

CHAPTER 1

PURPOSE OF AND NEED FOR ACTION

Changes in Chapter 1 between Draft and Final EIS

Section 1.8 – Cooperating Agencies has been updated.

Section 1.10 – Public Involvement has been updated.

CHAPTER 1. PURPOSE OF AND NEED FOR ACTION

1.1 Background

The Forest Service is conducting an environmental analysis to evaluate the suitability of 86 eligible river segments on the National Forests in Utah for recommendation for inclusion in the National Wild and Scenic Rivers System. This action is conducted pursuant to the Wild and Scenic Rivers Act of 1968 (Public Law 90-542) section 5(d)(1) and complies with the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321-4346). Section 5(d)(1) of the Wild and Scenic Rivers Act requires agencies to consider and evaluate rivers on lands they manage for potential designation while preparing their broader land and resource management plans.

Over the past decade, National Forests in Utah have evaluated river segments on the National Forests for their potential eligibility for designation into the National Wild and Scenic Rivers System (National System). In order to be eligible, the river segment must be free-flowing and possess at least one outstandingly remarkable value (ORV). River segments determined to be eligible were assigned a tentative classification as Wild, Scenic, or Recreational based on the level of development and access along the river corridor. (For more information on the Utah National Forest's WSR study process see: <http://www.fs.fed.us/r4/rivers/index.shtml>)

The eligibility inventory and tentative classification for 78 of the segments took place during forest land and resource management plan revision (USDA Forest Service - Ashley NF 2005; Fishlake and Dixie NF 2004, 2007; Manti-La Sal NF 2003, 2006, 2007; Uinta NF 1998; Wasatch-Cache NF 1999). In addition, eight stream segments on the Dixie National Forest were found eligible for suitability consideration by an interagency planning process that included the Grand Staircase Escalante National Monument, Bureau of Land Management (BLM) and the Glen Canyon National Recreation Area, National Park Service (NPS) (USDI BLM 2000). The results of that eligibility analysis are found within the Grand Staircase Escalante National Monument Management Plan and Final Environmental Impact Statement (USDI BLM 2000).

Eighty-six river segments were determined eligible during these studies. Management activities and uses that have the potential to affect the free-flowing condition, outstandingly remarkable values and/or the Wild, Scenic, or Recreational classification of the eligible river segments are generally precluded until such time that suitability studies are completed and a new management emphasis is developed. Interim protection for these eligible river segments is contained in Forest Plan standards, guidelines, and agency policies.

In April 2007 the Forest Service announced its intent to prepare the Draft Environmental Impact Statement (EIS) in cooperation with the State of Utah to complete suitability analysis for these river segments. In December 2007 the Forest Service announced the release of the Draft EIS.

1.2 Document Structure

The Forest Service has prepared this Final EIS in compliance with NEPA and other relevant Federal and State laws and regulations. This Final EIS discloses the direct, indirect, and cumulative environmental impacts that would result from the alternatives. The document is organized into six chapters:

- *Chapter 1. Purpose of and Need for Action:* The chapter includes information on the history of the project proposal, the purpose of and need for the project, and the agency's proposed action for achieving that purpose and need. This chapter details how the Forest Service informed the public of the proposal and how the public responded. This chapter also describes issues.

- *Chapter 2. Description of Alternatives:* This chapter provides a detailed description of the agency’s alternative methods for achieving the stated purpose and need and proposed action. Alternatives were developed based on issues raised by the public and other agencies. Finally, this chapter provides a summary table of the environmental consequences associated with each alternative.
- *Chapter 3. Affected Environment and Environmental Consequences:* This chapter describes the character and resources of the eligible river corridors and the current conditions. This chapter also describes the environmental effects of implementing the alternatives. This analysis is organized by resource category.
- *Chapter 4. Consultation and Coordination:* This chapter provides a list of resource specialists involved in the preparation of the Final EIS and distribution of the Final EIS.
- *Chapter 5. References and Glossary:* This chapter provides a list of references used for the project. It also provides a glossary of terms used in the Final EIS.
- *Chapter 6. Agency Responses to Public Comment:* This chapter provides responses to public comments received during the comment period for the Draft EIS. It also includes copies of letters received from government agencies.
- *Appendices:* The appendices provide more detailed information to support the analyses presented in the Final EIS.
 - Appendix A – Suitability Evaluation Reports (SERs).* This appendix describes rivers and suitability factors. It includes a map of each segment.
 - Appendix B – Bureau of Land Management (BLM) and National Park Service (NPS) List of Rivers.* This appendix describes rivers currently being considered in the BLM resource management plans and NPS management plans.
 - Appendix C – Wild and Scenic River Management Statutory Requirements (January 2005).*
 - Appendix D – Effects of Managing a River as a Component of the National Wild and Scenic Rivers System.*
 - Appendix E – Valid Existing Water Rights Maps.*

Additional documentation, including more detailed analyses of program-area resources, may be found in the planning record located at the Salt Lake Supervisor’s Office, 8236 Federal Building, 125 South State Street, Salt Lake City, Utah.

1.3 Wild and Scenic Rivers Act

General Overview of the Act

The Wild and Scenic Rivers Act was passed in 1968 to balance water development with river protection. To accomplish this goal, Congress created the National Wild and Scenic Rivers Act.

“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 a 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 national conservation purposes.” (Wild and Scenic Rivers Act, Sec. 1(b)).

As of 2008, the National Wild and Scenic Rivers System (National System) had grown from its initial eight components to protect 166 rivers totaling more than 11,400 miles in 38 states and the Commonwealth of Puerto Rico; this is a little more than one quarter of one percent of the nation’s rivers.

By comparison, more than 60,000 large and small dams across the country have modified at least 600,000 miles, or about 17 percent, of the nation's rivers. (<http://www.rivers.gov/>). Rivers in the National System are administered by four federal agencies and, for eighteen rivers, by several states. There are no designated Wild and Scenic Rivers in Utah.

General Overview of the Process

The National Forests in Utah are following a three-step process (listed below) to consider potential rivers and streams for wild and scenic river designation. Step 1 (Determination of Eligibility) and Step 2 (Tentative Classification) have been completed. Step 3 (Determination of Suitability) is now being completed and the results documented in this Final EIS.

