

## American Rivers • American Whitewater • Pacific Rivers Council

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April 23, 2012

Kootenai National Forest  
Forest Plan Revision  
Attn: Ellen Frament  
31374 US Highway 2  
Libby, MT 59923  
r1\_kipz\_revision@fs.fed.us

Re: Kootenai National Forest Draft Forest Plan

Dear Ellen:

American Rivers, American Whitewater, and the Pacific Rivers Council are pleased to offer these comments on the Draft Forest Plan and related DEIS regarding the Kootenai National Forest.<sup>1</sup> As groups dedicated to protecting the clean water, free-flowing character, biological resources, and recreational values of Montana's rivers, we have a direct interest in the management of the Kootenai National Forest (KNF).

American Rivers is the nation's leading river conservation organization fighting to protect and restore healthy rivers so people, communities and nature can thrive. Founded in 1973, we have more than 100,000 supporters throughout the country, including many in Montana who use the rivers and streams of the Kootenai National Forest.

American Whitewater is a national non-profit organization dedicated to the protection and restoration of whitewater rivers, as well as their safe enjoyment. Our members are primarily conservation-oriented kayakers, canoeists, and rafters, some of which recreate on the spectacular rivers and streams of the Kootenai National Forest.

Since its inception in 1987, the Pacific Rivers Council (PRC) has proven to be one of the most effective advocates of a whole watershed approach to land management. PRC's first achievement was the landmark 1988 Oregon Omnibus National Wild and Scenic Rivers Act, which remains the largest river protection legislation in the nation's history. PRC played the key role in developing and advocating the nation's first comprehensive aquatic conservation strategy, adopted in the President's Northwest Forest Plan.

As you are surely aware, the Kootenai NF contains many regionally and nationally significant rivers and streams that serve as vital biological refugia as well as treasured recreational destinations.

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<sup>1</sup> These comments build upon our previous comments submitted through the Campaign for Montana's Headwaters' *Wild and Scenic River Eligibility Report*, which included a chapter on recommended Wild and Scenic eligible streams within the Kootenai National Forest.

Under the federal Wild and Scenic Rivers Act, streams that are free-flowing and have been found to possess at least one outstandingly remarkable value (ORV) are eligible for Wild and Scenic designation, and must be formally recognized and protected as such by the appropriate managing agency. The Draft Forest Plan and DEIS reference and describe in general terms an analysis conducted by the Kootenai NF sometime prior to 2006 intended to update the 1989 inventory of Wild and Scenic eligible streams. The outcome of this analysis was a slightly expanded inventory that included 10 new streams, totaling 63 miles. This proposal was also included in the 2006 Draft Forest Plan. We believe this most recent Wild and Scenic inventory, as well as the Draft Forest Plan, contain several omissions and opportunities for improvement related to the Wild and Scenic eligible streams on the forest, therefore we respectfully request that the Kootenai NF find additional stream reaches eligible for Wild and Scenic designation.

### **1. The Wild and Scenic Eligibility Inventory Needs to Provide Complete and Transparent Documentation**

The Forest Service Handbook requires that Wild and Scenic eligibility inventories be “documented.” In the case of the Draft Forest Plan, the public is not told which specific stream reaches the inventory considered, why some streams were rejected, and why other streams were found eligible. The DEIS and Appendix F offer only boilerplate language describing the process used, providing no specific information regarding the individual potential outstandingly remarkable values that were considered on inventoried streams. We ask that the Kootenai NF’s eligibility analysis be made transparent as part of this NEPA process, including the stream-specific values that were used to determine whether or not each stream was considered to be Wild and Scenic eligible. This is particularly important when determining whether or not a stream possesses ORVs. An in-depth, objective analysis of a stream’s potential ORVs requires not only first-hand knowledge of the stream reach as whole, but of its past and present uses, as well as the most current scientific information that could document its importance to native fauna and flora, including ESA listed species such as bull trout, which just received a critical habitat designation in 2009 from the US Fish and Wildlife Service.<sup>2</sup> Transparent documentation and analysis allows all interested parties to work from the same set of premises, resulting in a more complete, comprehensive, and objective inventory.

