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Please consider the following comments in regards to the Draft EIS for the Weminuche Landscape Grazing Analysis.

### **Section 1.7.2 Key Issues**

The DEIS on page 20 states, "...3) Recreational Experience: Sheep bands have sometimes negatively impacted the recreational experience by noise and smell, by encounters with unruly guard dogs, by creating a non-wilderness experience, by reducing wildflowers, and by causing trail tread damage and braided trails. Indicators for comparing alternatives: Recreation Design Criteria to be applied; monitoring measures (photo points to be done); qualitative narrative description of impacts."

**Observation:** Limits of Acceptable Change indicators and standards are not established in the Forest Plan or the DEIS for addressing conflicts that are related to visitor use and livestock use.

**Recommendation:** The EIS should establish, through Limits of Acceptable Change processes, specific indicators and standards to address impacts from sheep use in the Wilderness, including impacts on visitors, vegetation, soil, and trails. In addition, carrying capacity needs to be established for cattle and sheep use along the Continental Divide National Scenic Trail (CDNST).



*Figure 1-Example of terracing from livestock*

## **Section 1.8 COMPLIANCE WITH ADMINISTRATIVE FRAMEWORK**

The DEIS on page 24 states that, “NEPA at 40 CFR 1502.25(a) directs “to the fullest extent possible, agencies shall prepare draft environmental impact statements concurrently with and integrated with ...other environmental review laws and executive orders....”

**Observation:** The Wild and Scenic Rivers Act and National Trails System Act are not listed.

**Recommendation:** Add this legislation to the administrative framework list. Also, reference the 3.11 Forest Plan direction.

### Desired Conditions

3.11.1 Consistent with their designation, the significant scenic, historic, recreation and natural resources for each trail are identified, interpreted, and protected. The values for which these trails were established are retained.

3.11.2 The Continental Divide National Scenic Trail and the Colorado Trail provide opportunities for remote backcountry recreation, challenge, and solitude, except where they come near area communities (where more people and development may be encountered).

3.11.3 The Continental Divide National Scenic Trail and the Colorado Trail are non-motorized trails and have high scenic integrity.

3.11.11 Other resource activities should be designed in order to meet scenic quality objectives for these special designation trails (generally, a foreground and middle-ground of very high to high scenic integrity or VRM Class II).

### Additional Guidance

- Continental Divide National Scenic Trail Comprehensive Plan (USFS 2009c)

## **Section 2.1 ALTERNATIVES CONSIDERED BUT ELIMINATED FROM DETAILED ANALYSIS**

The DEIS on page 33 states that there was a request to, “Prohibit grazing within a prescribed distance from the Continental Divide Trail. This suggestion would be impractical to implement on the ground. While permittees are encouraged to avoid the major recreation trails, it is not possible to manage sheep grazing to such a level of precision. There are also cases where a trail follows the only logical route of ingress or egress, which is due to the fact that many trails were originally livestock driveways before they were used by recreationists.”

**Observation:** The CDNST is more than a “recreational trail,” and must be managed to protect the CDNST “nature and purposes” values.

**Recommendation:** Sheep and cattle grazing should be addressed in a CDNST unit plan, which is approved by the Forest Supervisor (FSM 2353.4). Sheep and cattle use along the CDNST is only allowed if the use does not substantially interfere with the nature and purposes of the CDNST. See CDNST background information that is found in **Appendix A**.

### **Section 2.2.4 Alternative 4 – Preferred Alternative - Adaptive Management / Vacant Allotments with Restocking Requirements**

The DEIS on page 47 states, "...The following list of requirements must occur should restocking be considered in the future.

#### Restocking Requirements for Vacant Allotments

- NEPA analyses with accompanying decision must be conducted. The NEPA analysis will include the appropriate level of analysis of risk of contact between bighorn and domestic sheep, and must also consider and mitigate other conflicts, such as with recreation uses and outfitters.
- Stocking can only be done when compliance with plan standards is demonstrated (e.g. preventing physical contact between bighorn and domestic sheep).
- Species viability requirements must be met.
- Pre-stocking aerial surveys will be conducted, with a minimum of two overflights within two weeks prior to stocking.
- The stocking of any vacant allotments (single allotment or any combination of vacant allotments) will not add to the cumulative risk of disease transmission to bighorn sheep.”

