

APPENDIX B

Issues Raised but not Included in the Detailed Analysis

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Introduction

This appendix documents the discussion by which the decision-maker and planning team considered and eliminated several preliminary issues from further consideration.

During the scoping process, the public and people within the FS, including members of the planning team raised many issues for consideration. Each issue was considered with regard to current laws, regulations, and agency direction. Several issues were not included in this environmental impact statement (EIS) because they are not within the scope of the purpose and need for action of this planning process. Issues that were similar have been combined. The issues that were retained are discussed in **Chapter 1** of this EIS.

Expansion of the Hells Canyon Wilderness

Some people want to see all roadless areas designated as wilderness.

The Hells Canyon Wilderness was established by the *Hells Canyon National Recreation Area Act (HCNRA Act)* legislation. Through the *Oregon Wilderness Act of 1984*, the Westside Reservoir Face, McGraw Creek, and part of Lick Creek were added to the Wilderness.

In reference to the *Oregon Wilderness Act* and the HCNRA Wilderness additions, the Senate Committee on Energy and Natural Resources (May 14, 1984) provided the following direction:

"The Committee notes that the designation of these areas as wilderness satisfies the requirements of wilderness study as directed by P.L. 94-199. The Committee also expects the management of all other roadless areas included in P.L. 94-199 to be managed according to the direction provided within the Hells Canyon National Recreation Area CMP."

The *Oregon Wilderness Act*, Public Law 98-328, section 7(b)(2) makes it clear that RARE II areas are released from consideration for wilderness until *Forest Plans* are revised. The only exceptions are those areas designated for further planning. The Homestead Roadless Area is the only area designated for further planning. The BLM completed an EIS and Record of Decision (USDI 1991) recommending not including this area as wilderness. Congressional action is required to make the final determination.

The proposed action does not address any wilderness additions, nor does the purpose and need for action warrant such a discussion as part of this EIS. Wilderness expansion will be considered during the *Forest Plan* revision consistent with the NFMA implementing regulations. Reference Appendix C of the *Forest Plan* for additional discussion.

Manage Dispersed Recreation/Native Vegetation Management Areas for Wilderness Values

Some commentors asked that the dispersed recreation/native vegetation and research natural areas be managed for wilderness values. One commenter suggested that wilderness values, mandated for the HCNRA, transcend congressionally-designated wilderness boundaries.

In addition to the preceding FS comments on the wilderness additions, current and proposed management direction for management areas 9 and 12 provides for many of the values for which wilderness is designated. Reference **Chapters 2 and 3** for discussion on proposed management direction and environmental consequences. **Alternative N** proposes management of some nonwilderness areas for wilderness values. This is disclosed in **Chapter 2**.

Recreational Mining

Some people believe that mining should be a valid recreational use because of the rich history of minerals in the area. They suggested that specific areas be set aside for recreational mining using gold panning, hand sluicing, and small scale suction dredging.

Section 11 of the *HCNRA Act* withdrew all federal lands in the HCNRA from the operation of the mining and mineral leasing laws subject to valid existing rights. Similar withdrawal provisions exist in section 9 of the *Wild and Scenic Rivers Act* and section 4(d)(3) of the *Wilderness Act*. This provision did not make an exception for mining conducted for recreational purposes nor did it make an exception for mining that would not threaten the values for which the HCNRA was established.

The *Public LURs* (36 CFR 292.47) prohibit all mining activities except for those subject to valid existing rights as of December 31, 1975.

Wild and Scenic Snake River Recreation Management Plan

Some commentors expressed concern with recent decisions on the management of the Wild and Scenic Snake River. **Alternative N** submitted by the Hells Canyon CMP Tracking Group proposes elimination of motorized watercraft on the wild section of the Snake River and 1975 use levels on the scenic section.

A record of decision (ROD) and recreation management plan for the river were released in November 1994 (USDA 1994). Decisions on 31 appeals were issued in July 1995. Portions of the *Wild and Scenic Snake River Recreation Management Plan (Snake River Plan)* were implemented in September 1995. The Regional Forester's appeal decisions required that effects to outfitters, guides, and private land access be reconsidered, through a separate planning process. Effects to outfitters and guides were documented in an environmental assessment and subsequent decision in 1996 (USDA 1996). The *Snow River Plan* was updated and published in 1999 (USDA 1999). Private land access has been analyzed, but a decision has not been issued to date.