1) Determination of Eligibility: An objective inventory of river conditions. To be determined eligible, a river must be free-flowing and, with its adjacent land area, possess one or more outstandingly remarkable values (ORVs). The Wild and Scenic Rivers Act identifies scenic, recreational, geologic, fish and wildlife, historic, cultural and other similar values as potential ORVs. National Forests in Utah, in conjunction with the State of Utah, National Park Service, and the Bureau of Land Management crafted a working paper for Wild and Scenic River reviews in Utah. (Process and Criteria for Interagency Use, July 1996). In addition, the Forest Service used the eligibility criteria offered in the Forest Service Handbook (FSH) 1909.12, Sec. 82.14a. The criteria are intended to set minimum thresholds to identify ORVs, provide consistency in application of regions of comparison, and a common methodology for wild and scenic river studies in Utah. The criteria are illustrative and not all-inclusive. Criteria used for each Forest can be found in their eligibility reports (USDA Forest Service - Ashley NF 2005; Fishlake and Dixie NF 2004, 2007; Manti-La Sal NF 2003, 2006, 2007; Uinta NF 1998; Wasatch-Cache NF 1999).

There are 86 eligible river segments on the five National Forests in Utah.

2) Tentative Classification: River segments may be classified as Wild, Scenic, or Recreational based on the extent of development and accessibility along each river section. Section 2(b) of the Act generally describes three classification categories for eligible rivers:

Wild river areas: Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America.

Scenic river areas: Those rivers, or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.

Recreational river areas: Those rivers, or sections of rivers, that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.

More detailed criteria for determining classification is found in "Wild and Scenic River Review in The State of Utah, Process and Criteria for Interagency Use," an Interagency Whitepaper, July 1996.

3) Determination of Suitability: The purpose of the suitability study is to document the Forest Service's analysis and conclusions as to whether an eligible river is a worthy addition to the National System.

Under Forest Service Handbook 1909.12, Sec. 82.4 the determination of suitability is based on the following considerations:

1. *Should the river's free-flowing character, water quality, and outstandingly remarkable values be protected, or are one or more other uses important enough to warrant doing otherwise?*

2. *Will the river's free-flowing character, water quality, and outstandingly remarkable values be protected through designation? Is designation the best method for protecting the river corridor? In answering these questions, the benefits and impacts of wild and scenic river designation must be evaluated and alternative protection methods considered.*
3. *Is there a demonstrated commitment to protect the river by any nonfederal entities that may be partially responsible for implementing protective management?*

As provided in Sections 4(a) and 5(c) of the Wild and Scenic Rivers Act, the following suitability factors should be considered and, as appropriate, documented as a basis for the suitability determination of each river:

1. *Characteristics which do or do not make the area a worthy addition to the National System.*
2. *The current status of land ownership and use in the area.*
3. *The reasonably foreseeable potential uses of the land and water that would be enhanced, foreclosed, or curtailed if the area were included in the National System.*
4. *The federal agency that will administer the area should it be added to the National System.*
5. *The extent to which the agency proposes that administration of the river, including the costs thereof, be shared by state and local agencies.*
6. *The estimated cost to the United States of acquiring necessary lands and interests in land and of administering the area should it be added to the National System.*
7. *A determination of the degree to which the state or its political subdivisions might participate in the preservation and administration of the river should it be proposed for inclusion in the National System.*

The following additional suitability factors may also be considered:

8. *An evaluation of the adequacy of local zoning and other land use controls in protecting the river's outstandingly remarkable values by preventing incompatible development.*
9. *The state/local government's ability to manage and protect the outstandingly remarkable values on nonfederal lands.*
10. *Support or opposition to designation.*
11. *The consistency of designation with other agency plans, programs, or policies and in meeting regional objectives.*
12. *The contribution to river system or basin integrity.*
13. *The potential for water resources development.*

Suitability factors are described by river segment in Appendix A – Suitability Evaluation Report. Information regarding the river segment and suitability factors from the SERs was used to inform the analysis in Chapter 3 of the Final EIS.

Following completion of this three-step process, the Record of Decision (ROD) documents a preliminary administrative recommendation for wild and scenic river designation. This preliminary recommendation will receive further review and possible modification by the Chief of the Forest Service, Secretary of Agriculture, and the President of the United States before a final recommendation is made to Congress. The Congress has reserved the authority to make final decisions on designation of rivers as part of the National System.

If a river is designated by Congress, the Federal agency charged with its administration shall prepare a comprehensive management plan for such river segment to provide for the protection of river values.

1.4 Purpose of and Need for Action

The Forest Service needs to complete the process for determining which, if any, eligible rivers on the

National Forests in Utah should be recommended for inclusion in the National Wild and Scenic Rivers System. All five National Forests in Utah have completed eligibility studies. There has been concern raised about leaving eligible river segments under interim protection for an extended period without completing suitability studies. The State of Utah and many counties desire the Forest Service to complete the suitability step of wild and scenic river analysis. The purpose of this study is to assess the suitability of 86 eligible river segments and to initiate the process for making recommendations to Congress.

1.5 Proposed Action

The five Forest Supervisors of the National Forests in Utah will make preliminary recommendation of suitable additions to the National System from the 86 eligible river segments studied. Factors considered in the determination are: tradeoffs in management scenarios other than designation; land ownership status; historical, currently existing, and future potential uses of that segment that could be affected; interest expressed by the public, and Tribal, Federal, State, and local agencies; estimated costs for management and protection of identified outstandingly remarkable values; and the ability of agency to manage and/or protect the river.

1.6 River Study Areas

U.S. Department of Agriculture, Forest Service

The river study areas are located on the Ashley, Dixie, Fishlake, Manti-La Sal, and Uinta-Wasatch-Cache National Forests in Utah (See Vicinity Map in this Section). There is one river segment located on a portion of the Manti-La Sal National Forest in Montrose County, Colorado and one segment located on a portion of the Wasatch-Cache National Forest in Uinta County, Wyoming, and those areas are included in the river study areas. In addition, river segments are located in the following Utah Counties: Box Elder, Cache, Carbon, Daggett, Duchesne, Emery, Garfield, Grand, Kane, Millard, Piute, Salt Lake, Sanpete, San Juan, Sevier, Summit, Uintah, Utah, Wasatch, Washington, and Weber. See Appendix A – Suitability Evaluation Reports for individual maps of each river study area.

The Ashley National Forest, with the Supervisor's Office in Vernal, Utah, is located in northeastern Utah and southwestern Wyoming. It encompasses nearly 1.4 million acres (1,287,909 acres in Utah and 96,223 acres in Wyoming). There are 24 eligible river segments totaling 325 miles being studied for suitability.

The Dixie National Forest, with the Supervisor's Office in Cedar City, Utah, occupies almost two million acres and stretches for about 170 miles across southern Utah. There are ten river segments totaling 46 miles being studied for suitability. Four of the ten segments are located on the Dixie National Forest, but administered by the Fishlake National Forest.