**Observation:** Restocking requirements do not address assuring that the requirements of the Wild and Scenic River Act and National Trails System Act are addressed prior to restocking.

**Recommendation:** The restocking list should include the following requirements:

- Assure that Wild and Scenic River Outstanding Remarkable Values are protected as described in FSH 1909.12 Chapter 80.
- Assure that CDNST nature and purposes are protected following processes that are described in the 2009 CDNST Comprehensive Plan, FSH 1909.12 24.43, FSM 2353.4, and E.O. 13195. A determination must be made that sheep and cattle use will not substantially interfere with CDNST nature and purposes prior to restocking. CDNST decisions are the responsibility of the Forest Supervisor.

These recommended for restocking requirements would be applicable to this EIS if Alternatives 2 or 3 were to be selected.

### **CHAPTER 3 - AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES; 3.4 RECREATION /WILDERNESS**

**Observation:** The effects on Wilderness, Wild and Scenic River, and CDNST primary values are not addressed.

**Recommendation:** Discussions need to be added to chapter 3 for each alternative that describe and address effects on “Wilderness Character,” Wild and Scenic River “Outstanding Remarkable Values,” and the CDNST “Nature and Purposes.”

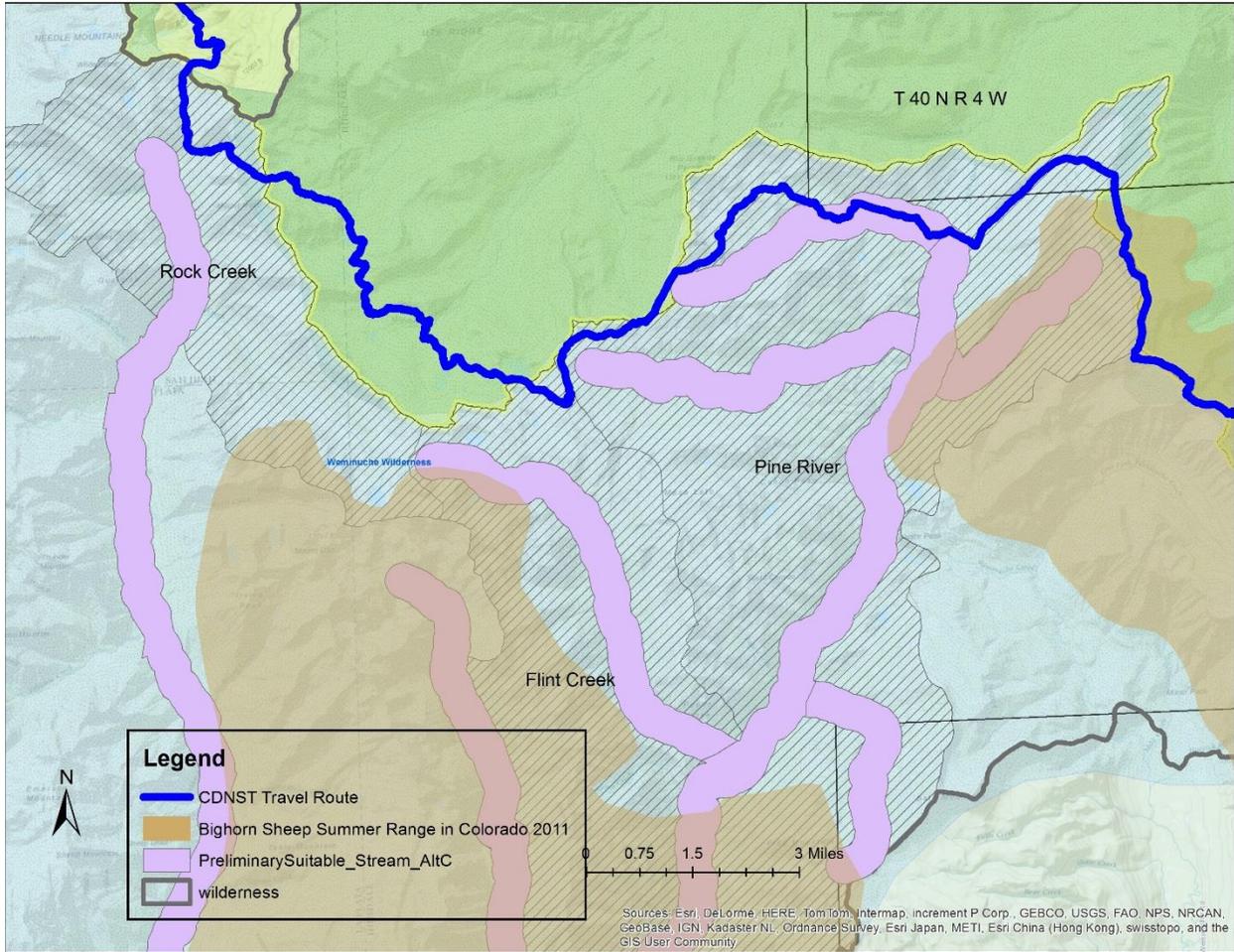


Figure 2 – CDNST through the project area

## **Appendix A – CDNST Background Information**

### **Nature and Purposes**

The nature and purposes (NTSA, Sec.7(c)) of the CDNST must be described and used as a basis for determining what activities and resource uses are allowed along the CDNST corridor. The nature and purposes of the CDNST may differ somewhat from those of other national scenic trails. The definition is formulated by extrapolating from the Trails for America report, NTSA, associated Congressional Reports, and CDNST Study Report:

#### **Trails for America**

Trails for America (1966), a report prepared by the Bureau of Outdoor Recreation in response to President Johnson’s Natural Beauty Message of February 8, 1965, describes that, “the entire length of each national scenic trail, together with sufficient land area on both sides to safeguard adequately and preserve its character, should be protected....”

#### **National Trails System Act**

NTSA Sec. 3. [16 U.S.C. 1242] (a) (2). “National scenic trails, established as provided in section 5 of this Act, which will be extended trails so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass.”

NTSA Sec. 5 [16 U.S.C. 1244] (f) ... “the responsible Secretary shall...submit...a comprehensive plan for the acquisition, management, development, and use of the trail, including but not limited to, the following items: (1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved....”

