Record of Decision

Wild and Scenic River Study of the South Platte River and North Fork of the South Platte River

USDA Forest Service
Pike and San Isabel National Forests, Cimarron and Comanche National Grasslands (PSICC)
Douglas, Jefferson, Park and Teller, Counties, Colorado

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This decision involves 72.3 miles of the South Platte River system where it crosses National Forest land southwest of Denver, Colorado. The specific rivers involved include 49.4 miles of the South Platte River (South Platte), and 22.9 miles of the North Fork of the South Platte River (North Fork).

Background

This decision is an outgrowth of a wild and scenic river study process initiated late in the last century. The wild and scenic review process normally involves four steps:

- **Eligibility** - determining what river segments are eligible for potential addition to the Wild and Scenic Rivers System. Eligible segments possess free-flow and one or more outstandingly remarkable values (river values). This is considered to be a technical analysis that does not involve formal agency decision-making and therefore is not subject to administrative review.
- **Classification** - classifying these segments as to their most protective potential classifications as *wild*, *scenic*, or *recreational* rivers. This is also considered to be a technical analysis that does not involve formal agency decision-making and therefore is not subject to administrative review. Map 1 shows both the eligible segments and their potential classification. (Note that this map is the same as Map S-1 in the Final EIS's Summary. Map 1-3 in Chapter 1 should have been the same but was inadvertently incorrect. The discussion on Final EIS page 3-17 explains that the historic presence of motorized travel in the Wildcat Canyon area gave the area a *wild* classification.)
- **Suitability** - evaluating the eligible segments for their suitability for potential addition to the National Wild and Scenic Rivers System. This step involves a broader range of considerations, such as a river's uniqueness, competing uses, and alternative means of

protecting the free-flow and river values identified in the eligibility study. This step involves a formal decision and is subject to administrative review.

- **Designation** - For rivers found suitable, the final step in the process is for Congress to decide whether to designate a river as an addition to the National Wild and Scenic Rivers System.

The present study was initiated by the Forest Service through its land management planning process under Section 5(d)(1) of the Wild and Scenic Rivers Act of 1968 (P.L. 90-542 et seq.). For this study, the Forest Service studied 99.5 miles on the two rivers, of which 72.3 miles were determined to be eligible. The eligible river segments and their potential classification are shown in Map 1. Evaluation of suitability was initiated but not completed, as discussed in greater detail below.

This study has spanned several years, with these major milestones:

- November 16, 1995: publication in the Federal Register of a notice of intent to prepare an EIS and a wild and scenic river study report
- April 1997: release of the Draft Legislative EIS
- March 1999: submission to the Forest Service of the South Platte Protection Plan
- June 2000: release of a Supplemental Draft Legislative EIS disclosing the effects of the south Platte Protection Plan
- January 2004: release of the Final EIS.

Shortly before the DLEIS was scheduled to go to press, a strong expression of interest emerged supporting an additional alternative that did not invoke the prospect of Congressional action. Although a No Action alternative had already been developed (Alternative A1), it was a typical version of No Action in which things were projected to move forward over time with no special interventions. What had become of interest, however, was an alternative that aggressively sought to protect river values through local means not dependent on Congressional action under the Wild and Scenic Rivers Act. Representatives of local governments expressed the desire to have an opportunity to develop such an alternative.

Recognizing that the overriding concern of the study was to find ways to protect the river values that had been identified, the Forest Service concluded it was appropriate to provide for development of such an alternative. Rather than postpone release of the DLEIS pending development of the alternative, the Forest Service elected to include it in the DLEIS, albeit as a concept rather than as a fully-developed alternative. It was named Alternative A2.

Because Alternative A2 had not been fully developed or its effects disclosed at that point in the process, the Forest Service acknowledged that a supplemental DLEIS would be required later. The DLEIS specified that development of the alternative needed to meet two criteria:

(1) at least as protective as the DLEIS's other preferred alternative (Alternative J), and
(2) developed by a broad-based spectrum of the local citizenry.

Subsequently, Denver Water facilitated the formation of a group whose task was to develop a non-designation alternative. Informally called the 'A2 Group', the group consisted of representatives from key local governments, water providers and environmental organizations in the Colorado Front Range area. Several committees and subcommittees met over many months to develop the alternative, which became known as the South Platte Protection Plan (SPPP). Out of this effort came not only the plan itself, but an improved rapport among the participants that is highly beneficial in many ways.

South Platte Protection Plan

The South Platte Protection Plan was developed by a broad-based group of representatives of local governments, water providers and environmental organizations. As discussed in the preceding section, this group worked cooperatively over an extended period of time to develop a mutually agreeable plan for protecting the river values that were identified in the wild and scenic river study, while also providing for the flexibility needed to deal with water supply issues.

The South Platte Protection Plan is included in the Final EIS as Appendix A, which contains several attachments referenced below. Briefly, it offers benefits via eight actions :

1. **Protect canyons.** A commitment not to build any water works facilities in Cheesman Canyon and Elevenmile Canyon.
2. **Flow Management Plan.** (SPPP Attachment B) The plan consists of:
    - Temperature goals through management of top and bottom releases from reservoirs.
    - Minimum streamflows.
    - Ramping (changing gradually) outflow changes from storage.
    - New valves, monitors, gages.
    - Coordination with DOW re channel work on North Fork.
    - Public input to annual operating plans.
    - Consideration of whitewater and fisheries in Roberts Tunnel discharges, within the limitations described in the Flow Plan.
3. **Recreation, Wildlife, Scenery and Other Values.** (SPPP Attachment C) A management partnership between Colorado State Parks and the U.S. Forest Service is proposed for the management area. Until the partnership is in place, portions of the area would be cooperatively managed by the Forest Service, Denver Water, Jefferson County and Douglas County. The proposal also includes proposed recreation management by Jefferson County Open Space along portions of the North Fork, and a special recreation area at Bailey Canyon to be managed by the US Forest Service.
4. **Cooperative water quality initiatives** through an Upper South Platte Watershed Steering Committee (later renamed as the Coalition for the Upper South Platte), composed of interested local governments, agencies and parties in the basin, which was triggered by this proposal but is continuing independently of the South Platte Protection Plan. (See SPPP Attachment E.)
5. **Endowment Fund.** (SPPP Attachment D) Front Range local governments and water suppliers will contribute at least one million dollars to be spent on the river values identified by the Forest Service. A board will be convened within 90 days following a decision by the U.S. Forest Service to adopt the South Platte Protection Plan in lieu of designation.
6. **The South Platte Enhancement Board.** (SPPP Attachment D) A coordinating forum, the South Platte Enhancement Board, will provide comments and responses on activities such as land use or land management planning decisions, as well as deciding expenditures from the endowment.
7. **Withdrawal of 1986 applications for conditional storage rights.** Both Denver Water and the Metropolitan Denver Water Authority would withdraw Water Court applications for 780,000 acre feet of additional storage at the Two Forks reservoir site.