### **2. The KNF Employed Screens that Were Too Narrow in Assessing the Eligibility of Rivers for Wild and Scenic Designation**

The screens employed by the Kootenai NF to determine which rivers are eligible for Wild and Scenic designation resulted in errors and omissions. The DEIS states:

The comparative scale used for this assessment is the individual forest.  
That is, the rivers and streams on the Kootenai NF were compared one to

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<sup>2</sup> U.S. Fish and Wildlife Service, *Final Bull Trout Critical Habitat Designation*. September 30, 2010. Available at: <http://www.fws.gov/pacific/bulltrout/CriticalHabitat.html>. Last accessed March 26, 2012.

another.<sup>3</sup>

This narrow geographical screen overlooks a primary purpose of the Wild and Scenic Rivers Act, which is to protect streams possessing *nationally* and *regionally* significant values, as well as locally significant ones. For example, certain streams that offer high quality wildlife habitat and wildlife viewing opportunities (e.g. grizzly bear, lynx, harlequin duck, etc.) may arguably not be locally unique in that regard when compared to other streams on the Forest, however they certainly are *nationally* unique and significant. Forest Service Handbook direction on determining outstandingly remarkable values clearly allows for such national and regional comparisons to be made:

In order to be assessed as outstandingly remarkable, a river-related value must be a unique, rare, or exemplary feature that is significant at a comparative *regional or national* scale.<sup>4</sup>

The geographical area of comparison is a matter discretion left up to the interdisciplinary (ID) team to decide, however that choice must be rational and consistent with the purpose and intent of the Wild and Scenic Rivers Act. A comparison only to other streams on the Forest arbitrarily and inappropriately omits the highly relevant distinction of the Kootenai NF's streams when compared to other streams nationally and to a broader region such as the U.S. Northern Rockies. We hereby request that the Kootenai NF broaden the scope of comparison to consider the regional and national significance of streams on the Forest when determining ORVs.

### **3. All Wild and Scenic Eligible Streams and Outstandingly Remarkable Values Lack Sufficient Description**

The Wild and Scenic Rivers Act is at its core a non-degradation policy that requires the protection and enhancement of the special values that led to designation.<sup>5</sup> These values, when recognized prior to congressional designation, must be maintained by the managing agency to preserve future opportunities for designation at the classification inventoried.<sup>6</sup> The Kootenai NF appropriately recognizes this in the Draft Forest Plan:

Eligible rivers and adjacent areas are managed to protect the free-flowing nature of these rivers, and outstandingly remarkable scenic, recreational, geologic, fish, wildlife, historic, cultural, or other similar values for the benefit and enjoyment of present and future generations.<sup>7</sup>

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<sup>3</sup> Kootenai National Forest Draft Environmental Impact Statement, page 321. Available at: <http://www.fs.usda.gov/detail/kootenai/landmanagement/planning/?cid=stelprdb5345946>. Last accessed March 26, 2012.

<sup>4</sup> Forest Service Handbook, 1909.12\_82.14, Amendment No. 1909.12-2006-8, January 31, 2006. Emphasis added.

<sup>5</sup> Sec. 10 (a), the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) as referred to herein consists of Public Law 90-542 (October 2, 1968) and amendments thereto.

<sup>6</sup> Forest Service Handbook, 1909.12\_82.5 (4), Amendment No. 1909.12-2006-8, January 31, 2006.

<sup>7</sup> USDA Forest Service, 2011. *Kootenai National Forest Draft Land Management Plan*. December 2011. Page 51.

In order to protect these values, the Forest Service and the public must have a clear description of what they are. The DEIS contains no descriptive language about what makes these eligible rivers special and thus what values will be protected.

While the DEIS assigns general ORV headings (wildlife, recreation, scenery, etc.) to individual rivers, these headings are too vague to provide meaningful guidance to the Forest and the public in order to protect these unique values and the rivers where they are present. We therefore request that the Forest describe in detail the specific ORVs that fall under each general ORV heading. For example, under the heading of “recreation,” there might be outstandingly remarkable fly-fishing, whitewater paddling, or perhaps a riverside trail that provides viewing opportunities for hikers and cross-country skiers. These site-specific values are ORVs that fall under the general heading of “recreation.” Confusing the heading with the values themselves has led to significant management issues on other Wild and Scenic rivers. A simple narrative describing the river and its specific ORVs is generally sufficient to meet this need. This narrative should flow easily from the more detailed analysis of potentially eligible rivers, and will likewise help to address the transparency issue that we highlighted in Comment 1.

We respectfully request that the USDA Forest Service (USFS) generate these narratives and integrate the information provided in our *Wild and Scenic Eligibility Inventory* (Appendix 1).

#### **4. Management of Eligible and Designated Streams is Not Sufficiently Described, nor in Some Cases, Appropriate.**

The Kootenai NF Draft Forest Plan proposes to manage Wild and Scenic designated and eligible streams based on a table of management prescriptions that fails to describe, and may fail to “protect and enhance,” the values that are specific to each stream.