NTSA Sec. 7. [16 U.S.C. 1246] (c). “Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted...[To] the extent practicable, efforts be made to avoid activities incompatible with the purposes for which such trails were established. The use of motorized vehicles by the general public along any national scenic trail shall be prohibited....”

#### **CDNST Study Report**

The Study Report of 1976, prepared by the Bureau of Outdoor Recreation in response to the identification of the CDNST, under the NTSA, as a potential addition to the national trails system, describes that, “The primary purpose of this trail is to provide a continuous, appealing trail route, designed for the hiker and horseman, but compatible with other land uses... One of the primary purposes for establishing the Continental Divide National Scenic Trail would be to

provide hiking and horseback access to those lands where man's impact on the environment has not been adverse to a substantial degree and where the environment remains relatively unaltered. Therefore, the protection of the land resource must remain a paramount consideration in establishing and managing the trail. There must be sufficient environmental controls to assure that the values for which the trail is established are not jeopardized...

The trail experience on or near the Divide is an intimate one, for one can walk or ride horseback across vast fields of wildflowers and contemplate a story dating from the dawn of earth's history. This story began when a portion of the earth was thrust upward, creating the sharp precipitous peaks that were sculptured into rich land forms leaving sparkling lakes, crystal-clear streams, and myriads of cascading waterfalls. Along the way, the tranquility of the alpine meadows, verdant forests and semi-desert landscape overwhelms everyone who passes that way. The trail would provide the traveler his best encounter with the Continental Divide — its serenity and pure air — and would supply for every trail traveler some of the world's most sublime scenes...

The basic goal of the trail is to provide the hiker and rider an entree to the diverse country along the Continental Divide in a manner, which will assure a high quality recreation experience while maintaining a constant respect for the natural environment... The Continental Divide Trail would be a simple facility for foot and horseback use in keeping with the National Scenic Trail concept as seen in the Appalachian and Pacific Crest Trails.”

### **CDNST Leadership Council**

The CDNST Leadership Council, in 2004, established a Vision and Guiding Principles for the development and protection of the CDNST. The Vision for the CDNST is: “Complete the Trail to connect people and communities to the Continental Divide by providing scenic, high-quality, primitive hiking and horseback riding experiences, while preserving the significant natural, historic, and cultural resources along the Trail.” The Council’s membership consists of senior Forest Service, Bureau of Land Management, and National Park Service responsible officials.

