



Wild and Scenic River Eligibility Process

Lolo National Forest Land Management Plan

Introduction

As part of the Lolo National Forest Land Management Plan Revision, the Forest Service will complete a wild and scenic river eligibility study to evaluate all named, free-flowing rivers and streams wholly or partially within the Lolo National Forest administrative boundary (planning area). After compiling an inventory, each river and stream will be evaluated for unique, rare, or exemplary outstandingly remarkable values within a regional or national context. Segments that meet these qualifications will be considered eligible for a further suitability study and proposal to Congress for formal inclusion in the National Wild and Scenic River System.¹

The term “interdisciplinary team” is used throughout this document and refers collectively to the Northern Regional Plan Revision Team as well as Lolo National Forest resource specialists, program managers, and leadership involved in the eligibility process.

Background

The Lolo National Forest adopted the current Forest Plan in 1986. As required under Section 5(d) of the 1968 Wild and Scenic Rivers Act (as amended), the Lolo National Forest conducted an eligibility study to identify rivers for inclusion in the National Wild and Scenic Rivers system. An interdisciplinary team used the process outlined in the National Wild and Scenic Rivers System Act of 1968, as amended. This eligibility study was completed as an environmental assessment, finding of no significant impact, and decision notice in August 1991 and incorporated into the Forest Plan as Amendment 12 (United States Department of Agriculture 1991). This evaluation found nine rivers and streams eligible.

Rivers found eligible for “wild” classification include:

- Cache Creek, from its confluence with Montana Creek to its headwaters;
- North Fork Blackfoot River, from the main trailhead to its headwaters;
- South Fork Lolo Creek, from Section 12 to its headwaters;
- West Fork Fish Creek, from Clearwater Crossing to its headwaters.

Rivers found eligible for either “scenic” or “recreational” classification include:

- Cache Creek, from its confluence with Montana Creek to its mouth;
- Rock Creek, from its mouth to the forest boundary;
- Morrell Creek, from its mouth to its headwaters;

¹ A suitability study will not be completed during the land management plan revision process.

- Rattlesnake Creek, from its headwaters to the forest boundary;
- Clearwater River, from Seeley Lake inlet to its headwaters;
- Clark Fork (Slowey and Cutoff segments), from its junction with the Flathead and Clark Fork Rivers to its confluence with Tamarack Creek and from one mile south of St. Regis Montana, to half-mile east of the Slowey Campground.

The interdisciplinary team found five of the evaluated rivers ineligible for inclusion in the national wild and scenic river system:

- Monture Creek, from Monture Creek trailhead to its headwaters;
- North Fork Fish Creek, from West Fork of Fish Creek at Clearwater Crossing Guard Station to its headwaters;
- St. Regis River, various segments that flow through the Lolo National Forest;
- Thompson River, from its confluence with the Clark Fork River to the Forest boundary;
- Straight Creek, from confluence with the North Fork of Fish Creek to headwaters.

Prior to the Forest Service recommending rivers and streams for congressional designation, rivers and streams found eligible for potential classification and inclusion in the National Wild and Scenic Rivers system are further evaluated through a suitability study. In 1995-1996, the Forest completed Legislative Environmental Impact Statement to study the suitability of all eligible river segments, except Rock Creek because it crosses other federal ownerships. All were found suitable for designation. The Bureau of Land Management and Beaverhead-Deerlodge National Forest found some Rock Creek stream segments eligible within their jurisdictions; however, no suitability study has been completed for Rock Creek.

At this time, none of the suitable river and stream segments on the Lolo National Forest have been congressionally designated or added to the National Wild and Scenic River system. However, necessary protections and management direction included in Amendment 12 were applied to protect the outstandingly remarkable values for which they were found eligible. These rivers will be considered suitable in the revised plan and reviewed for changes in circumstances.

Given updated evaluation requirements in 2015, and to ensure consistent consideration and documentation, this study will review rivers and streams found ineligible in the previous evaluation. Eligible rivers from past studies will also be reviewed to confirm no change of circumstances for their eligibility and preliminary classifications since their evaluation.

Relevant Laws, Policy, and Regulations

National Wild and Scenic Rivers System Act of 1968. Congress passed the National Wild and Scenic Rivers System Act of 1968 for the purpose of preserving rivers with outstandingly natural, cultural, and recreational values in a free-flowing condition for the enjoyment of present and future generations. The Act is recognized for safeguarding the special character of these rivers, while also allowing for their appropriate use and development. The Act promotes river management across political boundaries and public participation throughout the process.

