT may need to modify construction approaches to meet new standards. See response to comment P1.

**P3. The Forest Service should correct the description of the Provo River in Table 3.9.1 to reflect the presence of roads and rights-of-way in the river corridor. [5-66].**

**Response:** Table 3.9.1 only lists existing rights of way. Many roads exist without rights of way on file with the Bureau of Land Management. All roads are covered in more detail in the SERs under transportation.

**P4. The Forest Service should correct erroneous information in the EIS concerning Hammond Canyon related to roads and recognize the longstanding tribal vehicle access route in Hammond Canyon. [5-87, 5-88].**

**Response:** The Manti-La Sal Travel Plan shows no authorized public use road exists within this drainage. Several trails exist. Private land adjacent to the segment may have roads which are not accounted for in the Suitability Evaluation Reports as the Forest Service has no authority to regulate private land. As new information emerges classification of segment can be modified prior to designation as warranted.

**P5. The Forest Service should not designate Bunchgrass Creek, source to mouth because Cache County holds an unresolved right-of-way assertion. [3-124].**

**Response:** No evidence of an unresolved right-of-way assertion was found in the land use records held by the Bureau of Land Management. As new information emerges classification of segment can be modified prior to designation if warranted.

**P6. Designation would affect access to one or two track roads used for maintenance of existing dams, and diversion structures including the embankments, outlet works, spillways, toe drains, etc and the right to store and release the water for irrigation purposes may be affected by designation into the Wild and Scenic Rivers Act. [3-34, 5-75, 6-9].**

**Response:** Previously established rights will not be foreclosed. Special access for permit administration would not be affected as river designation will not affect valid existing rights.

**P7. The Forest Service should correct the descriptions of FDR098 and FDR378 to reflect studies showing that they are not causing erosion. [5-59].**

**Response:** No reference to these forest roads causing erosion was found in the DEIS.

### **Access**

**P8. The Forest Service should not designate Utah's rivers as Wild and Scenic because designation would convert lands to Wilderness eliminating motorized access. [2-47, 6-8].**

**Response:** Designation as a Wild and Scenic River is not the same as Wilderness Designation. As stated on page 3-98 of the DEIS neither a finding of suitability nor designation as Wild and Scenic would in itself restrict or eliminate motorized access. Congressional action to designate would require a comprehensive river management plan be developed within three years of designation. Trails and vehicles could be used or built contingent on congressional intent and river management objectives defined in legislation and through the river planning process. Generally, access routes within the river corridors would continue to be available for public use. However, if that type of use adversely affected the ORVs identified for the river area, the route could be closed or regulated. Acceptability may be determined by historical or valid rights involved, or subject to, specific legislative language, if provided, for motorized use (vehicles or watercraft powered by motors). Motorized use on land or water is best determined by the comprehensive river management planning process and considers factors such as effects (positive or negative) on river values, user demand for such motorized recreation, health and safety to users, and acceptability with desired experiences and other values for which the river was designated (Interagency Wild and Scenic Rivers Coordinating Council Q & A Compendium, 2006).

**P9. The Forest Service should acknowledge that any recommended roadless designation takes into account the need to access lakes and reservoirs to perform annual maintenance and necessary repairs. [2-54]**

**Response:** This comment is outside the scope of the analysis and the decision framework. Designation of roadless areas is not being analyzed in this study nor is a decision being considered. The roadless areas were used in this analysis to analyze the suitability factor involving current management mechanisms already in place, this information is not new to this study.

### **Easements - Utility**

**P10. The Forest Service should not designate Fifth Water Creek to ensure continued access to an existing power line and because a new utility corridor is planned that may need to cross this segment. [3-69c, 3-83, 6-43].**

**Response:** Fifth Water Creek did not meet the criteria for Alternatives 3 through 7. See the ROD for the rationale for the choice of rivers and the selected alternative. As explained on page 3-98 of the DEIS, existing rights of way, as in the utility corridor for the transmission lines over Fifth Water Creek, would continue without modification and future rights of ways on designated segments are possible, however location and construction techniques will be selected to minimize adverse effects on outstanding remarkable values (ORVs).

## **Q. Social and Economic Resources**

---

This section is divided into the following subsections: Social/Economic General and Costs/Administration.

### **Social/Economic General**

**Q1. Designation could impact local economies. [2-33d, 2-34c, 2-41a, 2-46f, 3-5, 3-55c, 3-58, 3-62g, 3-77c, 3-116, 4-24b, 6-4a, 2-34c].**

**Response:** A number of respondents raised concerns about general economic impacts of proposed designations. While some believe that impacts will have positive effects based on support of or increases to local businesses (primarily focused on the direct, indirect, and induced impacts of tourism), others believe that negative effects will result from restrictions placed on water use (primarily focused on project development and agricultural use). A number of respondents raised concerns about the social and economic impact of 1) designation of specific segments, and/or 2) to specific communities. Specific concerns were related to the economic impact of potential restrictions on water sources, rights, flows, and diversions; restrictions on grazing; and restrictions on mining and oil exploration. Social and economic impacts were analyzed in the DEIS, Chapter 3, Section 3.10 – Social and Economic Resources on pages 3-100 to 3-147.

As described in the recently available Utah State University *Final Report: Wild and Scenic River Study* (Keith et al. 2007), while a ‘designation effect’ has yet to be clearly and scientifically demonstrated, a review of the available literature suggests that designation may be a factor that positively influences recreation demand and associated economic benefits. However, no statistically significant recreational effects of designation currently exist; while some studies indicate the presence of a ‘designation effect’, others may reflect general long-term trends or the effects of designation in conjunction with other regulations (e.g., the Endangered Species Act (ESA), National Environmental Policy Act (NEPA)) and area factors such as access and publicity.

Economic benefits, costs, and impacts of designation include the *use benefits* of recreation, tourism, and increased property values; the *non-use benefits* of existence values, vicarious use values, option values, and quasi-option (i.e., preservation or bequest) values; *out-of-pocket costs*, such as increased costs to firms or individuals for a variety of goods and services or reduced property values, and *opportunity costs*, including foregone agricultural, timber, mineral, industrial, or residential development (Keith et al. 2007)

Quantifying the positive and negative impacts to local communities requires consideration of the direct, indirect, and induced (or indirect) effects of potential expenditures in different sections of the economy. However, measuring the benefits, costs and economic impacts of Wild and Scenic River designation is not straightforward. Keith et al. (2007) concluded that river recreation appears to generate significant economic impact (benefits) in most cases. One study of the economic value of designating 11 Wild and Scenic rivers in Colorado concluded that the economic benefits were greater than the projected costs (including estimated losses to timber production, grazing, mining, and water development). Previous studies have shown positive economic impact (e.g. direct recreation expenditures associated with the designation of the Farmington River were estimated to have an economic impact of \$4.2 million (in 2007 dollars and 63 jobs) (in Keith et al. 2007).

The Wild and Scenic Rivers Act requires the protection of water flows, water quality, and outstandingly remarkable values (ORVs) in designated rivers. Existing, valid water rights are not affected by designation. For comments and responses specific to water flows, uses, rights, and restrictions please see response to comments under “S. Water Resources and Other Developments.”

Generally, existing agricultural policies and related structures would not be affected by designation. Activities and practices inside the corridor are dependent on the type of classification (Wild, Scenic, and/or Recreational), the values for which the river was designated, and the land management objectives. Livestock grazing and agricultural activities may, but do not necessarily, continue at levels practiced at the time of river designation. Grazing and other agricultural uses can continue when consistent with protecting and enhancing river values. (Interagency Wild and Scenic Rivers Coordinating Council Q & A Compendium, 2006). According to Keith et al. (2007), wild and scenic river designation has had some effect on public land grazing. These reported effects were varied (including fencing requirements, development of alternative water sources, or reduction in grazing permits), and wild and scenic river designation may be only one of several factors (including management plans, the ESA, and NEPA). For comments and responses specific to agriculture and grazing please see response to comments under “P. Range/Grazing.”

Lands within the boundaries and classified as *scenic* or *recreational* are not withdrawn under the Act from the mining and mineral leasing laws. Federal lands within the boundaries of river areas (in Utah one-quarter mile from the bank on each side of the river) classified as *wild* are withdrawn from appropriation. Existing valid claims or leases within the river boundary remain in effect, and activities may be allowed subject to regulations that minimize surface disturbance, water sedimentation, pollution, and visual impairment. Reasonable access to mining claims and mineral leases will be permitted. For rivers designated as *wild*, no new mining claims or mineral leases can be granted; however, existing valid claims or leases within the river boundary remain in effect, and activities may be allowed subject to regulations that minimize surface disturbance, water sedimentation, pollution, and visual impairment. For rivers designated as *scenic* or *recreational*, filing of new mining claims or mineral leases is allowed but is subject to reasonable access and regulations that minimize surface disturbance, water sedimentation, pollution, and visual impairment. (Interagency Wild and Scenic Rivers Coordinating Council Q & A Compendium, 2006). Keith et al. (2007) determined that, while large-scale mining has not been permitted within corridors, some existing mining leases have continued to operate. However, consideration must be given to the impact of other regulations (such as the Clean Water Act and NEPA), which may have impacts similar or complementary to wild and scenic river designation. For comments and responses specific to mining and oil exploration, please see response to comments under “N. Mineral Resources.”

**Q2. The Forest Service should designate rivers in the spirit of the legislation (to protect local economies, heritage, and lifestyle). [2-35].**

**Response:** The purpose of the Wild and Scenic Rivers Act is to complement the established national policy of dam and other construction at appropriate sections of the rivers of the United States through a policy (the Act) to preserve certain rivers and their immediate environments, to maintain free-flowing condition, to protect water quality, to fulfill other vital national conservation purposes, and to complement the national policy of dams and other natural resource development projects (Interagency Wild and Scenic Rivers Coordinating Council Q & A Compendium, 2006). Alternative 3 recommends a suitable determination be made for 24 river segments including 132 miles classified as Wild, 56 miles classified as Scenic, and 24 miles classified as Recreational, that best represent Utah ORVs while having the least impact to future planned development.

**Q3. The Forest Service should analyze the social, economic, and cultural impacts of designation to adjacent (non-Utah) counties. [5-47, 5-48].**

**Response:** Effects to counties outside Utah are expected to be similar to those described in response to comment Q1. Specific effects are difficult to quantify without actual designations. See DEIS, Chapter 3, Section 3.10 – Social and Economic Resources on pages 3-100 to 3-147.

**Q4. Designation should take place to support local businesses (local economies) and natural resources. [6-34, 3-25g, 3-106c].**

**Response:** As described in response to comment Q1, designation may result in positive direct, indirect, and induced economic impacts to local communities. Section 1(b) of the Wild and Scenic Rivers Act expresses Congressional policy towards the protection of natural resources such that *...certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations.* Designations will protect and enhance values which will provide positive economic benefits as described on page 3-107 of the DEIS.

**Q5. Designation would protect taxpayer owners from exploitive development. [3-18].**

**Response:** Local government entities are encouraged by federal management agencies to provide for the protection of wild and scenic river values in their land use plans, including the use of zoning and other land use control limitations. The federal government does not have authority to control or restrict private land activities under the Act; management restrictions would apply only to National Forest System lands. People living within a river corridor would be able to use their property as they had before designation. The federal government has no power to regulate or zone private lands under the Act. While administering agencies may highlight the need for amendment to local zoning (where state and local zoning occurs), most counties do not support designation, as described in the DEIS on pages 3-143 to 3-147. In the case of proposed development on private land that is clearly incompatible with wild and scenic river designation, classification, or management objectives, the government typically provides technical assistance to find ways to alleviate or mitigate the actual or potential threat(s). (Interagency Wild and Scenic Rivers Coordinating Council Q & A Compendium, 2006).

**Q6. Designation is inconsistent with County General Management Plan(s). [3-45e, 3-47b, 3-48a, 3-49a].**

**Response:** Respondents from Garfield County raised concerns that designation is inconsistent with county plans. The Forest Service considers local plans in their planning processes; however, county plans are not the sole influence on Forest Service planning decisions. See response to comment B26. These comments are noted in the DEIS, Appendix A – Suitability Evaluation Reports and FEIS, Chapter 3, Section 3.10 – Social and Economic Resources.

**Q7. Designation will not negatively affect jobs or sales tax revenues. [3-107e].**

**Response:** Comment noted. See response to comment Q1 for further discussion of general economic impacts of designation.

**Q8. There is a need to acknowledge the regional social and economic implications of water use, needs, and future development. [5-43].**

**Response:** The response to comment Q1 (in this section) describes the current knowledge of social and economic implications of designation to communities.

Existing, valid water rights are not affected by designation. The Act requires the protection of water flows, water quality, and ORVs in designated rivers. Section 13(c) states: “Designation of any stream or portion thereof as a national wild, scenic, or recreational river area shall not be construed as a reservation

of the waters of such streams for purposes other than those specified in this Act, or in quantities greater than necessary to accomplish these purposes.” Interstate compacts (Section 13(e)) are protected and are not affected by legislation. (Interagency Wild and Scenic Rivers Coordinating Council Q & A Compendium, 2006). For comments and responses specific to water flows, uses, rights, and restrictions please see response to comments under “S. Water Resources and Other Developments.”

**Q9. Acquisition of private land and effects on County tax base. [3-70e].**

**Response:** Wild and scenic river designation allows for acquisition, however, there are no plans to purchase private land in conjunction with the designation process. Therefore, there will be no effect on the County tax base. The federal government does not have authority to control or restrict private land activities under the Act; management restrictions would apply only to public lands. People living within a river corridor would be able to use their property as they had before designation. See response to comment Q5.

**Q10. The Forest Service should fully address economic and property rights issues related to suitability determinations (including water projects on connected segments, private property rights, and conflict with local county policies). [5-42].**

**Response:** The response to comment Q1 (in this section) describes the current knowledge of social and economic implications of designation to communities. See also responses to comments Q5 and Q9.

The Wild and Scenic Rivers Act requires the protection of water flows, water quality, and ORVs in designated rivers. Existing, valid water rights are not affected by designation. For comments and responses specific to water flows, uses, rights, and restrictions please see response to comments under “S. Water Resources and Other Developments”.

There are no plans to purchase private land in conjunction with the designation process. The federal government does not have authority to control or restrict private land activities under the Act; management restrictions would apply only to public lands. People living within a river corridor would be able to use their property as they had before designation. Described in the DEIS on pages 1-15 to 1-16.

The FEIS, Section 3.10 – Social and Economic Resources, Table 3.10.45 - Consistency or inconsistency with social/economic aspects of county plan and or goals will be updated and Appendix A – Suitability Evaluation Reports will be updated in the FEIS.

**Q11. Inadequacy of analysis regarding the significance of agriculture (and related water uses), social and political factors, and impacts to health, safety, and welfare of citizens. [5-44, 2-99, 3-142b].**

**Response:** Controversy exists in wild and scenic river studies. The management of public lands generally takes place within a context of competing interests and values related to their use. The final recommendation as to whether a particular segment should or should not be recommended is determined only after a complete evaluation, public review, and impact analysis. The Forest Service has conducted scoping, public meetings, and sought comments from the public regarding the proposed alternatives as described in the DEIS on pages 1-11 and response to comments B3 and B7.

The FEIS, Section 3.10 – Social and Economic Resources, Table 3.10.45 - Consistency or inconsistency with social/economic aspects of county plan and or goals will be updated and Appendix A – Suitability Evaluation Reports will be updated in the FEIS.

For general social and economic impacts, see response to comment Q1 (this section). For comments and responses specific to agriculture and water, see response to comments under “S. Water Resources and Other Developments” and “O. Range/Grazing.”

**Q12. The Forest Service should re-evaluate socioeconomic impacts to reflect different values for front- and back-county visitation. [5-41].**

**Response:** The county description has been modified to reflect additional information provided in the FEIS.

**Q13. The Forest Service should amend the Social and Economic Resources section to discuss Fall and Oweep Creeks. [5-49].**

**Response:** The DEIS reflects the suitability evaluation reports that combined analysis and discussion of Upper Rock Creek with Fall Creek and of the combined Upper Lake Fork River, including Ottoson and East Basin Creeks and Oweep Creek. Fall Creek was analyzed in the DEIS on pages 3-144, and 3-122 to 3-124 and in Appendix A – Suitability Evaluation Reports on pages A-110 to A-118. Oweep Creek was analyzed in the DEIS on pages 3-114 and 3-122 to 3-124, and in Appendix A on pages A-127 to A-135.

**Q14. The Forest Service should modify the description of Sanpete County. [5-85].**

**Response:** The county description has been modified to reflect additional information provided in the FEIS.

**Costs/Administration**

**Q15. Cost of designation. [2-25, 2-47, 2-81, 2-83].**

**Response:** A number of respondents raised concerns about the costs of designation. While some believe that federal funds should not be spent on suitability studies, wild and scenic river designation, or associated plans; others believe that cost considerations should not be part of the designation criteria.

