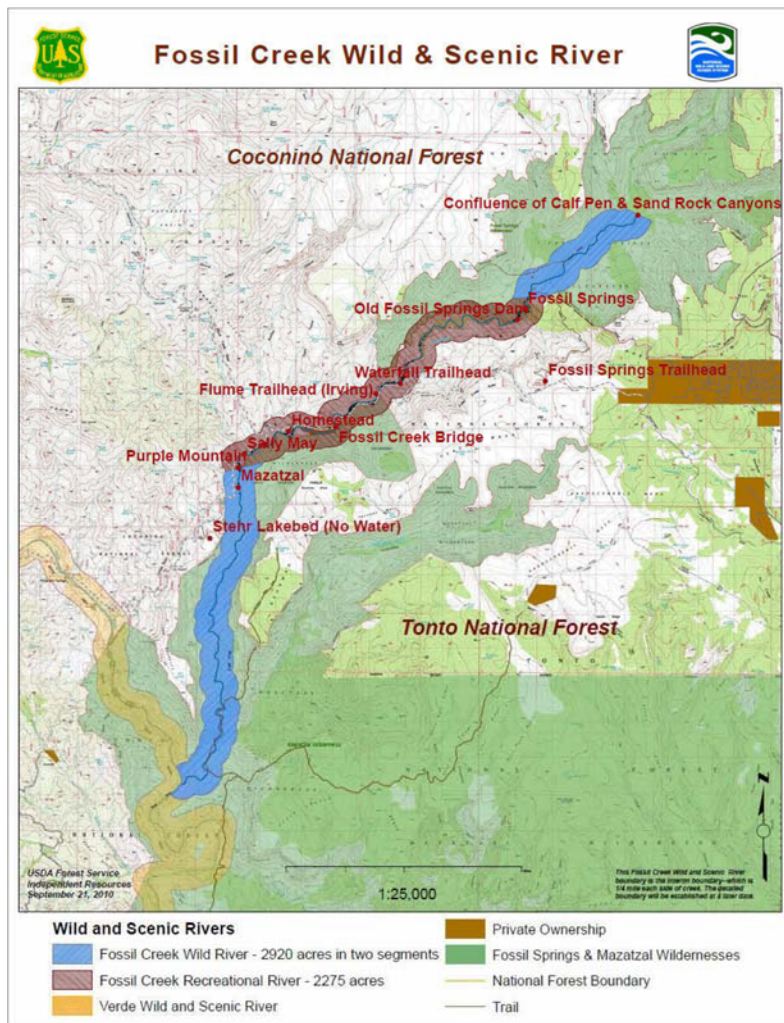


Fossil Creek Wild and Scenic River Planning Considerations

Notice of Intent Submittal

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I. The CRMP and Land Management Planning

The Wild and Scenic Rivers Act (Public Law 99-59) requires a comprehensive river management plan (CRMP) that will “provide for the protection of the river values” and that “shall address resource protection, development of lands and facilities, user capacities, and other management practices...to achieve the purposes of this Act” (Section 3 (d)(1)). For those rivers designated before January 1, 1986, the CRMP is required to be developed within 10 years (Section 3(d)(2)).

In addition, to address requirements of the National Forest Management Act, managers need to establish through plan amendments (or revisions) components that address (1) desired visitor experience opportunities and settings, and (2) the Outstandingly Remarkable Values (ORVs), including protecting its aesthetic, scenic, historic, archaeologic, and scientific features. Supporting standards and guidelines need to be established to achieve desired conditions and objectives, and monitoring methods are to be described.

The CRMP direction needs to be developed through both a programmatic and site-specific NEPA processes for the purpose identifying and protecting ORVs of the Fossil Wild and Scenic River (WSR) as required by the Wild and Scenic Rivers Act and the 1982 Final Revised Guidelines for Eligibility, Classification and Management of River Areas (47 FR 39453).

The CRMP and amended (or revised) Forest Plan should address the following W&SR planning requirements:

1. Include specific, measurable limits on visitor use.
2. Discuss the maximum number of people that can be received in a river corridor.
3. Make an explicit tie between the kinds and amounts of visitor and other public use and the protection and enhancement of outstandingly remarkable values.
4. Make an explicit tie between the location and size of facilities in the river corridor and protection and enhancement of outstandingly remarkable values.

5. Describe an actual level of visitor use that will not adversely impact or degrade outstandingly remarkable values.
6. Specify an appropriate quantity of use based on an analysis of resource values and desired conditions, not necessarily previous or current use levels.
7. Include proactive rather than reactive management approaches, including identifying indicators that should be able to provide an early warning. A Forest Plan standard must be chosen that does in fact trigger management action before degradation occurs.