8. **Alternatives to development of Denver's right-of-way.** Denver Water and environmental groups have proposed a working relationship that could lead to alternative projects and allow Denver later to relinquish its 1931 right-of-way on the South Platte at Two Forks. (More fully described in Attachment F).

Key aspects of this plan are (a) many of its actions cannot be required by the Forest Service, (b) it defines a platform of agreement among participants regarding management of the rivers, and (c) it provides for the flexibility needed by water providers to deal with serious water supply issues facing the Colorado Front Range.

Decision and Reasons for the Decision

The Draft EIS viewed the purpose of this study as being to provide Congress with a basis for determining whether to add any portions of the study rivers to the National Wild and Scenic River System (DEIS, p. I-5). Subsequent to release of the Draft EIS it became apparent to the Forest Service that an underlying purpose was also at work: protection of the river values that had been identified during the study. Consequently the Final EIS identified two purposes: documentation of the study and protection of river values via the Forest Plan.

Decision

After reviewing the Final EIS and considering the prospects for protecting river values under the various alternatives analyzed therein, I believe that the South Platte Protection Plan offers the best available means of protecting the river values that have been identified. It has many strengths: its breadth of support indicates a good prospect for successful implementation; it provides more benefits than can be required under my current authorities; it allows coordinated work on important issues affecting the rivers; and it defines an area of agreement regarding water development that a wide range of interests can live with. To this end, my decision is to amend the PSICC Forest Plan to establish protections for the identified river values. These protections are consistent with Forest Service policy and will complement the SPPP. This will maintain the findings of eligibility and classification of the eligible river segments pending final resolution of suitability.

Description - This decision adopts elements from several of the alternatives analyzed in the Final EIS— it is not any one of them. Therefore for clarification the various aspects of this decision are set forth below.

1. **Scope** - The only action being taken under this decision is to amend the Forest Plan in response to direction in Forest Service Manual 2354.21 governing the management of study rivers, which states in part,
   - "... Manage wild and scenic river study areas to protect existing characteristics through the study period and until designated or released from consideration...
   - Resource management activities may be carried out provided they do not cause a negative or reduced classification recommendation...
   - Land management plans must identify the area managed for the wild and scenic study river values... "

2. **Forest Plan Amendment** – The Forest Plan Amendment herein approved consists of: (a) establishing a new management area embracing the rivers' eligible segments, and (b)

identifying elements of direction that govern activities in the area. The amendment is included at the end of this decision. Further information on the amendment is in the section below entitled 'Forest Plan Amendment Details'.

3. **Relationship of this Decision to the SPPP** – Because the SPPP is a plan developed by non-Federal parties, the activities embraced by it are largely beyond the scope of my authority to require or approve. This is particularly true of the Streamflow Management Plan, Endowment Fund, various commitments to refrain from pursuing water development in key areas, and the prospect of relinquishing certain water rights at a future time if certain conditions are met. However, it is within my authority to work cooperatively with the SPPP for the protection of river values, and I intend to do that.

   The SPPP includes certain points with which this decision is not in exact alignment. These are discussed below:

   - Coordinated planning - The SPPP calls for development of coordinated planning and unified management of Forest Service, Denver Water, and county open space properties along the river corridor. Several management scenarios were considered I agree that coordinated management is an excellent approach and I will cooperate with others in developing a plan to address recreation and related issues. However, the amount of effort the Forest Service can put into it may be constrained by availability of funding and resources.
   - Agreements – The SPPP envisions one or more agreements among its participants and the Forest Service, the purpose being to verify a commitment to support the SPPP and provide an enforcement mechanism for ensuring the SPPP is followed. I concur that agreements are a way of making commitments, but they are neither permanent nor the only mechanism available. Regarding enforcement, the Forest Service is accountable to adhere to agency policy regarding protection of eligibility whether it enters into other agreements or not, and it can be held to the terms of its individual decisions, such as this one. Further, agreements are voluntary undertakings and signatories are able to withdraw if needed, and as an administrative matter they cannot run in perpetuity but instead must be renewed periodically. Regarding the making of commitments, while the Forest Service needs early confirmation from entities contributing to the Endowment Fund that they intend to contribute to the Fund and support the SPPP, confirmation can be made in more ways than by entering into an agreement, such as passing corporate resolutions to that effect. In light of these considerations, agreements are not necessary for the successful implementation of the SPPP.
   - Grazing restrictions – The SPPP calls for restrictions on livestock grazing in the form of closing allotments not being used and preventing livestock damage in streamside areas. This decision is not adopting these restrictions because (1) the matter of closing vacant allotments will be reviewed during the Forest Plan revision process, which will occur in the next few years; and (2) the matter of livestock access to the rivers will be reviewed whenever allotment planning is undertaken. Considering that current grazing patterns did not prevent the rivers from being found eligible, associated values are not perceived to be under threat and the sought-after remedies can be considered under these other processes.

4. **Relationship of this Decision to the Hayman Travel Management Project** – This is a separate project with its decision being scheduled for issuance later this year. It deals with

travel management within the area burned by the Hayman fire and overlaps with this Decision regarding the Scenic portion of Segment C above Cheesman Reservoir (aka Wildcat Canyon). Comments on the Final EIS expressed concern over the potential for inconsistency between the two decisions.

Before the Draft EIS was issued, one early focus of public involvement was on motorized use in the Wildcat Canyon area. Multiple interests were involved in the dialog. The outcome was a conclusion that it was appropriate to have some amount of motorized travel in that area. This outcome is reflected in Alternative J, which was one of the Draft EIS's preferred alternatives and shows the Wildcat Canyon area as Scenic, which allows for motorized travel. The Hayman project is now analyzing the overall burned area in light of damages caused by the Hayman fire, and will make a decision on the area's future travel management in light of resource protection. In the event of conflicting elements between the two decisions, the decision elements that are most protective of river values will prevail.

However, at this time I do not expect a consistency problem to emerge. This is because the Hayman decision is likely to fall between two extremes, both of which are consistent with the wild and scenic decision. At one extreme the Hayman decision might close all motorized routes passing through the Scenic portion; this would amount to a high degree of protection for river values, but not an inconsistency with this wild and scenic Decision. At the other extreme the Hayman decision might call for returning travel management to pre-Hayman conditions, which also is not an inconsistency because those conditions represent the situation extant at the time the pre-Draft EIS dialog took place. Even so, should there be an unexpected inconsistency between the two decisions that compels the wild and scenic decision to be modified, the necessary modification will be made at that time.