The Fishlake National Forest is located in central Utah, with its Supervisor's Office in Richfield, Utah. It encompasses approximately 1.5 million acres and administers approximately 1.7 million acres. There are five river segments totaling 32 miles being studied for suitability.

The 1,413,111-acre Manti-La Sal National Forest is located in southeastern Utah and western Colorado with its Supervisor's Office in Price, Utah. There are ten river segments totaling 157 miles being studied for suitability.

In 2008 following the release of the Draft EIS, the Wasatch Cache and Uinta National Forests combined into one administrative unit named the Uinta-Wasatch-Cache National Forest. The analysis in the Draft EIS was written as two separate forests. Although the forests are now combined into one administrative unit the analysis is separate by forest to make comparison easier for the reader from DEIS to FEIS. The

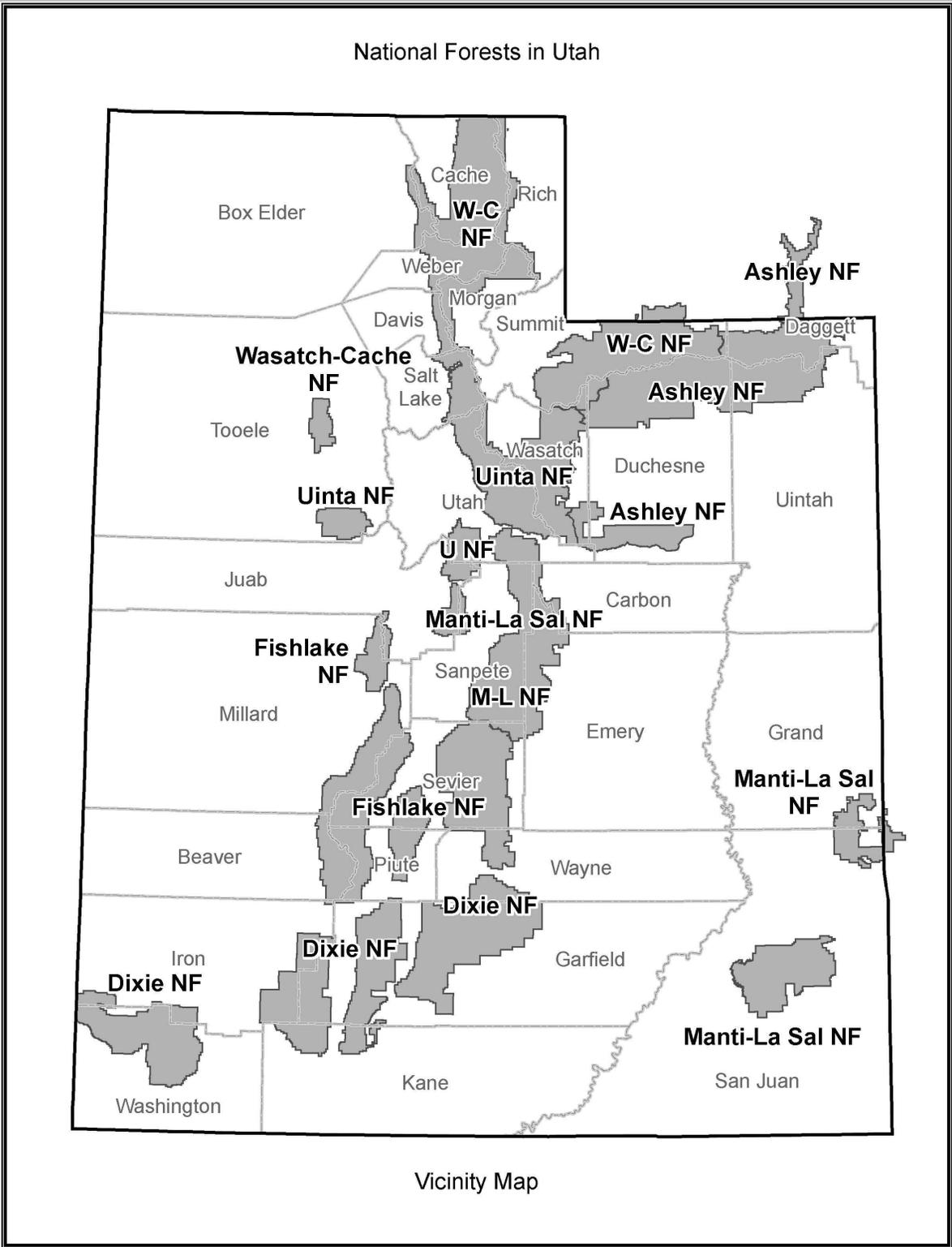
approximately 897,390-acre Uinta portion of the Uinta-Wasatch-Cache National Forest is located in central Utah with its Supervisor's Office in Provo, Utah. There are four river segments totaling 13 miles being studied for suitability. The Wasatch-Cache portion of the Uinta-Wasatch-Cache National Forest encompasses nearly 1.3 million acres of northern Utah and southwestern Wyoming with its Supervisor's Office located in Salt Lake City, Utah. There are 33 river segments totaling 267 miles being studied for suitability.

U.S. Department of the Interior, Bureau of Land Management (BLM)

Ten river segments flow from or directly onto BLM lands, or BLM lands are located on part of the segment. These include: Green River, Lower Dry Fork Creek, Ashley Gorge Creek, Slickrock Canyon, Cottonwood Canyon, The Gulch, Steep Creek, Mamie Creek, Death Hollow Creek, Chippean Canyon and Allen Canyon, Lower Dark Canyon, and Huntington Creek. Two river segments North Fork Virgin River and Mill Creek Gorge flow across private lands before reaching BLM lands. As described in Chapter 1, Section 1.8 – Cooperating Agencies, the BLM is a cooperating agency. For more information and analysis on which rivers the BLM found eligible and/or suitable, refer to Chapter 3, Section 3.14 – Cumulative Effects Analysis and Appendix B – BLM and NPS List of Rivers.

U.S. Department of the Interior, National Park Service (NPS)

None of the river segments being studied are directly connected to segments within National Park Service lands. Some Segments may flow a short distance through other lands before traveling into NPS lands. For more information and analysis, refer to Chapter 3, Section 3.14 – Cumulative Effects Analysis and Appendix B – BLM and NPS List of Rivers.



Note: In 2008 the Wasatch-Cache and Uinta National Forests combined into one administrative unit named the Uinta-Wasatch-Cache National Forest. They are shown separately on the map.

