

Plan Review

SMA General Land Use

October 31, 2003

Introduction

The SMA General Land Use analysis addresses three topics. The topics are:

- Four potential changes in Land Use Designation (LUD) in the SMA. Two of the four areas are currently “undesigned” because Congress changed the land from General Management Area to Special Management Area without changing the LUD. The third area concerns residentially developed private property erroneously designated SMA Open Space. Fourth, the Forest Service proposes to extend the Public Recreation LUD at Multnomah Falls.
- SMA lot line adjustment guidelines
- Scenic Area Act direction for Wild and Scenic Rivers in the Special Management Area

The Forest Service is interested in your review and comment on these proposals. We are taking comments until November 17, 2003. You may address comments to Dan Harkenrider at dharkenrider@fs.fed.us, or mail to 902 Wasco, Suite 200, Hood River, Oregon 97031. Decisions on these proposals are expected in late November.

You may contact Virginia Kelly with questions or for further information. She may be reached at vkelly@fs.fed.us or (541) 308-1720.

Each topic follows, as an individual topic paper.

Plan Review

SMA General Land Use

Proposed Changes to Special Management Area Land Use Designations

The U.S. Forest Service proposes four specific changes to Land Use Designations in the Special Management Area (SMA). Two of the four areas proposed for changes to Land Use Designations (LUD) are currently “undesigned” because Congress changed the land from General Management Area (GMA) to Special Management Area without changing the LUD. The third area concerns residentially developed private property erroneously designated SMA Open Space. Fourth, the Forest Service proposes to extend the Public Recreation LUD at Multnomah Falls. Relevant SMA Land Use Designation policies are listed on page 6.

- **Chenoweth Table (previous Ellett property), Wasco County, Oregon**

Issue: Congress changed this approximately 310-acre property from GMA to SMA in 2000, but Congress did not assign an SMA land use designation. The property was previously designated GMA Open Space (about 230 acres), GMA Small Woodland (about 80 acres), and GMA Residential (less than one acre). The Forest Service acquired the land in 2002, acquiring 323 total acres, which included 12.75 acres outside of the CRGNSA.

Subject Property Analysis: Chenoweth Table is primarily open grassland, with pockets of pine/oak woodland. Biscuit scablands predominate the flat land on the “Table”. The slopes facing Chenoweth Creek are in oak woodland. The property is undeveloped. About 230 acres of the property were mapped as the Chenoweth Table Significant Natural Area by the Nature Conservancy as part of the Oregon Heritage Program. The entire Chenoweth Table feature is of high scenic value due to the large, striking table-top landform, steep basalt cliffs and associated slopes.

Most of the soils on the property are poor agricultural soils. Soils on Chenoweth Table are a mix of Wamic Skyline complex (51D), capability subclass of VIe (poor agricultural soils), used for range and wildlife habitat; and Cherryhill Silt Loam (14C), capability subclass of IIIe-2, used for fruit orchards, hay, pasture, and wildlife habitat. Soils on the slopes above Chenoweth Creek are a mix of Cherryhill Silt Loam (14C) and Hesslen complex (27F), capability subclass of VIIs (poor agricultural soils), used for range, timber and wildlife habitat.