During the land management planning process, the Forest Service must review all streams for their potential eligibility for designation in the National Wild and Scenic Rivers System as directed under

section 5(d)(1) the National Wild and Scenic Rivers Act of 1968 (PL90-542:16 USC 1271-1287, as amended).

Section 1(b) of the Act expresses Congressional policy for America's rivers: It is hereby declared to be the policy of the United States 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. The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital conservation purposes.

Other Regulations. The National Forest Management Act (U.S. Department of Agriculture 1976) requires the Forest Service to develop a planning rule under the principles of the Multiple-Use Sustained-Yield Act (1960) which sets the process for the development and revision of land management plans. In 2012, 36 CFR Part 219 was passed to codify the direction in the NMFA and the Multiple-Use Sustained-Yield Act. This regulation is known as the 2012 Planning Rule. The 2012 Planning Rule's Final Directives (FSH 1909.12 Chapter 80) provide additional guidance for conducting a wild and scenic rivers eligibility study during plan revision.

Eligibility Process

The eligibility process has been developed to support an efficient and transparent assessment of potential wild and scenic rivers during the Lolo National Forest Land Management Plan Revision. The intent of this process is to ensure that the interdisciplinary team, and the public, are aware of past studies, understand the qualifications for eligibility, and can actively participate in evaluating rivers and streams for potential inclusion in the National Wild and Scenic Rivers System. This coordination ensures that the inventory includes all appropriate rivers and streams and portrays an accurate representation of them across the Lolo National Forest planning area. This also supports a meaningful evaluation of outstandingly remarkable values for potentially eligible streams, as intended by the Wild and Scenic Rivers Act and other relevant regulations.

This process is briefly outlined in Figure 1. The steps include the following:

1. Identify named, free flowing rivers and streams.
2. Establish framework to evaluate outstanding remarkable value criteria.
3. Evaluate rivers and streams for outstanding remarkable values.
4. Determine potential classification: wild, scenic, and/or recreational.
5. Document findings and interim protections for eligible rivers and streams.

Additional details for each step and direction used to guide this process are included below. Appendix A includes an approximate timeline of each step and expected products.

Step 1	Identify named, free-flowing rivers and streams
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Step 2	Establish framework to evaluate outstanding remarkable value criteria
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Step 3	Evaluate rivers and streams for outstanding remarkable values
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Step 4	Determine potential classification: wild, scenic, and/or recreational
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Step 5	Document findings and interim protections for eligible rivers and streams

Figure 1—Wild and Scenic Rivers Eligibility process steps to support plan revision

Step 1: Identify named, free-flowing rivers and streams

“Free flowing” as applied to any river or section of a river means that the stream is existing or flowing in a natural condition without impoundment, diversion, straightening, riprapping, or other modification of the waterway.

The existence of low dams, diversion works, or other minor structures at the time any river is proposed for inclusion in the National System shall not automatically bar its consideration for

inclusion. The guidelines further state, “the fact that a river segment may flow between large impoundments will not necessarily preclude its designation. Such segments may qualify if conditions within the segment meet the eligibility criteria.” Additionally, there are no specific requirements for minimum flows or for temporal or spatial continuity of flows for an eligible segment. Flows are considered sufficient for eligibility if they sustain or complement the outstandingly remarkable values for which the river would be designated.

The inventory will include all types of watercourses identified as streams (perennial, intermittent, or ephemeral) and connecting channels or artificial flowlines representing river and streams with a name associated with it either within the National Hydrography Dataset or on U.S. Geographic Service 7.5-minute quadrangle maps.

Step 2: Establish framework to evaluate outstandingly remarkable value criteria

To be eligible for possible inclusion in the National System, named, free-flowing rivers and streams, or adjacent land area must have at least one outstandingly remarkable value that is unique, rare, or exemplary when compared to others within their region of comparison. The categories of outstandingly remarkable values include: “scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values” (section 1(b)). River values should meet at least one of the following criteria:

- Located in the river or on its immediate shorelands (within 0.25 mile on either side),
- Contribute substantially to the functioning of the river ecosystem, and/or
- Owe their location or existence to the presence of the river.

A “region of comparison” is assigned for each outstandingly remarkable values category to support consistent evaluation of each river and stream segment included in the inventory. The region of comparison is the geographic area of consideration for each outstandingly remarkable value that will serve as the basis for meaningful comparison to other rivers and streams.

