

# **FINAL REPORT**

## **Wild and Scenic Rivers: Charting the Course**

### **Navigating the Next 40 Years of the Wild and Scenic Rivers Act**



### **Recommendations of the Wild and Scenic Rivers Task Force to the National Leadership Council**

**April 13, 2007**

***It is hereby declared to be the policy of the United States that certain selected rivers of the Nation...shall be preserved in free-flowing condition...for the benefit and enjoyment of present and future generations.***

***The Congress declares that the established national policy of dam and other construction...needs to be complemented by a policy that would preserve...selected rivers in their free-flowing condition...to fulfill...vital national conservation purposes.***

Wild and Scenic Rivers Act, Sec. 1  
Public Law 90-542; 16 U.S.C. 1271-1287  
October 2, 1968

## CONTENTS

NPS Wild and Scenic Rivers Task Force Membership . . . . .	5
Acknowledgements . . . . .	5
Publication and Funding Assistance . . . . .	6
EXECUTIVE SUMMARY . . . . .	7
INTRODUCTION . . . . .	10
NPS STATUTORY RESPONSIBILITIES UNDER THE ACT . . . . .	11
River Management Plans and General Management . . . . .	12
Review/Approval of All Federal Water Resources Projects . . . . .	12
River Stewardship . . . . .	13
CURRENT NPS MANAGEMENT OF WILD AND SCENIC RIVERS . . . . .	14
Management Structure . . . . .	14
Training and Development . . . . .	15
Consistency with Other Agencies . . . . .	15
ISSUES, CHALLENGES, AND CONSEQUENCES . . . . .	16
Meeting Legislative Mandates . . . . .	17
Coordination – Managing Through Partnerships . . . . .	18
Policy Consistency and Guidance . . . . .	18
Measuring Success and Government Results and Performance Act Reporting . . . . .	19
NPS Wild and Scenic River Report Card . . . . .	20

ORGANIZING FOR SUCCESS/RECOMMENDATIONS . . . . .	20
Recommendations . . . . .	21
Role and Function of the Steering Committee . . . . .	22
Responsibilities of the WSR Coordinator . . . . .	22
Responsibilities of Washington Office WSR Steering Committee Members . . . . .	22
Responsibilities of Regional WSR Coordinators . . . . .	23
Responsibilities of Park River Coordinators . . . . .	23
Required Funding . . . . .	23
Funding Options . . . . .	24
THE 40 <sup>th</sup> ANNIVERSARY . . . . .	24

**CONTENTS (Con't)**

CONCLUSION – VISION FOR THE FUTURE OF WILD AND SCENIC RIVERS. . . . .	25
Required Actions . . . . .	25
Figure 1. Proposed Wild and Scenic Rivers Program and Associated Components . . . . .	21
List of Tables	
1. NPS Wild and Scenic River Responsibilities by Region . . . . .	12
2. National Park Service Wild and Scenic Rivers Report Card . . . . .	20
Appendices	
A. Wild and Scenic Rivers Act Summary . . . . .	26
B. National Park Service Wild and Scenic River Statutory Requirements . . . . .	30
C. National Park Service Wild and Scenic River Management Responsibilities . . . . .	32
D. List of Pending Legislation and Studies Underway . . . . .	33
E. River Management Planning for Wild and Scenic Rivers Under	

National Park Service Responsibility . . . . . 34  
F. Litigation Involving Wild and Scenic Rivers . . . . . 36  
G. National Park Service Wild and Scenic Rivers Named to the Most  
Endangered Rivers List . . . . . 37  
H. Glossary of Terms . . . . . 38

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## **Acknowledgments**

The following individuals, while not members of the Wild and Scenic Rivers Task Force, made significant contributions to the work of the Task Force.

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## **Publication and Funding Assistance**

The following individuals from the Office of Education and Outreach, Natural Resource Program Center, provided invaluable assistance to prepare the Executive Summary and this Report.

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The following offices provided the funding necessary to prepare and produce the Executive Summary and this Report.

Water Resources Division  
Northeast Regional Office  
Midwest Regional Office  
RTCA – Washington Office

## EXECUTIVE SUMMARY

Rivers are an important part of our nation's natural and cultural heritage. Since time immemorial, they have provided physical sustenance and spiritual inspiration, attracted human settlement, and served as paths for exploration, travel and commerce. The place of rivers in our country's heritage was recognized in 1968 with passage of the Wild and Scenic Rivers (WSR) Act. The WSR Act (Act) was specifically intended by Congress to balance the federal government's role in altering rivers for economic development. It strived to meet this balance by establishing a new policy of protecting and enhancing designated rivers' free-flowing condition, water quality and "outstandingly remarkable values" (ORVs), which may include scenic, recreational, historical, cultural, fish, wildlife, ecological, geological, and hydrological values.

As the nation approaches the 40<sup>th</sup> anniversary of the Act in 2008, key issues relating to regulatory responsibilities, resource protection, recreation, and river policy demand attention. The National Park Service (NPS) is renewing its commitment to preserving the remarkable values of Wild and Scenic Rivers.

### NPS Responsibilities

As of December 2006, the NPS has statutory management and regulatory responsibilities on 37 WSRs flowing more than 2,800 miles throughout the United States. Of this total, 28 of the rivers are units of the National Park System or contained within a park, and nine are partnership rivers managed in cooperation with state and local governments. Additionally, the NPS has a regulatory role on another 19 WSRs managed by states or tribes under Section 2(a)(ii) of the Act, totaling another 881 miles.