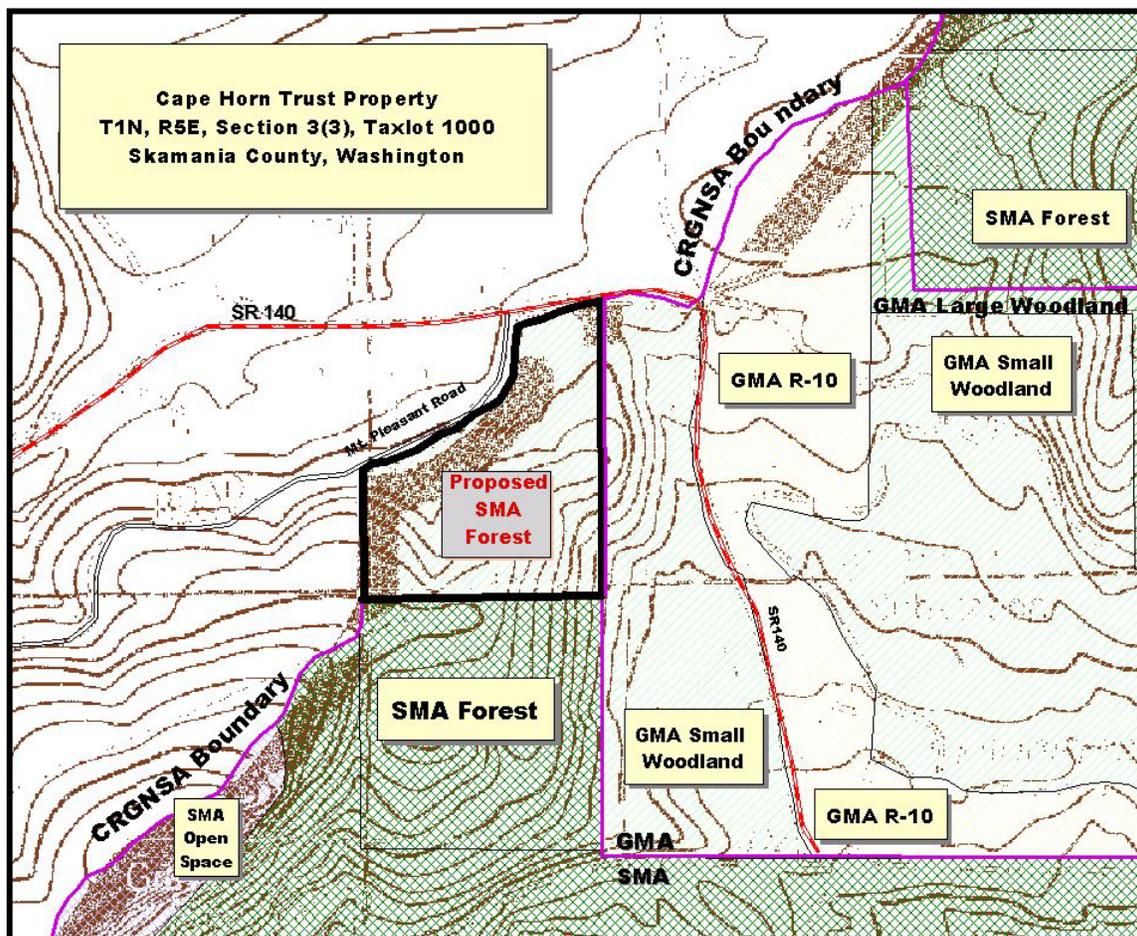
Proposal: The Forest Service proposes to designate the entire 310 acres within the CRGNSA as SMA Open Space. The entire property meets the criteria for an Open Space/Scenic designation per SMA Open Space designation Policy 3(A). Much of the property (about

- **Cape Horn Trust Property, T1N, R5E, Section 3(3), Taxlot 1000, Skamania County, Washington**

Issue: Congress changed this 27.6-acre property from GMA to SMA in 2000, but Congress did not assign an SMA land use designation. The property was previously designated GMA Small Woodland.

Subject Property Analysis: The privately owned Cape Horn Trust property is undeveloped forest land in a predominantly forested landscape. Soils are Skoly stony loam (111), productive forest soils. The soils are agricultural capability class VIIe, poor agricultural soils. No resources have been identified which would warrant an Open Space designation. Opportunities for moderate and intensive natural resource based recreation development have not been identified for this property.

Proposal: The Forest Service proposes to designate the property as SMA Forest. The property is undeveloped forest land in a predominantly forested landscape, with productive forest soils. The property is adjacent to SMA Forest.