The Forest Supervisor decided not to have additional analysis done relevant to use of the Sluice Creek backcountry airstrip or use of the river by floatplanes. Therefore, per the Regional Forester's decision, the Sluice Creek backcountry airstrip would remain closed in all alternatives with the exception of **Alternative W** (reference **Appendix C**). The temporary prohibition on floatplane use on the entire river to address safety/resource management issues, as authorized by 36 CFR 261.50, remains in effect.

Proposed management direction in **Chapter 2** and **Appendix C** related to upland users, scenery, heritage, science, soils, biologically unique habitat, vegetation, air quality, fire, fish habitat, wildlife habitat, geology, minerals, land management and special uses, and federal trust responsibilities supplement existing direction to ensure protection and enhancement of the outstandingly remarkable values of the *Snow River Plan*. There is no new information indicating a need to reconsider the decisions made in the ROD or subsequent outfitters and guide decision notice for the *Snow River Plan*. Monitoring of items relevant to the management of the Snake River will continue and be evaluated in the future to determine the potential need for any changes.

Navigability of the Wild and Scenic Snake River

The Oregon Division of State Lands recommended that the new management plan include direction that the Division of State Lands support a claim of navigability and state ownership for the bed and banks of the Snake River and state requirements for easements and waterway leases.

The FS continues to maintain that all bodies of water on or adjacent to NFS lands are nonnavigable unless they have been declared by Congress or determined by federal court to be navigable for title purpose in accordance with the federal rule. Further, the FS contends where navigability has not been established, easements and waterway leases for federal activities are not needed.

Bighorn Sheep/Domestic Sheep Compatibility

Some commentors are worried about the compatibility of bighorn sheep with domestic sheep and the likelihood of contracting the *Pasteurella haemolytica* bacteria that causes fatal pneumonia in bighorn sheep. Others feel that domestic sheep grazing is a traditional and valid use as stated in Section 13 of the *HCNRA Act*.

A decision on the compatibility of bighorn and domestic sheep was released in July 1995 and has eliminated all active domestic sheep grazing found to be incompatible with the protection of bighorn sheep populations (USDA 1995). There is no new information indicating a need to reconsider this decision. **Alternative N** proposes termination of the sheep allotments in the Seven Devils area and a prohibition on domestic sheep grazing in the HCNRA. This is analyzed and disclosed in **Chapter 2** and **Chapter 3**.

Facilities Development

Some individuals commented that planned development work for the McGraw Creek and upper Imnaha River areas are not consistent with the proposed action of this EIS or existing *Comprehensive Management Plan* (CMP) direction.

Planned facility development in the HCNRA is within the intent and direction of the CMP. The effects of facility development were analyzed in the final EIS for the HCNRA (pages 164 through 214) and in project-level NEPA documents. Each of these planned developments has been through a site-specific environmental analysis and decision documentation, as required by NEPA, to determine the appropriate level of implementation for the project within the intent of the CMP and *Forest Plan*. These projects are completed and considered as part of the existing condition for analysis purposes.

Endangered Species Act

Concerns were raised that *Endangered Species Act* (ESA) constraints limit effective and efficient management of natural resources.

The FS is required to follow the provisions of the *ESA* for species that are listed as endangered or threatened. Any perceptions on the constraining nature and/or merits of the *ESA* are outside the scope of this EIS.

Management Area Name Changes

Many commentors expressed displeasure with the management area name change proposals that were outlined in the proposed action. The proposed changes are not displayed in this EIS but will be considered in the CMP following selection of a final alternative for implementation. Any changes to the names would reflect the stated goals and objectives of that management area.

National Forest Management Act

Concerns were raised that the scope of this EIS should be viewed as a revision of the CMP, resulting in a significant amendment to the *Forest Plan*, pursuant to 36 CFR 219 under the 1982 planning regulations.

The initial determination of the significance of this EIS is that the proposed amendment would be nonsignificant under NFMA. The final determination of significance will be addressed in the record of decision, based on the environmental consequences.

Aircraft Overflights

Some concerns were raised over the potential increases in overflights from private and commercial aircraft (sightseeing tours, etc.) and the impact they may have on an individual's recreation experience. The authority for regulating airspace lies solely with the Federal Aviation Administration (FAA). Alternatives B, E-modified, and W propose monitoring aircraft overflights to establish baseline information and use trends prior to identifying a need to initiate action with the FAA. Field crews will monitor aircraft overflights by audible reference. Notes may be made in contact logs or encounter references. The *Hells Canyon Wilderness Visitor Survey* (Zaglauer and Watson 1995) indicated that 72 percent of those surveyed felt that airplanes overhead had little to no effect on the quality of their experience.