The responsibilities for developing and approving a CRMP is described in FSM 2354.04:

- The Chief of the Forest Service reserves the authority to...Transmit detailed boundary descriptions, river segment classifications, and management and development plans for wild and scenic rivers to the President of the Senate, to the Speaker of the House of Representatives, and to the Federal Register.
- Regional Foresters shall...approve detailed boundary descriptions, river classifications, and development and management plans for designated wild and scenic rivers.

II. Forest Service Planning Considerations

Forest Plan Components

Forest planning requirements are addressed in FSH 1909.12 part 24.42. Recommendations for CRMP and Forest Plan components are described in the following table.

LMP Management Area (or Described Boundaries) Desired Conditions

Descriptions
<p>The MA provides high-quality scenic, river related opportunities and conserves Outstandingly Remarkable Values (ORVs), including protecting its aesthetic, scenic, historic, archaeological, and scientific features. The W&SR corridor provides panoramic views of undisturbed landscapes in a tranquil scenic environment. The corridor is of sufficient width to encompass national W&SR including protecting its aesthetic, scenic, historic, archaeological, and scientific features. Desired conditions are principally characterized by a Primitive Non-Motorized ROS setting in Wild Sections; and a Roaded Natural ROS setting in the Recreational section—see Region 6 description of Roaded Natural. These settings provide for the following conditions:</p>
<p>Primitive ROS settings encompass large, wild, remote, and predominately unmodified landscapes. These settings often coincide with designated Wilderness. They provide quiet solitude away from roads and others groups, are generally free of human development, and facilitate self-reliance and discovery. Signing, and other infrastructure is minimal and constructed of rustic, native materials. Feelings of physical achievement and self-reliance is an important part of the experience offered. Ecological processes such as fire, insects, and disease exist.</p>
<p>Roaded Natural settings provide visitors with an opportunity of meeting and enjoying other</p>

visitors and of being isolated from the sights and sounds of other people. Visitors have the opportunity to interact with the natural environment, but the risk and challenge associated with the previous setting is not present. Both motorized and nonmotorized forms of recreation take place. Camping and parking facilities may be present where determined that such use does not substantially interfere with protecting ORVs.

LMP MA Standards or Guidelines

Descriptions - See FSM 1110.8 for Degree of Compliance or Restriction “Helping Verbs” and “Mood of Verb” Definitions
Scenery Management
Manage the river waterway as a concern level 1 travel route. Resource management actions must meet a Scenic Integrity Level of Very High or High.
Recreation Management
Resource management actions and allowed uses must be compatible with maintaining or achieving Primitive ROS class settings in Wild sections and Roded Natural ROS class in the Recreation section—see Region 6 description of Roded Natural.
Special Uses Management
The number of permittees issued permits and service days will not be increased.
Vegetation Management
Vegetation may be managed to enhance W&SR values, such as to provide vistas to view surrounding landscapes and to conserve natural resources.
Vegetation may be managed to maintain or improve threatened, endangered, and sensitive species habitat.
Rangelands and riparian areas where affected by livestock use must be maintained in a Proper Functioning Condition.
Cultural and Historic Resources Management
Protect cultural and historic resources.
Fire Suppression
Fire suppression activities should apply the Minimum Impact Suppression Tactics Implementation Guidelines.
Other Uses Considerations
Other uses that could conflict with the ORVs may be allowed only where there is a determination that the other use would not substantially interfere with protecting ORVs, including protecting its aesthetic, scenic, historic, archaeological, and scientific features.

III. Comprehensive Planning Relationship to NEPA

This section reviews several aspects of the CEQ regulations for implementing NEPA¹ for addressing Wild and Scenic Rivers in CRMP and land management planning.

¹40 CFR 1500-1508.

A. Relationship of NEPA to Comprehensive Planning

NEPA is designed to promote consideration of potential effects on the human environment² that would result from proposed Federal agency actions, and to provide the public and decision makers with useful information regarding reasonable alternatives³ and mitigation measures to improve the environmental outcomes of Federal agency actions. NEPA ensures that the environmental effects of proposed actions are taken into account before decisions are made and informs the public of significant environmental effects of proposed Federal agency actions, promoting transparency and accountability concerning Federal actions that may significantly affect the quality of the human environment. NEPA reviews should identify measures to avoid, minimize, or mitigate adverse effects of Federal agency actions. Better analysis and decisions are the ultimate goal of the NEPA process.⁴

NEPA document(s) that support a Comprehensive Plan will analyze the effects of a range of alternatives, often covering multiple topics, including but not limited to visual quality, ROS, and user capacities. A Comprehensive Plan and supporting NEPA decision documents will typically establish goals, desired conditions, allowable uses, standards (thresholds), guidelines, and the conditions under which uses are allowed for a discreet geographic area or linear landscape. NEPA decision documents should provide additional information and support the thought process used to implement, revise, or amend a Comprehensive Plan.