1.7 Decision Framework

Given the purpose and need, the responsible officials will review the proposed action, the other alternatives, and the environmental consequences in order to make the following decision:

Which, if any, of the eligible river segments should be determined suitable for eventual recommendation to the Congress of the United States for inclusion in the National Wild and Scenic Rivers System. The Forest Service may determine that all, some, or none of the segments are suitable for recommendation.

Forest Plan Amendments

The final Record of Decision may also include amendments to the Land and Resource Management Plans (Forest Plans) for the National Forests in Utah to provide direction for management of river segments determined to be suitable for inclusion in the National Wild and Scenic Rivers System.

Forest Plans will be amended as needed to eliminate interim protection language for those eligible river segments that are found not suitable through this study. Some Forests do not have specific interim protection language and will not require amendment. However, the list of eligible river segments will be adjusted to reflect the results of this study. Appendix C – Wild and Scenic River Statutory Requirements and Appendix D – Effects of Managing a River as a Component of the National Wild and Scenic Rivers System identifies the current management direction for wild and scenic rivers under study and the specific changes that would result if a river is found not suitable.

Forest Plans with rivers determined suitable through this study will be amended to include the following standard:

Suitable river segments will be protected consistent with the management guidelines in FSH 1909.12, Chapter 80, Section 82.5. For river segments that were determined eligible but are not determined suitable for inclusion in the National Wild and Scenic Rivers System, these river segments are no longer afforded agency protection as potential wild and scenic rivers.

1.8 Cooperating Agencies

While the management of any wild and scenic river segment in this study designated by Congress would be the primary responsibility of the Forest Service, a number of other government entities are interested in the future of these river segments. The Intermountain Region of the Forest Service has entered into cooperative agreements with the following entities to better understand and address local concerns for the suitability study and Environmental Impact Statement.

State of Utah

The State of Utah is a cooperating agency in the preparation of this EIS. The State and the Forest Service signed a Memorandum of Understanding (MOU) that specified how they would participate. The following is a summary of that MOU:

1. Facilitate participation of political subdivisions by coordinating the incorporation of information and comments provided by said entities, as appropriate, into the Wild and Scenic River Suitability analysis process.
2. Assist the Forest Service with organizing, planning and coordinating meetings with, and disseminating information and documents to the various political subdivisions for review and comment.
3. Provide the Forest Service with special expertise and comments regarding inventories,

assessments and reports completed in association with the Wild and Scenic River Suitability Study and the EIS.

4. Participate with the Wild and Scenic River Suitability Analysis Team in the preparation of the various components of the EIS and related documents.
5. Assist the Forest Service with the planning and organization of public meetings and with disseminating information and documents to the public.
6. Provide review and analysis of the documents leading up to the Draft EIS and review and analysis of the Draft EIS prior to and during public release.
7. During the public review periods for the Draft EIS, provide the Forest Service with any comments or recommendations on the Draft EIS and any associated documents that the State believes are useful.
8. Provide, at any appropriate time, any other background information that the State believes will be useful to the Wild and Scenic River Suitability Analysis Team.
9. Be available to discuss with the Wild and Scenic River Suitability Analysis Team any documents or analyses the State provides.
10. Fund its own expenses associated with participation as a Cooperating Agency in the EIS process.

Bureau of Land Management (BLM), Utah State Office

The Utah BLM is a cooperating agency in the preparation of this Draft EIS. The Utah BLM and the Forest Service signed a MOU that specified how they would participate. The following is a summary of that MOU:

1. Provide the Forest Service special expertise and comments with regards to inventories, assessments and reports completed in association with the proposed action, and the proposed action itself.
2. Provide review and analysis of the Draft EIS prior to and during public release.
3. Review and provide comments for first drafts of each section of the Draft EIS.
4. Provide the Forest Service with an analysis of how the alternatives to be studied in detail may affect the Utah BLMs constituents, mission and resources. Information from this analysis will be considered to the maximum extent possible and incorporated as appropriate into the draft and Final EIS.
5. During the public review periods for the Draft EIS, provide the Forest Service with any comments or recommendations on those documents that the Utah BLM believes are useful.
6. Provide, at any time, any other backgrounds information that the Utah BLM believes will be useful to the Wild and Scenic River Suitability analysis team.
7. Be available to discuss with the Wild and Scenic River Suitability team any documents or analyses provided by the Utah BLM including withdrawals.
8. Fund its own expenses associated with its participation as a Cooperating Agency in the EIS Process.
9. Apply BLM expertise towards addressing statewide impacts in the cumulative impact section of the EIS and towards striving for collaborative consistent management across agency boundaries.

Sweetwater County, Sweetwater County Conservation District, Uinta County Conservation District, and Lincoln County, Wyoming.

The Sweetwater County, Sweetwater County Conservation District, Uinta County Conservation District, and Lincoln County, Wyoming, are cooperating agencies in the preparation of this EIS. These entities and the Forest Service signed a Memorandum of Understanding (MOU) that specified how they would participate. The following is a summary of those MOUs:

1. Facilitate participation of political subdivisions by coordinating the incorporation of information and comments provided by said entities, as appropriate, into the Wild and Scenic River Suitability analysis process.
2. Provide the Forest Service with special expertise and comments regarding inventories,

assessments and reports completed in association with the Wild and Scenic River Suitability Study and the EIS.

3. Advise and provide supporting information to the Forest Service about significant environmental, social or economics issues affecting their respective county.
4. Advise and provide supporting information to the Forest Service about existing water projects, water needs, and the role that water developments play.
5. Provide, at any appropriate time, any other background information that the County believes will be useful to the Wild and Scenic River Suitability Analysis Team.
6. Be available to discuss with the Wild and Scenic River Suitability Analysis Team any documents or analyses the County provides.
7. Fund its own expenses associated with participation as a Cooperating Agency in the EIS process.

1.9 Interrelationships

By their nature rivers often flow through multiple ownerships and jurisdictions. While the management of any wild and scenic river segments designated by Congress would be primarily the responsibility of the Forest Service, a number of other government entities may be involved in the administration of designated river segments. Hence it is important for these entities to be involved from the outset in the planning for river designations. The Forest Service has consulted with a number of other Federal and state agencies, tribes, and local governments in the preparation of this study.