Administrative Boundary Changes

Some people asked that the HCNRA administrative boundary be adjusted so that private lands around the community of Imnaha and along the southern boundary of the HCNRA not be included.

The proposed action does not address any boundary changes, nor does the purpose and need for action warrant such a discussion as part of this EIS. If a need to review placement of the administrative boundary is identified through monitoring or changed conditions, it would be analyzed under a separate environmental analysis. Boundary adjustments of the magnitude suggested would require Congressional legislation to implement.

National Park Designation

Some comments expressed a desire to have the HCNRA designated as a National Park and managed by the National Park Service. This action would require congressional legislation; therefore, the issue is outside the scope of this EIS.

Development of Recreation User Fees

Some people suggested that the HCNRA be designated a "fee use area" to assist in funding the implementation of the proposed action.

Since the passing of the 1965 Land and Water Conservation Act (section 4), the Secretary of Agriculture has the authority to designate an entrance fee for National Recreation Areas. In 1996 however, additional authority was given with the Public Law 104-134, "Interior and Related Agencies Appropriations for fiscal year 1996". This law authorized the Secretary to charge and collect fees for admission to the area or for the use of outdoor recreation sites, facilities, and visitor centers. Currently the HCNRA had not chosen to charge an entrance fee, yet it has instituted user fees under the "Recreation Fee Demonstration" program. The HCNRA has nine campgrounds in the Region 6 Camping program, and seven trailheads under the Northwest Forest Pass program. The proposed action does not address the designation of a fee use area, nor does the purpose and need include any discussion regarding fee use.

Revised Statute RS 2477

Some commentors recommended that this EIS explore and resolve the issue of which roads and trails could be granted rights-of-way under RS 2477.

It is the responsibility of an individual or county to file an assertion of right-of-way for a particular road or trail under RS 2477. It is outside the scope of this EIS to recommend right-of-way grants under RS 2477.

Lookout Mountain Road

Some people suggested that this EIS consider reopening the road to Lookout Mountain. In October of 1989, it was discovered that portions of the Lookout Mountain Road were located on the Snake River side of the hydrologic divide within the Hells Canyon Wilderness. The road was immediately closed to motorized travel. Administrative remedies are not available since legislation refers to the wilderness boundary along this portion of the boundary between Saulsberry Saddle and Freezeout Saddle as the "hydrologic divide" (PL 95-625). Relocation of the wilderness boundary to allow opening the Lookout Mountain Road from PO Saddle would require legislative action and is therefore outside the scope of the proposed action. Thus, this EIS only addresses management of the road to the current wilderness boundary.

Development of Oregon Rim Road Alternative

The development of an Oregon Rim Road was suggested by some members of the public during the scoping process. The suggestion duplicates the components of Alternative A of the analysis for the 1982 CMP (USDA 1982). Alternative A proposed constructing a single lane gravel road along the western rim connecting the McGraw area to the Hat Point Road.

As stated above, the 1981 CMP/FEIS considered this as part of Alternative A. A western rim road was not brought forward in the CMP because the FS concluded that the road system shown in the CMP would adequately serve the needs of HCNRA visitors in the near future (reference Appendix P, pages 79 and 80, of the CMP and FEIS (USDA 1982, as amended). Public comment on the proposed action does not support extensive development of additional roads.

Development of Idaho Rim Road Alternative

This issue was raised during public scoping, suggesting a safe loop road between Riggins and White Bird for viewing Hells Canyon from the Idaho side. It was suggested that this loop road traverse the eastern rim of Hells Canyon, via Black Lake (skirting the Hells Canyon Wilderness), Heavens Gate, Low Saddle, Cold Springs, Graves Point and Pittsburg Saddle. The skyline drive would have developed campsites, overlooks, and services.

This issue was not carried forward because it is outside the scope of this EIS. Public comment on the proposed action does not support extensive development of additional roads.

Eliminate Livestock Grazing Alternative

Some members of the public suggested that the planning team develop an alternative that would consider eliminating livestock grazing. This alternative would have eliminated livestock grazing within the HCNRA except for recreational use, administrative use, and use by outfitters and guides in conducting permitted activities. Incidental grazing by recreational pack and saddle stock would continue, in addition to grazing by pack and saddle stock within administrative pastures.

This was not identified as a change needed because it would not meet the intent of Section 7(7) or Section 13 of the *HCNRA Act* that allows for livestock grazing as long as it is compatible with other resource objectives.

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