

Wild and Scenic Rivers
Washington Wild
Sierra Club/Alliance for the Wild Rockies
American Rivers

Objectors contend the Forest Service failed to provide adequate review and consideration of additional rivers on the forest for eligibility for designation under the Wild and Scenic Rivers Act. They believe at a minimum Sullivan Creek merits consideration of its remarkable values and should be found eligible under the Wild and Scenic Rivers Act.

REMEDIES:

- 1) *While it seems clear that the forest plan revision is the appropriate and optimal time to review and consider eligibility determinations under the Wild and Scenic Rivers Act, this did not occur over the 15 years of work associated with the forest plan revision. If the Forest plans to finalize the draft decision without consideration of additional rivers on the Forest as to their eligibility, a commitment to do that work moving forward is necessary.*
- 2) *We suggest that the Forest commit to doing an eligibility determination as part of future NEPA efforts associated with watersheds that include Sullivan Creek. [7-8]*
- 3) *We request that the Forest commit to doing an eligibility determination as part of future NEPA efforts associated with watersheds that include Sullivan Creek and consider the changed conditions over the past 30 years. [20-2]*

Response:

Recreation and Travel Management Report (and FEIS Volume II – Chapter 3):

Eligible Wild & Scenic Rivers (FEIS, Vol. 2, pages 697-698)

Eligible rivers were identified during the planning effort associated with the 1988 Colville National Forest Land and Resource Management Plan. The existing Colville Forest Plan initially identified one eligible river – the Kettle River. An appeal of the 1988 Plan by American Rivers, Inc. was filed based on the Forest’s failure to document the process that was used to evaluate rivers for Wild and Scenic River eligibility during the development of the 1988 forest plan. In order to meet the legal requirements and terms of the Forest’s agreement with American Rivers, the Colville National Forest assembled an interdisciplinary team in 1990 to reexamine all rivers on the Forest and clearly document the process it used for screening and evaluating Wild and Scenic River eligibility. Direction for the assessment process came from the Forest Service Land and Resource Management Planning Handbook Section 8.2 (dated July 1987) and a draft Preliminary River Value Identification Process Paper date November 22, 1989. All documentation on the process can be found in the project file located in the Colville National Forest’s Supervisor’s Office located in Colville, Washington.

The following process was used to identify rivers that would be assessed for wild and scenic river eligibility:

1. It was first determined that the entire forest was located within the “Columbia River and Tributaries” region which includes all of eastern Washington and a southern portion of western Washington. The watersheds within the forest were then divided according to their water resource council hydrologic unit codes.

2. In each watershed, all class 1 and 2 streams and a few of the larger class 3 streams were selected for further evaluation. Most class 3 and all class 4 streams were not included due to factors such as low flows, intermittent flow and short length.
3. All stream segments left the forest boundary as named streams. For instance, if a north and south fork of a stream joined within the forest, they could be evaluated together. If two forks entered the forest separately, they were evaluated separately.

After the initial screening process was completed, the remaining rivers were assessed by a core team of resource specialists that included a wildlife biologist, silviculturist, hydrologist, archaeologist, landscape architect, soil scientist, recreation planner, ecologist, planning team leader, resource forester, district ranger, resource assistant, and forestry technician. The team was comprised of Forest specialists and at least one representative from each ranger district. The recreation planner met with each resource specialist individually to gather information on the value of each river resource specifically identified for assessment in the Wild and Scenic Rivers Act including: scenic, recreational, geologic, fish and wildlife, historic, pre-historic and other similar values (botanic, ecological and hydrologic). Once the river resource values were identified, the team met several times over a four month period to assess the ratings, reach consensus on the ratings, and document the basis for which each specific river was dropped from consideration. Additional input was solicited from the Kalispel, Colville, Spokane, and Kootenai Tribes, the State Historic Preservation Office, Bureau of Land Management, National Park Service, and Washington Department of Wildlife.