Tribal Consultation

Through government-to-government meetings and correspondence, agency line officers or a designated official on each of the National Forests in Utah, offered to initiate formal Government-to-Government consultation with Tribal officials during scoping. The goal for these contacts was to share information, answer questions, and ensure that all parties had an adequate understanding of the proposal so they could effectively comment when the Draft EIS was released. J.R. Kirkaldie, Roosevelt/Duchesne District Ranger, Ashley National Forest met and consulted with the Ute Tribe on August 6, 2007 (Kirkaldie 2007). In addition, Tribal officials received notification in the form of scoping and Draft EIS documents and a brief presentation which was given by Faye Krueger, Forest Supervisor on August 10, 2007 at the Utah Tribal Leaders meeting in Pocatello, Idaho. Following scoping and meetings, one comment letter was received from Mr. Tony H. Joe, Jr., Program Manager, Historic Preservation Department/Traditional Culture Program, The Navajo Nation, in response to the Dixie National Forest segments.

Following the release of the Draft EIS, J.R. Kirkaldie also represented the Forest Service at a consultation meeting with the Ute Indian Tribal Business Committee concerning the Draft EIS on September 3, 2008. In September and October 2008, David R. Myers, Deputy Forest Supervisor of the Uinta-Wasatch-Cache National Forest made contact with affected tribes for National Forests in Utah and documented government-to-government consultation (Myers 2008). The Forest Service has consulted with Tribal Governments and will continue to do so, as part of the ongoing process.

Department of the Interior Agencies

Bureau of Land Management (BLM)

The Bureau of Land Management, State of Utah Office is a Cooperating Agency (see description under Section 1.8 – Cooperating Agencies).

Bureau of Reclamation (BOR)

Members of the Wild and Scenic Rivers Team met with the Bureau of Reclamation in August 2007,

February 2008, and July 2008 to get more information regarding BOR projects and withdrawals.

National Park Service (NPS)

In partial fulfillment of the Section 5(d) requirements of the Wild and Scenic Rivers Act, the National Park Service has compiled and maintains a Nationwide Rivers Inventory (NRI), a register of river segments that potentially qualify as national wild, scenic or recreational river areas. The NRI qualifies as a comprehensive plan under Section 10(a)(2)(A) of the Federal Power Act.

The Nationwide Rivers Inventory (NRI) is a listing of more than 3,400 free-flowing river segments in the United States that are believed to possess one or more “outstandingly remarkable” natural or cultural values judged to be of more than local or regional significance. Under a 1979 Presidential directive, and related Council on Environmental Quality procedures, all federal agencies must seek to avoid or mitigate actions that would adversely affect one or more NRI segments. The NRI is a source of information for statewide river assessments and federal agencies involved with stream-related projects.

A presidential directive requires each federal agency, as part of its normal planning and environmental review processes, to take care to avoid or mitigate adverse effects on rivers identified in the Nationwide Rivers Inventory compiled by the NPS. Further, all agencies are required to consult with the NPS prior to taking actions which could effectively foreclose wild, scenic or recreational status for rivers on the inventory.

Pursuant to Section 11 of the Wild and Scenic Rivers Act, the NPS has been providing technical assistance to states in the conduct of statewide river assessments and inventories. These efforts provide a source for potential future additions to the Nationwide Rivers Inventory and the National Wild and Scenic Rivers System especially as State administered components.

(<http://www.ncrc.nps.gov/rtca/nri/auth.html>)

Fish and Wildlife Service (FWS)

The Fish and Wildlife Service is on the mailing list to receive copies of the scoping letter, Draft EIS, and any other further correspondence. Depending on the results of the Biological Assessment and Biological Evaluation, biologists on the Wild and Scenic Rivers Team may be required to consult with the FWS and this will be documented in the Record of Decision.

Other Federal Agencies

Federal Energy Regulatory Commission (FERC)

The Federal Energy Regulatory Commission, or FERC, is an independent agency that regulates the interstate transmission of electricity, natural gas, and oil. FERC also reviews proposals to build liquefied natural gas terminals and interstate natural gas pipelines as well as licensing hydropower projects. (<http://www.ferc.gov/about/ferc-does.asp>)

On rivers determined eligible or suitable through the 5(d)(1) process, the Forest Service is charged to protect the river’s free-flowing condition to the extent of Forest Service authority. The Forest Service would affect actions of other agencies including FERC through voluntary partnership.

When river segments are designated, Section 7(a) of the Wild and Scenic Rivers Act directs all federal agencies to protect the river’s free-flowing condition and other values. More specifically, the Act prohibits the FERC from licensing the construction of hydroelectric facilities on rivers that have been designated as components of the National System. Further, the Act prohibits other federal agencies from assisting in the construction of any water resources project that would have a direct and

adverse effect on a designated river. Section 7(a) of the Act recognizes that water resource projects, above or below a designated wild and scenic river would not be precluded from licensing provided the project does not invade the area or unreasonably diminish the river values present at the time of designation. Determinations under Section 7(a) are made by the river-administering agency.

Refer to the *Wild and Scenic Rivers Act: Section 7*, a technical paper of the Council (May 1997), for a discussion of standards and presentation of procedures to evaluate the effects of proposed water resources projects. The Department of Agriculture has regulations governing the applicability of Section 7 at 36 CFR Part 297.

U.S. Environmental Protection Agency (EPA)

All environmental impact statements (EISs) prepared by federal agencies are filed with EPA. Each week, the EPA publishes in the *Federal Register* a “Notice of Availability” for all of the EISs filed with EPA. The EPA “Notice of Availability” is the official start of the public comment period required under the Council on Environmental Quality’s regulations implementing NEPA. In addition, the EPA provides comments on NEPA projects.

State Agencies

State of Utah

The State of Utah is a cooperating agency in the preparation of the Draft and Final EIS. See description under Section 1.8 – Cooperating Agencies. Mr. Val Payne was a member of the Wild and Scenic Rivers Interdisciplinary Team. The Forest Service, along with Mr. Payne presented approximately 17 public meetings in the State of Utah, in Lyman, Wyoming, and Paradox, Colorado during scoping in 2007. Mr. Payne attended the majority of the 10 public meetings held in the State of Utah and Lyman, Wyoming during the Draft EIS comment period in 2008. Mr. Payne was also present at most meetings with the Forest Service, various Counties and Associations of Governments (AOGs).

State Historical Preservation Officers (SHPOs)

The SHPOs received correspondence regarding this project during scoping. During the analysis, if the archaeologist determines the project will cause impacts to archaeological sites, the archaeologist will seek archaeological clearance with the SHPOs. This will be documented in the Record of Decision.

State Congressional Delegations

Members of the Utah, Wyoming, and Colorado Congressional Delegations received correspondence and briefings from the Wild and Scenic Rivers Team and the State/Forest Service Coordinator, Mr. Tim Garcia. Local congressional staff has been briefed regularly by individual forests.