Some respondents were concerned with the cost of acquiring private land; there are no plans to purchase private land as part of the designation process.

It is understandable that some people would not find the Wild and Scenic River program a priority for their tax dollars. However, other people do find it important, and as a federal land management agency, we are directed to address the land use question of whether any rivers under our jurisdiction are eligible, and, if so, if they are suitable for recommendation to Congress.

**Q16. The Forest Service should not spend tax dollars on unnecessary regulations because the national debt is already too great. [2-82].**

**Response:** It is understandable that some people would not find the Wild and Scenic River program a priority for their tax dollars. However, other people do find it important, and as a federal land management agency, we are directed to address the land use question of whether any rivers under our jurisdiction are eligible, and, if so, if they are suitable for recommendation to Congress. The Forest Service does not regulate private land use.

**Q17. Sharing of funding/administration costs and responsibility. [2-84a, 2-86, 2-87, 2-88, 2-89, 3-45h, 3-46c, 3-47a, 3-47d, 3-48d, 3-49d, 3-50c, 3-51d, 3-52c, 2-90, 2-91, 2-92, 2-93, 2-94, 2-95, 2-96, 2-**

97, 3-68f, 3-107c, 3-108].

**Response:** The extent to which the administration of the river, including the costs thereof, can be shared by state, local, or other agencies and/or individuals is one of the suitability factors to be considered in the evaluation and determination process. Some respondents (Table Q17a) indicated that they would not be willing or able to share in the administrative costs and/or responsibilities, should the listed segments be designated. Other respondents indicated willingness to and interest in partnerships for sharing management responsibilities and costs (Table Q17b). Still other counties/entities have expressed support for designation but have not indicated the extent to which they might participate in funding/administration costs and other responsibilities.

As a Federal land management agency, the Forest Service is directed to address the land-use question of whether the rivers under our jurisdiction are eligible and, if so, if they are suitable for recommendation to Congress as part of the wild and scenic river system. While initial planning costs may be high, they are a one-time investment. Much of the costs of ongoing management will be already budgeted under existing operating conditions.

**Table Q17a. The following counties will not share in administration costs or responsibilities.**

County/Entity	Segment
Emery	Any
Garfield	East Fork Boulder Creek Pine Creek Mamie Creek Death Hollow Creek Slickrock Canyon Cottonwood Canyon The Gulch Steep Creek
San Juan	Mill Creek Hammond Canyon
Sanpete	Fish and Gooseberry Creeks
Wasatch	Provo River Little Deer Creek

**Table Q17b. The following organizations may potentially share in funding/administration costs or responsibilities.**

County/Entity	Segment
Trout Unlimited Cache Valley Anglers Utah Rivers Council	Logan River System
Utah Rivers Council	Fish Creek and Gooseberry Creek

**Q18. The Forest Service should not select Alternative 5 because the potential implementation/associated costs are too high. [2-34d, 4-53b]. The Forest Service should select Alternative 2 to avoid the costs of preparing comprehensive river management plans and other administrative costs. [4-24d]. More specifically, the Forest Service should not designate Gooseberry Creek, Huntington Creek, Logan River, Hammond Canyon because this is not the best use of limited agency funds [3-71a]; because funding sources for implementation are uncertain [3-76d], because it would be costly and unnecessary [3-110], and because the lack of financing could result in protection of cultural resources being compromised [2-84b].**

**Response:** It is understandable that some people would not find the Wild and Scenic River program a priority for their tax dollars. However, other people do find it important, and as a federal land management agency, the Forest Service is directed to address the land use question of whether any rivers under our jurisdiction are eligible, and, if so, if they are suitable for recommendation to Congress.

Congress has frequently added wild and scenic river status to rivers flowing through national parks, national wildlife refuges, and designated wilderness. Each designation recognizes distinct values for protection and generally do not conflict. (Interagency Wild and Scenic Rivers Coordinating Council Q & A Compendium, 2006).

The Forest Service recognizes that there is an investment in the development of river management plans and in the ongoing management of Wild and Scenic Rivers in Utah. However, the planning costs are a one-time investment, and commensurate with the resource values to be protected for the long term. Further, current management of the areas proposed for wild and scenic river designation is already budgeted to some degree under existing operations and management. As federal land managers, the Forest Service has a responsibility to evaluate potential eligibility and suitability of these rivers, and to manage them in accordance with the Act, should designation take place.

**Q19. The Forest Service should include evaluating potential cost savings from developing management plans that would address multiple rivers in the same wilderness or roadless area. [5-45].**

**Response:** Congress has frequently added wild and scenic river status to rivers flowing through national parks, national wildlife refuges, and designated wilderness. Each designation recognizes distinct values for protection and generally do not conflict. Thus, in many cases there may be no practical effect. However, laws like the Wilderness Act do allow certain activities in designated wilderness which may be incompatible on a wild and scenic river. Agencies are required by policy and law to evaluate potential additions to the National System located in wilderness. Section 10(b) of the Act addresses potential conflicts between the Wilderness Act and the Wild and Scenic Rivers Act and states, in cases, where this occurs, the more restrictive provisions would apply (Interagency Wild and Scenic Rivers Coordinating Council Q & A Compendium, 2006).

The development of management plans will reflect consideration of cost savings possible in addressing multiple rivers where appropriate. Section 3.10 – Social and Economic Resources of the DEIS presents examples of this consideration in pages 3-108 through 3-111, where estimated costs for each Alternative reflect savings of 20-40% from stand-alone costs are projected, due to economies of scale resulting from combined planning and administration processes.

**Q20. The Forest Service should not designate Gooseberry Creek because acquiring the land would be costly. [3-71b].**

**Response:** There are no plans at this time to acquire privately held land.

## **R. Timber Harvest**

---

This section contains responses to comments related to timber harvest.

### **Timber Harvest**

**R1. The Forest Service should not designate Utah's rivers as Wild and Scenic because timber should be actively managed to protect the base of timber that should be harvested to control the pine beetle epidemic [2-45b] and to preserve the Wasatch-Cache National forest by conserving the timber industry [2-45a]. More specifically, the Forest Service should not designate West Fork Blacks Fork because the timber in the area should be actively managed. [3-92a].**

**Response:** As described in the DEIS, Section 3.11 – Timber Harvest on pages 3-150 to 3-151, if timber harvesting activities are proposed on Federal land adjacent to the eligible river segment, it would be analyzed in a separate NEPA document, outside of this process. Federal and state regulations which protect wildlife, visual values, water quality, etc., may prohibit timber harvesting from streamside areas regardless of whether or not a river is designated.

Following designation of a river segment, timber management practices would be evaluated during comprehensive river management plan by the river administering agency. Harvesting practices on federal lands located within wild and scenic river corridors must be designed to help achieve land-management objectives consistent with the protection and enhancement of the values which caused the river to be added to the National System. Federal timber management activities outside the wild and scenic river corridor will be designed to not adversely affect the values which caused the river to be designated. Values such as water quality, scenery, and riparian-dependent resources would be considered. Wild and Scenic River designation is not likely to significantly affect timber harvesting or logging practices beyond existing limitations to protect riparian zones and wetlands which are guided by other legal mandates and planning direction.

**R2. The Forest Service should allow for removal of conifers and aspen rejuvenation within designated segments to reduce the risk of catastrophic fires and improve the outstandingly remarkable values (ORVs) and the quality and quantity of water flows. [6-13].**

**Response:** See response to comment R1. If timber harvesting activities are proposed on Federal land adjacent to the eligible river segment, it would be analyzed in a separate NEPA document, outside of this process. Following designation of a river segment, timber management practices would be evaluated during comprehensive river management plan by the river administering agency.

**R3. The Forest Service should not designate river segments where the environmental impacts of timber harvesting are of concern because timber harvesting is already otherwise regulated. [2-79].**

**Response:** See response to comment R1.

**R4. The Forest Service should actively manage the Wasatch National Forest because it is infested with beetles and needs thinning. [6-12].**

**Response:** Thinning/timber harvesting projects are outside the scope of this analysis. See the purpose and need for the project in DEIS, page 1-4 to 1-5.

## **S. Water Resources and Other Developments** \_\_\_\_\_

This section contains responses to comments related to water including Water Quality/General, Flow, Water Developments, and Water Rights.

### **Water Quality/General**

**S1. The Forest Service should move forward with Wild and Scenic River recommendations to protect water quality, quantity, and water resources. [2-33a, 5-27, 6-27].**

**Response:** Congress declared its intent to protect the water quality of rivers added to the National System in Section 1(b) of the Wild and Scenic Rivers Act. Congress further specified that the river-administering agencies cooperate with the EPA and state water pollution control agencies to eliminate or diminish water pollution (Section 12(c)).

As noted in the DEIS, Section 3.12 – Water Resources and Development environmental consequences section, implementation of any alternative would not have a negative impact on water quality or Drinking Water Source Protection Zones (DWSPZs) because there would be no change to current management in accordance with the Clean Water Act; Environmental Protection Agency (EPA) standards; Utah Water Quality Act and Utah Code R309-605-7/8; Colorado law, Title 25-8 and The Colorado Water Quality Act; Wyoming law, Title 35-11, The Wyoming Environmental Quality Act and Wyoming Water Quality Rules and Regulations. The DEIS analysis identified streams that have water quality impairments and stream segment corridors that are within DWSPZs to track areas that need to be managed for water quality in the long-term comprehensive river management plan for the segment if found suitable (DEIS, pages 3-157 to 158).

The Forest Service’s obligation to protect water quality in Wild and Scenic Rivers requires compliance with the Clean Water Act or nondegradation of existing quality, whichever is more protective. The obligation is to develop and implement management actions that protect and enhance water quality. Such actions may include partnerships with local and state agencies and water conservation districts. Further, the administering agencies should develop an appropriate level of water quality monitoring.

**S2. The Forest Service should move forward with Wild and Scenic River recommendations to protect forests and water quality from development interests such as mining and timber harvest. [2-65].**

**Response:** This comment refers to the restrictions on development inherent to the Wild and Scenic Rivers Act that could be used as an additional layer of protection for water quality and preserving the surrounding watershed from development such as mining and timber harvest. Water quality is discussed in response to comment S1, Mining is discussed in response to comment N3, and timber management is discussed in response to comment R1.

**S3. The Forest Service should not designate river segments where environmental impacts of existing water resource development are a concern because they are already adequately protected by the by the Utah Water Quality Act and EPA standards. [2-62].**

**Response:** See response to comment S1.

**S4. The Forest Service should move forward with Wild and Scenic River recommendations to manage watersheds adjacent to and upstream of each designated river. [2-69].**

**Response:** This comment relates to how river segments on the Manti-La Sal National Forest should be managed once designated. The respondent desires that the future management of the designated stream include the watershed upstream of and the adjacent watersheds for best protection of designated river values. Alternatives 3 through 6 include the recommendation of suitability of streams from the Manti-La Sal National Forest, the future management of watershed areas of designated streams is not within the scope of this study or decision framework, but is described on page 2-14 in the section titled Future Actions Associated with Designation (Alternatives 3 through 7). See the Record of Decision (ROD) for the rationale for the choice of rivers and the selected alternative.

## **Flow**

**S5. The Forest Service should analyze the effects on stream flow, water yields, and timing. [5-27].**

**Response:** The respondent is concerned that the Forest Service is not consistent with the State of Utah's prerequisite outlined in Section 63-38d-401 (5)(c).(b.) of the Utah Code Annotated that requires that any proposed action or non-action that results in a decrease in water quality, quantity, or flow, or changes the timing of flows in a way that negatively affects water rights, shall be opposed. See response to comment B18. Water quality is discussed in response to comment S1.

There have been several comments regarding the definition of flow, the effects of designation on flow of water within the segment and how regulation of flows through a segment would affect the suitability of the segment. For a stream to be considered in this suitability study, it first had to be considered by the National Forest as eligible. To be eligible, a stream must be free-flowing and have an associated outstandingly remarkable value (ORV). All of the streams in this suitability study are considered to be free-flowing as evaluated by their respective Forests. As directed by the Forest Service Handbook (FSH 1909.12 Chapter 82.13), there are no Forest Service requirements concerning minimum flows for an eligible segment. In the DEIS, flows are considered sufficient for eligibility if they sustain or complement the ORVs for which the river would be designated. The list of these streams by Alternative is found on in the DEIS on pages 3-176, 3-180, 3-182, 3-184, 3-187. For more details about the rationale for recommending or not recommending certain segments as suitable, please refer to the ROD. Responses to comments concerning the Forest Service's direction and authority to evaluate flow and the fact that this direction and authority is different than the State of Utah's evaluation requirements see response to comment S6.

The effects of designation on flow of water through the segment, water yield and timing are discussed in the water rights section of the DEIS in Appendix E – Valid Existing Water Rights, page i. The Wild and Scenic Rivers Act creates a federal reserved water right for a quantity of water sufficient to meet the purposes of the Act on designated river segments. The Forest Service would have the responsibility of preserving each designated segment in its free-flowing condition to protect its ORVs. The quantity of water necessary to fulfill that responsibility would be determined through assessments of instream flow needs.

A federal reserved water right for a Wild and Scenic river would be a non-consumptive water right. As such it would not impair future downstream appropriations, and arguably would protect and enhance them. Designation as a Wild, Scenic, and/or Recreational river would not affect existing, valid water rights. A new federal reserved water right asserted by a Wild and Scenic River designation would be junior to all valid existing rights. This action would have no impact on existing water rights whether upstream or downstream because it would be junior to any existing right. Appendix E contains maps identifying current valid existing water rights in the proposed Wild and Scenic River segments were created using the Utah Division of Water Rights (UDWRT) Water Right Points of Diversion GIS data available for download from the UDWRT website. This information has been provided for this analysis by the UDWRT and in cooperation with this study; the UDWRT has provided an online mapserver to easily view and access all of the water right information that is related to this study. It is available at: <http://utstnrwrt6.waterrights.utah.gov/mapserver/wildscenic/startup.htm>. For more information specific to water rights concerns, see the responses to water rights concerns at the end of this section.

**S6. The Forest Service should modify page 3-184 to correct the apparent inconsistency regarding whether Alternative 5 includes rivers that do not meet the State of Utah's prerequisite of having water present and flowing. [5-65].**

**Response:** The respondent is concerned that the Forest Service is not consistent with the State of Utah's

prerequisite outlined in Section 63-38d-401 of the Utah Code Annotated that requires that water be present and flowing at all times. The DEIS documents this inconsistency in evaluation requirements for flow because of the difference between the State's and Forest Service's direction on this issue. This difference in direction stems from the fact that the Forest Service is following the Wild and Scenic Rivers Act and Forest Service direction for evaluation of rivers, and the State of Utah is following its own direction on flow and evaluation of rivers, not the Federal direction for flow. Under FSH 1909.12 Chapter 82.13, there are no specific requirements concerning minimum flows for an eligible segment. Flows are considered sufficient for eligibility if they sustain or complement the ORVs for which the river would be designated. The discussion of flow characteristics of studied river segments on page 3-152 will be updated to clarify how the Forest Service evaluated flow as directed by the Forest Service Handbook. See response to comment B18.

Discussion in the DEIS, Chapter 3 – Affected Environment and Environmental Consequences section describes the known differences between the Forest Service's evaluation process as directed by the Wild and Scenic River Act and the State of Utah's process for evaluation of rivers under Section 63-38d-401 of the Utah Code Annotated and is specifically identified as Issue 6—Conflicts with state, county, and local government plans. The information used in this analysis is from Appendix A – Suitability Evaluation Reports, suitability factor 4, and the physical description of river segment section and is compiled in Table 3.12.1, flow regimes of Wild and Scenic River segments (perennial, intermittent, or ephemeral). The measurement indicator for consistency with Section 63-38d-401 of the Utah Code Annotated is miles of stream by Alternative that do not meet the Utah Code criteria for having water present and flowing at all times. The list of these streams by Alternative is found on pages 3-176, 3-180, 3-182, 3-184, 3-187. For more details about the rationale for recommending or not recommending certain segments as suitable, please refer to the ROD.