The problem with this approach can be seen for example with *MA2-GDL-AR-07: Road Construction is Allowed*. Road construction would not in fact be allowed along a Wild and Scenic eligible river of any classification if the road would diminish, or fail to “protect and enhance” specific biological, recreational, cultural or other ORVs. Similarly, *MA2-DC-VERG-02* states that “Non-native invasive plants are rare,” and attributes this only to wild rivers. This may or may not be the case with specific wild or recreational segments. Worse yet, only wild segments are afforded the restoration prescription of *MA2-GDL-VEG-01*, which allows (but should in fact prioritize) treatment of non-native vegetation. Specific ORVs must be protected or enhanced regardless of stream classification or Forest management prescription, something overlooked by the approach employed by the Kootenai NF.

We request that the Kootenai NF change course with the way management prescriptions are dictated in the Draft Forest Plan for Wild and Scenic eligible stream segments. Quite simply, the method employed in the Draft Plan does not meet the mandate of the Wild and Scenic Rivers Act. We ask that the final plan describe the specific ORVs unique to

each stream and require that these values be protected and enhanced. This statutorily defined non-degradation mandate may be supplemented with (and must be given supremacy over) broader management guidance like that is contained in Table 12 in the Draft Forest Plan.

## **5. The Draft EIS Failed to Consider Relevant Available Information**

The Draft EIS and Draft Forest Plan contain an inventory of streams thought by the Forest to be eligible for Wild and Scenic designation. This inventory was completed prior to, or perhaps as part of, the 2006 forest planning effort. Thus, it has been at least six years since the public has had an opportunity to formally comment on this inventory. With the status of the Forest Planning effort unclear in the intervening years, American Rivers, American Whitewater, and Pacific Rivers Council were uncertain how best to highlight errors and omissions in the draft inventory. As part of a broader effort with a coalition of conservation organizations, we presented our own *Wild and Scenic River Eligibility Report* to the Northern Region of the USFS in May 2011. This report was available to the Kootenai NF, yet was not acknowledged or presumably analyzed in the DEIS. Our report should have been fully considered based on USFS policy, as the Forest Service Handbook states:

If a systematic inventory of eligible rivers...has been previously completed and documented, additional assessment and study at time of land management plan revision need only be done if *changed circumstances* warrant additional review of eligibility...<sup>8</sup>

The creation and presentation of our Wild and Scenic River Eligibility Report qualifies as a “changed circumstance,” as does significant new interest from the public in Wild and Scenic rivers eligibility, cold-water refugia for native fish, river recreation, and river conservation. In the six-plus years since the previous inventory, other circumstances have changed as well, including a revised Critical Habitat designation for bull trout that emphasizes the national significance of streams on the Kootenai NF.<sup>9</sup> Changed circumstances warrant a fresh look at the USFS eligibility inventory. In addition, the Kootenai NF has an obligation to seek public input and investigate eligibility during forest planning:

The land management planning process shall include a comprehensive evaluation of the potential for rivers in an administrative unit to be eligible for inclusion in the National System. Sources for identifying the significance of river-related values include the Nationwide Rivers

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<sup>8</sup> Forest Service Handbook, 1909.12\_81.2, Amendment No. 1909.12-2006-8, January 31, 2006. Emphasis added.

<sup>9</sup> U.S. Fish and Wildlife Service, *Final Bull Trout Critical Habitat Designation*. September 30, 2010. Available at: <http://www.fws.gov/pacific/bulltrout/CriticalHabitat.html>. Last accessed March 26, 2012.

Inventory; state river assessments; identification by Tribal governments, other federal, state, or local agencies; *and the public*.<sup>10</sup>

Elsewhere in the Forest Service Handbook it is made clear that information like our *Wild and Scenic Eligibility Report* should be fully considered in the forest planning process:

Input from organizations and individuals familiar with specific river resources should be sought and documented as part of the process.<sup>11</sup>

The Draft Forest Plan and supporting documents rely wholly upon an internally generated Wild and Scenic River eligibility inventory conducted by the Forest. Appendix F of the DEIS states that:

Initial assessments were accomplished in an interdisciplinary manner by having district and/or supervisor's office resource specialists review the listed named rivers and streams, and based on their knowledge, identify whether a potential 'outstandingly remarkable value' exists.<sup>12</sup>

It strikes us that this methodology excludes a large portion of the public that possesses first-hand, detailed knowledge of the streams on the Kootenai NF and their outstandingly remarkable values. It also seems to indicate that USFS personnel may have excluded eligible streams that had never been visited by members of the ID team.