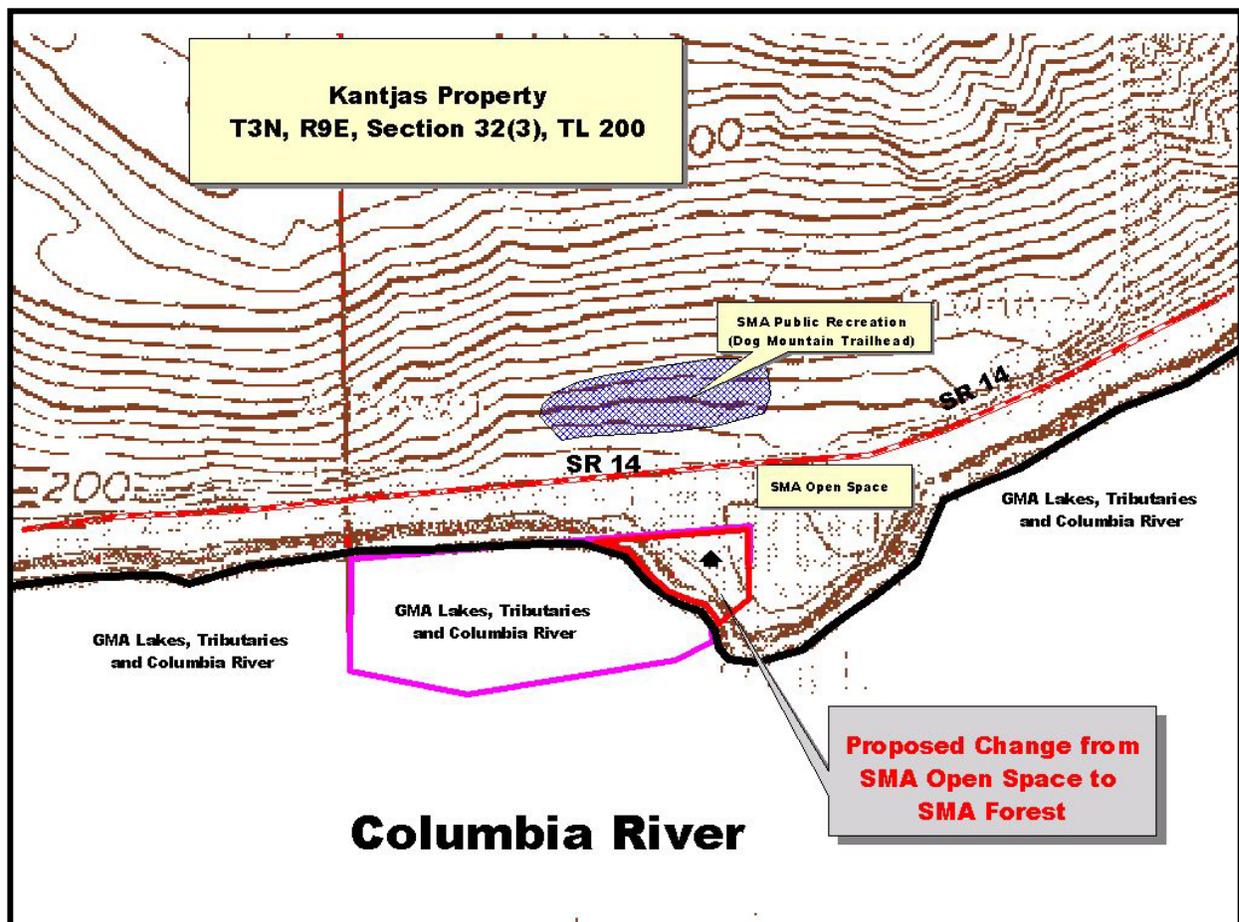


- **Kantjas Property, T3N, R9E, Section 32(3), Taxlot 200, Skamania County, Washington**

Issue: This privately owned property is located both within the General Management Area and Special Management Area. The GMA area is designated Lakes, Tributaries and Columbia River. The SMA portion is about 2 ½ acres, and is designated SMA Open Space. The SMA Open Space portion contains a residence and accessory structures. SMA Open Space Policy #2, Plan page II-51 requires that “only unimproved lands shall be designated Open Space.” The Open Space designation is likely a mapping error. The improved lands should have a designation other than SMA Open Space.

Subject Property Analysis: The Kantjas property is mixed oak with scattered Ponderosa Pine. Soils are Rock outcrop-Xerorthents complex 50-90 percent slopes (93), with an agricultural capability subclass VII and VIII, poor agricultural soils. The soils are also poorly suited to timber production. Opportunities for moderate and intensive natural resource based recreation development have not been identified for this property. While this property does not have the characteristics of either forest or agricultural land, it is located in a forested landscape. Based on this analysis, it was determined SMA Forest Land Policies apply to this property.