The NPS has significant responsibilities to ensure that WSRs under our care are fully preserved in their free-flowing condition, and that their water quality and ORVs are protected. The Act requires the NPS to:

- *Prepare Comprehensive River Management Plans* that identify how to protect and enhance the river and those characteristics for which the segment was designated.
- *Establish boundaries and river classification* for all designated segments.
- *Serve in a regulatory capacity* by evaluating and approving (or denying) proposed federally assisted water resources projects that could affect designated NPS segments and state managed and partnership federal wild and scenic river segments.
- *Assist, advise and cooperate with the States* in the designation and management of rivers, and seek opportunities for sharing management responsibilities with States and other partners.

### NPS Wild and Scenic Rivers Management Needs

Protection of WSR resources requires active leadership and informed management to a



degree unimagined in 1968. While the NPS is currently meeting many of its statutory responsibilities under the Act, we are not consistent and are having difficulties in many areas. Despite planning, management, and regulatory mandates, the NPS does not have a programmatic approach to WSR management. We have not established a chain of command or the program coherence necessary to develop and implement policy or provide staff training. This has led to uneven performance on many essential WSR responsibilities, especially those responsibilities under Section 2(a)(ii) of the Act. Managing and protecting rivers requires an ongoing commitment by the NPS to interface with states, federal agencies and river and watershed communities.

### Issues, Challenges, and Consequences

The lack of a programmatic WSR management approach is affecting our ability meet the requirements of the Act. Specifically, we are at risk for the following reasons:

- Vulnerable to lawsuits and costly delays, often because of a failure to meet legal mandates.
- Inconsistency in management due to dispersal of program functions throughout the organization and the absence of centralized leadership and staff training.
- Strained relationships with partners and the public resulting from concern about NPS commitment to WSR management, particularly on Section 2(a)(ii) rivers.
- Growing resource damage, resulting from increased use and human development within and adjacent to designated rivers, attributed in part to our inability to protect lands as directed by the Act.

The grades shown in the Report Card below have been formulated by the WSR Task Force and represent our collective professional judgment about how well the NPS is meeting legislative/legal mandates, conducting external coordination, developing policy guidance and staff training, and protecting resources for the various rivers in the Wild and Scenic Rivers System

### NPS Wild and Scenic Rivers Report Card

NPS Responsibilities	NPS Units	Partnership Rivers	State 2(a)(ii)
<b>Legislative/Legal Mandates</b>	C	B	D
<b>External Coordination</b>	C	B+	F
<b>Policy Guidance and Staff Training</b>	D	B	F
<b>Resource Protection</b>	C	B	F

As the Report Card shows, NPS credibility is threatened, as are the nation's heritage river resources with which we are entrusted. It is clear that our responsibilities under the Act have evolved, become more complex and require a new approach to make river management effective and consistent.

### **Task Force Recommendations**

To improve our performance on WSRs, the WSR Task Force recommends that the National Leadership Council create a Wild and Scenic Rivers Program (WSR Program) under the leadership of the Associate Director for Partnerships and Visitor Experience, although other viable options exist (i.e., Natural Resources; Park Planning).

Implementation of the WSR Program would include the establishment of a new National WSR Coordinator position and the creation of a Steering Committee. The Steering Committee would be composed of individuals from regions, selected parks, and Washington office directorates. The WSR Program will require modest annual funding of \$200,000. In addition, each directorate, region and a few WSR parks would be required to identify Committee members and commit up to 2-4 pay periods of staff time and travel to participate on the Steering Committee.

This approach will improve consistency, coordination and compliance by greatly enhancing awareness by NPS managers of the Act's statutory requirements. It will also improve training, inter-divisional and inter-regional communication, and resource protection, and reduce litigation risk. These actions will better position the NPS to manage and protect our Wild and Scenic Rivers for the next 40 years. With the nation's support, the men and women of the National Park Service can continue to protect and sustain the rivers of our history.

### **Proposed Wild and Scenic Rivers Program and Associated Components**



## INTRODUCTION

Rivers are an important part of our nation’s natural and cultural heritage. Since time immemorial, they have provided physical sustenance and spiritual inspiration, attracted human settlement, and served as paths for exploration, travel and commerce. Rivers were recognized in our country’s heritage in 1968 with passage of the Wild and Scenic Rivers (WSR) Act, which states that “certain selected rivers, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values...” and they “shall be preserved in free-flowing condition...for the benefit and enjoyment of present and future generations.” (Public Law 90-542; 16 U.S.C. 1271-1287).

The WSR Act (Act) is the nation’s primary river conservation authority and is one of the most important pieces of conservation law enacted. The Act balanced the federal government’s role in damming and channelizing rivers for power, flood control, and agricultural purposes and established a new policy of protecting and *enhancing* the free-flowing character of our nation’s rivers, and their designated “outstandingly remarkable values”, which include scenic, recreational, historical/cultural, fish, wildlife, ecological, geological, or hydrological values. The Act’s complex provisions influence the management of varied resources like water quantity and quality, minerals, fish, and a variety of recreational attributes. Appendix A provides a detailed summary of the Act.

The Act outlines how rivers become part of the National Wild and Scenic Rivers System (WSR System), how they are managed, what can occur within the river corridor, and how the federal government and its partners cooperatively share stewardship responsibilities. The National Park Service, Bureau of Land Management (BLM), U.S. Fish and Wildlife Service (USFWS), and U.S. Forest Service (USFS) are the four federal agencies responsible for administering, regulating, and managing designated rivers in the WSR System<sup>1</sup>.

The Act has served as a visionary template for a nationwide system of federal, state, and locally protected rivers providing a wide range of benefits to the American public. Today, rivers in the WSR System are popular year-round destinations for recreation, canoeing, kayaking, motor-boating, camping, fishing, swimming, hiking, skiing, snowmobiling and more. Their waters remain among the most pristine in the world.