We applaud the Forest Service for producing this inventory, and support the positive affirmation that several deserving streams are eligible for Wild and Scenic designation. However, the Forest has erred in failing to consider alternatives and information presented by the public and river-specific organizations. In short, Forest Service policy and the National Environmental Policy Act require each national forest to take a fresh and "hard look" at the eligibility of a Forest's streams during the planning process. Furthermore, this analysis needs to be based upon the full suite of available information, including public comments and any changed circumstances.

This process benefits everyone involved. USFS personnel cannot - and are not expected to - know everything that there is to know about the streams on the Forest and their recreational use. Some of these streams, for example, offer remote and challenging paddling opportunities, have relatively short recreation seasons, and have relatively little use when compared to more predictable or accessible recreational opportunities. These factors make it understandably difficult for the Forest Service to document and fully appreciate whitewater paddling and other forms of dispersed recreation such as backcountry angling, but by no means diminish the outstandingly remarkable value of these recreational experiences. Quite the opposite – it is in part because paddling and

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<sup>10</sup> Forest Service Handbook, 1909.12\_81.2, Amendment No. 1909.12-2006-8, January 31, 2006. Emphasis added.

<sup>11</sup> Forest Service Handbook, 1909.12\_82.14 Amendment No. 1909.12-2006-8, January 31, 2006.

<sup>12</sup> USDA Forest Service, 2011. Appendices: *Draft Environmental Impact Statement for the Draft Land Management Plan*. Kootenai National Forest. Page 165.

fishing these streams is logistically and technically challenging that they are so recreationally special. With careful planning, honed skills, and a little luck, paddlers visiting the Kootenai NF are treated to some of the best whitewater paddling in the region and the country.

In response to a perceived need, American Rivers, American Whitewater, Pacific Rivers Council, and several other river groups highlighted the outstandingly remarkable values of several streams that may have been overlooked, dismissed, or inadequately described in previous Wild and Scenic eligibility inventories on the Kootenai NF. The Draft Forest Plan and related documents make no mention and offer no analysis of our report, excerpted in Appendix 1. We ask that the USFS fully consider this information now, and ask that as a result the USFS add several streams to the Forest's inventory of streams eligible for Wild and Scenic designation. We highlight these streams in the next section of our comments and in Appendix 1.

## **6. Proposal for Additions to the Wild and Scenic Rivers Eligibility Inventory**

Over the past two years American Rivers, American Whitewater, Pacific Rivers Council, and several other groups have been carefully studying the biological, recreational, scenic, and other values of streams on the Kootenai NF. This effort culminated in our 2011 *Wild and Scenic River Eligibility Report*, which is excerpted and attached to these comments as Appendix 1. Our report offers evidence for finding 17 rivers on the Kootenai NF eligible for Wild and Scenic designation, including eight streams either not considered, or considered and dismissed, by the Kootenai NF in the DEIS.

We hereby formally request that the USFS consider the information presented in Appendix 1 and all other available information regarding the following streams. Based upon this information, we request that the USFS determine that each of these streams is eligible for Wild and Scenic designation, or provide a transparent analysis to the contrary:

- Callahan Creek
- Granite Creek
- Libby Creek
- Rock Creek
- Ross Creek
- Swamp Creek
- Star Creek
- Wigwam River

Please refer to our *Wild and Scenic River Eligibility Report* (Appendix 1) for details on each of these streams and their outstandingly remarkable values. As we have shown in our report, each of these streams unequivocally possesses outstandingly remarkable values that are unique to the region and the nation. In addition to our request that each of these streams be found eligible for Wild and Scenic designation, we ask that the ORVs we recommend for all streams in our eligibility report be integrated into the Forest's

eligibility inventory. We would be more than happy to discuss this report and subsequent studies with the Forest should any clarification be needed or questions answered.

## **Conclusion**

The Kootenai NF conducted a Wild and Scenic Eligibility Inventory that recommends several streams for protection. American Rivers, American Whitewater, and Pacific Rivers Council really appreciate this effort. We ask that the Kootenai NF now integrate into their inventory new information on changed or overlooked conditions that we have provided in these comments and in our *Wild and Scenic River Eligibility Report*. This consideration of public input is required by law, and will result in appropriate management of the Forest's most spectacular, unique, and important rivers and streams. We hope that it will be helpful to the Forest.

Thank you for considering these interests and requests.

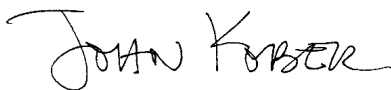
Sincerely,



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