The result of this secondary assessment was that a five-mile stretch of the South Fork Salmo River was determined to be eligible for classification as a wild river under the Wild and Scenic Rivers Act. No changes have occurred to the free-flowing nature or outstandingly remarkable values associated with the Kettle and South Fork Salmo Rivers (table 3) since being identified as eligible wild and scenic rivers in 1988 and 1990 respectively.

Suitability studies have not been undertaken on either of the two rivers eligible for possible inclusion in the National Wild and Scenic River system.

Table 3. Eligible Wild and Scenic Rivers on the Colville National Forest

River Name	Outstandingly Remarkable Values	Recommended Classification	Length in Miles	Eligible or Suitable Status
South Fork Salmo River	Fishery Ecological	Wild	5	Eligible
Kettle River	Recreation Scenery	Recreational	3	Eligible

Summary of Effects Common to All Alternatives (page 32)

Wild and Scenic River and Wilderness management direction would remain the same under all alternatives. Both eligible wild and scenic river segments (Kettle and South Fork Salmo Rivers) on the Forest would be managed to ensure their future eligibility by protecting the values for which they were found eligible based on national direction and law. No new eligible wild and scenic river segments are proposed under any of the alternatives.

Eligible Wild and Scenic Rivers

Commenters expressed the desire to see more rivers eligible for inclusion in the Wild and Scenic Rivers System. The determination of eligibility for designation under the Wild and Scenic Rivers Act is made through a process outlined in the Forest Service Handbook, 1909.12 Chapter 80. Rivers found to be eligible remain eligible until a suitability assessment is completed, or another eligibility process is conducted.

The responsible official has the discretion to determine whether and to what extent an issue is appropriate for consideration in plan revision. As there has not been a change in circumstances since the inventory completed for the 1988 forest plan, evaluation of eligibility for additional rivers was not a revision topic and is not addressed in the FEIS. The revised plan carries forward the rivers identified as eligible for inclusion in the Wild and Scenic River System for the 1988 forest plan and includes plan components to maintain the free-flowing characteristic and outstandingly remarkable values of eligible rivers. Rivers eligible for inclusion in the Wild and Scenic River System do not vary by alternative.

FEIS, Volume 1, page 36:

Plan Components Common to All Action Alternatives

Wild and Scenic Eligible Rivers

As there has not been a change in circumstances since the inventory was completed for the 1988 forest plan, evaluation of eligibility for additional rivers was not a revision topic and is not addressed in the FEIS. The two rivers identified as eligible for inclusion in the Wild and Scenic River System for the 1988 forest plan (8 miles) are carried forward in this revision effort and would not vary by alternative. All action alternatives would include plan components to maintain the free-flowing characteristic and protect the outstandingly remarkable values of eligible rivers.

FEIS, Volume 1, page 200, 201, 298, and 338:

Sullivan Creek - one adult bull trout was found poached in lower Sullivan Creek in 1994, below Mill Pond Dam, an impassable blockage to fish approximately 3.25 miles from the mouth. Environmental DNA samples were taken in 2015. There were no detections of bull trout in Sullivan Creek.

Bull trout critical habitat on the Forest has been designated in ...Sullivan Creek... (75 FR 63898).

The ability to restore healthy native fish populations on the Forest would be challenged by the past introduction, and resulting established populations, of non-native trout. Restoring the populations of the MIS/surrogate species on the Forest would be greatly influenced by actions implemented by other entities both on and off the Forest. The hydroelectric projects on the mainstem rivers would continue to impact migratory fish populations including WSCT and bull trout. Riverine habitats have been converted to reservoir habitat and the dams impede fish passage. The mitigation measures included in the re-licensing for the hydroelectric dams on mainstem rivers adjacent to the Forest should provide some beneficial impacts to MIS/surrogate species populations and aquatic habitat on the Forest. Some actions to be implemented include (USFWS 2012b):

- Removing Mill Pond Dam on Sullivan Creek.