5. **Suitability** – This Decision does not include a determination of whether any segments are suitable for inclusion in the National Wild and Scenic Rivers system. Such a determination is part of the overall study process, but it is not being made at this time, nor is it known when the process might resume toward reaching final resolution on suitability. The study documented in the Final EIS was initiated under Section 5(d)(1) of the Wild and Scenic Rivers Act of 1968 (P.L. 90-542 et seq.); studies conducted under this authority are not subject to time requirements for completion. Time must pass before the SPPP's effectiveness can be known and the time scales of water development planning can span many years; therefore it could be quite some time until the matter of suitability is reopened. See the following section on 'Criteria for reopening the suitability study'.

6. **Criteria for reopening the suitability study** - Following implementation of this decision, the South Platte Protection Plan needs to be put into action by its proponents. The commitments contained therein are expected to be honored. Although the SPPP is designed to persist over time, some indicators of acceptance are needed to reassure me that it getting off to a good start. To this end, certain SPPP actions need to occur in the timeframes specified in that plan:
    - Within 6 months of the implementation date of the Forest Service decision, potential contributors to the Endowment Fund must certify to the Forest Service that they intend to contribute to the Fund and support the SPPP. This confirmation can be made in more ways than by entering into an agreement as described in the SPPP, such as passing corporate resolutions to that effect.

- The various periodic coordination meetings identified in the SPPP must be held as scheduled. Examples include meetings related to the Streamflow Management Plan, Endowment Fund, and Denver Water Planning Task Force.
- Within 3 ½ years of implementation of the Forest Service decision, the Endowment Fund must be fully funded, as outlined in the SPPP (SPPP Attachment D).

If these criteria are met within the stated time frames, it would appear reasonable to conclude that the SPPP has been implemented satisfactorily. If not, I may have to conclude that the SPPP has too little local support to protect the river values involved, in which case I may find it appropriate to reopen the wild and scenic river study process and make a determination regarding suitability. Further, if monitoring over time indicates that the river values involved are being threatened by ongoing activities or future proposals, or that local support has dwindled to the point that the SPPP is no longer functioning effectively, I may find it necessary to reopen the study process. Making a determination on suitability would require a new decision, while the need for any additional review under the National Environmental Policy Act would have to be evaluated at that time.

It is possible that at some point in the future a proposal for an activity on National Forest in the management area could arise that appears to threaten the river values that have been identified. If or when such a proposal is made, it will provide a meaningful test of the SPPP's effectiveness. Following review of the proposal under the SPPP's auspices, a conclusion will emerge whether the proposal is consistent with the SPPP's goals. The Forest Service will then also need to review the proposal to determine whether it agrees that eligibility will be maintained without reducing classification. If not, a decision regarding suitability may become necessary. In essence, that decision would establish the agency's position whether the merits of the proposal outweigh the river values threatened by it or visa versa. Until such a proposal emerges, a decision on suitability does not need to be made.

7. **Valid existing rights** – This decision only applies to National Forest System lands in the management area. Nothing in this decision abrogates any valid existing rights, privileges or contracts affecting National Forest System lands held by any private party without consent of said party. Activities affecting the applicability of the United States mining and mineral leasing laws are subject to valid existing rights.

Additional clarification - Because this decision rests in a complex situation, it can be further clarified by stating what it is not:

1. It is not an approval of the South Platte Protection Plan. As stated above, many of the SPPP's activities lie beyond the scope of my authority to require or approve. Nevertheless, I support the SPPP and intend to work cooperatively with its supporters.
2. It is not an attempt to emulate 'Alternative A3 Suitable'. Various comments on the Final EIS drew the inference from Chapter 5 that the Preferred Alternative seeks to emulate 'Alternative A3 Suitable'. This decision is not the Preferred Alternative in the FEIS. This decision cannot be equated with any of the alternatives described in previous documents, although it embraces elements from them.
3. It is not an attempt to emulate designation. Various comments on the Final EIS drew the inference that the Preferred Alternative seeks to emulate as much as possible the protections applicable to a designated river. This decision does not do that. See the preceding item.
4. It is not tacit pre-approval of the types of activities in SPPP Attachment F under 'Examples of Possible Future Water Development' and 'Examples of Activities Not Considered New Water Development'. Where National Forest System lands are involved, proposals for any

activities remain subject to normal special use permitting requirements and will be subject to the direction in the Forest Plan Amendment being approved by this decision.

Forest Plan Amendment Details

Prior to the Final EIS, the Plan amendment was only discussed conceptually. It was felt that the broad principles affecting the amendment were better addressed through the alternatives being analyzed and discussed, and that, since the amendment's content would be largely dependent on which alternative was ultimately selected, the details could wait until later. Accordingly, a detailed description of the amendment did not appear until the Final EIS was released. The comment period that followed was provided so public comment on the amendment could be obtained. Several comments and suggestions were received; several changes were made in light of those comments, as discussed further below.

The essence of the amendment is to establish a management area for the purpose of protecting the river values underlying the segments' eligibility. The management area is a corridor extending ¼ mile on either side of the high-water line of the rivers (Figure 1). The amendment only applies to the 13,953 acres of National Forest within the management area; the remaining 8,676 acres within the area are not affected by the amendment, although their owners have the option of working cooperatively with the Forest Service and the South Platte Protection Plan.

In the current Forest Plan a protective management area already exists between Elevenmile Reservoir and Cheesman Reservoir. That area was established in 1984 to recognize the eligibility of that portion of the river. On the current Forest Plan map this corridor is signified by "SR", defined as "Scenic River Corridor (eligible for suitability study)". Under this amendment (1) the management area is being extended to include the other eligible segments, and (2) the direction affecting the entire management area will fall under the Forest Plan Amendment being approved by this decision.