### **Public Involvement in the Formulation of Policy**

The formulation of the nature and purposes direction for the CDNST was developed through a public process (36 CFR 216) and approved by Associate Chief Hank Kashdan as documented in Federal Register: October 5, 2009 (74 FR 51116). The following is the response to nature and purposes comments –

“The amendments to the 1985 CDNST Comprehensive Plan and corresponding directives are to ensure that the nature and purposes of the CDNST track those in the 1976 CDNST Study Report and 1977 CDNST Final Environmental Impact Statement, which were prepared pursuant to the NTSA (16 U.S.C. 1244(b)). The 1976 CDNST Study Report states:

The primary purpose of this trail is to provide a continuous, appealing trail route, designed for the hiker and horseman, but compatible with other land uses. \* \* \* One of the primary purposes for establishing the Continental Divide National Scenic Trail would be to provide hiking and horseback access to those lands where man's impact on the environment has not been adverse to a substantial degree and where the environment remains relatively unaltered. Therefore, the protection of the land resource must remain a paramount consideration in establishing and managing the trail. There must be sufficient environmental controls to assure that the values for which the trail is established are not jeopardized. \* \* \* The basic goal of the trail is to provide the hiker and rider an entree to the diverse country along the Continental Divide in a manner, which will assure a high-quality recreation experience while maintaining a constant respect for the natural environment. \* \* \* The Continental Divide Trail would be a simple facility for foot and horseback use in keeping with the National Scenic Trail concept as seen in the Appalachian and Pacific Crest Trails.

Thus, the 1976 CDNST Study Report states that the primary purpose of the CDNST is to provide a high-quality recreation experience for hiking and horseback riding.

Consistent with the NTSA, the 1976 CDNST Study Report, and the 1977 CDNST Final Environmental Impact Statement, the amended CDNST Comprehensive Plan states that the nature and purposes of the CDNST are to provide for high-quality scenic, primitive hiking and horseback riding opportunities and to conserve natural, historic, and cultural resources along the CDNST corridor. The amended CDNST Comprehensive Plan and final directives implementing the amendments to the CDNST Comprehensive Plan on National Forest System lands provide that backpacking, nature walking, day hiking, horseback riding, nature photography, mountain climbing, cross-country skiing, and snowshoeing are compatible with the nature and purposes of the CDNST.... The amendments to the CDNST Comprehensive Plan and directives ensure consistency with the nature and purposes of the CDNST in the context of right-of-way acquisition, land management planning, scenery management, recreation resource management, motor vehicle use, trail and facility standards, and carrying capacity.'

The 1983 amendment to the NTSA, which added 16 U.S.C. 1246(j), does not modify the nature and purposes of the CDNST. The added subsection simply lists uses and vehicles that may be permitted on National Trails generally.

The NTSA states that all National Scenic Trails must be so located to provide for maximum outdoor recreation potential and conservation of natural, historic, and cultural resources (16 U.S.C. 1242(a)(2)). This requirement is reflected in the nature and purposes statement in the amended CDNST Comprehensive Plan, which states that the nature and purposes of the CDNST are to provide for high-quality scenic, primitive hiking and horseback riding opportunities and to conserve natural, historic, and cultural resources along the CDNST corridor. Where possible, the CDNST will be located in primitive or semi-primitive non-motorized settings, which will further contribute to providing for maximum outdoor recreation potential and conservation of natural, historic, and cultural resources in the areas traversed by the CDNST....

The Forest Service has removed the words 'non-motorized' and 'recreational' from the nature and purposes statement for the CDNST, as these words were redundant. 'High-quality

scenic, primitive hiking and horseback riding' are non-motorized recreation opportunities. The Agency has not removed the word 'primitive' from the nature and purposes statement, as it is not redundant and is not ambiguous. It means 'of or relating to an earliest or original stage or state....' Preferred recreation settings, including primitive or semi-primitive non-motorized categories, are delineated in the Forest Service's Recreation Opportunity Spectrum system (FSM 2311.1) and described in the CDNST Comprehensive Plan, Chapter IV(B)(5).