As the nation approaches the 40<sup>th</sup> anniversary of the Act in 2008, key issues demand attention relating to regulatory responsibilities, resource stewardship,

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<sup>1</sup> Segments may be added by Congress, or a state may apply—through its governor—to the Secretary of the Interior for designation under section 2(a)(ii) of the Act. For state-administered rivers in the System, the state bears the primary responsibility for management through state and local statutes and regulations. Where no federal lands adjoin state-administered segments, the NPS has oversight responsibilities, and, on behalf of the Secretary, is responsible for evaluating impacts under Section 7 of the Act.

consistency and communication, and river policy. The NPS is committed to meeting these challenges.

At the request of Chris Jarvi, Associate Director for Partnerships and Visitor Experience, an NPS task force was formed in 2004 to evaluate the status of wild and scenic river management within the NPS. Sixteen NPS employees representing park, regional and Washington offices have served on the Wild and Scenic Rivers Task Force (Task Force), along with five *ex officio* members from NPS management. This report presents the Task Force findings and recommendations and will aid the NPS in its continued role of protecting our nation's premier river resources for the next 40 years. The report outlines:

- NPS responsibilities under the Act
- Descriptions and assessments of the current management structure
- Issues, challenges, and consequences related to the Act
- Task Force recommendations to improve NPS management of WSRs

## **NPS STATUTORY RESPONSIBILITIES UNDER THE ACT**

The NPS and its sister agencies are responsible for administering, regulating, and managing designated rivers in the WSR System. The NPS has significant responsibilities to ensure rivers under its care are fully preserved in their free-flowing condition, and that their water quality and “outstandingly remarkable values” (ORVs) are protected pursuant to the Act. Principal NPS responsibilities are described below and shown in detail in Appendix B.

The Act requires boundary establishment, river classification, and development of comprehensive river management plans. The Act also requires that the NPS serve in a regulatory capacity by scientifically evaluating proposed federally assisted water resources projects that might affect designated segments. This responsibility is similar to the USFWS role in evaluating actions that might affect threatened or endangered species and/or their habitats under the Endangered Species Act.

The NPS is also required to maintain the Nationwide Rivers Inventory (NRI), a listing of rivers that are potentially eligible to become part of the WSR System. As care taker of the NRI, the NPS serves as the lead consultant to other federal agencies in their planning efforts to ensure projects do not preclude NRI-listed rivers from future eligibility in the WSR System.

Finally, the Act requires the NPS to assist, advise and cooperate with the states in the designation and management of rivers, and to seek opportunities for sharing management responsibilities with states and other partners.

Table 1 presents a summary of NPS WSR responsibilities by region. As of December 2006, the NPS has statutory management and regulatory responsibilities on 37 rivers flowing more than 2,800 miles throughout the United States. Of this total, 15 rivers are stand-alone units within the National Park System (such as the

252-mile-long St. Croix National Scenic Riverway), 13 rivers are managed by larger park units (such as 51 miles of the Flathead River through Glacier National Park), and nine are partnership rivers which NPS manages from central offices in cooperation with state and local governments (such as the Lamprey River in NH). In addition, the NPS has a regulatory role on another 19 WSRs managed by states or tribes under Section 2(a)(ii) of the Act, totaling another 881 miles. The NPS also has coordination and consultative responsibilities for over 3,400 river segments (over 84,000 miles) listed on the NRI. Appendix C provides a detailed listing of NPS WSR management responsibilities. Appendix D lists pending legislation and studies underway that may result in additional NPS responsibilities under the Act.

**Table 1. NPS Wild and Scenic River Responsibilities by Region**

Region	Wild and Scenic River Designations [(# of segments) miles]			
	Partnership Rivers	NPS Units	2(a)(ii) State-Federal	NRI Segments
IMR		(3) 254		(591) 12,388
MWR		(3) 424	(7) 279*	(513) 21,256
NER	(8) 512	(3) 119	(2) 136	(868) 14,376
PWR		(5) 218	(7) 351	(781) 14,138
SER	(1) 42	(1) 45	(3) 115	(484) 17,969
AKR		(13) 1,215		(194) 4,507

\* The Wolf River is included in this group, although it is administered by the Menomonee tribe. NPS retains Section 7 responsibilities on behalf of the Secretary of the Interior.

Three responsibilities described in the Act are particularly relevant and have posed challenges for the NPS. These responsibilities are found in Sections 3, 7 and 10 of the Act and are described in detail below.

### River Management Plans and General Management

Section 3 of the Act requires the development of a Comprehensive River Management Plan (CRMP) by the federal administering agency within three years of a river's designation. The CRMP is intended to address resource protection, development of lands and facilities, user capacities, and other management practices necessary or desirable to protect or enhance the designated river's free-flowing condition, water quality, and ORVs. Plans may establish varying degrees of intensity for protection and development, based on the river's special attributes. Appendix E provides a summary of river management planning for WSRs under NPS responsibility. In addition, the Act requires other federal management policies, regulations, contracts, and plans affecting public land along designated rivers to comply with the purposes of the Act.

### Review/Approval of All Federal Water Resources Projects

At the heart of WSR protection is Section 7 of the Act. Section 7 not only prohibits the Federal Energy Regulatory Commission from licensing new hydroelectric projects and facilities on WSRs, but also expressly prohibits federal agencies from authorizing

projects along designated rivers that directly and adversely affect the free-flowing condition, water quality or ORVs of the designated river. In addition, Section 7 prohibits federal agencies from approving water resources projects located above, below, or on a tributary of a designated river, that invade the river area or unreasonably diminish the river's values.

In addition to the 37 Congressionally-designated rivers and 19 state or tribal managed WSRs mentioned above, the NPS regulatory role for implementing Section 7 also extends to four National Rivers and National Recreation Areas that have Section 7-type language in their authorizing legislation<sup>2</sup>. Section 7 also applies to Congressionally-authorized study rivers that the NPS is responsible for, such as the Taunton River, MA.