See Chapter 4 for a list of state agencies that received correspondence regarding this project.

Counties

The Forest Service and the State of Utah provided briefings to many counties and the regional Associations of Governments (AOGs).

1.10 Public Involvement

The Notice of Intent (NOI) to prepare a Draft EIS was published in the *Federal Register* on April 30, 2007. Approximately 2,700 postcards and scoping letters were mailed to government officials,

organizations, and the public. Since April 2007, a website has been maintained including study newsletters, public meeting notices, maps, list of rivers, and other relevant information (<http://www.fs.fed.us/r4/rivers/>). In addition, as part of the public involvement process, the Forest Service has listed the project on the Forest Service Schedule of Proposed Actions (SOPA) since April 2007. The SOPA is posted on the Forest Service web page at: <http://www.fs.fed.us/sopa/index.php>.

In May, June, and July 2007, news releases were sent to and appeared in various newspapers in Utah, Wyoming, and Colorado announcing project details and upcoming meetings. The Forest Service in conjunction with the State of Utah held 17 public open houses, met with counties and regional AOGs and Tribal Governments, and held informal meetings upon request. Fliers were posted in local towns to announce open houses. Approximately 290 people attended public open houses held in Lyman, Wyoming; Paradox, Colorado; and Moab, Castle Dale, Ephraim, Richfield, Cedar City, Escalante, Logan, Park City, Vernal, Heber City, Oakley, Provo, Saint George, Salt Lake City, and Monticello, Utah. County officials, Congressional staff, landowners, mining claimants, local residents, interest group members, and others who had interest regarding the river segments attended the workshops.

Over 3,000 scoping comments were received and reviewed. Scoping comments were summarized and posted on the website on July 23, 2007 (see project record Summary of Scoping Comments, Draft Version – July 19, 2007) and updated on January 9, 2008 (see project record Summary of Scoping Comments, Final Version – January 9, 2008). The Forest Service used the insights from the scoping comments to identify issues and concerns that were not identified through internal deliberations, to identify potential alternatives to the proposed action, and to obtain a preliminary assessment of potential environmental, social, and economic effects. The interdisciplinary team evaluated and considered the content of scoping comments during the design and analysis of the Draft EIS, and included them in the project record. Using comments from the public, other agencies, and the interdisciplinary team, the forest supervisors developed a list of six issues to be analyzed in depth (see Section 1.11 – Issues).

On December 7, 2007 a Notice of Availability was published in the *Federal Register* announcing the availability of the Draft EIS. Notices were published in newspapers and approximately 3,000 copies of the Draft EIS or postcards were sent to the public announcing availability of the Draft EIS. Ten public meetings were held January to February 2008 in Lyman, Wyoming and Provo, Escalante, St. George, Richfield, Monticello, Huntington, Vernal, Ephraim, Salt Lake City, and Logan, Utah. The comment period for the Draft EIS ended February 15, 2008. The Draft EIS comment period elicited approximately 375 original responses and 2,183 organized campaign responses for a total of 2,558 total responses. All comments on the Draft EIS, oral or written or electronic, that were postmarked, e-mailed, or delivered by February 15, 2008, were included in the public comment content analysis process, recorded in a database, and summarized for use by the NEPA Services Group and sent to the Wild and Scenic Rivers Interdisciplinary Team and the officials responsible for the decision. See Chapter 6 – Agency Responses to Public Comment.

Petitions in support of several Utah river segments were received approximately four months after the close of comment period for the DEIS. Those petitions contain over 15,000 signatures in support of river segments. They include: petition in support of Utah's Renowned Rivers; petition in support of Fish and Gooseberry Creeks; petition in support of the Green River; and petition in support of the Logan River system. The petitions were signed by a variety of interested publics. Utah's Renowned Rivers is a list of Utah rivers that Utah Rivers Council developed that contain qualities that they believe support a suitability determination. They are: the Green River, the Logan River System, Headwaters of the Bear River, Upper Uinta River, Upper Yellowstone river, North fork of the Virgin River, Segments of the Provo River, East Fork Blacks Fork, Henry's Fork, and Whiterocks River system.

1.11 Issues

The Forest Supervisors considered all relevant issues raised by the public and other agencies during the scoping and Draft EIS process to develop the alternatives (40 CFR 1501.7). As a result of that process, six issues to be analyzed in depth guided the development and evaluation of alternatives.

Issues to be Analyzed in Depth

The Forest Supervisors identified the following six issues during scoping which will be analyzed in depth in Chapter 3:

Issue 1 – Designation of river segments into the National Wild and Scenic River System may affect existing and future water resource project developments.

Water resource projects by definition include: dams, diversions, and other modifications of the waterway (WSR Act 16b). Of concern are the impacts on existing and potential water resources projects or facilities on, below, or adjacent to eligible streams being considered for designation. Respondents expressed concerns that a Wild and Scenic River designation may affect the management or delivery of water supplies from existing or future authorized water resources development projects or facilities.

The Wild and Scenic Rivers Act prohibits the Federal Energy Regulatory Commission (FERC) from licensing the construction of hydroelectric facilities on rivers that have been designated as components of the National System. Further, the Act prohibits other federal agencies from assisting in the construction of any water resources project that would have a direct and adverse effect on a designated river. Section 7(a) of the Act recognizes that water resource projects, above or below a designated wild and scenic river would not be precluded from licensing provided the project does not invade the area or unreasonably diminish the river values present at the time of designation. Determinations of proposed water resources projects under Section 7(a) are made by the river-administering agency.

Measurement Indicator(s):

- Miles of river affected by water resources projects.
- List of reasonably foreseeable potential water development projects by river.
- Social / economic impacts (see Issue 3).

Issue 2 – Uses and activities may be precluded, limited or enhanced if the river segment and its corridor were included in the National System.

Depending on the classification of a river, designation could preclude, limit, or enhance some uses and activities. A variety of existing and potential uses and activities including: grazing / agricultural, transportation system maintenance or development, access, recreation, mining/minerals/energy development, and habitat and/or watershed restoration projects occur within or near the eligible rivers. Respondents were concerned that a suitability finding would preclude or limit certain types of activities. Others suggested suitability would enhance some uses and activities.

Measurement Indicators:

- Miles by Wild, Scenic, or Recreational classification.
- List of existing and reasonably foreseeable multiple use activities affected by designation.

Table 1.12.1 gives a brief explanation of the impacts of designation on various activities. See Chapter 3 for a more detailed explanation.

Table 1.12.1. Activities that might be affected by a Wild, Scenic, and/or Recreational designation.