The Sullivan Creek Water Supply Project includes the Sullivan Dam, and Mill Pond Dam and is operated by the Pend Oreille PUD. The Pend Oreille PUD purchased the project in 1959 including water rights (FERC 2011). The Sullivan Dam enhances the existing Sullivan Lake to a surface area of 1,240 acres. The area impounded by Mill Pond Dam covers a 63-acre area. The project occupies 522 acres on the CNF. The FERC license for the Sullivan Creek project was surrendered in 2013 because the PUD determined that the project was not economically viable for hydropower generation. The settlement agreement for the project, negotiated with multiple resource management agencies, representatives from the public, and the PUD includes changes in the timing of flow release of Sullivan Lake, an increase in lake elevation, installation of a cool water release pipe to allow colder water from the bottom of the lake to discharge into Sullivan Creek and the removal of Mill Pond Dam in partnership with Seattle City Light (WADoE 2014c). Once mitigations in the settlement agreement for surrender of license are complete, the Sullivan Lake dam will be operated under a special use permit with the CNF. Mill Pond Dam was removed in 2017, with additional restoration at the site continuing through 2019.

FEIS, Volume 2, page 773:

On March 20, 2013, the FERC issued an Order “Accepting the Surrender of License and Authorizing Disposition of Project Facilities” to the PUD for the Sullivan Creek Project (FERC Project #2225) located on Sullivan Creek, a tributary to the Pend Oreille River in northern Pend Oreille County. The Surrender of the License is expected to be effective by the year 2021, following completion of all surrender conditions including the removal of Mill Pond dam and the restoration of the former impoundment.

FEIS, Volume 3, page 1023:

Response to Comments

Wild and Scenic Rivers

Comment: (Letter Number(s): 1, 507, 546, 696, 818, and 1015) The Colville NF should complete additional review of rivers to determine eligibility for designation as a wild or scenic river. The Forest should designate the Kettle River, Salmo River and Sullivan Creek as wild and scenic rivers.

Response: The Wild and Scenic Rivers Act of 1968 provides federal protection for the most outstanding of the country’s free-flowing rivers; preserving them and their immediate environments for the use and enjoyment of present and future generations. Identifying rivers is a two-step process. First, eligibility is determined based on whether the river or stream is free-flowing and has one or more outstandingly remarkable value. This creates an inventory of rivers. The second step is to determine suitability. Suitability examines a number of factors such as compatibility with resource uses, impacts on non-federal lands, and the costs of land acquisition. This information informs an agency’s decision on whether to recommend the designation of a river or its segments.

To be eligible, a river must be free-flowing and have one or more outstandingly remarkable value. The Wild and Scenic Rivers Act defines “free-flowing” as: “existing or flowing in a natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway.”

The 1982 planning rule does not require identification of eligibility of rivers for inclusion in the National Wild and Scenic Rivers System. However, the Forest Service Handbook (FSH) 1909.12 chapter 80 provides agency guidance for when additional review of eligibility is needed in conjunction with revising land management plans. A systematic inventory of eligible rivers was completed for the 1988 forest plan and the forest plan revision team concluded that no circumstances had changed that would warrant additional review. Based on this information, the forest supervisor decided not to evaluate suitability for the eligible rivers on the Colville National Forest during the plan revision process. As a result, the Kettle and South Salmo Rivers remain eligible as recreational and wild (respectively) rivers under the Wild and Scenic Rivers Act in the proposed revised forest plan.

Sullivan Creek was not found to be free-flowing or have an outstandingly remarkable value during its eligibility assessment for the 1988 forest plan. When Mill Pond Dam is removed, and if kayaking is established on this stretch of river, it may be reassessed as an eligible river during the next forest plan revision process. Until then, the plan direction for the Focused Restoration management area in which the river is located is designed to retain the rivers existing eligibility criteria ratings.