Eligible Segments with Classification

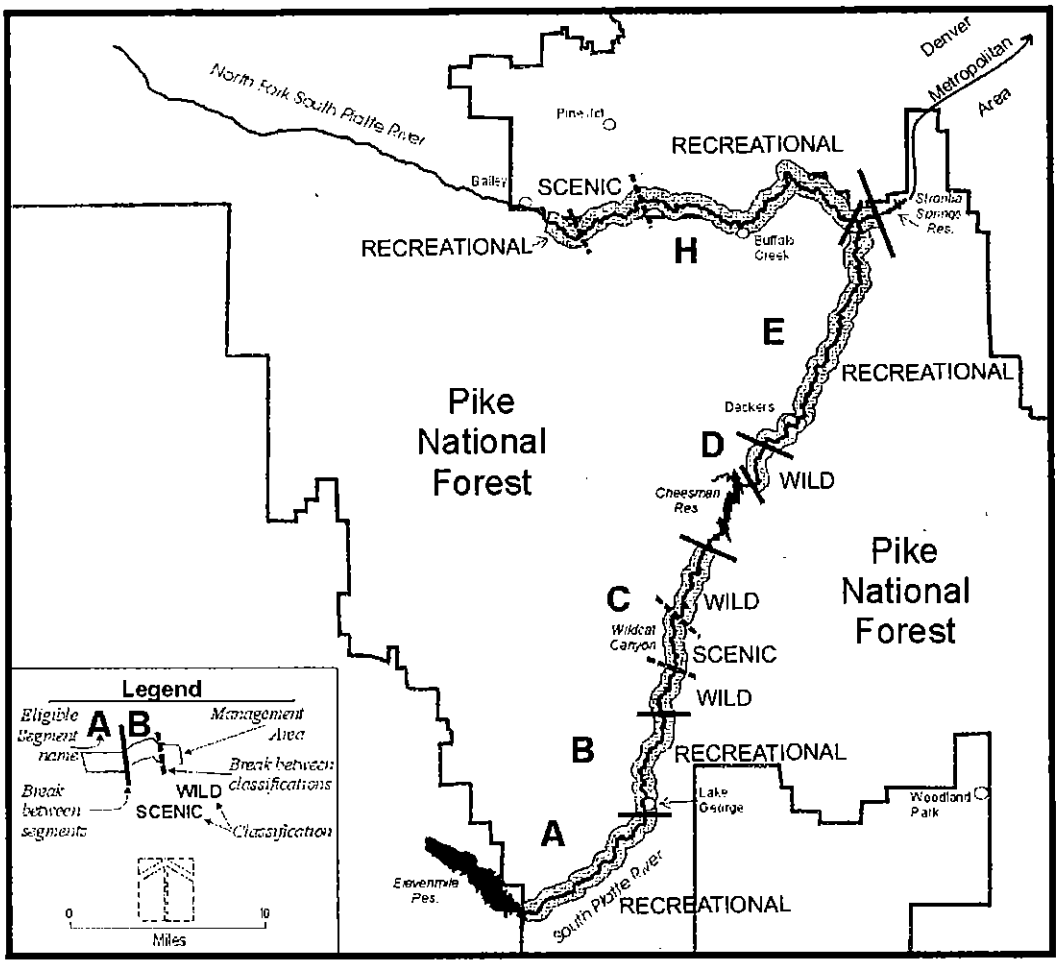


Figure 1. Newly-established Management Area, with Segments and Classification

The Amendment's direction for the management area is not stand-alone. That is, it supplements the Forest Plan's Management Requirements (Forest Plan pages III-16 to III-82), which provide Forest-wide direction covering a wide range of resources. Any resource not addressed in this Amendment might instead be addressed in the Management Requirements.

A discussion of the amendment's details follows.

GOAL – (formerly Draft Amendment item 1) – This item establishes the overall goal for the management area. In the Draft Amendment, the item's language was taken directly from the Forest Plan. The language has been shortened for brevity, while still articulating Forest Service policy of protecting eligible rivers.

Standard 1: (new) – This item establishes the standard of review against which future activities are to be reviewed. Its language provides consistency with both the South Platte Protection Plan and Forest Service policy regarding protection of eligible rivers. That policy, found in Forest Service

Manual 2354.21, has a measure of flexibility built into it and necessarily entails a case-by-case consideration of proposed or ongoing activities.

Standard 2: – This standard had no representation in the Draft Amendment, but public comment indicated its addition was appropriate for alignment with one of the South Platte Protection Plan's key provisions.

Standard 3: Timber resources (replaces Draft Amendment item 1g) – This standard removes the management area's timber resources from the suitable timber component. The estimated 4,895 acres involved are less than 1% of this unit's total suitable timber component of nearly 1 million acres; consequently this change will have a negligible effect on the unit's Allowable Sale Quantity. This standard also identifies situations in which timber sale contracts are allowable. The ability to improve forest health, remove hazardous fuels, and pursue other non-fiber-producing purposes is so great that the contracting tool cannot be put entirely off-limits. However, this standard does prohibit the use of such contracts for projects where fiber production is one of the identified purposes.

Standard 4: Mineral leasing (Draft Amendment item 1b) – This item remains unchanged because adequate protections already exist. The forest plan was amended in 1993 to address oil and gas leasing. In that decision, the South Platte River corridor from Elevenmile Reservoir to Strontia Springs Reservoir became subject to "Discretionary No Lease"; therefore those lands cannot be affected. The management area on the North Fork is subject either to "No Surface Occupancy" or "Controlled Surface Use" stipulations, which provide adequate control for protecting identified river values in the highly unlikely event that oil and gas exploration is proposed.

Standard 5: Mineral materials (replaces Draft Amendment item 1c) - This item has been modified to establish a simple prohibition of mineral material extraction within the management area.

Standard 6: ROS (Draft Amendment item 2) – This item was retained without change.

Standard 7:VQO (Draft Amendment item 4) – This item was retained without change.

Standard 8: Historic resources (Draft Amendment item 6) – This item was retained without change.

Standard 9: Road Construction (Draft Amendment item 1d) – This item has been modified to prohibit road construction in the Wild portions of the management area, while leaving room for the possibility of road construction in the rest of the area. While there are no current proposals involving road construction in the management area, a blanket prohibition could have unintended consequences. Numerous other landowners in the management area have legitimate needs for access to their property, and it is possible that in the future there may develop an appropriate need for road access to recreation developments. Any road construction nonetheless remains subject to the other direction in this amendment.

Guideline 1: Mineral withdrawal. - This guideline replaces Draft Amendment item 1a. It has been modified to reflect the current situation on the rivers. Virtually all segments except the upper part of Segment H have been withdrawn from mineral entry for many years with no firm expiration date having been established, according to the Bureau of Land Management's records. Therefore protection already exists over most of the management area. The revised clause clarifies that the Forest Service will seek to obtain an additional withdrawal that applies to all of the eligible segments.

The second sentence is included to make clear that the withdrawal is related to eligibility and provides for revocation if eligibility terminates.

Guideline 2: Backcountry camping (Draft Amendment item 3) – This item was retained without change.

Guideline 3: Integrated planning (Draft Amendment item 5) – The scope of this item was expanded to embrace overall recreation-related planning and align it with the South Platte Protection Plan's provision for integrated planning.

Guideline 4: Fire line construction (Draft Amendment item 7) – This item was retained without change.

Guideline 5: Cooperation (Draft Amendment item 8) – This item was retained without change.

Items removed – Certain items in the FEIS's proposed amendment were removed from the amendment for the following reasons:

- Maintain current motorized access (Draft Amendment item 1e) – This item dealt with maintaining the then-current motorized character of the area. In light of the relationship between this decision and the Hayman Travel Management Project (discussed above), this item is no longer appropriate.
- Free-flow and water quality (Draft Amendment item 1f) – This item dealt with maintaining free-flowing characteristics and water quality during the study period. Its substance is covered by Standard 1 and thus is redundant.
- Special uses (Draft Amendment item 1h) – This item dealt with the prohibition of uses that would adversely affect river values. Its substance is covered by Standard 1 and thus is redundant.