Section 7 requires that the NPS present findings in a determination regarding direct and adverse affects and/or unreasonable diminishment prior to the permitting, funding, or other assistance in the construction of a water resources project. The NPS is responsible for Section 7 decisions for rivers directly managed by the NPS as well as all designated rivers managed by states. A separate environmental document is not required for Section 7 determinations. The federal official proposing or permitting the water resources project typically includes findings in their respective environmental and/or permitting processes.

Section 7 provides the NPS with “veto” authority for certain water resources projects and serves as a powerful tool for protecting WSRs. It is vital that Section 7 reviews are accurate and consistently applied Servicewide to meet potential challenges to NPS decisions. In addition, the NPS administrative record must support the findings contained in each determination.

## **River Stewardship**

Section 10 of the Act requires that federal agencies manage designated rivers in a manner that not only protects, but also *enhances*, the free-flowing condition, water quality, and ORVs for which the river was designated. Furthermore, Section 10 directs that primary emphasis be given to protection of a river's aesthetic, scenic, historic, archaeological and scientific features. This is an affirmative, anti-degradation and enhancement policy, and its effective implementation by the NPS

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<sup>2</sup> The NPS manages Buffalo National River, Chattahoochee River National Recreation Areas, Ozark National Scenic Riverways, and Big South Fork National River and Recreation Area that are not wild and scenic rivers but that have wild and scenic river-like language requiring Secretarial determinations evaluating the impact of water resources projects on free flowing conditions, water quality and ORVs.

requires knowledge of baseline conditions at the time of designation, along with ongoing monitoring to discern trends in resource conditions.



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*...the NPS time and again has found itself “on the outside looking in”—failing to engage in critical management, policy, and legislative issues until pressed into action by crisis.*

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## **CURRENT NPS MANAGEMENT OF WILD AND SCENIC RIVERS**

### **Management Structure**

Protection of WSRs requires active leadership and informed management to a degree unimagined in 1968. WSR resources are influenced by land use and other activities well beyond park boundaries. The NPS currently spends over \$7M annually and has approximately 83 Full Time Equivalents working on WSRs<sup>3</sup>. The NPS has successfully resolved many management issues and, overall, has a good record of WSR stewardship, but management could be improved.

Whether managing and protecting NPS river units, ensuring that legislative mandates on State-administered 2(a)(ii) WSRs are met, or meeting the broader assistance mandates of the Act, the NPS time and again has found itself “on the outside looking in” -- failing to engage in critical management, policy, and legislative issues until pressed into action by crisis. Our failures can only be addressed by developing and implementing a programmatic approach to manage and protect WSRs.

Currently, no single office oversees or directs the WSR program, and in fact, responsibilities are being loosely covered by staff in four separate divisions (Park Planning; Rivers, Trails, and Conservation Assistance; Environmental Compliance; and Water Resources). Servicewide program leadership and coherence have not been established to provide training or guide policy development and implementation. Without well-defined WSR leadership, park staffs are often unsure how to seek technical assistance or obtain policy guidance. This has led to uneven performance on many essential WSR responsibilities.

In addition, coordination with other federal and state agencies involved in WSR management is not occurring on a consistent, Servicewide basis. The NPS needs to interface better with states, federal agencies and river and watershed communities to manage and protect rivers under our jurisdiction. Effective management and

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<sup>3</sup> This estimate utilized the best information available to the Task Force and was compiled by examining specific budget items associated with WSRs, knowledge of expenditures not specified in budget line items, and discussions with parks with WSR management responsibilities. The Task Force assumed all staff in NPS WSRs devote a large percentage of their time to river protection activities. Financial and staff commitments directly related to fulfilling the mandates of the Act (e.g., Section 7 determinations) would be much lower. Currently, there is no mechanism in place to track expenditures or measure outcomes for required activities pursuant to the Act.

implementation of the Act requires coordination and cooperation with other agencies, organizations and landowners to provide visitor facilities and services such as boat landings, camping opportunities, and interpretive programs. The NPS also coordinates with agencies that have permitting and funding responsibilities for activities within our riverways -- for example, the USFWS, U.S. Army Corps of Engineers (Corps), U.S. Environmental Protection Agency, Federal Highway Administration, and state natural resource and environmental protection agencies.

### **Training and Development**

There is no formal framework to provide Servicewide guidance, recommendations, training, and assistance on WSRs. The results are missteps and implementation gaps that have led to lawsuits, a misinformed public, and resource damage. No communication structure exists to disseminate timely and consistent information. Inter-divisional and inter-regional coordination is crucial to improve resource protection and policy consistency, and to reduce litigation risk. Such an NPS framework must include identifiable and available experts, web and other information sources, routine distribution systems for information, and opportunities for staff working on WSRs to interact on a regular basis.

Presently, many parks and regions rely on staff in other parks or regions – and in many cases, at other agencies – to provide technical assistance, guidance, and localized training. While we applaud field staff resourcefulness, technical assistance has not been consistent throughout the NPS. A training program to ensure NPS staffs are provided the necessary skills in a consistent manner is vital. Training activities that do occur have not received formal review to ensure adequacy and currency of materials for NPS needs.

### **Consistency with Other Agencies**

The BLM, FWS and USFS also share responsibility for WSRs with the NPS, managing more than 7,500 miles on over 100 rivers. To help ensure consistency in interpreting the Act and managing WSRs, an Interagency WSR Coordinating Council (Interagency Council) was launched in 1995. The Interagency Council develops guidance and standards for managing WSR's and has improved interagency coordination in administering the WSR Act. The NPS has three representatives actively participating on the Interagency Council.

Other federal agencies, including the BLM and the USFS, have successfully focused their efforts to meet their WSR responsibilities. For example, BLM has incorporated WSRs and their National Trails and Wilderness programs as focus areas within their National Landscape Conservation System. The USFS created a new National Director Position for Wilderness and Wild and Scenic Rivers and has national and regional WSR Coordinator positions. Their organizational approaches may provide viable templates for the NPS in achieving consistency, protecting resources and providing training.