The CEQ regulations require that NEPA decision-making processes provide for thoughtful, rigorous evaluation of reasonable options within the scope of the proposed decisions. The decision process involves interested and affected individuals, groups, and governments. The “early and often” interactions that the NEPA suggests in establishing the scope of the proposed actions considered in a Comprehensive Plan are especially important when identifying significant resources to be preserved; and establishing scenic integrity levels, ROS class settings, and capacities for the management corridor.

B. Establishment of the Purpose and Need for Action

A NEPA document must provide the framework for the purpose and need for action and for the decisions to be made of identifying the management corridor and establishing scenic integrity levels, ROS class settings, and user capacities. A Comprehensive Plan should establish desired conditions, including the Outstandingly Remarkable Values as well as key resource indicators and thresholds that prevent degradation. The outcome of addressing these considerations will facilitate describing the “affected environment” part of the NEPA process.

² 40 CFR 1508.14 - ‘Human environment’ shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment.

³ 40 CFR 1508.25(b) - Alternatives, which include: (1) No action alternative. (2) Other reasonable courses of actions. (3) Mitigation measures (not in the proposed action).

⁴ 40 CFR 1500.1(c) - Ultimately, of course, it is not better documents but better decisions that count. NEPA’s purpose is not to generate paperwork—even excellent paperwork—but to foster excellent action. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment.

The “need for action” (or change) is based upon a comparison of the baseline conditions and desired conditions. This comparison establishes both the “scope” of and the “need” for action.

The “scope” of and the “need” for the proposed actions establish the basis for determining the reasonable range of alternatives. The purpose and need description represents the “problem to be solved.” Defining the scope appropriately (and refining as necessary through the early steps of the NEPA process) improves the overall efficacy of the NEPA document. How broadly or narrowly the scope is described affects the range of reasonable alternatives that can meet the need, which in turn affects how well the range of alternatives and the selected alternative respond to this need.

C. Identify Proposed Actions and a Reasonable Range of Alternatives

The identification and evaluation of alternative ways of meeting the purpose and need of the proposed action is the heart of the NEPA analysis. The lead agency or agencies must, “objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.” Reasonable alternatives are those that substantially meet the agency’s purpose and need. If the agency is considering an application for a permit or other federal approval, the agency must still consider all reasonable alternatives. Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant. Agencies are obligated to evaluate all reasonable alternatives or a range of reasonable alternatives in enough detail so that a reader can compare and contrast the environmental effects of the various alternatives.

Components of a proposed action in land management planning may include the identification of the management corridor and will likely include the establishment of scenic integrity levels, ROS class, and user capacities for the Wild and Scenic River. The conditions under which a variety of uses are allowed may be labeled as thresholds, standards and guidelines, or other terminology. In regards to addressing scenic integrity, recreation opportunities, and user capacities, this step requires that these use conditions be expressed in terms of thresholds that will prevent degradation of W&SR values.

Distinguish early in the process the importance of certain allowable uses or the conditions of those uses in protecting NST values (avoiding, reducing, or eliminating degradation), and/or enhancing values. Besides providing a clear logic track for the decisions made regarding scenic integrity, recreation opportunities, and user capacities, this will also help to identify elements that may need monitoring.

Managed and allowable uses and conditions of use may be either common to all alternatives or may vary by alternative. Managed and allowable uses or conditions of use that would be the same for all alternatives should be identified early in the NEPA process, along with a clear rationale for why those uses or conditions of use would be common to all alternatives. For example, conditions of use could protect Threatened and Endangered Species. Commonalities may also include existing uses or conditions not shown to have an adverse effect on W&SR values (or that otherwise already meet the

purpose and need for action).⁵

CEQ regulations also provide guidance regarding the agency’s scope of actions. Aspects of an action that are inter-related (e.g., the kinds and amounts of use and the facilities that support that use) should be considered during this process.⁶ If the purpose and need for action suggest a change from the existing condition, or if there are unresolved conflicts regarding alternative uses of resources, then a “hard look” at a reasonable range of alternatives will be needed.⁷

NEPA documents should explain the timeframe within which future actions would be taken. Be clear about whether NEPA decisions are being made to authorize certain actions when the Comprehensive Plan is completed without further decision process needed, or whether decisions about actions contemplated within the life of the Comprehensive Plan would be authorized at a later time. The latter approach is typically used in broad “programmatic” NEPA documents and subsequent site-specific documents that may be tiered to the larger document.⁸

Consider the following when determining whether visual quality, recreation setting, or user capacity actions identified in the Comprehensive Plan are also NEPA decisions (1) made upon Comprehensive Plan completion or (2) authorized later in time:

- Whether the action is part of an “adaptive management” decision. The term “adaptive management” is sometimes used by agencies to describe a range of different actions that managers may take resulting from one NEPA decision to respond to changing conditions during implementation or uncertain outcomes of implementing the decision. To authorize future adaptive action, the NEPA

“Adaptive Management”

Adaptive management is an “if this... then that” approach. If “this” condition exists (in this example for two consecutive years), then “that” action would be taken (in this case a suite of actions, with an ultimate limit on group sizes and campsite closures). To automatically authorize one or more of the actions proposed to reduce the effects of human use, the environmental impacts of those actions must be addressed in the authorizing NEPA document. The Forest Service describes, “The proposed action and one or more alternatives to the proposed action may include adaptive management. An adaptive management proposal or alternative must clearly identify the adjustment(s) that may be made when monitoring during project implementation indicates that the action is not having its intended effect, or is causing unintended and undesirable effects. The EIS [or EA] must disclose not only the effects of the proposed action or alternative but also the effect of the adjustment. Such proposal or alternative must also describe the monitoring that would take place to inform the responsible official during implementation whether the action is having its intended effect.”

⁵ 40 CFR 1502.14(a)

⁶ 40 CFR 1508.23; 1508.25

⁷ 40 CFR 1508.25

⁸ 40 CFR 1500.4(i); 1502.20

document describes when, where and how an action would take place, and when, where, and how the decision might be adapted or changed to accommodate changes in conditions or actual outcomes of the original action.

- Whether the action is ripe for decision. Actions are considered “ripe for decision” when the agency has identified a proposal it is prepared to make a decision on and the effects can be meaningfully analyzed.⁹ However, NEPA processes allow for emergency actions where substantially degradation is probable or occurring.
- If all or parts of the future “adaptive” actions identified in a Comprehensive Plan are not ripe for a NEPA decision, the NEPA document should discuss why they are not ripe for a decision at this time. Additionally, the NEPA document should describe the why adaptive action is needed, and the expected process used to make a final decision on those future actions.

D. Analyze the Effects of the Proposed Action and Alternatives

Forest Service “...recreation planning and management tools that shape the recreation program include the Recreation opportunity spectrum (ROS) [and] Scenery management system... These tools are used to define existing conditions, describe desired conditions, and monitor change. These tools, along with overarching guidance at the national, Department, and Agency levels, serve as the context by which individual national forests and grasslands engage with their communities. In doing so, the unit’s recreation-related and amenity-based assets are considered and integrated with a vision for the future that is sustainable and that the unit is uniquely poised to provide. As the current planning rule procedures related to recreation are quite general, these tools contribute to consistency in recreation planning across NFS units. The recreation opportunity spectrum has been an effective land management planning tool since 1982. The recreation opportunity spectrum is a framework for identifying, classifying, planning, and managing a range of recreation settings. The setting, activity, and opportunity for obtaining experience are arranged along a spectrum of classes from primitive to urban. In each setting, a range of activities is accommodated. For example, primitive settings accommodate primarily non-motorized uses, such as backpacking and hiking; whereas roaded settings (such as roaded natural) or rural settings accommodate motorized uses, such as driving for scenery or access for hunting. Through this framework, planners compare the relative tradeoffs of how different patterns of settings across the landscape would accommodate (or not accommodate) recreational preferences, opportunities, and impacts (programmatic indirect environmental effects) with other multiple uses. The scenery management system provides a vocabulary for managing scenery and a systematic approach for determining the relative value and importance of scenery in an NFS unit. The system is used in the context of ecosystem management to inventory and analyze scenery, to assist in establishment of overall resource goals and objectives, to monitor the scenic resource, and to ensure high-quality scenery for future generations” (Forest Service Planning Rule, PEIS, page 209).

Effects on scenic integrity, ROS class conditions, and user capacities will generally be based on analysis of the effects of the allowable uses and conditions of use on W&SR values that are included in the proposed action and each alternative in the NEPA document. This outcome is also a specific

⁹ 40 CFR 1508.22

decision aspect of the proposed action or alternatives. The level of precision or certainty of the effects can be guided by the CEQ regulations regarding the use of “methodology and scientific accuracy”¹⁰ and the information needed to support a reasoned choice among alternatives.¹¹ Clearly document how the final decision is based on the best available science or other relevant information needed to understand the reasonably foreseeable adverse effects of a choice between alternatives, the gaps in that information, and the rationale for why a reasoned choice between alternatives can be made at this time. In addition, substantial interference analyses and determinations need to be rigorous.

¹⁰ 40 CFR 1502.24

¹¹ 40 CFR 1502.22.