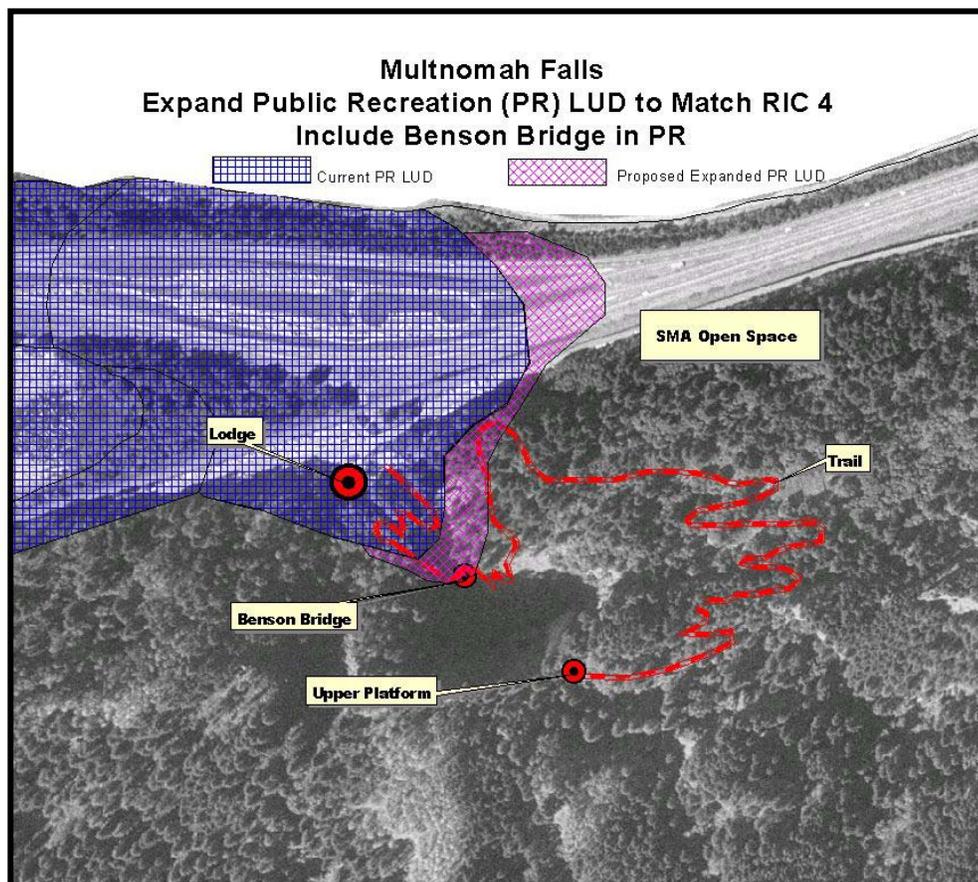
Proposal: The Forest Service proposes to designate the SMA portion of the property as SMA Forest.



- **Multnomah Falls, Benson Bridge, Multnomah County, Oregon**

Issue: The recreationally developed area at Multnomah Falls is a mix of Public Recreation and Open Space land use designations. The Public Recreation designation extends to about the Shady Cove Bridge, and the area above the Shady Cove Bridge, including Benson Bridge is designated Open Space. Recreation use is intensive up to Benson Bridge, and then lessens on the trail to the Upper Platform. An Open Space designation is not consistent with the level of development and use up to and including Benson Bridge. The Recreation Intensity Class (RIC) is mapped as RIC 4 up to Benson Bridge; an RIC 4 is not consistent with an Open Space designation. The “retention” Visual Quality Objective associated with the Open Space designation is not consistent with the level of development up to and including Benson Bridge. The Open Space designation between Shady Cove Bridge and Benson Bridge is likely a mapping error.

Proposal: The Forest Service proposes to expand the Public Recreation designation at Multnomah Falls to be consistent with the RIC 4 designation, which would thereby include Benson Bridge in the Public Recreation designation. In addition, the eastern end of the Multnomah Falls Interchange would then be included in the Public Recreation designation. Approximately 4 acres would change from SMA Open Space to SMA Public Recreation. Lands belonging to the US Forest Service, ODOT and United Pacific Railroad would be affected.



SMA Land Use Designation Policies

SMA Agriculture (Management Plan page II-15)

- Policy 1: Only lands determined to be used or suitable for agricultural purposes may be designated Agriculture.
- Policy 2: Lands that are classified as predominantly Class I through Class IV soils, or are designated unique farmlands by the U. S. Department of Agriculture Soil Conservation Service or local conservation district, or are suitable for producing forage for livestock, are considered suitable for designation as Agriculture.
- Policy 3: Other lands that are interspersed among lands used or suitable for agricultural purposes may be designated Agriculture in order to protect agricultural lands from conflicting uses

SMA Forest (Management Plan page II-36)

- Policy 1: Only lands determined used for or suitable for the production of commercial forest products shall be designated Non-Federal or Federal Forest land.
- Policy 2: Lands that have greater than 10 percent of their area covered by commercial species of timber and that meet the definition of suitability (see glossary) are considered suitable for Non-Federal or Federal Forest land designation

SMA Open Space (Management Plan page II-51)