Draft Record of Decision, page 34:

Wild and Scenic Rivers Act

The Wild and Scenic Rivers Act establishes a National Wild and Scenic Rivers System with three classes of river systems: wild, scenic, and recreational. The purpose of the act was to protect select rivers "...for the benefit and enjoyment of present and future generations" and to "preserve select river's free-flowing condition, water quality, and outstandingly remarkable values."

Evaluation of the eligibility of rivers and streams for inclusion in the National Wild and Scenic Rivers System was conducted during the preparation of the revised land management plan as required by the act and Forest Service Manual policy (FSM 1924.03). The Forest has identified two rivers systems as eligible for wild and scenic designations. Five miles of the South Fork Salmo River are eligible as a Wild river, and three miles of the Kettle River are eligible as a Recreational river. These rivers were also found eligible under the 1988 land management plan. I will continue to manage these rivers, totaling eight miles on Forest lands, as eligible for inclusion in the National Wild and Scenic River System. In addition, management area direction in the revised land management plan provides protection for the outstandingly remarkable values identified for those rivers identified as eligible. Therefore, the revised land management plan is compliant with this act.

Revised LMP:

Chapter 3 – Management Areas

Wild and Scenic Rivers (WSR) (pages 137-139)

Congress designates wild and scenic rivers as part of the Wild and Scenic Rivers System under the authority of the Wild and Scenic Rivers Act, as amended (1968). Currently, there are no congressionally designated rivers on the Forest.

Eligible rivers are free-flowing and have one or more outstandingly remarkable value of regional or national significance. Suitable rivers are those eligible rivers where protection of the

outstandingly remarkable values is more important than other resource benefits and congressional designation is determined to be the best option for protecting the values of the river. Rivers found to be both eligible and suitable by the Forest Service may be recommended to Congress for designation. Eligible or suitable rivers are managed to preserve their eligibility. Management direction is the same for eligible, suitable, or recommended rivers. The river corridor is generally one-quarter mile from either side of the riverbank. However, protection of outstandingly remarkable values may require encompassing a larger area. Table 31 shows rivers that are eligible. No suitability determinations have been made on eligible rivers on the Colville National Forest.

Desired Conditions

MA-DC-WSR-01. Wild, Recreational, or Scenic Rivers

Prior to congressional designation, uses continue that do not compromise wild and scenic eligibility. Eligible rivers and adjacent tributaries remain free-flowing, retain water quality, and preserve their outstandingly remarkable values. These river segments contribute to a diversity of habitats within National Forest System lands.

MA-DC-WSR-02. Wild River Segments

Visitors have the opportunity to interact with a relatively pristine natural environment with low to moderate likelihood of experiencing the sight and sound of other people. Eligible wild river segments display unaltered landscapes where generally only ecological changes occur (very high scenic integrity) and provide pristine, primitive or semi-primitive non-motorized recreation opportunities. Eligible wild river segments may be accessed by trail. Eligible wild rivers within designated wilderness meet the desired conditions for congressionally designated wilderness.

MA-DC-WSR-03. Recreational River Segments

Eligible recreational river segments are readily accessible by roads, display landscapes that vary from moderately altered where human activities are evident (high scenic integrity) to slightly altered where human activities may be seen but do not attract attention (high scenic integrity) and provide a roaded natural or semi-primitive motorized recreation opportunity.

The sights and sounds of other visitors are evident, and the likelihood of encounters with other visitors may be moderate to high. Visitors seeking solitude may find it difficult to achieve, particularly in peak use seasons. Trails and facilities may be highly developed, including hardened trails, campgrounds, and day use sites designed to serve persons of all abilities.

Standards

MA-STD-WSR-01. Outstandingly Remarkable Values

Each eligible river's free-flowing condition, outstandingly remarkable values, and classification shall be sustained until a suitability study and determination is completed.

MA-STD-WSR-02. Recreation

Proposed new uses, management actions, or facilities on National Forest System lands are not allowed if they alter the recreational characteristics of the land and physical resources, or affect the eligibility, potential classification, or potential suitability of the area.