Riparian protection – Comments on the Draft Amendment expressed concern whether the Forest Plan's riparian area protections apply to the management area. If not, then additional direction should be included in the Amendment to add this protection. In the Forest Plan, management area 9A establishes direction for riparian areas. This direction is in the Forest Plan, pages III-203 through III-215. For the most part 9A areas are not shown on the Forest Plan Map due to their small scale. Nevertheless, the direction in 9A applies wherever riparian conditions exist. Therefore the protection is being provided and no additional direction is included in this Amendment.

Monitoring

The SPPP identifies a detailed monitoring program with the Forest Service having the lead for funding it by virtue of being the predominant landowner in the river corridors. In some instances this appears to include collection of new data. While I agree that monitoring is an important tool in determining whether river values are being protected, financing the SPPP's entire monitoring plan would severely stretch this unit's resources. Funding is typically not that plentiful and this unit has a large number of programs under its purview to consider in allocating funds. Therefore I cannot agree to make available sufficient funding to support monitoring of all items identified in the SPPP. Within the context of this limitation, however, the Forest Service will support monitoring as follows:

(1) work with SPPP participants to identify thresholds for river values pivotal for assessing whether eligibility and classification are being maintained,

(2) take the lead in compiling information obtained by the various entities who collect data relevant to these thresholds,
(3) track that information over time to assess the condition of river values,
(4) make that information available for discussion at the various regular meetings established by the SPPP, and
(5) consider from time to time funding the collection of new data that would shed useful additional light on river values prospectively being threatened.

Some comments on the Final EIS expressed the desire to see a detailed monitoring plan included in this decision. The overall design of such a plan is covered by the steps above, with the substantive details being what Step 1 will produce. I do not believe those details are necessary to make this decision, but certain aspects of monitoring can be recognized at this time:

- **Free-flow** – Stream gage data is available for several locations and can be used in monitoring compliance with the Streamflow Management Plan. In addition, there is a need to establishing some form of baseline information on channel stability so that the effects of future water imports can be monitored.
- **Fisheries** – Periodic measurement is made of fish populations by the Colorado Division of Wildlife and of fish habitat by the Forest Service. This information can be used in monitoring the fisheries value.
- **Wildlife** – Populations of Pawnee montane skipper are periodically monitored by the Forest Service, with support from Denver Water and the U.S. Fish and Wildlife Service.
- **Cultural resources** – Periodically examine Historical Register sites and outstandingly remarkable historic sites to determine whether their condition is being adequately protected to maintain eligibility and classification.
- **Recreation** – This may prove to be a challenging area to monitor because of its complexity. This value could be an area where additional information could be useful.

The Hayman fire's effects will complicate establishment of thresholds and monitoring of several of the above values. This means that the results of Step 1 above may not possess as much certainty as would be preferred. But at least is should be possible to develop a framework for examining trends over extended time periods.

Reasons for the decision

My reasons for making this decision are as follows:

- It complies with Forest Service policy that requires protection of river values identified on eligible rivers until final resolution on suitability, specifies the standards by which ongoing and future activities will be reviewed to ensure protection, and does not conflict with existing or planned uses of the river system, as known today.
- As a complement to this decision, the South Platte Protection Plan offers the best prospect for public cooperation in protecting river values. By having a broad base of support, it provides a reasonable balance between (a) strong proponents for finding all segments suitable and worthy of designation, and (b) strong opponents of any designation at all. In addition, it has flexibility to adapt to changing circumstances in the future. The Streamflow Management Plan, for example, does not provide for occasional very high flows to flush accumulated sediment, but its provisions for flexibility and dialog during annual meetings make room for discussion of such flows.

- Except as affected by the Hayman fire, it ensures protection of the South Platte's current fisheries population and habitat, and the current mix of dispersed and developed recreation use in the management area.
- By maintaining the finding of eligibility without making a finding on suitability at this time, all interested parties are ensured involvement in the cooperative management and protection of river values. Efforts such as the South Metro Water Supply Study indicate there will be an ongoing exploration for ways to provide additional water to the growing Colorado Front Range community; some solutions could well involve the South Platte and North Fork rivers in some manner. The kind of cooperation being supported by this decision offers the strongest and most resilient platform for addressing these kinds of water supply issues when they arise in the future.
- The South Platte Protection Plan is the product of a remarkable cooperative effort, demonstrating that strongly divergent interests can work together to identify common ground. If the Forest Service were to take the current study process to its normal completion and include a finding of suitability in the decision, there is every indication that the South Platte Protection Plan would not be implemented and the cooperative atmosphere would be in jeopardy. In its place would likely follow a progression of dispute resolution processes whose final outcome traditionally creates winners and losers. The Two Forks dispute involved masses of detailed information on the specific proposal being considered; the tradeoffs were clearly identified. In the present case, however, it is not possible to analyze tradeoffs with any specificity because we have no detailed knowledge of future water supply developments that, depending on the suitability outcome, would be either foregone or made possible. No proposals have been submitted. Hence any dispute processes would be forced to deal with generalities, speculation and rhetoric, which are an inferior basis for a decision as important as the one that suitability addresses. The experience would not be beneficial to the publics involved. Because this study was initiated by the Forest Service under Section 5(d)(1) of the Wild and Scenic Rivers Act, there is no time requirement for completion. Therefore it is far better to delay a decision on suitability and work in the cooperative atmosphere that has developed, than to force a controversial decision when the tradeoffs cannot be understood with certainty.

Other Alternatives Considered

Several alternatives were developed and considered during the study process. These are briefly described below.

Alternative A1 (No Action) - No action would be taken under the Wild and Scenic Rivers Act. Management of the project area would continue under current management plans.

Alternative A2 – No action would be taken under the Wild and Scenic Rivers Act. Management of the project area would continue under current management plans and the South Platte Protection Plan.

Alternative A3 No action would be taken under the Wild and Scenic Rivers Act. Management of the project area would continue under current management plans and a modified version of the South Platte Protection Plan.

Alternatives B through J - These alternatives involve various combinations of (a) recommendation (for designation), and (b) classification. The alternatives range from the recommendation of all eligible segments at their highest classification (Alternative B) to the recommendation of only a few segments at relatively unrestrictive classifications (Alternative I). Alternative J was one of the preferred alternatives in the Draft EIS. A complete description of these alternatives is in the Final EIS, Chapter 4.

Environmentally Preferable Alternative - Alternative B is the Environmentally Preferable Alternative because it best protects, preserves, and enhances historical, cultural and natural resources in the study area.