The region of comparison can vary for rivers and for different outstandingly remarkable values; it should be scaled at an appropriate level for the type of river value being evaluated. For example, the appropriate region of comparison for scenic values may be an entire national forest or grassland, while for cultural values it may be the portion of the state in which the river is located.

Alternatively, the responsible official may conclude that a single region of comparison can encompass the evaluation of all outstandingly remarkable values. Once the region of comparison is identified, a river’s values can be analyzed in comparison with other rivers in that area. Multiple regions of comparison may be utilized to evaluate one river.

Step 3: Evaluate rivers and streams for outstandingly remarkable values.

Using the region of comparison and criteria established in Step 2, the interdisciplinary team will evaluate and seek public input for each of the rivers and streams inventoried in Step 1 to determine if they possess at least one outstandingly remarkable value. Additionally, eligible and suitable rivers from past studies will be reviewed to confirm no change of circumstances for their eligibility and preliminary classifications since their evaluation. For consistent review, the interdisciplinary team will also evaluate those rivers and streams found ineligible in past studies. The determination that a

river area does or does not contain one or more outstandingly remarkable values is a professional judgment on the part of the Responsible Official as informed by the interdisciplinary team, best available scientific information, and public participation (FSH 1909.12, Ch 80).

Step 4: Review accessibility and level of development to determine preliminary classification

Each river and stream found to be eligible must be assigned a preliminary classification. The preliminary classification is based on the condition of the river or stream and the development level of adjacent lands as they exist at the time of the study. Section 2(b) of the Wild and Scenic Rivers Act specifies and defines three classification categories for eligible rivers: Wild, Scenic, and Recreational. If the river is designated by Congress, a final classification may be assigned in the legislation or will be assigned during the comprehensive river management planning process required by the Act.

Eligible rivers may be divided into segments having differing classifications when the levels of human use and activity create different degrees of development. In cases where a river has one or more classifications, each river segment identified should be of sufficient length to warrant its own unique management. To determine which classification category applies, the interdisciplinary team will consider criteria from USDA-USDI Guidelines (Table 1) and capture current conditions for rivers and streams found eligible through the inventory and evaluation of outstandingly remarkable values.

Table 1. Criteria for Wild and Scenic River Classification to determine preliminary classifications for eligible rivers and streams.

Attribute	Wild river	Scenic river	Recreational river
Water resource development	Free of impoundment.	Free of impoundment.	Some existing impoundments or diversion. The existence of low dams, diversions, or other modifications of the waterway is acceptable, provided the waterway remains generally natural and riverine in appearance.
Shoreline development	Essentially primitive with little or no evidence of human activity. The presence of a few inconspicuous structures, particularly those of historic or cultural value, is acceptable. Limited domestic livestock grazing, or hay production is acceptable. Little or no evidence of past timber harvest. No ongoing timber harvests.	Largely primitive and undeveloped. No substantial evidence of human activity. The 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 or ongoing timber harvest is acceptable, provided the forest appears natural from the riverbank.	Some development. Substantial evidence of human activity. The presence of extensive residential development and a few commercial structures is acceptable. Lands may have been developed for the full range of agricultural and forestry uses. May show evidence of past and ongoing timber harvest.
Accessibility	Generally inaccessible except by trail. No roads, railroads, or other provision for vehicular travel within the river area. A few existing roads leading to the boundary of the area are acceptable.	Accessible in places by road. Roads may occasionally reach or bridge the river. The existence of short stretches of conspicuous or longer stretches of inconspicuous roads or railroads is acceptable.	Readily accessible by road or railroad. The existence of parallel roads or railroads on one or both banks as well as bridge crossings and other river access points is acceptable.
Water quality	Meets, or exceeds criteria, or federally approved State standards for aesthetics, for propagation of fish, and wildlife normally adapted to the habitat of the river, and for primary contact recreation (swimming) except where exceeded by natural conditions.	No criteria are prescribed by the Wild and Scenic Rivers Act. The Federal Water Pollution Control Act Amendments of 1972 have made it a national goal that all waters of the United States are made fishable and swimmable. Therefore, rivers will not be precluded from scenic or recreational classification because of poor water quality at the time of their study, provided a water quality improvement plan exists, or is being developed in compliance with applicable Federal and State laws.	No criteria are prescribed by the Wild and Scenic Rivers Act. The Federal Water Pollution Control Act Amendments of 1972 have made it a national goal that all waters of the United States are made fishable and swimmable. Therefore, rivers will not be precluded from scenic or recreational classification because of poor water quality at the time of their study, provided a water quality improvement plan exists, or is being developed in compliance with applicable Federal and State laws.