**S7. The Forest Service should not designate certain rivers because water is not present and flowing at all times. The Forest Service should add river segments to the Wild and Scenic River system only when it is clearly demonstrated that water is present and flowing at all times of the year. [2-66]. More specifically, the Forest Service should not designate Ashley Gorge Creek, Black Canyon, Mamie Creek, Moody Wash, Cottonwood Canyon, Slickrock Canyon, Chippean and Allen Canyons, Hammond Canyon, Death Hollow Creek, Lower Dark Canyon, Upper Dark Canyon, Miners Basin, Henry's Fork, Lower Dry Fork Creek, East Fork Boulder Creek, Pine Creek, or White Pine Creek because a clear showing that water is present and flowing at all times has not been made for these rivers or the segments have limited flow. [3-8, 3-38b, 3-46a, 3-48b, 3-49b, 3-50b, 3-62e, 3-143, 3-130, 3-135a, 3-32b, 3-45f].**

**Response:** This concern is related to S5, and a clarification of the flow requirements used in this study will be added to the FEIS. Under FSH 1909.12 Chapter 82.13, there are no Forest Service requirements concerning minimum flows for an eligible segment as directed by the Forest Service Handbook. In the DEIS, flows are considered sufficient for eligibility if they sustain or complement the ORVs for which the river would be designated. The list of these streams by Alternative is found on pages 3-176, 3-180, 3-182, 3-184, 3-187. For more details about the rationale for recommending or not recommending certain segments as suitable, please refer to the ROD.

**S8. The Forest Service should not designate stream segments because they are not free-flowing. The Forest Service should not designate Lower Main Sheep Creek [3-4], Whiterocks Canyon [3-19c], Upper Whiterocks River [3-20c], East Fork Whiterocks River [3-22c], Green River [3-28b], Shale Creek [3-35], Little Provo Deer Creek [3-80c], Garfield Creek [3-37], Moody Wash [3-43d], or Dark Canyon [3-54a] because these segments are not free flowing. The Forest Service should reconsider suitability for Lower Dry Fork Creek because it is not free flowing, provides municipal and industrial water. [3-32a].**

**Response:** These comments indicate an opposition to certain rivers being studied and potentially found suitable because they disagree with the Forest Service's characterization of certain streams as being free-flowing streams. As defined in the DEIS, Chapter 5 – Glossary, page 5-9, the term free-flowing, as applied to any river or section of a river, means existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence, however, of low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the national wild and scenic rivers system shall not automatically bar its consideration for such inclusion: Provided, That this shall not be construed to authorize, intend, or encourage future construction of such structures within components of the national wild and scenic rivers system (WSR Act, Section 16(b)). A river can be considered free-flowing when the flow is dependent on releases from a dam. Congress and the Secretary of the Interior have designated many river segments which are above or below dams.

Many of these comments relate to the presence of small diversions or low dams, or to the lack of perennial flow in the stream. The Forest Service recognizes that these cases exist and has analyzed the effects of these cases as shown in the discussion of flow characteristics, DEIS pages 3-152 to 3-155, and the discussion of existing water developments pages 3-158 to 3-167. For more details about the rationale for recommending or not recommending certain segments as suitable, please refer to the ROD.

**S9. The Forest Service should designate Fish and Gooseberry Creeks to maintain their free-flowing condition. [3-65].**

**Response:** This comment relates to how designation under the Wild and Scenic River Act could maintain flow in Fish and Gooseberry Creek by precluding further water development in the drainage with the proposed the Gooseberry Narrows project, which is proposed to remove water from Gooseberry Creek above Lower Gooseberry Reservoir and reduce flows within the segments identified in this DEIS. Fish and Gooseberry Creeks are found suitable in Alternatives 4 and 6 (See DEIS, Table 3.12.4, page 3-170 and Appendix A – Suitability Evaluation Reports on pages A-309 to 322). See the ROD for the rationale for the choice of rivers and the selected alternative.

**S10. The Forest Service should designate proposed segments of the Logan River because designation is the only protection that specifically ensures that the river will remain free flowing permanently. [3-104d].**

**Response:** A suitable determination for Logan River is being recommended in Alternatives 3 and 6. Appendix A – Suitability Evaluation Reports contains a description of Logan River on pages A-508 through A-523. See the ROD for the rationale for the choice of rivers and the selected alternative.

**Water Developments - General**

**S11. The Forest Service should consider that some of the proposed water developments listed in the DEIS, Table 3.12.4 are not reasonably foreseeable projects and should revise its definition of reasonably foreseeable to properly reflect what projects are in fact reasonable and foreseeable. [2-8, 5-4, 2-63]. More specifically, the Forest Service should find all eligible rivers in the Uinta Mountains suitable for designation because there are no reasonably foreseeable development projects on these rivers. [3-78].**

**Response:** This comment takes issue with the definition of reasonably foreseeable as used in the DEIS as it relates to water development projects. As noted in the FEIS, reasonably foreseeable future projects are those Federal or Non-Federal projects not yet undertaken that are based on information presented to the

Wild and Scenic Rivers Interdisciplinary Team which includes: completed and approved plans, project documents that are in the final stages of the NEPA process (e.g., final or draft environmental impact statement or an environmental assessment), or projects that are documented as ready to implement. Where no scoping or DEIS comments were received during the comment periods by the Wild and Scenic Rivers Interdisciplinary Team related to specific water development projects the decision makers concluded that projects were not reasonably foreseeable. Chapter 3, Section 3.12 – Water Resources and Water Developments, Table 3.12.5 provides a list of reasonably foreseeable water development projects and has been updated in the FEIS. For more details about the rationale for recommending the rivers and why others were not recommended, please refer to the Record of Decision.

**S12. The Forest Service should recommend segments that are in conflict with water developments; because too many rivers in Utah have already been compromised by water development projects; and to provide permanent protection to the rivers and waters themselves. [2-37, 2-67, 2-40i] The Forest Service should not use potential future water development projects as a criterion for excluding rivers from protection because: potential for development is an inappropriate decision premise; these rivers should be protected; and not all development projects should be built. [2-68a, 2-68b, 2-68c].**

**Response:** As noted in the DEIS, existing and reasonably foreseeable future water developments were analyzed and were a driving issue for creating Alternative 3 and 4. The DEIS has identified stream segments with existing and potential water developments, has analyzed the possible effects of water developments of these segments if found suitable and has also analyzed the possible effects of designation on the water developments (see DEIS pages 3-158-187). Stream segments that may be in conflict with existing or potential water developments are identified in Tables 3.12.3-3.12.9. This issue has been a major issue in this analysis and these stream segments are specifically identified and analyzed in Alternative 4.

**S13. The Forest Service should not recommend segments that are in conflict with water developments. More specifically, the Forest Service should select Alternative 2 because Alternative 1 would postpone decisions and Alternatives 3, 5, and 6 would hamper water development projects. [4-24e]. The Forest Service should analyze the impacts on water resource management facilities downstream from the proposal. [5-28].**

**Response:** This comment is related to a concern that the Forest Service, by recommending rivers as Wild, Scenic, or Recreational as suitable, the Forest Service would negatively impact existing and potential water resource developments. As noted in the DEIS, existing and reasonably foreseeable future water developments were analyzed and were a driving issue for creating Alternatives 3 and 4. The DEIS has identified stream segments with existing and potential water developments, has analyzed the possible effects of water developments of these segments if found suitable and has also analyzed the possible effects of designation on the water developments (see DEIS pages 3-158-187). Stream segments that may be in conflict with existing or potential water developments are identified in Tables 3.12.3-3.12.9. This issue has been a major issue in this analysis and these stream segments are specifically identified and analyzed in Chapter 3 and Alternative 4. See response to comments regarding reasonably foreseeable future water developments in response to comment S11. For more details about the rationale for recommending the rivers and why others were not recommended, please refer to the Record of Decision.

**S14. The Forest Service should disclose in the EIS which segments have existing and potential water development projects and the management challenges associated with each because the lack of this information precludes readers from weighing the costs and benefits of designation. [2-64, 5-30].**

**Response:** This comment is related to a concern that the Forest Service has not recognized existing and potential water resource developments and that they should do so during the suitability evaluation process. This information was disclosed in Chapter 3 of the DEIS, Section 3.12 – Water Resources and Water Developments. The Water Developments section listed all of the known existing and potential water developments related to the study segments. One purpose of the suitability study is to analyze the role that these eligible streams have in context with the existing and potential water development projects. This EIS analysis helps the decision makers determine where there are critical conflicts of interest for management of streams if determined suitable. There are streams in this study that have reasonably foreseeable water developments that would, if the segment was found suitable preclude the project, or if not found suitable, the project may jeopardize the outstandingly remarkable value of that stream. The decision makers must evaluate these trade-offs between managing a stream to fully protect its intrinsic outstandingly remarkable value as a national resource, or to allow the possibility of future development of the water resource value.

Analysis in the DEIS was based on the location of water projects as described using different sources of information which include: the individual Forest's eligibility studies (this information was the basis for Appendix A – Suitability Evaluation Reports), initial scoping letters from June 2007, topographic maps, the Narrows Project EIS, withdrawal reports from the CUWCD, existing withdrawal GIS data from the Bureau of Reclamation (Provo Office), existing withdrawal GIS data from the Ashley National Forest (produced by the Bureau of Reclamation for their Wild and Scenic Rivers eligibility study), the Utah, Wyoming, and Colorado State Water Plans for related drainage basins. The analysis for water developments in the DEIS was limited by available information that was provided to the Wild and Scenic Rivers Interdisciplinary Team during scoping and prior to the DEIS release in November 2007.

Water developments, both existing and potential, that are located on the segment, upstream, downstream, or a combination of where there are multiple projects in the drainage basin are identified in Tables 3.12.3 and 3.12.4 of the DEIS and were analyzed using information related to location of the projects and the proximity to the studied stream segments. The potential effects of suitability on existing and potential water developments include maintenance of flow through the suitable WSR segment to protect the river related ORV. Therefore, for segments with water developments on the segment and upstream of the segment that divert water away from the segment or that control the release of flow through the segment may not be able to further lower flows that would result in a negative impact to river related ORVs. Water developments that import water into or upstream of the segment may not be able to further increase flows through the segment that would result in negative effects to the ORVs. Water developments downstream of a segment that the segment may flow into which may include dams and reservoirs may not further inundate the stream segment that would result in negative effects to the ORVs. Tables 3.12.6 through 3.12.9 discuss the possible effects to WSR segment ORVs if segments with water developments are not found suitable and there are no WSR specific regulations to potential water development by alternative.

The reality of how each water development described in this section affects the stream segment is unique and is specific to the location, the stream, the flow, and the time of year, and the operation of the water development. Therefore this discussion is general in that it shows the stream segments and the general location of the water developments within the drainage.

New information received during the 2008 DEIS comment period will be added to the water developments analysis in the FEIS, where it applies to describe specific impacts of existing and potential water developments on WSR Study Rivers or impacts of designation on existing and potential water developments. This new information may result in changes to Table 3.12.3 which lists streams with existing water developments and Table 3.12.4 which lists streams with potential water developments.

As noted in the FEIS, reasonably foreseeable future projects are those Federal or Non-Federal projects not yet undertaken that are based on information presented to the Wild and Scenic Rivers Interdisciplinary Team which includes: completed and approved plans, project documents that are in the final stages of the NEPA process (e.g., final or draft environmental impact statement or an environmental assessment), or projects that are documented as ready to implement. Potential water developments were reviewed and a determination of whether a potential water development was reasonably foreseeable according to the definition is provided in the FEIS, Chapter 3, Section 3.12 – Water Resources and Water Developments, Table 3.12.5.

**S15. The Forest Service should reconsider the potential impacts of designation to valid existing water rights and to existing and potential water developments. [5-21].**

**Response:** Water rights are discussed under response to comments S73 and S75. Existing and potential water developments are analyzed in the DEIS, Chapter 3, Section 3.12 – Water Resources and Other Water Developments and response to comment S14.

**S16. The Forest Service should not limit its consideration of impacts on water development projects to those immediately upstream or downstream of an eligible segment because impacts are likely to be more far reaching. [5-28, 5-29]**

**Response:** Existing and potential water development projects, both upstream and downstream that are within the WSR segment’s drainage and that were relevant to evaluating the effects of a suitable recommendation were analyzed in the DEIS in Section 3.12 – Water Resources and Water Developments and response to comment S14. Examining other water development projects outside the Forest Service’s boundary and authority is not within the scope of this analysis.

**S17. The Forest Service should require agencies to defend proposed water projects because it would allow for fair valuation of ORVs compared to development. [6-26].**

**Response:** During the scoping process some agencies that manage existing and have plans for future water development projects produced new information that will help determine which are to be further considered reasonably foreseeable projects. The State of Utah, Division of Water Resources has re-evaluated its list of potential water developments and has removed the potential water developments related to the Logan River, Beaver Creek (Cache County), and East Fork Bear River.

**S18. The Forest Service should not recommend a segment for designation if the State of Utah has identified reasonably foreseeable development of water resources to comply with the Forest Service Handbook. [2-7].**

**Response:** The Forest Service Handbook recognizes that a suitability recommendation involves an assessment of and decision regarding alternatives foregone because of designation. In particular, the suitability determination should consider whether one or more alternative uses are important enough to override the need for designation. Part of this assessment considers the existence of a “demonstrated commitment to protect the river by any nonfederal entity that may be partially responsible for implementing protective management” (FSH 1909.12, Sec. 82.4).

The DEIS has identified stream segments that may be in conflict with alternative uses. Stream segments that may be in conflict with existing or potential water developments are identified in the DEIS, Tables 3.12.3 to 3.12.9. This issue has been a major issue in this analysis and these stream segments are specifically identified and analyzed in Alternative 4.

The Forest Service reviewed information submitted by the State and other agencies and determined if these projects were reasonably foreseeable. For a definition of reasonably foreseeable, see response to comment S11. The State of Utah submitted a letter during the DEIS comment period that included a list of proposed reservoirs in conflict with designation. This letter removed segments from the original list sent during scoping (Beaver Creek (Logan) and Logan River segments). These have been updated in the FEIS.

**S19. The Forest Service should include in the DEIS discussion of whether any of the specified upstream potential projects would “unreasonably diminish” river values. [4-7].**

**Response:** Stream segments that may be in conflict with existing or potential water developments are identified in Tables 3.12.3-3.12.9. This issue has been a major issue in this analysis and these stream segments are specifically identified and analyzed in Chapter 3 and Alternative 4.

**S20. The Forest Service should correct the DEIS to reflect that the locations of withdrawn land were provided to the Forest Service in 2007. [5-57]**

**Response:** Information provided during the scoping comment period describing existing and potential water developments was provided by the Bureau of Reclamation (BOR), Central Utah Project (CUP), Provo River Water User’s, Central Utah Water Conservancy District (CUWCD). This information was general in nature and did not describe the locations of these water developments in relation to the segments, and most of the projects were located off National Forest System Lands. Some members of the Wild and Scenic Rivers Interdisciplinary Team met with the BOR to get more information on water development projects and information July 2007, February 2008, and July 2008.

The only information that was provided by the Bureau of Reclamation (BOR) at the July 2007 meeting consisted of maps of the Moon Lake project and Hades Tunnel. Detailed location information for potential water projects was not produced at this meeting, but was requested by the Wild and Scenic Rivers Team after the meeting in July 2007. GIS information of existing BOR water developments was provided following the July 2007 meeting by Troy Ethington, Bureau Geographer, Provo Office. The GIS locations were used to describe the existing water developments in the DEIS in Table 3.12.3. Upon request by the WSR Team in August 2007, Susan Sutherland from the CUWCD sent a packet containing withdrawal location information (legal descriptions). The information that was provided, but after review none of these projects appeared to be on any of the proposed WSR segments. This withdrawal information was used in the production of Tables 3.12.3 and 3.12.4 and used in the analysis and is denoted in the DEIS by references to the BOR and Central Utah Project (CUWCD) in Table 3.12.3 (pages 3-162 to 3-166) in the Existing Water Developments columns and also in Table 3.12.4 (pages 3-169 to 3-172) in the Potential Water Developments columns. The role of land withdrawals and authorities are discussed on page 3-168 (this information was supplied by the BOR after the July 2007 meeting by Beverly Heffernan).

As a result of the February 2008 meeting, the BOR sent the WSR Team a packet of withdrawn land information dated April 2, 2008 that contained photocopies of withdrawal descriptions but did not identify which withdrawals were related to which segments. Another meeting with the BOR occurred July 22, 2008, to discuss which of the BOR’s proposed projects were consistent with the Forest Service’s definition of reasonably foreseeable future water developments (see response to comment S11). A letter dated August 8, 2008 was received following that meeting. The Team reviewed the information that was provided to determine if the projects are reasonably foreseeable and updated the FEIS.

For more details about the rationale for recommending the rivers and why others were not recommended, please refer to the Record of Decision.

**S21. The Forest Service should ensure that designation would not limit the ability of communities to develop water for future growth. [2-74].**

**Response:** This comment does not address specific, reasonably foreseeable water development projects. Chapter 3 of the DEIS discussed general and site-specific impacts of designation on water development and the impacts on communities (see DEIS, Chapter 3, Sections 3.10 – Social and Economic Resources and 3.12 – Water Resources and Water Developments). See the ROD for the rationale for the choice of rivers and the selected alternative.