Issues and Public Involvement

After the stream segments were determined to be eligible for possible inclusion into the Wild and Scenic Rivers System, the Forest Service undertook an extensive public involvement program to ensure that the alternatives would consider the concerns of landowners; local residents; permittees; water resource developers; water users in the Denver metropolitan area; Douglas, Jefferson, Park, and Teller Counties; the States of Colorado, Kansas, and Nebraska; and others having a stake in how the rivers are managed. The public involvement program consisted of open houses, meetings, newsletters, mailings to interested parties, and ongoing informal meetings with any party requesting briefings. Further details are in Chapter 1 of the FEIS.

Following release of the Draft EIS, the local stakeholder groups organized under the leadership of the Denver Water Board and the Suburban Water Providers' Wild and Scenic Task Force to develop an alternative way of protecting free-flow and outstandingly remarkable values without invoking protections under the Wild and Scenic Rivers Act. Seventy-three agencies and interest groups were invited to participate in the planning process. (See Appendix A of the FEIS for the full list of participants.) Four work groups were established to focus on different aspects of Alternative A2, including: (1) flow management; (2) water quality; (3) recreation, scenery and wildlife; and (4) the endowment fund. Once each work group developed a draft plan, an overall group, the Synthesis Committee, put all the pieces together into one package called the South Platte Protection Plan (SPPP). About 46 meetings were conducted over an 8-month period. In addition, three large public meetings were held at the beginning, middle, and end of the process to get comments from the general public and to allow participants in individual work groups to hear what other groups were doing.

Publication of the Supplemental Draft EIS was followed by four public meetings in communities along the two rivers. The purpose of these meetings was to present the South Platte Protection Plan and the Forest Service's Preferred Alternative, and to provide a forum for discussion of their merits.

Several key issues guided the study process. All of these issues were identified through the public involvement process. In addition, the ID Team identified these same issues. The key study issues identified were wildlife, fisheries, recreation, social and economic considerations, scenery, geology, cultural resources (including archeological resources), water developments (construction of dams or diversions for water storage), and landowner rights. An additional issue identified later was implementation and enforcement of the SPPP. See FEIS Chapter 4 for an expanded discussion of the issues.

Throughout the process, an obvious overriding concern revolved around water development. Many water providers and local governments expressed a strong interest in not being prevented from pursuing water developments in the study area. Arrayed in contrast were various groups opposing construction of any large water storage facility in the study area. Through the process sponsored by Denver Water, two key points became clear: (1) there was substantial agreement on many aspects of river management in the study area, but (2) there was an absolute impasse on the matter of suitability. This impasse was so impenetrable that the SPPP includes no recommendation on suitability. At the same time, there is substantial agreement that smaller water developments such as diversions and sediment removal facilities are appropriate.

Authority

My authority to conduct this study and plan for the management and use of the National Forest System derives from the Wild and Scenic Rivers Act, the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 and implementing regulations found in 36 CFR Part 219, and the National Environmental Policy Act implementing regulations found in 40 CFR 1500-1508.

Findings Required by Other Laws and Regulations

- *National Forest Management Act* – The decision being made is consistent with PSICC's Forest Plan. The amendment being implemented is a non-significant amendment under the meaning of 36 CFR 219.10(f) (July 1, 2000) in that it affects only a small portion of PSICC's total area, leaves intact its overall system of goals and objectives, and does not greatly affect the overall flow of goods and service from the unit.
- *Endangered Species Act* – A Biological Evaluation concluded that the project would have a beneficial effect on the Pawnee montane skipper, bald eagle, Mexican spotted owl, Preble's meadow jumping mouse, and the Ute ladies' tresses. The U. S. Fish and Wildlife Service concurred with this finding.

Implementation

Implementation of this decision may not occur for 7 calendar days following publication of the legal notice of the decision.

Administrative Review

This decision is subject to administrative review under Forest Service regulations at 36 CFR 217. Any appeal of this decision must be fully consistent with 36 CFT 217.9 and be filed in duplicate with:

USDA, Forest Service, Region 2
Attn: Appeal Deciding Officer
POB 25127
Lakewood, CO 80225-25127

Fax: 303-275-5134

Email: appeals-rocky-mountain-regional-office@fs.fed.us

The appeal must be filed within 45 days from the date this decision is published in the Pueblo Chieftain (Pueblo, Colorado), a daily newspaper.

Any notice of appeal must include at a minimum:

1. Statement that the document is a Notice of Appeal filed pursuant to 36 CFR 217;
2. Name, address and telephone number of the appellant;
3. Identification of the decision about which the requester objects;
4. Identification of the document in which the decision is contained by title and subject, date of the decision, and name and title of the Deciding Officer;
5. Identification of the specific portion of the decision or decision document to which the requester objects;
6. The reasons for objection, including issues of fact, law, regulation, or policy, and, if applicable, specifically how the decision violates law, regulation, or policy; and
7. Identification of the specific change(s) in the decision that the appellant seeks.

I encourage anyone concerned about this decision to contact this office before submitting an appeal. It may be possible to resolve the concern in a less formal way.

Contact Person

For additional information concerning this decision or the Forest Service appeal process, contact John Hill, Planning Staff Officer, at 2840 Kachina Drive, Pueblo CO 81008, or by phone at (719) 553-1414, or by e-mail at jjhill01@fs.fed.us.

Robert J. Leaverton

Robert J. Leaverton
Forest Supervisor
Pike and San Isabel National Forests,
Cimarron and Comanche National Grasslands

6/21/04
Date

Forest Plan Amendment No. 31

MANAGEMENT REQUIREMENT: WILD AND SCENIC RIVER MANAGEMENT

The following replaces the direction in the current Forest Plan found on pages III-16 and III-17.

A management area is established along those portions of the South Platte River and North Fork that have been determined eligible for a suitability evaluation as a Wild and Scenic River. See Map 1. The boundaries of the management area extend one-fourth mile on each side of the high water line. The management area includes these portions of the rivers:

- South Platte River from below Elevenmile Dam to the high water line of Cheesman Reservoir, and from the stream gage below Cheesman Dam to the high-water line of Strontia Springs Reservoir (49.4 total miles), and
- North Fork of the South Platte River from Insmont (upstream end of Berger property) to the confluence with the mainstem of the South Platte River (22.9 miles).

GOAL - Protect river segments that have been determined eligible for potential addition to the National Wild and Scenic Rivers System from activities which could diminish or change the values which make the rivers eligible for designation.

STANDARDS

The following standards apply without exception to activities on National Forest System land in the management area.