## ISSUES, CHALLENGES, AND CONSEQUENCES

Because the NPS lacks a programmatic approach, taking full advantage of the Act has been a challenge. NPS responsibilities under the Act are further compounded by the range of involved jurisdictions and ownerships. In most cases, the NPS has successfully resolved management challenges. However, in recent years, key issues have emerged that the NPS needs to address in order to fulfill its river stewardship responsibilities.

Fragmented roles of park staffs, an inconsistent management focus, and insufficient science, compounded by ever growing external threats of development near WSRs, place many of our heralded river areas at risk. Appendix E shows a summary of NPS involvement in litigation concerning WSRs beginning in 1980. Appendix F summarizes NPS WSRs placed on “*America’s Most Endangered Rivers*” since 1986. Additional focus on WSRs is also required by the NPS as demonstrated by the following examples:

- The **Merced** Wild and Scenic River in Yosemite National Park has been the subject of management challenges, controversy and litigation for many years at great cost. This crisis stems from an initial failure to develop the required comprehensive management plan or conduct Section 7 reviews on post-flood repair projects. Recent challenges have focused on compliance with the Act’s mandate to address “user capacity” in the river’s management plan.
- The Corps, USFWS, and NPS are involved in third-party mediation to address long-term management goals on the **Missouri** National Recreational River. Conflict has grown out of confusion among federal agencies over who is responsible for resource management under the Act because of the dual designation the river has received.
- The **Obed** Wild and Scenic River is facing flow and resource impairment due to the continued development of tributary dams.
- The NPS regulatory oversight and technical assistance for state-administered WSRs is failing because of poor planning and a lack of communication. State partners are often confused about NPS’ role and frustrated when federal responsibilities are unmet. Examples include:
  - In 2001, American Rivers, a national non-profit conservation organization, named the **Allagash** River in Maine to its “Most Endangered Rivers” list. The listing highlighted long-term erosion of “wild” river values, including proliferation of vehicle access sites directly contravening “wild” river standards, and the construction of a new dam in the middle of the waterway. The dam was built without the required NPS Section 7 determination and other permits.

- In 2005, the **Little Miami** Scenic River in Ohio was named to American Rivers “Most Endangered Rivers” list. The Little Miami River has been the subject of numerous proposals for state transportation and stream bank stabilization projects. In the absence of NPS involvement, some proposals have proceeded through local and state planning and funding efforts without consideration of the Act’s requirements and resource protection goals. After-the-fact coordination and belated oversight by the NPS are resulting in significant frustration and costs for all parties.
- On the **Eel** River in California, a gravel mining operation is under review after the NPS failed to complete a Section 7 determination during permitting as required under the Act.

NPS river management is being challenged across the country, bringing unwelcome attention to the Service in four principal areas: legislative/legal responsibilities; external coordination; policy guidance; and measuring success and GPRA reporting.

### **Meeting Legislative Mandates**

The NPS lacks a WSR program which has resulted in an uneven performance on many of it’s responsibilities under the Act. Areas that need attention include:

- *Consistent application of Section 7 determinations.* The NPS has failed to review all water resource projects affecting rivers where the NPS has some management authority, including in-house projects. Many NPS managers and staff are unaware of this legislative requirement, and/or have not had the necessary training to complete Section 7 determinations. Moreover, NPS Section 7 determinations do not always adhere to a standardized format, are not always subject to regional review for adequacy/defensibility, and signature authority has not been established. These inconsistencies leave the agency vulnerable to litigation. Completion of Directors Orders 46A (in policy office) and 46B (in draft) will provide the necessary guidance to clarify and meet our legislative mandates.
- *Improved river management planning.* Not all rivers under NPS management have fully identified boundaries or CRMPs, and some existing CRMPs do not meet Act requirements. ORVs have not been identified for some rivers, so it is hard to determine if these values are being protected and enhanced as the Act requires.
- *Evaluation of potential WSRs in NPS units.* Section 5(d)(1) of the Act requires the NPS to identify and evaluate potential WSRs within units of the National Park System as part of the general management planning process. The application of this provision has been inconsistent. It is important to note that NPS sister river managing agencies have been successfully sued on similar shortcomings.

- *Consistent monitoring.* The lack of consistent monitoring and identified key indicators inhibits NPS ability to demonstrate progress in protecting and enhancing WSRs and their respective ORVs as required by the DOI and NPS Strategic Plans prepared in accordance with the Government Performance and Results Act (P.L. 103-62; August 3, 1993).
- *Improved attention to the NRI.* The NRI is more than 25 years old and there are questions about the integrity of listed rivers. A comprehensive update is needed to keep the list current and its resource information reliable.

### **Coordination – Managing Through Partnerships**

Many NPS managed rivers run through more than one state – and often through multiple state and local jurisdictions. The Service has exclusive jurisdiction over or directly controls (e.g., through scenic easements that protect resource values through development restrictions) only a minority of the land along many of these rivers. The rest is either privately-owned or is managed by a mosaic of state and local governments and agencies. For example, the St. Croix National Scenic Riverway (an NPS unit) flows through two states and encompasses 83 local units of government (counties, townships, and municipalities) as well as eight state parks, three state forests, several federal and state wildlife areas, state scientific and natural areas, and many local parks. To protect and enhance the St. Croix’s ORVs, water quality, and free-flow, the NPS must be able to work effectively with a variety of other agencies and governments, and also manage close to 1,000 scenic easements on private lands within the WSR corridor.