Activity	Impacts of Designation
Grazing / Agricultural	<p>Generally, existing agricultural practices (e.g., livestock grazing activities) and related structures would not be affected by designation. The Act does not give federal agencies authority to regulate private land.</p> <p>Activities and practices inside the corridor are dependent on the type of classification (Wild, Scenic, or Recreational); the values for which the river was designated; and land use management objectives. The level of protection should be commensurate with the identified river values.</p> <p>Guidelines issued by the Secretary of Agriculture and the Secretary of the Interior indicate that livestock grazing and agricultural practices should be similar in nature and intensity to those present in the area at the time of designation.</p>
Transportation System Maintenance or Development	<p>Wild. New roads are not generally compatible with this classification. A few existing roads leading to the boundary of the river corridor may be acceptable. New trail construction should generally be designed for nonmotorized uses. However, limited motorized uses that are compatible with identified values and unobtrusive trail bridges may be allowed. New airfields may not be developed.</p> <p>Scenic. New roads and railroads are permitted to parallel the river for short segments or bridge the river if such construction fully protects river values (including river's free-flowing character). Bridge crossings and river access are allowed. New trail construction or airfields must be compatible with and fully protect identified values.</p> <p>Recreational. New roads and railroads are permitted to parallel the river if such construction fully protects river values (including river's free-flowing character). Bridge crossings and river access are allowed. New trail construction or airfields must be compatible with and fully protect identified values.</p> <p>Federal WSR-administering agencies need to work with the Federal Highway Administration (FHWA) pursuant to Section 4(f) of the Department of Transportation Act of 1966 in protecting the values for which the river was designated and in accordance with the river management plan. Any FHWA projects which may affect free flow (i.e., bridges, roadway improvements, etc.) are also subject to evaluation by the river-administering agency under Section 7 of the Act.</p>
Access	<p>Wild. Motorized travel on land or water may be permitted, but is generally not compatible with this classification.</p> <p>Scenic, Recreational. Motorized travel on land or water may be permitted, prohibited, or restricted to protect the river values.</p>
Recreation	<p>Section 10(d) of the WSR Act provides the USFS the authority to use its general statutory authorities to protect WSR values. Some of the most important laws applicable to the USFS include the Organic Administration Act, Multiple Use-Sustained Yield Act, and National Forest Management Act.</p> <p>This section also allows the USFS to require special-use permits for all commercial guiding services on WSRs flowing through federal or private lands. The authority is codified in regulation (36 CFR, Part 261), with its scope defined as "an act or omission" within the designated boundaries of a component of the National Wild and Scenic Rivers System." Specifically, Section 261.10(c) prohibits conducting any business activity within the boundaries of a WSR "unless authorized by federal law, regulation, or special-use authorization." If use regulation is necessary to protect river values, Section 261.58(z) allows the USFS to prohibit by order "entering or being on lands or waters within the boundaries of a component of the National Wild and Scenic Rivers System."</p> <p>Requiring special-use permits for commercial guides and, as appropriate, nonregulatory or regulatory permits for private on-river and/or in-corridor river use allows the USFS to provide a level of public safety, to maintain a desired recreation experience, and to protect biological and physical values. On-river limitations may include, for example, restrictions on the numbers of private and commercial boaters, timing of use, and type and size of craft. In-corridor limitations may include, for example, restrictions on party size, timing of use, and type of activities.</p>
Mining/ Minerals/ Energy Development	<p>Federal lands within the boundaries of river areas (one-quarter mile from the bank on each side of the river) designated and classified as Wild are withdrawn from appropriation under the mining and mineral leasing laws by Sections 9(a) and 15(2) of the Act. Federal lands within the boundaries of river areas designated and classified as Scenic or Recreational are not withdrawn under the Act from the mining and mineral leasing laws.</p> <p>Existing valid claims or leases within the river boundary remain in effect, and activities may be allowed subject to regulations that minimize surface disturbance, water sedimentation, pollution, and visual impairment. Reasonable access to mining claims and mineral leases will be permitted. Mining claims, subject to valid existing rights, can be patented only as to the mineral estate and</p>

Activity	Impacts of Designation
	<p>not the surface estate, subject to proof of discovery prior to the effective date of designation. For rivers designated as Wild, no new mining claims or mineral leases can be granted; however, existing valid claims or leases within the river boundary remain in effect, and activities may be allowed subject to regulations that minimize surface disturbance, water sedimentation, pollution and visual impairment.</p> <p>For rivers designated as Scenic or Recreational, filing of new mining claims or mineral leases is allowed but is subject to reasonable access and regulations that minimize surface disturbance, water sedimentation, pollution, and visual impairment.</p>
Habitat / Watershed Restoration Projects	<p>Section 13(a) of the WSR Act clarifies that the role of the states in management of fish and wildlife is unaffected by the Act. The river-administering agency remains responsible, however, for evaluation of components of fish or wildlife restoration or enhancement projects that are also water resources projects and subject to Section 7(a) of the Act. In most instances, such projects would have a beneficial effect on WSR values; however, they must be designed to avoid adverse effects on free flow and other river-related values.</p>

Source: FSH 1909.12, Chapter 80, Section 82.51; Marsh 2006.

Issue 3 – Designation of a Wild and Scenic River could change the economy of a community.

Many people expressed concern that finding a river segment suitable would have an impact on the local economy and current lifestyle of a community because certain activities may not be allowed and future water resources projects may be prohibited. Some were concerned that designation would affect future water rights and limit the potential for community growth. Others commented that designation would bring additional tourism and provide an economic benefit to communities.

Measurement Indicators:

- List of river segments by county.
- General population / expected growth of counties.
- Social and economic impacts of river segments by county.

Issue 4 – Designation offers long-term protection of resource values.

Many people commented that they would like to see river segments designated into the National Wild and Scenic Rivers System to provide long-term protection of in-stream, shoreline, and upland resources values. Specifically they commented that designation of a river can help protect unique or rare river values and basin integrity and provide ecological benefits. Some commented that long-term protection can be provided by designation where existing local, state, and federal regulations are seen as inadequate to protect in-stream and shoreline resources. Others believe designation would help preserve recreational activities and the ORVs for which the segment was found eligible. Some felt designation would protect segments from future activities including water development projects.

Measurement Indicators:

- Miles by Wild, Scenic, or Recreational classification.
- Analysis of the impacts to outstandingly remarkable values (ORVs) by river.

Issue 5 – Consistency with wild and scenic river studies conducted by the Bureau of Land Management and National Park Service.