- Policy 1: Open Space shall be designated to provide special protection for sensitive scenic, cultural, recreational, and natural resources, and for sensitive and/or representative ecosystems.
- Policy 2: Only unimproved lands shall be designated Open Space.
- Policy 3: Open Space designation shall include the following subcategories:
- A. **Open Space/Scenic** protects the natural appearance of lands with high scenic values. These include areas of outstanding natural beauty, such as cliff faces, steep bluffs, canyons, water features, and tributary river corridors.
 - B. **Open Space/Natural** protects wetlands, areas supporting ecologically and scientifically significant plant communities, and significant natural areas. Most of these areas contain concentrations of threatened, endangered, sensitive, and endemic plants, and sensitive plant associations that are rare or unusual.
 - C. **Open Space/Wildlife** protects sensitive and unique habitat values and threatened, endangered, sensitive, and endemic species. These lands include habitat for significant wildlife species such as spotted owl, pine marten, pileated woodpecker, and anadromous fisheries.
 - D. **Open Space/Cultural** protects concentrations of cultural resources. These lands contain known and potential significant concentrations of cultural resources.

SMA Residential Goal (Management Plan page II-62)

Allow concentrated residential development only at Rowena Dell and Latourell.

SMA Public Recreation (Management Plan page II-83)

- Policy 2: All existing developed public recreation sites providing moderate-and/or high intensity uses shall be designated as Public Recreation.
- Policy 5: Opportunities for moderate and intensive natural resource based recreation development shall be protected by applying a Public Recreation designation.

Plan Review

SMA General Land Use

Lot Line Adjustments in the Special Management Area

ISSUE

Scenic Area planners pointed out that the provisions in the Management Plan are too general to ensure that agencies handle lot line adjustments in a consistent manner. For example, the Management Plan does not specify whether agencies must review lot line adjustments. Consequently, some agencies allow lot line adjustments without review while others require a formal application and decision. (A lot line adjustment is a relocation of a common boundary line between two parcels.)

In January 2003, the Forest Service and Gorge Commission presented an initial joint staff position paper entitled "Lot Line Adjustments". It included a sample definition and five standards for lot line adjustments. The Gorge Commission adopted revised standards for lot line adjustments in the GMA in June 2003. An important issue addressed by the Gorge Commission concerned gaps in the current provisions which could undercut the GMA minimum parcel sizes specified in the Management Plan. For instance, some believe that landowners may transfer land from one substandard parcel (smaller than the minimum parcel size) to another substandard parcel in order to create an additional parcel and homesite. This would result in more dwellings per acre than intended by the minimum parcel size in a particular land use designation.

In the SMA, minimum parcel sizes are not specified, since land divisions are not allowed (except to facilitate federal land acquisition). However, a minimum of 40 acres is required for new residential construction in the SMA. Through a lot line adjustment, it may be possible for a property less than 40 acres, and ineligible for new residential construction, to be increased to 40 acres, and then become eligible for new residential development (subject to Management Plan guidelines).

CURRENT PROVISIONS

SMA/GMA Land Divisions & Cluster Development Guideline #3 (Management Plan page II-89)

Adjustment of the boundary between two or more contiguous parcels that does not result in the creation of an additional parcel may be allowed if none of the parcels larger than the minimum parcel size before the adjustment becomes smaller than the specified minimum parcel size after the adjustment.

Glossary Definition

Lot line adjustment: Transfer of a portion of a parcel from one owner to the owner of an adjacent parcel resulting in no increase in the number of parcels.

PROPOSAL

Develop lot line adjustment standards for the SMA which ensure that a property less than 40 acres, and ineligible for new residential construction, may not be increased to 40 acres, and then become eligible for new residential development.

**Proposed Standards for
Lot Line Adjustments in the Special Management Area**
(Proposed new Plan language is in green)

Definition

Lot Line Adjustment: Relocation of a common boundary line between two contiguous parcels that does not create additional parcels.

Review Process

Expedited Review. All SMA lot line adjustments may be reviewed through the expedited development review process.

SMA Policies

Lot line adjustments are intended to effect minor changes to existing parcel lines.

Lot line adjustments shall not result in a parcel less than 40 acres to become 40 acres or greater.

Guidelines

1. The proposed lot line adjustment shall not result in the creation of any new parcel(s).
2. A lot line adjustment shall not result in a parcel greater than or equal to 40 acres becoming less than 40 acres.
3. A lot line adjustment shall not result in a parcel less than 40 acres becoming 40 acres or greater.
4. A parcel that is smaller than 40 acres shall not be reduced in size, except to accomplish one of the following purposes:
 - A. Resolve boundary line disputes, correct physical encroachments, provide reasonable access, or meet buffer or set back requirements, provided (1) the parcel to be enlarged would not become 40 acres or greater and (2) the amount of land transferred would be the minimum necessary to resolve the issue.
 - B. Allow a public or non-profit entity to acquire land for the purpose of protecting and enhancing scenic, cultural, recreation or natural resources, provided the land to be acquired would be protected by a conservation easement or other similar property restriction that precludes residential development.