Riverfront development proposed or initiated by other agencies, governments, or private parties is perhaps the greatest threat to the integrity of WSRs. Transportation and utility crossings, wastewater treatment plants, mining, timber harvest, commercial and residential development and other activities can impair scenic integrity, water quality, wildlife resources and habitat, recreational use, culturally-significant sites, and other river resources. As development projects increase, the NPS workload to conduct Section 7 determinations continues to grow. Development pressures also make it increasingly important for the NPS to work with local planning commissions and city councils that control local land use. On non-federal lands, the NPS does not have direct authority over projects involving vegetation removal, increased runoff and erosion, and many other significant impacts on river resources, as long as these projects do not touch the bed or banks of the river. It is important that the NPS reach beyond our own organization to provide technical assistance, education and scientific information to local decision-makers and the public. NPS river managers and professional staff must understand the operations of other federal agencies, and state and local governments, and must maintain routine contacts with a variety of interests in order to facilitate cooperative management.

## **Policy Consistency and Guidance**

Consistent Servicewide policy guidance for WSRs is lacking within the NPS. Policy needs to be developed that:

- identifies the statutory responsibilities of NPS managers in their administration of WSRs;
- provides guidance to NPS managers on meeting their WSR duties; and
- clearly delineates WSR management responsibilities among the Directorates, regions, and field, including signature authorities for Section 7 determinations.

While a draft Director's Order (46A) is pending, it covers only rivers within the National Park System. For the most part, NPS staffs have been relying on Interagency Council white papers for guidance, but these do not yet have the imprimatur of NPS policy. A second Director's Order (46B) has been proposed to establish policy and identify roles and responsibilities for Partnership WSRs, Section 2(a)(ii) rivers, the NRI, and other provisions of the Act. Once NPS policies are formally adopted, a reliable system for communicating them to managers is needed. In addition, the NPS needs a coordinated training program for WSR staff.

## **Measuring Success and Government Results and Performance Act Reporting**

Under the DOI Strategic Plan, the NPS is expected to achieve the following goal:

*By September 30, 2008, 63% of miles of WSRs managed by NPS meet heritage resource objectives. For WSRs, meeting heritage resource objectives means protecting those “outstandingly remarkable values” – scenic, historic, cultural, etc. – for which a river was designated.*

To date, the NPS has not tracked any measures for these rivers, so there are no existing baseline data. Tracking this goal is challenging for a number of reasons, including:

- No single NPS office has responsibility for gathering data or working with the DOI to clarify definitions or reporting criteria. Therefore, it is difficult to truly evaluate how well the NPS is protecting free-flow, water quality and ORVs.
- There is ambiguity and disagreement about what measures and attributes are valid to declare that “heritage resource objectives” have been met. Field staff are frustrated that measures reflect only statutory check-offs (e.g., “do you have a management plan?”), rather than measures which quantitatively and qualitatively reflect river conditions.

- WSR mileage figures considered “official” by DOI often do not correspond to those measured by park staff. This is probably a function of the methods used to quantify river mileage; standard methods need to be developed.

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*With time, it has become clear that the depth and breadth of what the Act intended, and the NPS management approach to meet requirements, is in need of a tune-up to make it relevant and sustainable.*

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## **NPS Wild and Scenic River Report Card**

As the 40<sup>th</sup> anniversary of the Act approaches, NPS capability to meet present WSR needs and position the Service to be responsive to future demands is in question. Federal partners in the BLM and USFS have responded aggressively to address similar needs, many of which became priorities due to recent legal challenges. NPS ability to play a lead role on the Interagency Council has diminished due to retirements and reassignments, and is increasingly jeopardized by a lack of internal institutional focus on the WSR System.

The credibility of NPS’ management role is threatened, as are the nation’s heritage river resources with which the NPS is entrusted. Cultural and natural resource damage, frayed relationships with partners, and public distrust are the consequences of inaction.

With time, it has become clear that the depth and breadth of what the Act intended, and NPS management approach to meet requirements, is in need of a tune-up to make it relevant and sustainable.

The grades shown in the NPS WSR Report Card (Table 2) below have been formulated by the Task Force and represent our collective professional judgment about how well the NPS is meeting legislative/legal mandates, conducting external coordination, developing policy guidance and staff training, and protecting resources for rivers in the WSR System. The grades do not correspond with the GPRA goal because the goal does not evaluate all issues identified in the report card.

**Table 2. National Park Service Wild and Scenic River Report Card**

<b>NPS Responsibilities</b>	<b>NPS Units</b>	<b>Partnership Rivers</b>	<b>State 2(a)(ii)</b>
<b>Legislative/Legal Mandates</b>	C	B	D
<b>External Coordination</b>	C	B+	F
<b>Policy Guidance and</b>	D	B	F

## **ORGANIZING FOR SUCCESS/RECOMMENDATIONS**

A strategic, forward-looking response is urgently needed in order for the NPS to meet its management responsibilities and safeguard heritage resources. To improve its performance in the future, the NPS must remove internal barriers, coordinate with federal agencies and scientific communities, and revitalize and strengthen local and state partnerships. The NPS should provide strong leadership and develop solid working relationships to ensure that the public understands the value of these special rivers.

The approach recommended by the Task Force improves consistency, coordination and compliance by enhancing awareness of the Act's statutory requirements and improving communication through a national program office patterned along the lines of our sister agencies. The national office will provide leadership for the development of regional and field programs, develop policy and project review guidelines, serve as a clearinghouse for information, serve on the Interagency Council, develop metrics to measure resource protection, and develop and conduct training programs.

### **Recommendations**

The Task Force recommends that the National Park Service create a WSR Program. It recommends that the WSR Program be placed under the leadership of the Associate Director for Partnerships and Visitor Experience (PVE); although other viable options exist (i.e., Natural Resources; Park Planning). The WSR Program would be composed of three components: a WSR Steering Committee, a WSR Coordinator, and Regional and Park River Coordinators (Figure 1).