The public and the three federal river study agencies (FS, BLM, and NPS) identified a concern about consistency in the study process. All three agencies have river studies in various stages of completion. There should be consideration that the outcome of this suitability study should be consistent among the agencies for rivers that flow from the National Forest onto lands administered by these other agencies.

None of the river segments being studied are directly connected to segments within the National Park Service. This study does not consider connections with NPS segments because of their distance from the National Forests.

Measurement Indicators:

- Miles of river by alternative that connect to other agencies.
- Miles of river flowing onto other agency lands, and what tentative classification and suitability findings are being considered.

Issue 6 – Consistency with state, county, and local government laws and plans.

Some respondents expressed concern about collaborating with state agencies (including Colorado and Wyoming). Some respondents were concerned about the impact to the Colorado River Interstate Compact (WSR Act 13(e) interstate compacts are unaffected by the Act). Some counties expressed that support would be withheld until the process is consistent with Section 63-38d-401 of the Utah Code Annotated, which defines the State of Utah’s policies and positions on Wild and Scenic River designations, of which one concern has been that there is a demonstrated presence of water flowing at all times. Some counties expressed that designation of river segments is not compatible with county plans. Other counties expressed support for finding segments suitable for designation in Wilderness or on some segments in their county. Many Counties expressed they would not be involved with future river management, including funding.

Measurement Indicators:

- Consistent with Section 63-38d-401(8)(a)(i) of the Utah Code Annotated.
- Consistency with county plans.

Other Issues

Other Issues were identified as those: 1) outside the scope of the proposed action; 2) already decided by law, regulation, Forest Plan, or other higher level decision; 3) irrelevant to the decision to be made; or 4) conjectural and not supported by scientific or factual evidence. The Council on Environmental Quality (CEQ) NEPA regulations explain this delineation in Sec. 1501.7, “...identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review (Sec. 1506.3)...”

The following issues were determined to fit under “Other Issues” and will not be analyzed in depth in Chapter 3:

Impacts to other landowners. Wild and Scenic river designation does not authorize the Forest Service to regulate or control activities on private land. However, projects on private land that may require the use of designated federal land would be subject to additional study and requirements and some may be precluded if they adversely affect wild and scenic river values. Impacts to other land owners did not drive an alternative because most river segments studied have few private inholdings. Perceived impacts to other landowners are discussed under other issue statements (e.g., Issue 1 discusses water resources projects, Issue 2 discusses other uses and activities, Issue 3 discusses economic analysis, Issue 5 discusses consistency with BLM and NPS, etc.).

Under the Wild and Scenic Rivers Act, designation neither gives nor implies government control of private lands within the river corridor. The Forest Service has no authority to regulate or zone private lands and would not seek authority to do so. People living within a river corridor would be able to use

their property as they had before designation. Land use controls on private lands are solely a matter of state and local zoning. The federal government has no power to regulate or zone private lands under the Act; however, administering agencies may highlight the need for amendment to local zoning (where state and local zoning occurs). Although the Act includes provisions encouraging the protection of river values through state and local governmental land use planning, there are no binding provisions on local governments. (Interagency Wild and Scenic Rivers Coordinating Council Q & A Compendium, 2006).

The final decision will apply only to river segments located on National Forest System lands. If Congress chooses to add any of the determined suitable river segments to the National Wild and Scenic River System, the Forest Service would be required to develop Comprehensive River Management Plan (CRMP). Section 3(b) of the Wild and Scenic Rivers Act requires the establishment of detailed boundaries (an average of not more than 320 acres per river mile). At that time, the boundary would be adjusted to exclude private, State, or other Federal agency land located at the end or beginning of the river segment. Congress could include private lands (in holdings) within the boundaries of the designated river area, however, management restrictions would apply only to public lands.

Impacts to water rights. Of concern is the impact on water rights if a river segment is found suitable and designated by Congress. Designation as a wild and scenic river would not affect existing, valid water rights. The Wild and Scenic Rivers Act creates a federal reserved water right for a quantity of water sufficient to meet the purposes of the Act on designated river segments, but that federal reserved water right would be junior to existing water rights. The Forest Service would have the responsibility to preserve each designated segment in its free-flowing condition to protect its outstandingly remarkable values. The quantity of water necessary to fulfill that responsibility would be determined through assessments of instream flow needs, which would define the federal reserved water right.

A new federal reserved water right asserted by a wild and scenic river designation would be junior to all valid and existing rights in accordance with Utah State water law. This action would have no impact on existing water rights whether upstream or downstream because it would be junior to any existing right.

Appendix E – Valid Existing Water Rights, includes maps identifying current valid existing water rights in the proposed Wild and Scenic River segments were created using the Utah Division of Water Rights (UDWRT) Water Right Points of Diversion GIS data available for download from the UDWRT website. This mapped data is displayed on the UDWRT website specifically for this Wild and Scenic River Suitability Study and can be found on their website. For color maps visit: <http://utstnrwrt6.waterrights.utah.gov/mapserver/wildscenic/startup.htm> and for black and white maps visit: <http://utstnrwrt6.waterrights.utah.gov/mapserver/wildscenic/startbw.htm>. The maps show the Wild and Scenic River segments, their drainage basin and the UDWRT Points of Diversion within the basin. The mapped Points of Diversion include water uses for domestic, municipal, irrigation, mining, power, stock watering, and other uses and include approved, perfected, and unapproved water right applications. Valid existing water rights depicted belong to a variety of entities from private to government.

Redundancy in protection / dual designation. Dual designation refers to the designation of a wild and scenic river located in an area already protected by Congressional designation, such as Wilderness, or a riparian national conservation area. Some respondents commented that those river segments with current protection, such as Wilderness, should be found suitable because they would be the easiest to manage since there are current restrictions on types of activities. Some respondents commented that segments in designated Wilderness areas are already protected; therefore, they don't

need an additional layer of protection. Others commented that rivers should not be found suitable because outstandingly remarkable values are already being protected by Forest Plans. This issue did not drive an alternative. The Interdisciplinary Team looked at alternatives regarding designating segments in Wilderness, but felt that the ORVs and other values didn't stop at the Wilderness boundary. Some also commented that congressional designation provided better protection of river segments than those currently under administrative designations in forest land and resource management plans because they would not be subject to change through future administrative study.

Cost to Federal government of administering and managing river segments. Some respondents were concerned about the perceived high cost of administering wild and scenic rivers and wanted this to be a separate issue considered. However, addressing the cost of administering and managing designated wild and scenic rivers is one of the suitability factors in the analysis and will be considered in this context.