**S22. The Forest Service should realize that all areas are threatened by development. [4-58].**

**Response:** Comment noted.

**S23. The Forest Service should use recent materials in the planning process to accurately assess present conditions in light of changing economic conditions and unprecedented population growth. [5-3].**

**Response:** References provided to the Wild and Scenic Rivers Team were reviewed and the FEIS was updated with those water development projects that are reasonably foreseeable. For a definition of reasonably foreseeable, see response to comment S11.

**S24. The Forest Service should explain why the DEIS mentions a water development prospectus and map submitted by the Central Utah Water Conservancy District when these documents do not exist. [1-19].**

**Response:** The DEIS mentions information that was requested by the WSR Team after receiving the Central Utah Water Conservancy District's (CUWCD) scoping letter. The CUWCD did not send a map, but sent a complete packet of lands (legal descriptions of boundaries) that have been withdrawn by the Bureau of Reclamation or the Department of Interior in areas of the Ashley National Forest that was submitted to Kevin Elliot, Ashley NF Supervisor, as part of their comments on the Evaluation of Potential Wilderness Areas study. This letter was sent by Sarah Sutherland, NEPA/Environmental Compliance Coordinator, dated August 23, 2007. All of the information from this letter was incorporated into the DEIS in the water development Tables 3.12.3 and 3.12.4 and the related Suitability Evaluation Reports in Appendix A.

**S25. The Forest Service should not designate Utah's rivers as Wild and Scenic for the following reasons:**

- **Because designation of segments would be in conflict with existing and potential water developments.**
- **Because limitations imposed by designation conflict with growing water demand in Utah. [2-46a].**
- **Because designation could impact the ability of the Central Utah Water Conservancy District to operate and maintain facilities. [2-46b].**
- **Because designation could impact the potential of federally assisted water projects and the ability of some electrical plants to generate electricity. [2-46c].**
- **To preserve adequate local water supplies. [2-46e].**
- **Because Little Provo Deer Creek should be preserved for downstream irrigation and culinary use. [3-80e].**
- **To protect existing and future water projects and diversions in the Uintah Mountains North**

**Slope river segments in Ashley and Wasatch National Forests. [3-142a].**

**Response:** Designation of a Wild and Scenic, and/or Recreational river would establish a water right that is non-consumptive. It would not affect existing, valid water rights. There would be no affect on existing downstream uses or future appropriations downstream because the water would remain in stream through the designated segment and would arguably protect and enhance those uses.

Allocation of water rests upon the fundamental principle of “first in time, first in right.” The first person to use water (a “senior appropriator”) acquires the right (called a “priority”) to its future use as against later users (“junior appropriators”). In order to assure protection of senior water right priorities and to maximize the use of this scarce and valuable resource, states have adopted rules for the determination and administration of water rights.

A federal reserved water right for a Wild and Scenic, and/or Recreational river will have a priority date consistent with the date of designation. That water right will be junior to all existing water rights. Many systems appear to be over allocated according to documented water rights. However, the doctrine of prior appropriation accommodates such over appropriation. When the system cannot support all of the water uses the State of Utah will administer the water rights according to priority date and shut off junior appropriators in accordance with State law.

**S26. The Forest Service should correct page 3-178 to show the correct number of miles of Wild and Scenic Rivers. [5-64].**

**Response:** This information will be updated into the FEIS.

**S27. The Forest Service should facilitate sharing of water from development projects with both wildlife and civilization. [6-28].**

**Response:** This comment is outside the scope of this analysis. See the purpose and need for the project in DEIS, page 1-4 to 1-5.

**S28. The Forest Service should not enable large-scale water pumping to prevent negative environmental effects in areas proximate to Wild and Scenic Rivers. [6-29].**

**Response:** This comment is related to the Snake River Valley water pumping project that will export water to Nevada, and is outside the scope of this analysis. See the purpose and need for the project in DEIS, page 1-4 to 1-5.

**S29. The Forest Service should support conservation of resources and not keep all dam options open because dams are ecologically damaging. [6-30].**

**Response:** This comment discusses the option for conservation of water resources through personal behavior modification as a way to reduce the need for future dam projects that are ecologically damaging; and views this DEIS as lending to this irresponsible behavior by keeping all of the future water development open and that using wild and scenic river designation as a way to preclude dams projects that promote the further over usage of Utah’s water resources.

The conflict of development and conservation of water resources is explored through the analysis of Alternatives 3 and 4. Alternative 3 was developed to recommend rivers that best represent Utah ORVs while having the least affect on existing or reasonably foreseeable future water resources projects and other developmental activities. Alternative 4 was developed to recommend rivers that best represent Utah

ORVs that could be adversely affected by existing or reasonably foreseeable future water resources projects and other developmental activities.

**S30. The Forest Service should ensure that designation would not reduce funding to the Colorado River Salinity Control Program. [2-73].**

**Response:** Section 13(e) of the Wild and Scenic Rivers Act states: Nothing contained in this Act shall be construed to alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any states which contain any portion of the national wild and scenic rivers system.

**S31. The Forest Service should not support damming of the Bear River because of the potential impacts to migratory birds. [6-48]. The Forest Service should not support damming of the Provo River because of the wildlife it supports. [6-49]. The Forest Service should not support future dam projects on the Logan River because such development would meet with widespread opposition and there is no need for a dam. [6-45a, 6-45b]. The Forest Service should not support dam construction on Ashley Gorge Creek because it is unlikely to make a good dam site and to protect its scenic values. [6-33].**

**Response:** These comments are outside the scope of this decision and analysis. See the purpose and need for the project in DEIS, pages 1-4 to 1-5. This study is focused on the suitability of a segment within the National Wild and Scenic River system, not the validity of specific dam projects. River damming projects would be considered in a separate NEPA process.

**Water Developments - Alternatives**

**S32. The Forest Service should revise Alternative 3 in the following ways:**

- **By adding Stillwater Creek, Hayden Fork, East Fork Whiterocks, Upper Whiterocks River, Left Fork, Right Fork, and East Forks Bear River to Alternative 3 because there are no reasonably foreseeable water projects on these segments. [4-34, 4-35, 4-36, 4-37].**
- **By adding the Bear River headwaters to Alternative 3 because the development projects proposed for this segment are unlikely to occur and should not be used as a reason to exclude this river from designation. [4-38].**
- **By adding the rivers of the North Slope of the High Uintas Wilderness Area to Alternative 3 because they have outstandingly remarkable values, public support, and no impact on reasonably foreseeable water projects. [4-41].**
- **By adding Logan River to Alternative 3 because viable water projects are proposed for this river. [4-42].**

**Response:** After reviewing reasonably foreseeable water development, Alternative 3 was revised to include: Stillwater Fork, Hayden Fork, Left Fork, Right Fork, and East Forks Bear, Logan River, and some rivers of the North Slope of the High Uintas Wilderness Area. East Fork Whiterocks and Upper Whiterocks River did not meet the criteria for Alternative 3.

**S33. The Forest Service should not implement Alternative 3 because it would adversely affect future water resource projects. [4-27d].**

**Response:** Comment noted. One of the criteria for Alternative 3 is that it would have the least effect on existing or reasonably foreseeable future water resources projects as described in the DEIS on page 2-2. See the ROD for the rationale for the choice of rivers and the selected alternative.

**S34. The Forest Service should modify Table 3.12.1 to correctly show whether Upper Rock Creek,**

**Slickrock Canyon, and Red Butte Creek are recommended under Alternatives 4 and 5. [5-70].**

**Response:** This information will be updated into the FEIS.

**S35. The Forest Service should modify Table 3.12.2 to correctly show whether Middle Fork Weber River is included in Alternative 5. [5-71].**

**Response:** This information will be updated into the FEIS.

**S36. The Forest Service should revise the DEIS to correct inconsistencies relating to water projects on segments in Alternative 5. [5-76].**

**Response:** The Ashley National Forest had determined that these projects were not reasonably foreseeable. Any new information regarding these indicators of reasonable foreseeable projects will be updated in the FEIS. See response to comment S11 regarding a definition of reasonably foreseeable water developments.

**S37. The Forest Service should not select Alternative 6 because of the impacts on necessary water projects. [4-56a].**

**Response:** Comment noted. See the ROD for the rationale for the choice of rivers and the selected alternative.

#### **Water Developments – Ashley National Forest**

**S38. The Forest Service should take no actions that would jeopardize the operational viability of the Moon Lake Water Users Association. [2-56].**

**Response:** Storage facilities that are currently upstream will continue to exercise existing water rights for those facilities and will release water to satisfy existing downstream water rights. If the storage facilities are below the segment then the non-consumptive nature of the Wild and Scenic River would deliver water through the eligible or suitable segment to the storage facilities unimpeded and perhaps enhance the ability to capture storage water downstream.

**S39. The Forest Service should consider the Bureau of Reclamation's facilities when determining suitability, particularly of Flaming Gorge Reservoir. [3-3]. More specifically, the Forest Service should address its ability to control flow to maintain ORVs on the Green River. [2-100]. The Forest Service should ensure that designation of Green River will not restrict operation, maintenance, or construction activities at Flaming Gorge Dam. [5-35].**

**Response:** Storage facilities that are currently upstream of river segments will continue to exercise existing water rights for those facilities and will release water to satisfy existing downstream water rights. This includes the Flaming Gorge Reservoir which is a storage facility for the Colorado River Storage Project that is upstream of the Green River (described in the DEIS, Table 3.12.3, page 3-162). The Forest Service acknowledges that the Bureau of Reclamation has the sole responsibility of managing the Flaming Gorge Dam, and understands that the Bureau of Reclamation's management priorities are first, dam safety, and second, meeting project purposes in compliance with the Endangered Species Act.

The Forest Service decision will recommend certain rivers to Congress for designation. The river management plans developed after designation will recognize the current uses and authorizations while

protecting the Outstanding Remarkable Values and free flow of the river. Operation and maintenance needs of existing water developments above or below segments is recognized.

**S40. The Forest Service should disclose that the Bureau of Reclamation is authorized to market water out of Flaming Gorge Reservoir on the Green River because water marketing could affect flows. [5-34].**

**Response:** The DEIS, Appendix A – Suitability Evaluation Reports, page 36 does discuss the Flaming Gorge Dam and withdrawn lands on the segment. Additional information regarding the authority of the BOR to market water out of Flaming Gorge Reservoir will be added to this discussion in Appendix A to describe that periodically, it is necessary for the BOR to release high volumes of water, either to support endangered species or for hydrologic reasons. Such releases may damage downstream recreation improvements made by the Forest Service, e.g., trails or channel improvements to benefit rafting. Consistent with historic practice, Reclamation will continue to notify the Forest Service of such releases but will not have responsibility for repairs.

Designation as a Scenic river segment will not change this practice of releasing high flows from the reservoir. This practice does not preclude designation of the segment. A river can be considered free-flowing when the flow is dependent on releases from a dam. Congress and the Secretary of the Interior have designated many river segments which are above or below dams.

**S41. The Forest Service should revise the maps of the Green River segment to identify the Flaming Gorge Dam and Reservoir immediately upstream. [5-80].**

**Response:** This information will be updated into the FEIS.

**S42. The Forest Service should consider the 2007 study of the Uinta and Green Rivers in evaluation of the rivers' suitability because they are up to date and document the critical needs of Uintah Basin residents. [5-8].**

**Response:** The draft of this study was available before the DEIS was released and was considered and was noted in DEIS, Chapter 3, Section 3.12 – Water Resources and Other Water Developments, in the potential developments section on page 3-170. However, more details of this project have been released since this DEIS was released in November 2007. The FEIS will reflect the more detailed information regarding this study.

**S43. The Forest Service should review the Final Environmental Assessment on the Uinta Basin Replacement Project to determine whether designation will conflict with the proposed action. [2-108]. The Forest Service should not designate the Upper Uinta River because it is not free of impoundments and to allow for future water development. [3-33a, 3-33b]. The Forest Service should take into consideration potential water development projects on the Upper Uinta River segment. [5-36].**

**Response:** One purpose of the suitability study is to analyze the role that these eligible streams have in context with the existing and potential water development projects. This EIS analysis helps the decision makers determine where there are critical conflicts of interest for management of streams if found suitable. There are streams in this study that have reasonably foreseeable water developments that would, if the segment was recommended as suitable preclude the project, or if not found suitable, the project may jeopardize the outstandingly remarkable value of that stream. The decision makers must evaluate these trade-offs between managing a stream to fully protect its intrinsic outstandingly remarkable value as a

national resource, or to develop the water resource value for the benefit of the surrounding local communities.

The Upper Uinta River system is one of these segments where several local entities are managing water rights and existing developments, and are also planning for future water. The Forest Service has taken the potential water developments into consideration in the DEIS, Chapter 3, Section 3.12 – Water Resources and Other Water Developments. Currently work is being done in this drainage to implement the project proposed in the Environmental Assessment for the High Lake Stabilization portion of the Uinta Basin Replacement Project, which is located at the headwaters of the Uinta River, immediately above the WSR segment. There are also initial plans proposed for new water developments in this drainage below the Wild and Scenic River segment at the Forest Service boundary.

The Central Utah Water Conservancy District, Duchesne County Water Conservancy District, Moon Lake Water Users, Dry Gulch Irrigation Company, and Duchesne County are concerned with a suitability finding for as included in the DEIS under Alternatives 3, 5, and 6 because of the possible conflicts between a suitability finding and potential designation and a possible reservoir below the High Uinta Wilderness boundary as included in the Uinta River Basin/Green River Water Development Project.

This proposed reservoir site does have withdrawn land (non-Bureau of Reclamation) and has been identified in a Feasibility Study titled, Conceptual Analysis of Uinta and Green River Water Development Projects Technical Memoranda 1-5, prepared by Franson and CH<sub>2</sub>MHill. The information in this study was provided by the entities listed above and will be added to the FEIS, Chapter 3, Section 3.12 – Water Resources and Other Water Developments section to more accurately describe the potential water development projects being considered as part of the Uinta River Basin/Green River Water Development Project includes a possible reservoir below the Forest Boundary.

There are no specific plans or proposals developed specifically for the Upper Uinta Reservoir that would categorize it as a reasonably foreseeable future project. Refer to response to comment S11 regarding the definition of reasonably foreseeable water projects.

**S44. The Forest Service should not designate Shale Creek to protect existing water development. [3-35].**

**Response:** Existing and potential water development projects were analyzed in the DEIS in Section 3.12 – Water Resources and Water Developments. A description of the existing water development was provided in the DEIS, Table 3.12.3 on page 3-163. Shale Creek and Tributaries is determined “not suitable” in Alternatives 2, 3, 4, and 7. Please refer to the Appendix A – Suitability Evaluation Reports, page A-159 for a description of Water Resources Development.

**S45. The Forest Service should not designate Rock Creek at any river elevation below 8,182 feet to protect the ability of the Central Utah Water Conservancy District to maintain existing flow operations on the Upper Stillwater Reservoir. [3-30].**

**Response:** Existing and potential water development projects were analyzed in the DEIS in Section 3.12 – Water Resources and Water Developments. A description of the Upper Stillwater Reservoir was provided in the DEIS, Table 3.12.3 on pages 3-162 to 3-163. Upper Rock Creek is determined “not suitable” in Alternatives 2, 3, 4, 6, and 7. Please refer to the Appendix A – Suitability Evaluation Reports, page 110 for a description of Water Resources Development.

**S46. The Forest Service should find the Upper Yellowstone River suitable because it does not have any reasonably foreseeable water projects [3-31].**

**Response:** Refer to response to comment S11 regarding the definition of reasonably foreseeable water projects. Existing and potential water development projects were analyzed in the DEIS in Section 3.12 – Water Resources and Water Developments. A description of potential water development projects on the Upper Yellowstone River was provided in the DEIS on page 3-170. A suitable determination for Upper Yellowstone Creek is being recommended in Alternatives 5 and 6. Appendix A – Suitability Evaluation Reports contains a description of Upper Yellowstone Creek and a description of Water Resources Development on pages A-136 to A-143.

**S47. The Forest Service should not designate Ashley Creek until spring runoff problems have been addressed. [3-7].**

**Response:** Several respondents were concerned that Wild and Scenic designation would foreclose options for flood control measures, especially for Ashley Creek, located on the Vernal District of the Ashley National Forest. The DEIS, Appendix A – Suitability Evaluation Reports, page A-89, describes the flood frequency within the Ashley Creek drainage.