### **Figure1. Proposed Wild and Scenic Rivers Program and Associated Components**





Because many responsibilities associated with WSR management cut across multiple Directorates and programs, the Steering Committee, chaired by the WSR Coordinator, would develop and provide leadership for the WSR Program. Members of the Steering Committee would include representatives from: Regional Offices; selected WSR parks; the Natural Resource Stewardship and Science Directorate; the Park Planning, Facilities and Lands Directorate; the Partnerships and Visitor Experience Directorate; the Visitor and Resource Protection Directorate; and the Cultural Resources Directorate.

### **Role and Function of the Steering Committee**

The role and function of the Steering Committee include the following activities:

- Promote program consistency Servicewide
- Establish Servicewide policies and guidelines
- Integrate and coordinate with other programs
- Provide support for funding initiatives
- Develop a National Wild and Scenic River Action Plan (including evaluation of the need to identify coordinators for non-WSRs (e.g., Buffalo National River))

### **Responsibilities of the WSR Coordinator**

The WSR Coordinator would be a permanent full-time position, responsible for the following activities:

- Provide program development and leadership
- Coordinate and facilitate the Steering Committee
- Promote Servicewide consistency and communication

- Coordinate policy development through the Steering Committee
- Coordinate legislative reviews
- Coordinate management activities
- Coordinate WSR training
- Coordinate GPRA reporting for WSRs
- Coordinate with NGOs, local, state and federal agencies
- Represent the NPS on the Interagency Council

### **Responsibilities of Washington Office WSR Steering Committee Members**

Washington Office Directorates (Partnerships and Visitor Experience, Natural Resource Stewardship and Science, Visitor and Resource Protection, Park Planning, Facilities and Lands, and Cultural Resources) would each serve on the Steering Committee. Each Directorate would need to commit funding to support their representation on the Steering Committee. Washington Office WSR Steering Committee Members would provide leadership in the following areas:

- Promote Servicewide consistency and communication
- Assist the WSR Coordinator with legislative reviews
- Provide guidance on policy development, planning, and resource management
- Coordinate with WSR Coordinator on GPRA reporting for WSRs
- Assist with the development of program funding

### **Responsibilities of Regional WSR Coordinators**

Each Regional Director would identify a Regional WSR Coordinator. Some regions (e.g., Midwest and Northeast) may choose to establish permanent full-time positions to coordinate WSR issues due to the substantial workload in their respective regions. Other regions may assign the responsibility as a collateral duty. Each region would need to commit funding to support their Regional WSR Coordinator position. Regional WSR Coordinators would provide leadership in the following areas:

- Serve as a member of the Steering Committee
- Provide guidance/technical assistance to parks/river
- Assure that park plans (GMPs, CRMPs, etc.) meet Act requirements
- Coordinate compliance and training needs
- Establish a regional system for Section 7 reviews/approvals
- Coordinate GPRA reporting for WSRs in the region
- Coordinate with NGOs, local, state and federal agencies

### **Responsibilities of Park River Coordinators**

All parks containing a WSR would identify a Park River Coordinator. The position would most likely be a collateral duty assigned to a permanent park employee. One or two Park River Coordinators would serve on the Steering Committee to provide a field perspective. The Park River Coordinator could also serve as the Regional WSR Coordinator if the Regional Director chooses to do so. The Steering Committee will evaluate the need to identify park river coordinators for non-WSRs (e.g., Buffalo National River) for issues such as Section 7 training and coordination. Parks (or Regions) would need to commit funding to support the Park River Coordinator if they serve on the Steering Committee. Leadership would be provided in the following areas:

- Point of contact for WSR issues
- Respond to the Corps, Federal Highways, and other permit requests
- Prepare and coordinate project reviews and Section 7 documents
- Prepare and coordinate preparation of CRMPs
- Coordinate GPRA reporting for WSR measures
- Respond to Regional/Washington Office program calls

### Required Funding

Each Washington Office directorate, region and one or two selected WSR parks would need to commit funding (2-6 pay periods and modest travel at an annual cost of \$8,700 - \$24,000<sup>4</sup>) to support their participation on the Steering Committee.

The national WSR Coordinator position will require substantial experience in wild and scenic river management, and partnership coordination, as well as resource management, science, law, and NPS policy; therefore, would be filled at the GS-13/14 level. In order to be effective, the WSR Coordinator also requires a modest budget for travel to regions and parks to provide technical assistance and coordinate with partners; to develop and implement training; to publish educational and interpretive materials; and to cooperate with NGOs and the Interagency Council. The following budget is recommended to support the position:

Salary and benefits	\$150,000
Administrative support	\$ 10,000
Travel	\$ 15,000
Training budget	\$ 15,000
Materials, publication budget	<u>\$ 10,000</u>
<b>Total</b>	<b>\$200,000</b>

### Funding Options

Funding options that could support components of the WSR Program include:

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<sup>4</sup> Projected cost for 2 to 6 pay periods for a GS-12/5, FERS employee plus a travel budget of \$1,000.