The amendments to the 1985 CDNST Comprehensive Plan apply throughout the document to the extent applicable, not just to the provisions that are specifically referenced in the amendments. The Forest Service agrees that this intent should be expressly stated. Therefore, the Agency has added the following statement to the amendments:

To the extent there is any inconsistency between the foregoing revisions and any other provisions in the 1985 CDNST Comprehensive Plan, the foregoing revisions control.”

### **Summary**

In consideration of the language in the NTSA, Congressional Reports, CDNST Study Report and public comments, the nature and purposes policy for the CDNST is: “The nature and purposes of the CDNST are to provide for high-quality scenic, primitive hiking and horseback riding opportunities and to conserve natural, historic, and cultural resources along the CDNST corridor” (CDNST Comprehensive Plan and FSM 2353.42).

### **Planning Considerations**

National Trails are administered as trail corridors. Managers should establish plan components that address (1) desired visitor experience opportunities and settings, and (2) the conservation of scenic, natural, historical, and cultural qualities of the corridor. In addition, supporting standards and guidelines need to be established to achieve desired conditions and objectives, and monitoring methods are to be described.

Project proposals may bring the CDNST into the scope of a NEPA process due to potential direct, indirect, and cumulative impacts of past actions and new proposals that may substantially interfere with the nature and purposes of the CDNST (40 CFR 1508.25(c)). This in turn could trigger the need for a land and resource management plan amendment, and on National Forest System lands, the development of a CDNST Unit Plan. Land management plans are to protect potential CDNST rights-of-way and high potential route segments where the rights-of-way is yet to be selected and the travelway officially located (1246(a)(2) and 16 U.S.C. 1244(f)(3)). Until the CDNST rights-of-way is selected and the corridor is located, the Agencies must not undertake any major Federal action which (1) may adversely impact potential CDNST rights-of-way and corridor locations, (2) limit the choice of reasonable alternatives, and (3) prejudice ultimate rights-of-way and locations decisions (40 CFR 1506.1).

### **CDNST Management Direction**

Comprehensive plan requirements (16 U.S.C. 1244(f)) for the CDNST are addressed through staged or stepped-down decision processes: (1) the 2009 Comprehensive Plan

established broad policy and procedures, (2) land management plans guide all natural resource management activities and establish management standards and guidelines for the National Forest System (36 CFR 219.1), provide integrated resource management direction for special areas (36 CFR 219.2), and address programmatic planning requirements as described in the Comprehensive Plan (Chapter IV), and (3) mid-level and site-specific plans complete the comprehensive planning process through field-level actions to protect the corridor and then maintain or construct the travel route (FSM 2353.44b part 2).

## **Carrying Capacity**

National Trails System Act (NTSA)<sup>1</sup>, sections 5(e) and 5(f), direct that a comprehensive plan for a national trail, “identify carrying capacity of the trail and a plan for its implementation.” This is similar to Section 3(d)(1) of the Wild and Scenic Rivers Act (WSRA)<sup>2</sup> that directs federal river-administering agencies to “address...user capacities” in a comprehensive river management plan (CRMP) prepared for each component of the National Wild and Scenic Rivers System. The NTSA and WSRA do not define “carrying capacity” or “user capacities,” but recent litigation has focused primarily on the recreational use.

Carrying capacities are an integral part of the management approaches identified in a Comprehensive Plan to protect and enhance National Scenic Trail (NST) nature and purposes. The nature and purposes of a NST are also known as NST values. The values of National Scenic Trails (NST) include: (1) visitor experience opportunities and settings, and (2) the conservation and protection of scenic, natural, historical, and cultural qualities of the corridor. Primitive and Semi-Primitive Non-Motorized Recreation Opportunity Spectrum (ROS) classes generally provide for desired experiences where the allowed uses and activities reflect the purposes for which the National Trail was established. Furthermore, the NTSA goes beyond ROS descriptors requiring the protection of significant resources and qualities along the National Trail corridor.

Addressing visitor capacities requires managers to assess impacts from both established uses and potential new uses. It can be a challenging task because of the complex relationship between uses and national trail values. The capacity to absorb use without substantial impacts to resources and visitor experiences is dependent on myriad interrelated factors.

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<sup>1</sup> 16 U.S.C. §1241-1251; Public Law 90-543 (October 2, 1968) and amendments.

<sup>2</sup> 16 U.S.C. §1271-1278; Public Law 90-542 (October 2, 1968) and amendments.