There are no dedicated flood control measures currently in the Ashley Creek drainage on National Forest System lands. However, as noted in the DEIS, Table 3.12.4 on page 3-169, Appendix A – Suitability Evaluation Reports, page A-89, there is a potential water development upstream of the proposed segment to alleviate impacts of spring flooding downstream. This potential water development was identified in scoping comments from the Utah Division of Water Resources. The proposed Trout Creek Reservoir (T01S R19E Section 13, 116 ft. high, 14,400 ac-ft) is on the South Fork Ashley Creek Wild and Scenic River segment. Proposed in a 1975 study and revisited in 1988 by Bingham Engineering for the Dry Fork/Ashley Creek Flood Control Project, this reservoir would attenuate springtime flooding by storing high flows from Trout Creek and the North Fork of Ashley Creek. The reservoir would also retain water for the late summer irrigation demands for a portion of 17,000 acres of cropland. Located 25 miles northwest of Vernal at the confluence of the two creeks, the reservoir was originally proposed at a 25,000 acre-foot capacity by the Soil Conservation Service.

A recommendation of suitability for South Fork Ashley Creek and subsequent designation would preclude the construction of dams and alternation of the stream channel and banks within the designated section of river. The proposed upstream dam on the South Fork Ashley Creek for flood control would not be precluded solely on designation because the planned project is not on the segment; however flows through the segment would need to remain adequate to support the ORVs. The South Fork Ashley Creek segment did not meet the criteria for Alternatives 3 through 7. See the ROD for the rationale for the choice of rivers and the selected alternative.

**S48. The Forest Service should study the effects of development on Ashley Gorge Creek’s ORVs to determine whether development of Trout Creek Dam and other projects would diminish river values [2-98a] and to protect their futures [2-98b].**

**Response:** This comment relates to the possible impacts of the proposed Trout Creek flood control project located upstream of the South Fork Ashley Creek segment, which is located upstream of the Ashley Creek Gorge segment. The DEIS, Appendix A – Suitability Evaluation Reports, page A-89, describes the flood frequency within the Ashley Creek drainage, and Table 3.12.4 page 3-169 describes the Trout Creek project on the South Fork Ashley Creek. The proposed project is far upstream of the Ashley Creek Gorge segment; therefore there are no impacts anticipated to negatively impact the flows necessary for supporting the Scenic, Geologic/Hydrologic, Wildlife, Historic, and Other Similar Values ORVs.

**S49. The Forest Service should manage rivers and creeks to avoid flooding. [6-5a].**

**Response:** Several respondents were concerned that Wild and Scenic designation would foreclose options for flood control measures, especially for Dry Creek, located on the Vernal District of the Ashley National Forest. The DEIS, Appendix A – Suitability Evaluation Reports, pages 78-80, describes the flood frequency within the Dry Fork drainage.

There are no dedicated flood control measures currently in the Dry Fork drainage on National Forest System lands. However, as noted in the DEIS, Table 3.12.4 on page 3-169, Appendix A – Suitability Evaluation Reports, page 81, there are two potential water developments upstream of the eligible segments. These potential water developments were identified in scoping comments from the Utah Division of Water Resources: Blanchett Park Reservoir (T01S R18E Section 28, 72 ft height, 4,600 acre-foot capacity). This reservoir site is located on the main stem of Dry Fork Creek approximately 5 miles upstream of the eligible Wild and Scenic river section. Although a larger reservoir could be filled, topography limits the practical size of the reservoir. The second is East Cottonwood Blanchett Park Reservoir (T02S R19E Section 26, 70 ft high, 3,000 acre-foot capacity). This reservoir would be located on Dry Fork Creek at the south end of Brownie Canyon, east of Charley's Park. The reservoir would be used for flood control and summer irrigation storage.

A recommendation of suitability for Lower Dry Fork and subsequent designation would preclude the construction of dams and alternation of the stream channel and banks within the designated section of river. The proposed upstream dam on Lower Dry Fork for flood control would not be precluded solely on designation because the planned project is not on the segment; however flows through the segment would need to remain adequate to support the ORVs. The Lower Dry Fork segment is recommended for suitability in Alternative 3, and is not found suitable in Alternative 4. See the ROD for the rationale for the choice of rivers and the selected alternative.

**Water Developments – Manti-La Sal National Forest**

**S50. The Forest Service should not designate Hammond Canyon because it would negatively affect water use by the White Mesa Ute Indians. [3-62f].**

**Response:** This comment is related to a concern that Forest Service, by recommending rivers as Wild, Scenic, or Recreational as suitable, would affect water use by the White Mesa Ute Indians. As noted in the DEIS, reasonably foreseeable future water developments were analyzed and were a driving issue for creating Alternatives 3 and 4. Hammond Canyon is would be determined “not suitable” for designation in Alternatives 2, 3, 5, and 7. For more details about the rationale for recommending the rivers listed in Alternatives 3 through 7 and why others were not recommended, please refer to the ROD.

Please see DEIS, Table 3.12.3, page 3-164, which lists the White Mesa Ute Tribes existing water development on the Hammond Canyon segment and DEIS, Table 3.12.4, page 3-171, which lists the potential water developments in the Hammond Canyon drainage.

The effects of designation on flow of water through the segment, water yield and timing are discussed in the water rights section of the DEIS in Appendix E – Valid Existing Water Rights, page i. The Wild and Scenic Rivers Act creates a federal reserved water right for a quantity of water sufficient to meet the purposes of the Act on designated river segments. The Forest Service would have the responsibility of preserving each designated segment in its free-flowing condition to protect its ORVs. The quantity of water necessary to fulfill that responsibility would be determined through assessments of instream flow needs.

A federal reserved water right for a Wild and Scenic river would be a non-consumptive water right. As such it would not impair future downstream appropriations, and arguably would protect and enhance them. Designation as a Wild, Scenic, and/or Recreational river would not affect existing, valid water rights. A new federal reserved water right asserted by a Wild and Scenic River designation would be junior to all valid existing rights. This action would have no impact on existing water rights whether upstream or downstream because it would be junior to any existing right. Appendix E contains maps identifying current valid existing water rights in the proposed Wild and Scenic River segments were created using the Utah Division of Water Rights (UDWRT) Water Right Points of Diversion GIS data available for download from the UDWRT website. This information has been provided for this analysis by the UDWRT and in cooperation with this study; the UDWRT has provided an online mapserver to easily view and access all of the water right information that is related to this study. It is available at: <http://utstnrwr6.waterrights.utah.gov/mapserver/wildscenic/startup.htm>. For more information specific to water rights concerns, see the responses to water rights concerns at the end of this section.

**S51. The Forest Service should not designate Fish or Gooseberry Creek for the following reasons:**

- **Because of the 1989 agreement allowing for construction of the Gooseberry Narrows Reservoir. [3-69a].**
- **Because the segment is located on lands withdrawn by the Bureau of Reclamation. [3-69b].**
- **Because designation would prevent the Gooseberry Narrows Project, but the Gooseberry Narrows Project would not impact the willow flycatchers [3-69e].**
- **Because designation could preclude implementation of mitigation associated with the Gooseberry Narrows Project. [3-69f].**
- **To avoid further adverse effects and conflicts with the Gooseberry Narrows Project and the Scofield Project and because the Gooseberry Narrows Project would provide water necessary for agriculture. [3-67a, 3-67b, 3-67d, 3-71e, 3-72].**
- **Because designation of Fish Creek is inconsistent with proposed uses of Scofield Reservoir. [3-70b].**
- **Because designation of Fish Creek is inconsistent with other agency plans. [3-70c].**
- **Because managing Fish Creek as a Wild and Scenic River is not practical. [3-70g].**
- **Because in this time of drought the water is needed from Gooseberry Creek. [3-71d].**
- **The Forest Service should not preclude use of the water from Fish and Gooseberry Creeks because they are critical to Carbon County's water supply. [6-37].**

**Response:** Existing and potential water development projects were analyzed in the DEIS in Section 3.12 – Water Resources and Water Developments. A description of the Fish Creek and Gooseberry Creek potential projects was provided in the DEIS on page 3-170. The Scofield Reservoir is part of the Bureau of Reclamation's Emery Project as listed in the DEIS on page 3-164. There are existing water developments downstream of the studied segments. Fish and Gooseberry Creeks would be determined "not suitable" for designation in Alternatives 2, 3, 5, and 7. Appendix A – Suitability Evaluation Reports contains a description of Fish and Gooseberry Creeks and a description of Water Resources Development beginning on page A-309. See the ROD for the rationale for the choice of rivers and the selected alternative.

**S52. The Forest Service should implement the Alternative 3 because it would not preclude development of the Gooseberry Narrows Project. [4-26c].**

**Response:** See response to comment S51.

**S53. The Forest Service should designate Fish and Gooseberry Creeks because designation should have the least effect on water resource projects and because construction of Gooseberry Narrows Dam is extremely unlikely to pose an obstacle. [3-65d, 3-65c].**

**Response:** Existing and potential water development projects were analyzed in the DEIS in Section 3.12 – Water Resources and Water Developments. A description of the Fish Creek and Gooseberry Creek potential projects was provided in the DEIS on page 3-170. The proposed dam would store and divert water above the Fish and Gooseberry segment, thus reducing flows into the Gooseberry Creek system including the Lower Gooseberry Reservoir which is above the segment and Scofield Reservoir, which is below the segment. A suitable determination for Fish and Gooseberry Creeks is being recommended in Alternatives 4 and 6. Appendix A – Suitability Evaluation Reports contains a description of Fish and Gooseberry Creeks and a description of Water Resources Development beginning on page A-309. See the ROD for the rationale for the choice of rivers and the selected alternative.

**S54. The Forest Service should not designate Huntington Creek and the Lower Left Fork of Huntington Creek for the following reasons:**

- **Because designation could affect existing and potential water projects, water rights, power generation, and mining. [3-72, 3-74b, 3-76c].**
- **Because the Pacificorp relies exclusively on these segments for water delivery to Huntington Power plant. [3-74d].**
- **Because flows are artificially regulated to combat water loss and drought issues. [3-74e].**
- **To preserve the water supply from the Lower Left Fork of Huntington Creek to Emery County. [3-75]**
- **Because designation would preclude future hydroelectric generation on Huntington Creek. [6-41].**
- **Because Emery County communities are dependent on those water resources and the Forest Service should not make irreversible commitments or restrictions on water use from Huntington Creek. [6-40].**

**Response:** Existing and potential water development projects were analyzed in the DEIS in Section 3.12 – Water Resources and Water Developments. A description of existing water developments on Huntington Creek and Lower Left Fork of Huntington Creek was provided in the DEIS in Table 3.12.3 on page 3-164 and potential water development projects in Table 3.12.4 on page 3-171. Huntington Creek and the Lower Left Fork of Huntington Creek would be determined “not suitable” for designation in Alternatives 2, 3, 5, and 7. Appendix A – Suitability Evaluation Reports contains a description of Water Resources Development for Huntington Creek on page A-283 and for Lower Left Fork of Huntington Creek on page A-323. See the ROD for the rationale for the choice of rivers and the selected alternative.

**S56. The Forest Service should not evaluate Huntington Creek as an isolated system because it is part of a larger system that supports a variety of important water uses. [6-39].**

**Response:** The entire Huntington Creek and Left Hand Fork Huntington Creek drainages on National Forest System lands were determined eligible. The subject of water resource development is a key issue in this analysis. Existing upstream and downstream water developments were considered in the DEIS in Section 3.12 – Water Resources and Water Developments.

**S57. The Forest Service should consider the impact of designation of Huntington Creek on future salinity projects. [5-38].**

**Response:** The comments state that suitability of Huntington Creek would prevent federal funding for improvements to irrigation practices downstream from the Forest Service boundary. This is a possible indirect effect of finding Huntington Creek suitable. One purpose of the suitability study is to analyze the role that these eligible streams have in context with the existing and potential water development projects. This EIS analysis helps the decision makers determine where there are critical conflicts of interest for management of streams if found suitable. There are streams in this study that have reasonably foreseeable water developments that would, if the segment was found suitable preclude the project, or if not found suitable, the project may jeopardize the outstandingly remarkable value of that stream. The decision makers must evaluate these trade-offs between managing a stream to fully protect its intrinsic outstandingly remarkable value as a national resource, or to develop the water resource value for the benefit of the surrounding local communities.

This comment did not refer to any site-specific projects. Since it is not known at this point what projects within Huntington Creek may be needed to support any salinity projects, the Forest Service did not consider the possible salinity projects as reasonably foreseeable. For a definition of reasonably foreseeable, refer to response to comment S11.

Existing and potential water development projects for Huntington Creek were analyzed in the DEIS in Section 3.12 – Water Resources and Water Developments. A description of existing water developments on Huntington Creek and Lower Left Fork of Huntington Creek was provided in the DEIS in Table 3.12.3 on page 3-164 and potential water development projects in Table 3.12.4 on page 3-171.

The opposition to suitability of Huntington will be added to the Appendix A – Suitability Evaluation Report for Huntington Creek will be noted. Huntington Creek and the Lower Left Fork of Huntington Creek would be determined “not suitable” for designation in Alternatives 2, 3, 5, and 7. Appendix A – Suitability Evaluation Reports contains a description of Water Resources Development for Huntington Creek on page A-283 and for Lower Left Fork of Huntington Creek on page A-323. See the ROD for the rationale for the choice of rivers and the selected alternative.

### **Water Developments – Uinta-Wasatch-Cache National Forest**

#### **S58. The Forest Service should create no designations limiting optimal water resource management decisions by Cache Valley residents. [3-1].**

**Response:** This comment is related to a concern that Forest Service, by recommending rivers as Wild, Scenic, or Recreational as suitable, would limit optimal water resource management in Cache Valley. As noted in the DEIS, reasonably foreseeable future water developments were analyzed and were a driving issue for creating Alternatives 3 and 4. For more details about the rationale for recommending the rivers listed in Alternatives 3 through 7 and why others were not recommended, please refer to the ROD.

Please see Table 3.12.3 which contains the existing water developments on the segments and Table 3.12.4 which lists the potential water developments in the Logan River drainage. This table will be updated in the FEIS to reflect the State’s decision to remove the Beaver Creek and the Logan River potential projects from this list. These changes will be updated in the FEIS.

Designation of a Wild and Scenic river for any of these segments would establish a water right that is non-consumptive. It would guarantee that water would flow through the segment downstream. As such, that water would reach downstream users and would continue to satisfy existing water rights that may be held in Cache Valley.

**S59. Changes in the State of Utah’s potential water development list will be made to Table 3.12.4 and resulting analysis in the FEIS updated to show that potential reservoir sites on Left, Right, and East Fork Bear River, Logan River, and Beaver Creek have been eliminated from consideration and are no longer recommended by the Utah Division of Water. [5-53, 5-54].**

**Response:** This information will be updated in Table 3.12.4 and changes will be made to the resulting analysis to reflect that the Utah Division of Water Resources has removed these sites from its potential water development list and how this change affects the analysis.

**S60. The Forest Service should not designate the North Fork, Provo River because designation will impair utility of the Timpanogos Spring. [3-82b].**

**Response:** Existing and potential water development projects were analyzed in the DEIS in Section 3.12 – Water Resources and Water Developments. A description of existing water developments was provided in the DEIS on page 3-165. DEIS comments were received from the North Fork Special Service District, who manage a spring water collection and distribution system on the Forest, who are concerned with WSR Act limiting their ability to access and maintain their facility. This water development will be added to the list of existing water development section in the FEIS. The North Fork Provo River was identified by the Bureau of Reclamation to be part of the Provo River Project, the Central Utah Project—Bonneville Unit, however, no information regarding any existing water developments or plans for new development were identified during the DEIS comment period.

The North Fork Provo River would be determined “not suitable” for designation in Alternatives 2, 4, 5, and 7. Appendix A – Suitability Evaluation Reports contains a description of North Fork Provo River on page A-360 for a description of Water Resources Development.

**S61. The Forest Service should designate Blacks Fork because the proposed dam projects are not reasonably foreseeable. [3-84b].**

**Response:** Refer to response to comment S11 for the definition of reasonably foreseeable water projects. Existing and potential water development projects were analyzed in the DEIS in Section 3.12 – Water Resources and Water Developments. A description of existing water development project was provided in the DEIS on page 3-165 and potential water development projects on page 3-171. A suitable determination for East Fork Blacks Fork is being recommended in Alternative 5 and West Fork Blacks Fork is being recommended in Alternatives 3 and 5. Appendix A – Suitability Evaluation Reports contains a description of ORVs on pages A-415 to A-428 for a description of Water Resources Development. See the ROD for the rationale for the choice of rivers and the selected alternative.