1. No water development or other activity may occur in the management area unless it demonstrates, after mitigation, the lack of significant long-term adverse effects on the resource values that make the segments eligible.
2. Water and utility development are not allowed in Cheesman and Elevenmile Canyons.
3. Timber resources in the management area are not suitable for timber production. However, timber sale contracts may be used for fuel removal and other resource management purposes including safety, but not for the purpose of wood fiber production.
4. Activities under the mineral leasing laws must incorporate appropriate conditions and stipulations to protect identified values.
5. Extraction of salable, common-variety minerals from the management area shall not be authorized.
6. Activities and facilities will be consistent with the adopted Recreation Opportunity Spectrum (ROS) and with potential river classification in eligible segments. The distribution of ROS categories in the management area is shown in Map 2.
7. Activities and facilities will meet designated Visual Quality Objectives (VQOs). The distribution of VQOs is shown in Map 3.

8. Preserve and protect significant historic, archaeological, and paleontological resources for their association with events or persons, their distinctive architectural and engineering characteristics, or their intrinsic scientific data.

9. Road construction shall not be authorized in the Wild portions of the management area.

GUIDELINES

The following guidelines apply to activities in the management area. Exceptions are allowed only in rare or unusual circumstances.

1. Request that Federal lands which constitute the bed or bank, or which are within one-quarter mile of either bank of the eligible segments, be withdrawn from appropriation and entry under the mining laws. Withdrawal should continue until the affected river segments are (a) found not suitable for inclusion in the National Wild and Scenic Rivers System; or (b) added to the system by Act of Congress.

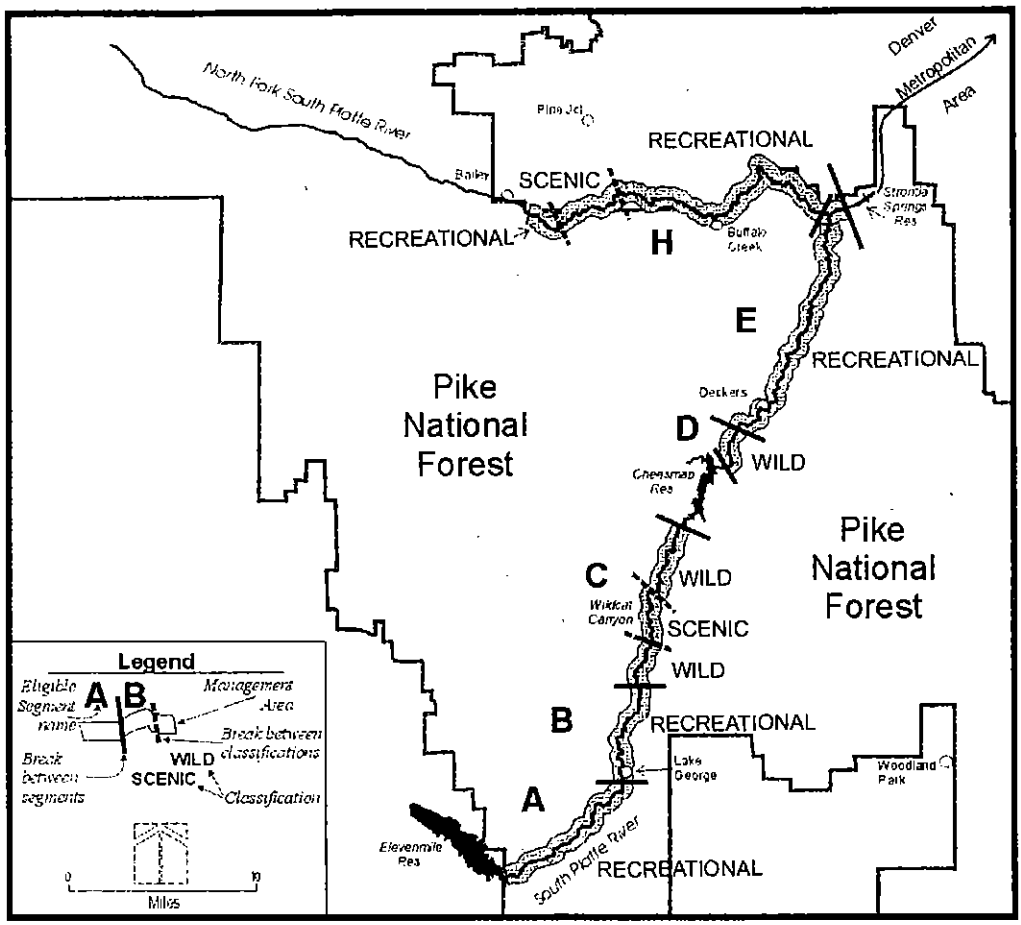
2. In high-use Semi-primitive Motorized and Semi-primitive Non-motorized areas, consider designating backcountry camping sites and restricting use to those sites.

3. Integrate recreation planning and facilities with those of other government entities, partners and private landowners in and adjacent to the management area.

4. Fire lines should not be constructed with heavy equipment unless necessary to save lives or property or to prevent resource damage.

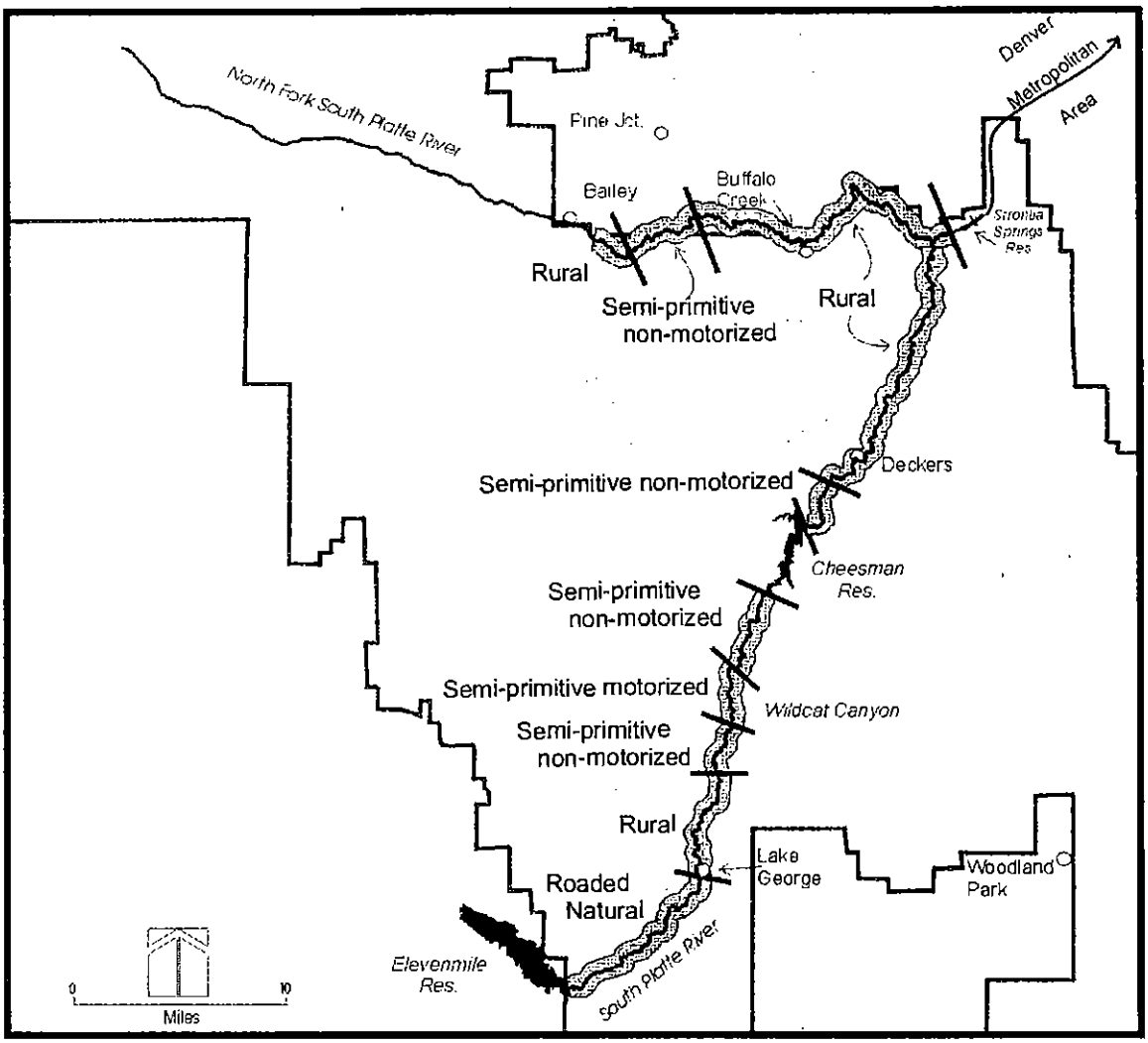
5. If the values that make the rivers eligible for designation are found to decline or when significant action may impact eligibility or potential classification in the management area, the Forest Service will cooperate with parties participating in the South Platte Protection Plan to address the threat to the values.