5. The lot line adjustment shall not cause previously approved parcels or development to violate conditions of approval or become out of compliance or further out of compliance with existing land use and resource protection guidelines, including, but not limited to, requirements for buffer zones and landscaping.
6. The lot line adjustment shall not result in a parcel that cannot comply with existing resource protection guidelines, including, but not limited to requirements for buffer zones and landscaping.

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Scenic Area Act Direction for Wild and Scenic Rivers in the Special Management Area

ISSUE

Sections 13(a)(1) through (5) of the Scenic Area Act identify five categories of rivers and streams in the Scenic Area in which water resource projects (under certain conditions) are subject to Section 7(a) of the Wild and Scenic Rivers Act. However, the Plan does not include provisions to implement these requirements. The Forest Service will focus on Section 13(a)(1) since this provision applies to SMA streams.

CURRENT PROVISIONS

Scenic Area Act Section 13(a) Language

For the following rivers and streams, the construction of water resource projects are subject to the restrictions on the licensing, permitting, and exempting from licensing required pursuant to section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)):

- (1) any tributary river or stream to the Columbia River not designated in subsections (c) or (d) of this section or otherwise specified in this subsection which flows in whole or in part through a special management area, unless the construction of a water resources project would not have a direct and adverse effect on the scenic, cultural, recreation, and natural resources of the scenic area;

Wild and Scenic Rivers Act Section 7(a) Language

It is important to note that the Scenic Area Act makes reference only to Section 7(a) of the Wild and Scenic Rivers Act. Section 7(a) discusses water resource projects, and their permitting. The Scenic Area Act does not make reference to sections of the Wild and Scenic Rivers Act which pertain to establishing river corridors, river management plans, outstandingly remarkable values or other aspects of Wild and Scenic Rivers. Therefore, this discussion only applies to water resources projects and their permitting.

A “water resources project” has been defined by the *Interagency Wild and Scenic Rivers Coordinating Council* (1997 Section 7 Technical Report) as:

Any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (FPA), or other construction of developments which would affect the *free-flowing characteristics* (emphasis added) of a wild and scenic or congressionally authorized study river. In addition to projects licensed by the FERC, water resources projects may also include: dams; water diversion projects; fisheries habitat and watershed restoration/enhancement projects; bridges and other roadway construction/reconstruction projects; bank stabilization projects; channelization projects; levee construction; recreation facilities such as boat ramps and fishing piers; and, activities that require a 404 permit from the ACOE.

Wild and Scenic River Act Section 16 (b): Definition of Free-flowing

"Free-flowing", as applied to any river or section of a river, means existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence, however, of low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the national wild and scenic rivers system shall not automatically bar its consideration for such inclusion: Provided, that this shall not be construed to authorize, intend, or encourage future construction of such structures within components of the national wild and scenic rivers system.

Management Plan Language

The NSA Act does not allow development that adversely affects the scenic, cultural, recreation, and natural resources of the SMA. The SMA resource protection guidelines are designed to meet this standard. The SMA guidelines do not expressly protect the free-flowing characteristics of SMA streams.

OPTIONS

1. Take no action. Leave the Section 13(a) language out of the Management Plan.
2. Add language to the SMA Natural Resource guidelines to protect the free-flowing character of SMA streams.

ANALYSIS

Option 1: It can be concluded that no project would be approved by a Scenic Area planning agency that would have a direct and adverse effect on the scenic, cultural, recreation, and natural resources of the scenic area. Therefore, the WSR Act Section 7(a) analysis would not be invoked. No language regarding this provision needs to be in the Management Plan.

Option 2: Assuming Congress intended additional protection of SMA streams, Option 2 incorporates the protection of the free-flowing character into the SMA resource guidelines.

PROPOSAL

Select Option 1.

The SMA resource protection guidelines are designed to protect the scenic, cultural, recreation, and natural resources of the SMA. Scenic Area planning agencies cannot approve projects that do not meet the resource protection guidelines. In other words, a project with an adverse effect on the scenic, cultural, natural and recreational resources of the Scenic Area cannot be approved. Therefore, additional language is not needed in the Management Plan to address NSA Act Section 13(a)(1).