**S62. The Forest Service should not designate Blacks Fork or Smiths Fork to avoid impacts on operation of early warning sites [3-91d] and to preserve the potential for reservoir construction in Blacks Fork in Wyoming [3-88].**

**Response:** Existing and potential water development projects were analyzed in the DEIS in Section 3.12 – Water Resources and Water Developments. For Blacks Fork, a description of existing water development project was provided in the DEIS on page 3-165 and potential water development projects on page 3-171. For East Fork Smiths Fork a description of existing water developments was provided in the DEIS on page 3-165. Blacks Fork would be determined “not suitable” for designation in Alternative 2; East Fork Blacks Fork would be determined “not suitable” for designation in Alternatives 2, 3, 4, 6, and 7; West Fork Blacks Fork would be determined “not suitable” for designation in Alternatives 2, 4, 6, and 7; East Fork Smiths Fork would be determined “not suitable” for designation in Alternatives 2, 4, 6, and 7. See the ROD for the rationale for the choice of rivers and the selected alternative.

**S63. The Forest Service should not designate West Fork Blacks Fork to preserve access to the early warning site. [3-92c].**

**Response:** There were no existing or potential water development projects on the eligible portion of the West Fork Blacks Fork, however the early warning site sensor is located upstream of the Meeks Cabin Reservoir and is part of a system in place to warn residents downstream of the Meeks Cabin Reservoir of dam failure and flooding downstream. The WSR Act would not conflict with the operation of this early warning site. The West Fork Blacks Fork would be determined “not suitable” for designation in Alternatives 2, 4, 6, and 7; See the ROD for the rationale for the choice of rivers and the selected alternative.

**S64. The Forest Service should not designate the Provo River to preserve the rights of the Provo River Project and to protect the interests of those who depend on the Provo River Water User Association. [3-96a, 3-96b].**

**Response:** Existing and potential water development projects were analyzed in the DEIS in Section 3.12 – Water Resources and Water Developments. A description of existing water development was provided in the DEIS on page 3-166. Provo River would be determined “not suitable” for designation in Alternatives 2, 4, 5, and 7. Appendix A – Suitability Evaluation Reports contains a description of Provo River on page A-587 to A-595 for a description of Water Resources Development.

**S65. The Forest Service should revise the DEIS to acknowledge the Provo River Water Users Association is an historic reclamation project and the need for the Provo River Project to continue without restrictions. [4-10].**

**Response:** Existing water development projects managed by the Provo River Water Users were considered and analyzed in the DEIS in Section 3.12 – Water Resources and Water Developments. During the DEIS comment period, the Provo River Water Users submitted a letter with comprehensive and detailed information about all of the projects they manage on and off National Forest System lands. This information will be incorporated into the FEIS and will lend to a better understanding of the water developments along the entire Provo River drainage.

**S66. The Forest Service should correct Table 3.12.3 to show the facilities and water rights for the Provo River and to correct information regarding diversions on Beaver Creek. [5-67].**

**Response:** This information will be updated into the FEIS.

**S67. The Forest Service should designate proposed segments of the Logan River for the following reasons:**

- **To preclude the possibility of dam construction. [3-109a].**
- **Because the citizens of Cache Valley would prevent construction of dams or impoundments that might preclude designation. [3-109b].**
- **Because there are no reasonably foreseeable water projects on the Logan River. [3-109c].**
- **Because dam projects proposed in the early 20th century should not be considered sufficiently viable to preclude designation. [3-109d].**

**Response:** Existing and potential water development projects were analyzed in the DEIS in Section 3.12 – Water Resources and Water Developments. A description of potential water development projects was provided in the DEIS on page 3-172. However, during the DEIS comment period, the State of Utah

submitted a letter saying projects were no longer being considered. A suitable determination for Logan River is being recommended in Alternatives 3 and 6. Appendix A – Suitability Evaluation Reports contains a description of Logan River on pages A-508 through A-523 for a description of Water Resources Development. See the ROD for the rationale for the choice of rivers and the selected alternative.

**S68. The Forest Service should not designate proposed segments of the Logan River to maintain the option of dam construction resulting in generation of hydroelectricity and reservoir recreation. [3-111b, 3-111c].**

**Response:** Existing and potential water development projects were analyzed in the DEIS in Section 3.12 – Water Resources and Water Developments. A description of potential water development projects was provided in the DEIS on page 3-172. However, during the DEIS comment period, the State of Utah submitted a letter saying projects were no longer being considered. The Logan River would be determined “not suitable” for designation in Alternatives 2, 4, 5, and 7. See the ROD for the rationale for the choice of rivers and the selected alternative.

**S69. The Forest Service should ensure that downstream water storage projects are not harmed by designation of the segment from the confluence of the Logan River with Beaver Creek to the Bridge at Guinavah-Malibu. [3-103].**

**Response:** Designation of a Wild and Scenic, and/or Recreational river would establish a water right that is non-consumptive. It would not affect existing, valid water rights. There would be no affect on existing downstream uses or future appropriations downstream because the water would remain in stream through the designated segment and would arguably protect and enhance those uses.

**S70. The Forest Service should not include Beaver Creek or its tributaries among the rivers found to be suitable because designation would adversely affect Beaver and Shingle Creek Irrigation Company and its shareholders. [3-117]**

**Response:** Existing and potential water development projects were analyzed in the DEIS in Section 3.12 – Water Resources and Water Developments. A description of existing water development projects was provided in the DEIS on page 3-166 and potential water development projects on page 3-171. Middle Fork Beaver Creek and West Fork Beaver Creek would be determined “not suitable” in Alternatives 2, 4, and 7 and Beaver Creek (9 miles) in Alternatives 2, 4, 5, and 7. Appendix A – Suitability Evaluation Reports contains a description of Middle Fork Beaver Creek and West Fork Beaver Creek on and a description of Water Resources Development pages A-394 to A-407 and Beaver Creek on pages A-524 and A-579 and for a description of Water Resources Development. See the ROD for the rationale for the choice of rivers and the selected alternative.

**S71. The Forest Service should recommend Stillwater Fork for designation because there are no reasonably foreseeable water projects on this segment [3-140a]**

**Response:** Existing and potential water development projects were analyzed in the DEIS in Section 3.12 – Water Resources and Water Developments. A description of potential water development project was provided in the DEIS on page 3-172. However, during the DEIS comment period, there were no DEIS comments to substantiate proposed projects on this segment, therefore the decision makers determined that there are no reasonably foreseeable projects related to the Stillwater Fork. A suitable determination for Stillwater Fork is being recommended in Alternatives 3, 6, and 7. Appendix A – Suitability Evaluation Reports contains a description of Stillwater Fork on page A-466 and a description of Water

Resources Development. See the ROD for the rationale for the choice of rivers and the selected alternative.

**S72. The Forest Service should not allow reservoir construction on Stillwater Creek because they must manage the creek to protect existing recreational homes. [6-47].**

**Response:** See response to comment S71. Reservoir construction is outside the scope of the analysis. See the purpose and need for the project in the DEIS, pages 1-4 to 1-5.

### **Water Rights**

**S73. The Forest Service should work with local Wyoming governments to analyze adequately the implications of proposed designation on downstream water rights and existing water rights. [1-30]. The Forest Service should analyze the impact of Wild and Scenic designations on the water rights in Wyoming. [5-46].**

**Response:** To the extent consistent with the laws governing the administration of National Forest System lands, the Forest Service has coordinated with the land use planning and management programs of other Federal departments and agencies, the States, and local governments. See response to comments B3 and B18.

The Forest Service sent Scoping and DEIS documents to the State of Wyoming and local government offices including: Governor Freudenthal, Wyoming Legislature, Congressional Senators and Representatives, Wyoming State Planning Coordinator, Wyoming State Clearinghouse, Capital City Coordinator, Office of Federal Land Policy, Wyoming State Engineer, Policy Analyst/Environmental Issues, FHA, WY-DOT, SHPO, Fish and Game, Sweetwater and Uinta County Commissioners.

As of July 2008, cooperating agency status was granted in a Memorandum of Understanding between the Forest Service and Lincoln County, Sweetwater County, and Uinta County Wyoming.

Following designation of a segment by Congress, the Federal agency charged with the administration of the river segment will prepare a Comprehensive River Management Plan. The plan shall be coordinated with and may be incorporated into resource management planning for affected adjacent Federal lands. The plan shall be prepared after consultation with State and local governments and the interested public. (Wild and Scenic Rivers Act, Sec. 3(d)(d)).

The streams on the Wasatch-Cache, where their segments end in Utah but the streams flow into Wyoming downstream, are Blacks Fork, West Fork Blacks, East Fork Smiths Fork, West and Middle Fork Beaver Creeks, Henrys Fork; East Fork Bear/Stillwater/Hayden Fork (all tributaries in Utah) that flow North into Bear River in Utah just north of Wyoming border. West Fork Smiths Fork also flows into Wyoming from Utah.

Designation of a Wild and Scenic river for any of these segments would establish a water right that is non-consumptive. It would guarantee that water would flow through the segment to the State border and into Wyoming. As such, that water would reach downstream users and would continue to satisfy existing water rights that may be held in the State of Wyoming.

**S74. The Forest Service should consult with appropriate state water agencies to measure segment flows and compare them to existing water rights to identify impediments to designation. [1-39]. The Forest Service should analyze the amount of water required to maintain instream flow in segments proposed for designation and should quantify existing water rights because sufficient instream**

**flows may not be available. [5-20].**

**Response:** The characteristics of these streams vary widely. All of the streams on the Ashley, Uinta, and Wasatch-Cache National Forests have perennial flow. The streams with intermittent flow are located on the Dixie and the Manti-La Sal National Forests and the majority of the segments with combinations of flow regimes including perennial, intermittent, and ephemeral flow are located on the Dixie, and the Manti-La Sal National Forests. Type of stream flow was described in the DEIS on pages 3-153 to 3-155. Rivers with intermittent or non-perennial flows exist within the National System and may be representative of rivers within particular physiographic regions. For the purposes of this suitability study, the volume of flow is sufficient if it can sustain or complement the ORVs identified within the segment.

The quantity of water necessary to preserve a designated segment in its free-flowing condition to protect its ORVs will be determined through assessments of instream flow needs when a designated Wild and Scenic river water right is quantified. This may take place during the development of a comprehensive management plan for the river segment or in an administrative or judicial proceeding once the federal reserved water rights are asserted. Existing water rights will be considered during that quantification analysis and affected parties will have an opportunity to participate in the administrative or judicial process.

**S75. The Forest Service should fully disclose the potential for designation to restrict enlargement of existing water rights or allocation of new water rights. [5-24].**

The Forest Service has identified these study segments as eligible segments to be protected under the Wild and Scenic River Act, with the intent to preserve the river related ORVs for future generations to experience and enjoy. As noted in the FEIS, reasonably foreseeable water development projects are those projects with completed and approved plans, project documents that are in the final stages of the NEPA process (e.g., final or draft environmental impact statement or an environmental assessment), or projects that are documented as ready to implement. The intent is not to restrict enlargement of existing water rights. The quantity of water necessary to preserve a designated segment in its free-flowing condition to protect its ORVs will be determined through assessments of instream flow needs when a designated Wild and Scenic river water right is quantified. This may take place during the development of a comprehensive management plan for the river segment or in an administrative or judicial proceeding once the federal reserved water rights are asserted. Existing water rights will be considered during that quantification analysis and affected parties will have an opportunity to participate in the administrative or judicial process.

**S76. The Forest Service should ensure that designation would not limit water use for agriculture. [2-72].**

**Response:** Designation of a Wild and Scenic, and/or Recreational river would establish a water right that is non-consumptive. It would not affect existing, valid water rights for agricultural purposes. There would be no affect on existing downstream uses or future appropriations downstream because the water would remain instream through the designated segment and would arguably protect and enhance those uses. Future upstream water uses would be determined by the State of Utah pursuant to availability and State water law.

The DEIS analyzed reasonably foreseeable future water developments. Future upstream development that is not listed in Tables 3.12.4 of the DEIS is too speculative in nature to reasonably analyze. However, if a development is proposed in the future, then those future upstream water uses would be determined by the State of Utah pursuant to availability and State water law.

**S77. The Forest Service should consult the Utah State Division of Water Rights Regional Office in Vernal, Utah to correct clerical errors in the DEIS, Appendix 11 – Water Rights. [5-77].**

**Response:** There is no Appendix 11 in the DEIS. We believe you are talking about Appendix E – Valid Existing Water Rights Maps. Appendix E contains maps identifying current valid existing water rights in the proposed Wild and Scenic River segments were created using the Utah Division of Water Rights (UDWRT) Water Right Points of Diversion GIS data available for download from the UDWRT website. This information was provided for this analysis by the UDWRT and in cooperation with this study; the UDWRT provided an online mapserver to easily view and access all of the water right information that is related to this study. It is available at:  
<http://utstnrwrt6.waterrights.utah.gov/mapserver/wildscenic/startup.htm>.

**S78. The Forest Service should analyze the Zion National Park Water Rights Settlement Agreement as part of the eligibility/suitability process. [2-101].**

**Response:** The Zion National Park Water Rights Settlement Agreement was negotiated specifically for Zion National Park. The protections that the agreement provides to the Virgin River Basin can only enhance the free flowing condition of the system. The Agreement does not preclude the Forest Service from considering segments outside of Zion National Park for inclusion in the suitability study.

The Agreement states:

“Because of the unique nature of Zion National Park, nothing in this agreement shall constitute an admission, waiver or precedent as to any party for any other federal reserved water right claim in the State of Utah”, Article III (G).

“Nothing in this Agreement shall be construed or interpreted to:

1. in any way affect the water rights of the United States in the Virgin River Basin for agencies and interests other than Zion National Park;
2. establish any standard to be used for the quantification of federal reserved water rights in any other judicial or administrative proceeding;
3. limit in any way the rights of the parties or any person to litigate any issue or question not resolved by this Agreement;
4. restrict the power of the United States to reserve water in the future, or to acquire additional rights to the use of water under the laws of the State of Utah; or
5. restrict the power of the State of Utah or the State Engineer in allocating, administering or distributing the waters of the State.” Article III (H)(1-5)

**S79. The Forest Service should not find suitable any of the proposed segments in San Juan County because the Wild and Scenic Rivers Act provides that existing water rights cannot be impinged and the Colorado River Compact provides for an existing water right. [3-2].**

**Response:** Section 13(e) of the Wild and Scenic Rivers Act states: Nothing contained in this Act shall be construed to alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any states which contain any portion of the national wild and scenic rivers system.

**S80. The Forest Service should not designate Whiterocks River and Reader Creek because designation would negatively affect existing water rights and storage facilities and they are not free flowing. [3-13].**

**Response:** Storage facilities that are currently upstream will continue to exercise existing water rights for those facilities and will release water to satisfy existing downstream water rights. If the storage facilities

are below the segment then the non-consumptive nature of the Wild and Scenic river would deliver water to the storage facilities unimpeded and perhaps enhance the ability to capture storage water downstream.

**S81. The Forest Service should not designate Reader Creek, West Fork Whiterocks River, Upper Whiterocks River, East Fork Whiterocks River, Middle Whiterocks River, Huntington Creek and Lower Left Fork of Huntington Creek; Uintah Mountains North Slope river segments in Ashley and Wasatch National Forests because they should honor existing water rights; reconsider the potential impacts of designation to valid existing water rights; and ensure that privately held water rights are protected. [3-15, 3-19, 3-20, 3-22, 3-23, 3-74, 3-142, 3-142a, 5-18, 5-22, 6-31 2-109c, 3-4].**

- **The Forest Service should not move forward with the proposed action because Utah water laws and water rights will prevail. [2-34b].**
- **The Forest Service should not designate the Upper Whiterocks River and East Fork Whiterocks River to avoid impacts to existing state and private water rights, and storage and delivery of irrigation water. [3-21].**
- **The Forest Service should not designate Beaver Creek or its tributaries to preserve existing water rights, access to existing facilities, and agricultural uses. [3-93].**
- **The Forest Service should not designate the private segment of Beaver Creek because designation would impede utility of private legal water rights. [3-94].**
- **The Forest Service should protect valid existing state water rights from infringement to protect storage and delivery of irrigation water. [5-19].**
- **The Forest Service should not create a new water right because many rivers are already over-allocated, it would be inconsistent with Utah State water law, and it would be an infringement on existing state and private water rights. [5-22].**
- **The Forest Service should acknowledge that most river segments are fully or over-appropriated and therefore cannot be managed as free flowing. [2-71].**
- **The Forest Service should clarify whether they can control the water on the Blacks Fork because the water has been over-appropriated. [5-37].**
- **The Forest Service should work with Daggett County throughout the designation process to ensure that potential impacts to downstream projects and valid existing water rights are addressed. [1-37].**

**Response:** The use of water in Utah is governed by the doctrine of prior appropriation. The essence of the doctrine of prior appropriation is that, while no one may own the water in a stream, all persons, governments, corporations, and municipalities have the right to use the water for beneficial purposes. Water rights are required to legally use water in the State of Utah including storage and irrigation water for agricultural uses.