MA-STD-WSR-03. Recreation

To the extent that the Forest Service is authorized under law to control stream impoundments and diversions, the free-flowing characteristics of the river cannot be modified by new structures that were not part of the conditions when eligibility was determined.

CONCLUSION:

Management issues raised in the objection comments are addressed in the Revised LMP's management area direction for eligible wild and scenic rivers.

Forest Service Handbook (FSH) 1909.12, Chapter 80 (2006) provides agency guidance on land management planning requirements under the 1982 Planning Rule for completing "a comprehensive evaluation of the potential for rivers in an administrative unit to be eligible for inclusion in the National [Wild and Scenic River] System. This direction also specifies when additional review of eligibility is needed in conjunction with revising land management plans when previous systematic inventories or suitability studies have been completed and documented. A systematic inventory of eligible rivers was completed and documented for the 1988 forest plan and the forest plan revision team concluded that no circumstances had changed that would warrant additional review. Based on this information, the forest supervisor decided that additional review of eligibility was not warranted. The forest supervisor also decided not to evaluate suitability for the eligible rivers on the Colville National Forest during the plan revision process. As a result, the Kettle and South Salmo Rivers remain eligible as recreational and wild (respectively) rivers under the Wild and Scenic Rivers Act in the proposed revised forest plan.

The responsible official has the discretion to determine whether and to what extent an issue is appropriate for consideration in plan revision. According to the project record, there has not been a change in circumstances since the inventory completed for the 1988 forest plan. Therefore, evaluation of eligibility for additional rivers was not included as a revision topic and is not addressed in the FEIS. The revised plan carries forward the rivers identified as eligible for inclusion in the Wild and Scenic River System for the 1988 forest plan and includes plan components to maintain the free-flowing characteristic and outstandingly remarkable values of eligible rivers.

Since the 1998 inventory, Sullivan Creek has been added to the Bull Trout critical habitat list. Additionally, the Mill Pond Dam was removed from Sullivan Creek in 2017. These are changes in conditions that should be evaluated and added to the project record. If changes are not considered significant enough for eligibility re-evaluation, provide justification. Consider committing to reviewing and considering river eligibility determinations, particularly for Sullivan Creek due to the proposed changed conditions.

Additionally, process described used to identify rivers that would be assessed for wild and scenic river eligibility included some problematic and confusing statements: (FEIS pages 697-698)

"2. In each watershed, all class 1 and 2 streams and a few of the larger class 3 streams were selected for further evaluation. Most class 3 and all class 4 streams were not included due to factors such as low flows, intermittent flow and short length."

Not including class 3 and 4 streams is potentially problematic as there are no minimum flow requirements for eligibility.

And the following statement is confusing.

“3. All stream segments left the forest boundary as named streams. For instance, if a north and south fork of a stream joined within the forest, they could be evaluated together. If two forks entered the forest separately, they were evaluated separately.”

Is this paraphrased or the actual instruction from the eligibility study?

YOUR RESPONSE TO THE REMEDIES BROUGHT FORTH BY OBJECTORS:

1) Reasonable remedy – Provide documentation showing that a reasonable review has been completed for each river from the 1988 study that illustrates that conditions have not changed. If changes have occurred, describe why these are not significant enough for eligibility re-evaluation. Consider committing to reviewing and considering river eligibility determinations, particularly for Sullivan Creek due to changed conditions.

2) Reasonable remedy - Re-evaluate the eligibility of Sullivan Creek in light of the dam removal and critical habitat listing (see Remedies). This could be part of a resolution during objection negotiation.

3) See response to #2 above.

POSSIBLE INSTRUCTIONS (if any):

1. Provide documentation showing that a reasonable review has been completed for each river from the 1988 study that illustrates that conditions have not changed. If changes have occurred, describe why these are not significant enough for eligibility re-evaluation.
2. Re-evaluate the eligibility of Sullivan Creek in light of the dam removal and critical habitat listing.