Eligible Segments with Classification



Map 1 – Eligible segments and Classification

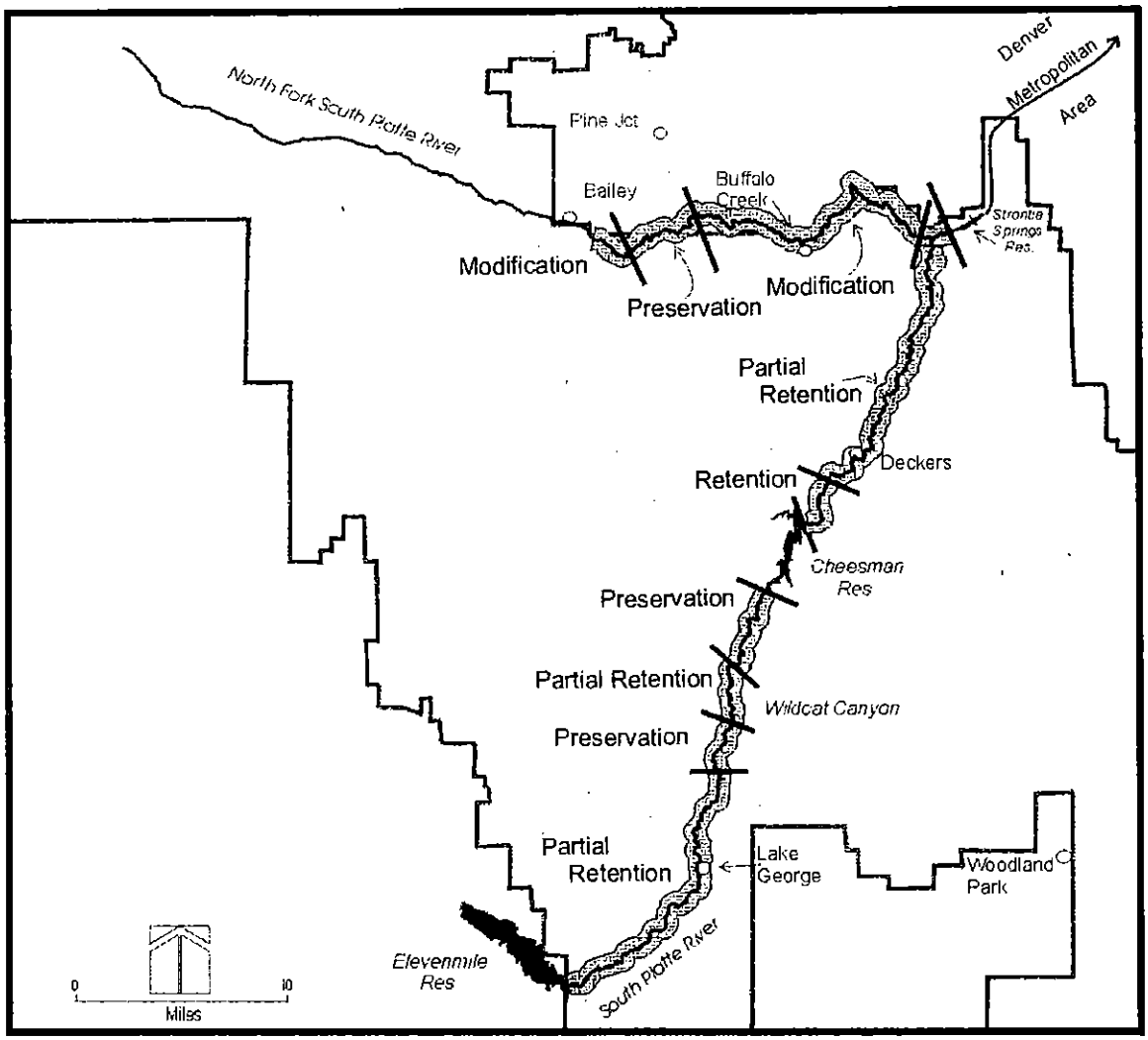
ROS Objectives



Shows Recreation Opportunity Spectrum (ROS) Objectives for various segments of the study area.

Map 2.— Objectives of the Recreation Opportunity Spectrum (ROS)

Visual Quality Objectives



Shows Visual Quality Objectives (VQO's) for various segments of the study area.

Map 3— Visual Quality Objectives (VQO)

ERRATA

Final EIS Volume 1, Map 1-3 on p. 1-8 is not correct; it shows all of Segment C as meeting the *Wild* classification, whereas the portion of it called segment C2 (Wildcat Canyon area) is actually *Scenic*. See the discussion in FEIS on p. 3-17 and the map on p. 3-18. Map 1-3 should be identical to the map on page 9 of this Record of Decision. In contrast, the corresponding map in the FEIS Summary is correct. See Map S-3 on p. S-19.

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