Designation of a Wild and Scenic, and/or Recreational river would establish a water right that is non-consumptive. It would not affect existing, valid water rights. There would be no affect on existing downstream uses or future appropriations downstream because the water would remain instream through the designated segment and would arguably protect and enhance those uses.

Allocation of water rests upon the fundamental principle of “first in time, first in right.” The first person to use water (a “senior appropriator”) acquires the right (called a “priority”) to its future use as against later users (“junior appropriators”). In order to assure protection of senior water right priorities and to maximize the use of this scarce and valuable resource, states have adopted rules for the determination and administration of water rights.

A federal reserved water right for a Wild and Scenic, and/or Recreational river will have a priority date consistent with the date of designation. That water right will be junior to all existing water rights. Many

systems appear to be over allocated according to documented water rights. However, the doctrine of prior appropriation accommodates such over appropriation. When the system cannot support all of the water uses the State of Utah will administer the water rights according to priority date and shut off junior appropriators in accordance with State law.

**S82. The Forest Service should not designate East Fork Boulder Creek to prevent environmental groups from initiating lawsuits for the reduction of associated water rights and grazing land. [3-45b].**

**Response:** Existing water rights will be senior to a designated Wild and Scenic River water right and would not be reduced. State and Federal laws associated with these water rights will protect them in the event a lawsuit is initiated. Grazing is discussed in response to comment O1.

**S83. The Forest Service should not designate East Fork Boulder Creek to protect Garkane Hydro plant and irrigation diversions from a junior water right granted to the Forest Service. [3-45c].**

**Response:** Designation of a Wild and Scenic, and/or Recreational river would establish a water right that is non-consumptive. It would not affect existing, valid water rights. Water rights associated with the Garkane Hydro plant and existing irrigation diversions will be senior water rights to a designated Wild and Scenic river. As such, it will have priority and will be protected according to State law.

**S84. The Forest Service should not designate Hammond Canyon because designation would restrict water rights - which would negatively impact San Juan County. [3-62].**

**Response:** Designation of a Wild and Scenic, and/or Recreational river would establish a water right that is non-consumptive. It would not affect existing, valid water rights.

**S85. The Forest Service should ensure that designation would not limit water use for agriculture. [2-72].**

**Response:** The DEIS analyzed reasonably foreseeable future water developments. Future upstream development that isn't listed in Table 3.12.4 of the DEIS is too speculative in nature to reasonably analyze. However, if a development is proposed in the future, then those future upstream water uses would be determined by the State of Utah pursuant to availability and State water law.

Designation of a Wild and Scenic, and/or Recreational river would establish a water right that is non-consumptive. It would not affect existing, valid water rights for agricultural purposes. There would be no affect on existing downstream uses or future appropriations downstream because the water would remain instream through the designated segment and would arguably protect and enhance those uses. Future upstream water uses would be determined by the State of Utah pursuant to availability and State water law.

**S86. The Forest Service should reference information in the Utah Division of Water Rights 2005 study against information listed in DEIS Appendix 11. [5-5].**

**Response:** There is no Appendix 11 in the DEIS, this comments probably relates to Appendix E – Valid Existing Water Rights Maps. The Utah Division of Water Rights provided the data for the maps found in the DEIS Appendix E. That data is current as of 2008 and is accessible especially for this study on the Utah Division of Water Rights website under the GIS data menu and the link to Maps. It is available at: <http://utstnrwrt6.waterrights.utah.gov/mapserver/wildscenic/startup.htm>.

**S87. The Forest Service should correct Table 3.12.3 to show the facilities and water rights for the Provo River and to correct information regarding diversions on Beaver Creek. [5-67].**

**Response:** As noted in the DEIS, Section 3.12 – Water Uses and Developments, pages 3-158 to 167, this new information provided during the DEIS comment period will be added to accurately disclose existing water developments. Table 3.12.3 will be updated in the FEIS to better describe facilities associated with the Provo River Project at the Provo River, Little Provo Deer Creek, and the North Fork of the Provo River. The discussion of water rights in Appendix E – Valid Existing Water Rights is general in nature therefore; the water rights related to the Provo River Project will also be added to the Suitability Evaluation Reports for these segments.

**S88. The Forest Service should clarify whether they can control the water on the Blacks Fork because the water has been over-appropriated. [5-37].**

**Response:** The use of water in Utah is governed by the doctrine of prior appropriation. The essence of the doctrine of prior appropriation is that, while no one may own the water in a stream, all persons, governments, corporations, and municipalities have the right to use the water for beneficial purposes. Water rights are required to legally use water in the State of Utah including storage and irrigation water for agricultural uses.

Designation of a Wild and Scenic, and/or Recreational river would establish a water right that is non-consumptive. It would not affect existing, valid water rights. There would be no affect on existing downstream uses or future appropriations downstream because the water would remain instream through the designated segment and would arguably protect and enhance those uses.

Allocation of water rests upon the fundamental principle of “first in time, first in right.” The first person to use water (a “senior appropriator”) acquires the right (called a “priority”) to its future use as against later users (“junior appropriators”). In order to assure protection of senior water right priorities and to maximize the use of this scarce and valuable resource, states have adopted rules for the determination and administration of water rights.

A federal reserved water right for a Wild and Scenic, and/or Recreational river will have a priority date consistent with the date of designation. That water right will be junior to all existing water rights. Many systems appear to be over allocated according to documented water rights. However, the doctrine of prior appropriation accommodates such over appropriation. When the system cannot support all of the water uses the State of Utah will administer the water rights according to priority date and shut off junior appropriators in accordance with State law.

**S89. The Forest Service should remove any statement in the EIS that would prohibit impoundments, diversions, channelizations, and rip-rapping on any river segment in San Juan County to comply with State Water Rights. [5-23].**

- **To protect Garkane Hydro plant and irrigation diversions from a junior water right granted to the Forest Service [3-45c].**

**Response:** Designation of a Wild and Scenic, and/or Recreational river would establish a water right that is non-consumptive. It would not affect existing, valid water rights. Water rights associated with the Garkane Hydro plant and existing irrigation diversions will be senior water rights to a designated Wild and Scenic river. As such, it will have priority and will be protected according to State law.

These specified channel modifications would be also addressed by the State of Utah through the Stream Alteration permitting process which is overseen by the Army Corps of Engineers. The river management

plans developed after designation will recognize the current uses and authorizations while protecting the Outstanding Remarkable Values and free flow of the river. Operation and maintenance needs of existing water developments above or below segments is recognized.

**S90. The Forest Service should not designate Upper Dark Canyon because there is no federal reserved water right to support designation. [3-55b].**

**Response:** Once a river segment is designated as a Wild and Scenic, and/or Recreational river, that designation provides the basis for a federal reserved water right.

**S91. The Forest Service should not designate Fish and Gooseberry Creeks for the following reasons:**

- **Because the water rights are held by the Sanpete Water Conservancy District and designation could impede the Gooseberry Narrows Dam Project. The Forest Service relinquished these water rights to Sanpete in 1989. [3-67c].**
- **To preserve water development rights of Sanpete County. [3-67e].**
- **The Forest Service should not designate Gooseberry Creek because Sanpete County owns the water rights. It is important to reiterate that Sanpete Water Conservancy District - not the federal government - owns the water rights to Gooseberry - rights that the Forest Service yielded to Sanpete in a 1989 agreement. [3-71c].**

**Response:** *The Stipulation Between the United States of America and the Sanpete Water Conservancy District* (“Stipulation”) dated July 13, 1989 is an agreement pertaining to federal reserved water rights claims in the Gooseberry Creek drainage for channel maintenance and fish and wildlife habitat pursuant to the Organic Act of 1897. These claims were filed by the Forest Service on or before June 24, 1986 *In the Matter of the General Determination of all Rights to the Use of Water, Both Surface and Underground, Within the Drainage Area of the Price River and the Drainage Area of the Green River from the Confluence of the Price and Green Rivers to the Confluence of the Green and Colorado Rivers, Excluding the Drainage Area of the San Rafael River in Utah* (“Adjudication”).

The Stipulation pertains only to the claims that were filed in the Adjudication and provides that those water rights would be junior in priority to Sanpete Water Conservancy District (“Sanpete”) Applications 14025 (91-130), a-9237; 14026 (91-131), a-9236; and 14477 (91-132), a-9238. These Applications were originally filed by the United States Bureau of Reclamation and then assigned to the Sanpete. An *Application for Extension of Time Within Which to Submit Proof* was approved and is extended to January 31, 2009.

Sanpete County does not own the federal reserved water rights asserted in the Adjudication by the Forest Service. The United States simply agreed that the Forest Service water rights would be subordinate and administrated as junior to those held by Sanpete.

Furthermore, the Stipulation does not preclude the Forest Service from seeking designation of Gooseberry Creek pursuant to the Wild and Scenic Rivers Act. Federal reserved water rights may be claimed by the United States consistent with enabling legislation. If Congress designates Gooseberry Creek as a Wild and Scenic and/or Recreational river it will establish a new basis for a federal reserved water right and will have a priority date equal to the date of designation.

## **T. Private Property**

---

This section is divided into the following subsections: General, Private Property on Specific River Segments, Designation Effects on SITLA and Tribal Land, ORVs Exist on Privately Owned Land, Increased Trespass, Easements, and Acquisitions.

## **General**

### **T1. The Forest Service should never consider private ground for designation and should protect private property rights. [2-11, 6-6].**

**Response:** Some of the river segments have land within the potentially designated river corridor that is privately owned. The Forest Service does not have authority to regulate the use of private lands as described in the DEIS on pages 1-15 to 1-16. If those segments are designated, non federal lands would remain subject to state and county laws and regulations as they were prior to designation. The Forest Service is only involved in projects on private lands when the proposal is in the river's bed or its banks and it is assisted by another federal agency (e.g., technical assistance, funding, or permit). The Forest Service may also be involved in non-federally assisted project proposals in the river's bed or its banks or in upland activities if we are requested to provide advice to another agency. The role of the Forest Service on nonfederal lands is to monitor activities within the river corridor, and, for any proposed activity that is likely to have adverse impacts on the values of the river system, to work cooperatively with state and local agencies, and landowners to resolve. The Forest Service may provide technical assistance to find ways to alleviate or mitigate the potential threat. If state, county and local laws and regulations and or technical assistance fail to protect river values, the Forest Service has the authority for limited purchase of private lands from willing sellers in fee title or a scenic or access easement (Interagency Wild and Scenic Rivers Coordinating Council Q & A Compendium, 2006).

### **T2. The Forest Service has no regulatory jurisdiction over private land. [3-94, 2-109a, 6-5, 5-50].**

**Response:** The respondent is correct that the Forest Service has no regulatory jurisdiction over private land as described in the DEIS on pages 1-15 to 1-16. Although private lands could be included in the boundaries of the designation, management restrictions would apply only to public lands. The Forest Service has no authority to regulate or zone private lands and would not seek authority to do so. Under the Wild and Scenic Rivers Act, designation neither gives nor implies government control of private lands within the river corridor. Although Congress could include private lands (in holdings) within the boundaries of the designated river area, management restrictions would apply only to public lands. People living within a river corridor would be able to use their property as they had before designation. Under the Act, the federal government has no authority to regulate or zone private lands. Land use controls on private lands are solely a matter of state and local zoning. The federal government has no power to regulate or zone private lands under the Act; however, administering agencies may highlight the need for amendment to local zoning (where state and local zoning occurs). Although the Act includes provisions encouraging the protection of river values through state and local governmental land use planning, there are no binding provisions on local governments. In the absence of state or local river protection provisions, the federal government may enter into agreements with landowners and/or purchase easements, exchange, or acquire private lands on a willing seller basis (Interagency Wild and Scenic Rivers Coordinating Council Q & A Compendium, 2006).

### **T3. What restrictions and procedures apply to construction, improvement, or maintenance of *private roads within wild and scenic river corridors*?**

**Response:** Under the Wild and Scenic Rivers Act, designation neither gives nor implies government control of private lands within the river corridor; this includes private roads on private lands. In consultation with landowners involved through coordinated management planning, every effort would be

made to eliminate or reduce adverse impacts for any proposals for road improvement, realignment and/or new construction. If a proposed new road would have a negative impact on river values, the administering agency will work with the landowner(s) to mitigate the proposal. Should mitigation and/or consultation fail to reduce adverse impacts to an acceptable level, the administering agency could negotiate with the landowner to purchase the specific development rights necessary to remove the threat to the river on a willing seller basis (Interagency Wild and Scenic Rivers Coordinating Council Q & A Compendium, 2006).

**T4. The Forest Service should designate the Logan River from the bridge at Guinavah-Malibu to the confluence with Beaver Creek as Recreational to protect it from ad hoc private development. [3-102].**

**Response:** Local government entities are encouraged by federal management agencies to provide for the protection of wild and scenic river values in their land use plans, including the use of zoning and other land use control limitations. The federal government does not have authority to control or restrict private land activities under the Wild and Scenic Rivers Act; management restrictions would apply only to National Forest System lands. People living within a river corridor would be able to use their property as they had before designation. The federal government has no power to regulate or zone private lands under the Act. While administering agencies may highlight the need for amendment to local zoning (where state and local zoning occurs), most counties do not support designation, as described in the DEIS on p3-143 to 3-147. In the case of proposed development on private land that is clearly incompatible with wild and scenic river designation, classification, or management objectives, the government typically provides technical assistance to find ways to alleviate or mitigate the actual or potential threat (Interagency Wild and Scenic Rivers Coordinating Council Q & A Compendium, 2006).

**Private Property on Specific River Segments**

**T5. The Forest Service should manage the Logan River in anyway necessary to protect the rights of private property owners. [3-112].**

**Response:** See response to comment T2. Under the Wild and Scenic Rivers Act, designation neither gives nor implies government control of private lands within the river corridor. Private in holdings along the Logan River are identified in the Lower Logan River Suitability Evaluation Report. If designated private landowners would continue to be able to do with their properties what and how they feel with the proper permits. The Forest Service would be required to maintain wild and scenic standards on the sections of river they manage. See the Record of Decision (ROD) for the rationale for the choice of rivers and the selected alternative.

**T6. As a property owner I support Logan River and White Pine Creek designation if designation doesn't affect private property rights. [3-113].**

**Response:** See response to comment T2. Private in holdings along the Logan River are identified in the Logan River Suitability Evaluation Report (Appendix A, pages A-508 to 523) and White Pine on page A-531. See the ROD for the rationale for the choice of rivers and the selected alternative.

**T7. The Forest Service should not designate White Pine Creek, source to mouth because the segment is short and is on private land. [3-130].**

**Response:** See response to comment T2. The Suitability Evaluation Report identifies the private property on the segment. See the ROD for the rationale for the choice of rivers and the selected alternative.

**T8. According to the map and tables, the scenic designation includes some private land on the North Slope of the Uinta Mountains. I am especially concerned about the segment on Middle Beaver. We are told that the private segments will not be included in the final designation. [2- 109, 5-51].**

**Response:** See response to comment T1 and T2. Under the Wild and Scenic Rivers Act, designation neither gives nor implies government control of private lands within the river corridor. Private land on the Middle Fork Beaver Creek is identified in the Suitability Evaluation Report on page A-401. The Forest Service has the authority to recommend as suitable only river segments on National Forest System land. See the ROD for the rationale for the choice of rivers and the selected alternative.

**T9. The Forest Service should revise the Upper Provo River designation boundaries in Alternative 4. To protect historical development and grandfathered building rights at the end of the segment. [4-50].**

**Response:** This concern is addressed in T1 and T2. Under the Wild and Scenic Rivers Act, designation neither gives nor implies government control of private lands within the river corridor. Private land on the Provo River segment is correctly identified in the DEIS, page A-587. The Forest Service has the authority to recommend as suitable only river segments on National Forest System land. The Forest Service would be required to maintain wild and scenic standards on the sections of river they manage. See the ROD for the rationale for the choice of rivers and the selected alternative.

**T10. The Forest Service should reconsider suitability for Lower Dry Fork Creek because it was not recommended by BLM, and has private landowner issues. [3-32].**

**Response:** The Forest Service does not have authority to regulate the use of private lands as described in the DEIS on pages 1-15 to 1-16. See response to comments T1 and T2. If those segments are designated, non federal lands would remain subject to state and county laws and regulations as they were prior to designation. The Forest Service can only recommend as suitable land that they manage. Although the BLM section was included in eligibility and the cumulative effects analysis, the question of suitability for that section will be left to the BLM. See response to comment B37. See the ROD for the rationale for the choice of rivers and the selected alternative.