Step 5: Document findings and interim protections for eligible rivers and streams.

Location descriptions, maps, potential segment classifications, and narratives of potential outstanding and remarkable values will be developed for each eligible river and stream. If any evaluated river or stream has at least one outstandingly remarkable value, the interdisciplinary team will review criteria to assign a preliminary classification and document the current conditions of the attributes. After this evaluation is complete, a document of inventoried rivers and streams evaluated will be compiled with a summary of findings.

Rivers determined to be eligible must have interim protection measures in the revised plan. These protection measures apply until a decision is made on the future use of the river and the adjacent lands through an act of Congress or a determination that the river is not suitable. Along with the interim protective measures, additional statutory, regulatory, or policy requirements may apply if the study river is located within a wilderness area or other designated area. In case of conflict between the provisions of the Wild and Scenic Rivers Act and Forest Service Handbook 1909.12 Chapter 80, and the Wilderness Act and FSH 1909.12 Chapter 70, the more restrictive provisions apply. The 2012 Planning Rule provides direction for the interim management of Forest Service identified eligible rivers/streams. This can be found in 36 CFR 219.10 (b, v):

(b) The plan must provide plan components, including standards and guidelines, to provide for:

(v) Protection of designed wild and scenic rivers as well as management of rivers found to be eligible or determined to be suitable for the National Wild and Scenic River system to protect the values that provide the basis for their suitability for inclusion in the system.

Site-specific projects and activities on National Forest System lands within eligible corridors may be authorized only where the project and activities are consistent with the following:

- The free-flowing character of the identified river is not adversely modified by the construction or development of stream impoundments, diversions, or other water resources projects.
- Outstandingly remarkable values of the identified river are protected.
- Classification of an eligible river/stream on National Forest System lands must be maintained as inventoried (eligible) unless a suitability study is completed that recommends management other than the preliminary classification.

Agency identified study river protection continues unless a river is determined not suitable for designation.

Appendix A: Approximate timeline of the Wild and Scenic River eligibility process

Table 2. Approximate timeline of the Wild and Scenic River eligibility process

Eligibility Step	Estimated Completion	Accomplishments/Tasks Planned
Step 1: Identify named, free-flowing rivers and streams	Winter/Spring 2023	Review and validate that all named, free-flowing rivers and streams are in the inventory. There will be a public comment period provided for the inventory prior to the draft assessment.
Step 5 (Part I): Document preliminary inventory findings	Spring 2023, in draft assessment	The inventory will be presented in the assessment, including maps and location descriptions.
Step 2: Establish framework to evaluate outstandingly remarkable values	Summer 2023	Refine the appropriate region of comparison and criteria for each outstanding remarkable value category to support consistent and meaningful review of river and stream segments included in the inventory.
Step 3: Evaluate rivers and streams for outstandingly remarkable values	Summer to fall 2023	Evaluate each potential river and stream against the criteria to determine the presence or absence of potential outstanding remarkable values.
Step 4: Determine potential classification (wild, scenic, and/or recreational)	Summer to fall 2023	Determine accessibility and amount of development along each eligible river and stream, including road and trail density or other shoreline development and assign potential classification to each eligible river and stream segment.
Step 5 (Part II): Document findings from eligibility study	Winter 2024, in proposed action (draft plan)	The findings from the eligibility study will be presented as part of the draft plan scoping package. This information will include potential segment classifications and narratives of outstanding remarkable values.
Step 5 (Part III): Interim protections for eligible rivers and streams	Winter 2024, in proposed action (draft plan)	The interim protections developed for eligible rivers and streams will be presented for review and comment as part of the scoping process.

Literature Cited

1960. Multiple-Use Sustained-Yield Act of 1960 [As amended through December 31, 1996, P.L. 104-333]. *in* U.S.C.
1968. Wild and Scenic Rivers Act. Pages 906 *in* 16 U.S.C. § 1271 et seq.
- U.S. Department of Agriculture, Forest Service. 1976. The National Forest Management Act of 1976. Current Information Report No. 16, Washington, DC.
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