#### **Designations Effects on SITLA Land and Tribal Land**

**T11. The Forest Service should not designate Hammond Canyon because it has tribal land. [3-62].**

**Response:** See response to comments B1 and T1. The Forest Service can only recommend as suitable land that they manage. The Forest Service has no jurisdiction over Tribal land. The Forest Service does not have authority to regulate the use of Tribal lands. The Forest Service is only involved in projects on these lands when the proposal is in the river's bed or its banks and it is assisted by another federal agency (e.g., technical assistance, funding, or permit). The Forest Service may also be involved in non-federally assisted project proposals in the river's bed or its banks or in upland activities if we are requested to provide advice to another agency. The role of the Forest Service on nonfederal lands is to monitor activities within the river corridor, and, for any proposed activity that is likely to have adverse impacts on the values of the river system, to work cooperatively with state and local agencies, and landowners to resolve. The Forest Service may provide technical assistance to find ways to alleviate or mitigate the potential threat. If state, county and local laws and regulations and or technical assistance fail to protect river values, the Forest Service has the authority for limited purchase lands from willing sellers in fee title or a scenic or access easement (Interagency Wild and Scenic Rivers Coordinating Council Q & A Compendium, 2006). The location of the Tribal land on the Hammond Canyon Segment has been

updated. See the ROD for the rationale for the choice of rivers and the selected alternative.

**T12. The Forest Service should withdraw Beaver Creek and the Logan River as SITLA [State of Utah School and Institutional Trust Lands Administration] is concerned about potential impacts on the value and utility of its land by unknown or unanticipated consequences of designating these two proposed river segments as described in the DEIS. [3-114].**

**Response:** See response to comment T11. The Forest Service can only recommend as suitable land that they manage. The Forest Service has no jurisdiction over State land. The Forest Service does not have authority to regulate the use of state lands. If a segment with state lands on it were designated, non federal lands would remain subject to state and county laws and regulations as they were prior to designation. See the ROD for the rationale for the choice of rivers and the selected alternative.

### **ORVS Exist on Privately Owned Land**

**T13. Historic ORVs are on private land on Lower Dry Fork Creek and Blacks Fork**

**Response:** Forest archeologist found in the case of Lower Dry Fork Creek that the historic value described in the SER “old irrigation canals and remnants of a flume used in early timber harvesting activities. Historic gold mining activities and sheep use” are evident throughout the segment.

On the Blacks Fork River segment during the Eligibility study the Wasatch-Cache National Forest acknowledged the historic property as an ORV but that it remains the property of the landowner, wholly within his discretion to manage as he chooses. We recognized that while there may be private lands within the River corridor management restrictions apply to public lands only. This information has been updated in Appendix A – Suitability Evaluation Reports.

The respondent is correct that the Forest Service has no regulatory jurisdiction over private land as described in the DEIS on pages 1-15 to 1-16. Under the Wild and Scenic Rivers Act, designation neither gives nor implies government control of private lands within the river corridor. Although Congress could include private lands (in holdings) within the boundaries of the designated river area, management restrictions would apply only to public lands. People living within a river corridor would be able to use their property as they had before designation. Land use controls on private lands are solely a matter of state and local zoning.

The authorities provided to Federal land managers through the Wild and Scenic River Act would be insufficient to protect an ORV which exists exclusively on private land adjacent to the river segment.

### **Increased Trespass**

**T14. Designation would increase recreational use, trespass, and unauthorized uses on private land. [2-109c, 6-5b].**

**Response:** Several of those that commented were concerned that designation would increase trespass on private property in the river corridor. It is true that many of the nation’s rivers have received increased use in recent years. River use may increase slightly or not at all as a result of designation. Access is up to the owner to grant, and vandalism is handled by local law enforcement authorities. However, if a river segment were designated federal agencies should work closely with landowners to minimize problems through brochures and maps, signs, etc. Many landowners on rivers already designated feel they are better off with the agency taking some responsibility. Unauthorized uses should not increase since the managing agency will provide maps and signs to direct use to publicly owned access sites. No use of

private lands is allowed unless special arrangements are made with the landowner. Private landowners are still entitled to post their property with “No Trespassing” signs or require users to obtain landowner permission (Interagency Wild and Scenic Rivers Coordinating Council Q & A Compendium, 2006).

### **Easements**

**T15. Designation would preclude logging and reclamation work and constitute an uncompensated taking. Landowners would need to be compensated. [3-94].**

**Response:** See DEIS, page 3-151 regarding private timber management practices. Private timber management practices are guided by state and local authorities, along with management agencies that may provide technical assistance to mitigate incompatible or inappropriate activities. Under the Act, the only way the federal government can restrict private timber harvesting is through purchase of timber rights (in easement or fee title) or under cooperative agreement. The federal government does not have authority to control or restrict private land activities under the Act; timber management restrictions would apply only to National Forest System lands. People living within a river corridor would be able to use their property as they had before designation. If a proposed project on private property would have a negative impact on river values, the administering agency will work with the landowner(s) to mitigate the proposal. Should mitigation and/or consultation fail to reduce adverse impacts to an acceptable level, the administering agency could negotiate with the landowner to purchase on a willing seller basis the specific development rights necessary to remove the threat to the river (Interagency Wild and Scenic Rivers Coordinating Council Q & A Compendium, 2006).

### **Acquisitions**

**T16. Acquiring private land would be costly and is not the best use of limited agency funds. [3-71].**

**Response:** Section 6 of the Wild and Scenic Rivers Act discusses acquisition procedures and limitations for acquisition of lands and interests in lands by federal managers on congressionally designated Wild and Scenic Rivers. The Forest Service currently manages more than 50 percent of all 86 eligible segments. Because over 50 percent of lands within a wild and scenic river boundary are in public ownership (federal/state/local government), no condemnation for fee title is allowed. The federal government may acquire, on a willing seller basis land, and interests in lands, for rivers designated via Congress with certain restrictions:

- No more than an average of 100 acres per mile may be acquired in fee.
- State lands may be acquired by donation/exchange only.
- Tribal or land in a political subdivision can be acquired by consent only, so long as it is being protected for purposes of wild and scenic river status.
- (b) Limitations on land condemnation.
- “50 percent rule” – If over 50 percent of lands within a wild and scenic river boundary are in public ownership (federal/state/local government), no condemnation for fee title is allowed.
- The 50 percent rule does not apply when used to clear title, or to acquire conservation or use easements reasonably necessary to provide public access or resource protection.

Existing rights, privileges, or contracts may not be revoked without private party consent. There are no plans to purchase privately owned land. Also see response to comment Q18.

**T17. The Forest Service should take into account the Duchesne County General Plan policies regarding land exchanges, acquisitions, and sales if any private land is proposed for acquisition within the county. [1-38].**

**Response:** Wild and scenic river designation allows for acquisition, however, there are no plans to

purchase private land in conjunction with the designation process. Therefore, there will be no effect on the County tax base. The federal government does not have authority to control or restrict private land activities under the Wild and Scenic Rivers Act; management restrictions would apply only to public lands. People living within a river corridor would be able to use their property as they had before designation. See comment Q5.

## **U. Suitability Evaluation Reports**

---

This section is divided into the following subsections: Suitability Evaluation Reports are Incomplete and Corrections to Suitability Evaluation Reports.

### **Suitability Evaluation Reports are Incomplete**

**U1. The Forest Service should update the Suitability Evaluation Reports based on information received during the scoping process and on the DEIS. [1-16].**

**Response:** The Suitability Evaluation Reports have been updated using information received from scoping comments and comments on the DEIS.

**U2. The Forest Service should acknowledge the nature and the quantity of comments received during the scoping process. Because this omission calls into question the integrity of the Suitability Evaluation Reports. [1-12].**

**Response:** Suitability factor 3 “support of Opposition to Designation” has been updated in the FEIS, Appendix A – Suitability Evaluation Reports. The content analysis process is not a vote. In a vote the only thing that matters is the count, whereas in land and resource management, many other factors to be considered are determined by law and national policy. Regardless of the number of comments received or the affiliation of the submitter, content analysis ensures that every concern is identified for consideration by the project team. See response to comment B6 for further information.

**U3. The Forest Service should identify suitable river segments in the Suitability Evaluation Reports. [5-78].**

**Response:** The Suitability Evaluation Reports identify the specific circumstances of each segment and provide information to the Forest Supervisors who make the final determination of suitability. Suitability for each river is documented in the Record of Decision.

**U4. The Forest Service should revise the Suitability Evaluation Reports for Mamie Creek, Death Hollow, Slick Rock Canyon, Cottonwood Canyon, the Gulch, Steep Creek, East Fork of Boulder Creek, Pine Creek because the summaries of outstandingly remarkable values (ORVs) does not meet Garfield County criteria and fails to comply with Forest Service process. [5-89, 5-91, 5-92, 5-93, 5-94, 5-95, 5-96].**

**Response:** Each National Forest in Utah followed Forest Service process described in Forest Service Handbook. Garfield County’s lack of support for designation of these was described in Appendix A – Suitability Evaluation Reports of the DEIS. The lack of support was also noted on in the DEIS, Section 3.10 – Social and Economic Resources. As noted in the DEIS, Garfield County was working on a Resource Management Plan for all lands in the County. The information regarding the inconsistency with the county plan will be updated in the FEIS and Suitability Evaluation Reports. Federal management,

however, is not dictated by county plans.

**U5. The Forest Service should coordinate with Garfield County to comply with the Forest Service’s own processes. [1-33].**

**Response:** The Forest Service has coordinated with Garfield County. See response to comment B26 regarding coordinating with county plans.

Eligible river segments for the Dixie National Forest were compiled in two separate processes. River segments found eligible on the Escalante Ranger District were determined eligible during the Grand Staircase-Escalante National Monument planning process. This was an interagency process between the Bureau of Land Management, U.S. Forest Service, and National Park Service. Other river segments found eligible on the Dixie National Forest were determined eligible during forest planning. Eligibility determinations are not required to be done with NEPA analysis. However, cooperating agencies, including Garfield County, were consulted frequently throughout the process of determining eligibility. County governments were provided regular briefings, working meetings, review of draft documents, and even field trips to discuss and experience rivers segments under consideration. Upon completion of eligibility and initiation of the Statewide Suitability effort, Garfield County (and other local counties) were informed of forest decisions. Past comments and objections to river segments were discussed. Finally, the Dixie National Forest followed interagency guidelines for determining eligibility of river segments. Under the interagency guidelines and a statewide MOU (Utah) for wild and scenic rivers, the region of comparison for potential ORVs was identified. In most cases this region of comparison approximated the boundaries of the State of Utah. Therefore, the Dixie National Forest considered National Park Service and other public lands across the State of Utah as a region of comparison for eligibility determinations.

The Interagency Whitepaper, “Wild and Scenic River Review in the State of Utah - Process and Criteria for Interagency Use (July 1996)” was considered as described in the DEIS, Section 1.3 – Wild and Scenic Rivers Act, page 1-3.

**Corrections to Suitability Evaluation Reports**

**U6. The Forest Service should correct erroneous information in the EIS concerning Hammond Canyon relating to land ownership. [3-62-a, 5-87].**

**Response:** The respondent is correct that the area of tribal land on the Hammond Canyon segment was calculated incorrectly based on an earlier map of the property. This will be modified in the FEIS. Like private land the Forest Service has no regulatory authority concerning tribal land.

**U7. The Forest Service should revise page 338 of Appendix A – Suitability Evaluation Reports to reflect that evidence of human activity is present in Hammond Canyon. [5-86].**

**Response:** The SER will be amended to reflect that in the lower portion of this segment, on tribal land, there are small buildings, old farm machinery, evidence of old diversions, farmed land, and an access road that crosses the channel a number of times, as well as grazing allotment with its associated use. These uses are compatible with the Scenic classification.

**U8. The Forest Service should reconsider suitability for Lower Dry Fork Creek.**

- **Because the Suitability Evaluation Report erroneously places the segment on Bureau of Land Management land**
- **Because the Suitability Evaluation Report erroneously claims that the segment supports fish**

**populations**

- **Because the Suitability Evaluation Report erroneously claims that canoeing and kayaking occur on the segment**
- **Because the Suitability Evaluation Report erroneously describes the flume as having been used for timber harvesting. [3-32].**

**Response:** The SER for Lower Dry Fork Creek has been modified to show the correct location of the private land and BLM managed property. Above the sinks where flows are perennial, Colorado Cutthroat and Brook trout are present. Below the sinks, fisheries populations are most likely intermittent or transitory. Kayaking and canoeing are likely limited uses and will be removed from the SER. The presence of fish or Kayaking and canoeing is not relevant to the ORVs of the segment. In reference to the flume, the SER cites the eligibility report, which states “Historic Value – There are old irrigation canals and remnants of a flume used in early timber harvesting activities. Historic gold mining activities and sheep use are evident throughout the segment. Note: the Historic value does not extend beyond the National Forest boundary on to land administered by the BLM. The role of the Flume in timber harvest activities as well as irrigation has been confirmed by the Forest archaeologist.

**U9. The Forest Service should correct its description of Anderson Creek. [5-58].**

**Response:** Anderson Creek is not an eligible section and therefore is not analyzed in this study.

**U10. The Forest Service should correct factual inaccuracies in the Suitability Evaluation Report regarding Moody Wash. [5-83].**

**Response:** Although values may be similar to other tributaries in the sub-basin, the Moody Wash segment is exemplary in that it “is still a fully functioning semi-arid desert stream system” (Appendix A – Suitability Evaluation Reports, page 207).

**U11. The Forest Service should correct the Suitability Evaluation Report for Ashley Gorge Creek to reflect that the creek is not used for canoeing or kayaking. [5-84].**

**Response:** Kayaking and canoeing is very unlikely for this stretch of river. The reference will be removed from the Suitability Evaluation Report.

**U12. The Forest Service should not designate Cottonwood Canyon, The Gulch, or Steep Creek because designation is inconsistent with the Garfield County General Management Plan. [3-50a, 3-51a, 3-52a].**

**Response:** Garfield County’s lack of support for designation was described on the following pages in Appendix A – Suitability Evaluation Reports of the DEIS: Cottonwood Canyon (page A-228), The Gulch (page A-236), and Steep Creek (page A-244). The lack of support for The Gulch and Steep Creek was also noted on in the DEIS, Section 3.10 – Social and Economic Resources on page 3-145. As noted in the DEIS, Garfield County was working on a Resource Management Plan for all lands in the County. The information regarding the inconsistency with the county plan will be updated in the FEIS and Suitability Evaluation Reports.

**U13. The Forest Service should not designate the Little Provo Deer Creek segment because designation is inconsistent with the Wasatch County General Plan. [3-79].**

**Response:** The inconsistency with the Wasatch County General Plan and designation of Little Provo Deer Creek was described on page A-378 in Appendix A – Suitability Evaluation Reports of the DEIS.

The inconsistency was also noted on in the DEIS, Section 3.10 – Social and Economic Resources on page 3-147.

**U14. The Forest Service should not designate Upper Dark Canyon because designation is inconsistent with the San Juan County Master Plan. [3-55a].**

**Response:** The inconsistency with the San Juan County Master Plan and designation of Upper Dark Canyon was described on page A-354 in Appendix A – Suitability Evaluation Reports of the DEIS. The inconsistency was also noted on in the DEIS, Section 3.10 – Social and Economic Resources on page 3-145.

## **V. Out of Scope**

---

This section contains responses to comments that are outside the scope of analysis and the decision to be made.

### **Out of Scope**

**V1. The Forest Service should not move forward with the proposed action because the Constitution does not allow the federal government to own or control land. [2-34a].**

**Response:** This comment is outside the scope of this analysis and decision to be made.

**V2. The Forest Service should open more areas for off-highway vehicles. [6-10].**

**Response:** This comment is outside the scope of this analysis and decision to be made.

**V3. Concerns: The Forest Service should demonstrate that areas proposed for designation as Areas of Critical Environmental Concern contain unique or substantially significant historic, cultural, or scenic values; fish or wildlife resources; or natural processes. The Forest Service should justify designation of an area as an Area of Critical Environmental Concern rather than multiple-use management. The Forest Service should demonstrate that proposed designation as an Area of Critical Environmental Concern is not a substitute for Wilderness suitability recommendation. The Forest Service should analyze and disclose the effects of designation as an Area of Critical Environmental Concern on regional values, resources, processes, and hazards. [6-19, 6-20, 6-21, 6-22].**

**Response:** These comments are outside the scope of this analysis and decision to be made. The Forest Service is not proposing to designate any Areas of Critical Environmental Concern.

**V4. The Forest Service should close the road segment between Herd Hollow and the Danish Dugway. [6-11].**

**Response:** These comments are outside the scope of this analysis and decision to be made.