- Recreation fee money
- ONPS funding increase for the WSR Coordinator position
- Interagency Personnel Agreement/Partnerships with non-governmental organizations/states/federal agencies
- Fee for services (i.e., the Corps, Federal Highways)
- Multi-division/region assessments

## **THE 40<sup>th</sup> ANNIVERSARY**

On October 2, 2008, the Act will mark its 40<sup>th</sup> anniversary. This anniversary is an important opportunity for the Service to celebrate the successes of the Act and the WSR System, and to refocus on the challenges and opportunities that lie ahead. The Task Force recommends that the Steering Committee create a 40<sup>th</sup> anniversary planning committee with a mandate to:

- Fully engage our public and private partners in planning for the 40<sup>th</sup> anniversary
- Honor the creation of the Act and the WSR System
- Celebrate our leadership in protection of WSRs
- Celebrate the successes and innovations accomplished under the Act
- Re-invigorate NPS commitment to implementation of the Act and protection of WSRs
- Articulate a vision for the future

The Task Force has discussed specific proposals to celebrate the 40<sup>th</sup> anniversary including:

- Update the WSR System map
- Create a success story retrospective on the “original eight” NPS WSRs
- Announce the NPS reorganization on WSRs
- Host a jointly hosted gala event (awards, policy announcements, celebration)
- Re-establish NPS commitment to designating WSRs within parks
- Coordinate a series of individual WSR events (with appearances by the Secretary or Director)
- Update the NRI and link the update to key river/watershed web databases
- Develop a U.S. Geological Survey/NPS DOI initiative on WSR instream flows
- Articulate a vision for expansion of WSR System – Partnership Rivers, 5(d)(1) eligibility and suitability inventories

## **CONCLUSION – VISION FOR THE FUTURE OF WILD AND SCENIC RIVERS**

The Task Force believes it is critical to establish a WSR Program that is similar to those managed by other federal agencies. The implementation of a program with dependable funding to establish and support a Steering Committee, a WSR Coordinator, and Regional and Park WSR Coordinators will position the NPS to better manage and protect our WSRs for the next 40 years.

### **Required Actions**

- Establish a Wild and Scenic Rivers (WSR) Program with a National WSR Coordinator and Steering Committee.
- Convene the WSR Steering Committee.
- Initiate actions to secure long-term funding.

**“When you put your hand in a flowing stream, you touch  
the last that has gone before and the first of what is still to come.”**

**Leonardo da Vinci**

## **Appendix A Wild and Scenic Rivers Act Summary\***

**Overview.** The Wild and Scenic Rivers (WSR) Act establishes a National Wild and Scenic Rivers System (WSR System) for the protection of rivers with important scenic, recreational, fish and wildlife, and other values. Rivers are classified as wild, scenic or recreational. The WSR Act (Act) designates specific rivers for inclusion in the WSR System and prescribes the methods and standards by which additional rivers may be added. The Act contains procedures and limitations for control of lands in federally administered components of the WSR System and for disposition of lands and minerals under federal ownership. Hunting and fishing are permitted in components of the WSR System under applicable federal and state laws.

**Findings/Policy.** It is the policy of the U.S. that: selected national rivers and their immediate environments which possess outstanding scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values are to be preserved in free-flowing condition; these rivers and their immediate environments are to be protected for the benefit and enjoyment of present and future generations; the national policy of dam and other construction on U.S. rivers should be complemented by a policy that preserves other selected rivers in their free-flowing condition to protect water quality and fulfill other vital national conservation purposes. The purpose of the Act is to institute a national WSR system by designating the initial components of that

system and by prescribing the methods and standards applicable to adding components to the system. §§ 1271 and 1272.

**Selected Definitions.** Free-flowing: a river or section of a river, existing or flowing in natural conditions without impoundment, diversion, straightening, rip-rapping or other modification of the waterway. River: a flowing body of water or estuary, or a section, portion or tributary thereof, including rivers, streams, creeks, runs, kills, rills and small lakes. § 1286.

**National Wild and Scenic Rivers System.** The National WSR System is comprised of rivers that Congress authorizes for inclusion or that are designated as wild, scenic or recreational rivers by the legislatures of the states through which they flow. To be added to the WSR System, rivers that are designated by a state must be approved by the Secretary of the Interior based on the criteria established in the Act. They must be administered permanently as wild, scenic or recreational rivers by an agency or political subdivision of the state concerned. States or political subdivisions must administer state-designated rivers without expense to the U.S., other than for administration and management of federally owned lands.

To be included in the WSR System, a wild, scenic or recreational river area must be a free-flowing stream, and the river and related adjacent land area must possess scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values. Every wild, scenic or recreational river in its free-flowing condition must be considered eligible for inclusion in the System and, if included, must be classified, designated and administered as a wild, scenic or a recreational river area. Wild river areas are 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 are 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 are rivers or sections of rivers readily accessible by road or railroad, may have some shoreline development, and may have undergone some impoundment or diversion in the past. § 1273.

**Component Rivers and Adjacent Lands.** As of 2006, the Act has designated over 165 rivers, with adjacent land, as components of the WSR System. Administration of these is assigned either to the Secretary of the Interior or the Secretary of Agriculture.

Within one year from the date of designation, the agency charged with administration of each of these components must establish detailed boundaries and determine which of the three categories best fits the river or its various segments. For rivers designated after January 1, 1986, the federal agency charged with administration must prepare within three years a comprehensive management plan for each river segment to protect the river values. The plan must be prepared with public input and address resource protection, development of land and facilities,

user capacities and other necessary management practices. For rivers designated before January 1, 1986, all boundaries, classifications and plans must be reviewed for conformity with the Act within ten years through regular agency planning processes. § 1274.

**Additions to the System.** The Act requires the Secretary of the Interior, or the Secretary of Agriculture where national forest lands are involved, or the two Secretaries jointly, to study and submit to the President reports on the suitability for additions to the System of rivers which are designated by the Congress as potential additions. The President must make recommendations and proposals to Congress. § 1275.

As of 2006 the Act has identified over 165 rivers for potential addition to the WSR System and provides deadlines for when studies for specific rivers must be completed. These studies must: be made in close cooperation with appropriate agencies of the affected state and its political subdivisions; be carried on jointly with these agencies if requested by the state; and include 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 WSR System. Federal agencies must give consideration to potential national wild, scenic and recreational river areas in planning for use and development of water and related land resources. All river basin and project plan reports submitted to Congress must include a discussion of WSR System potential additions. § 1276.

**Land Acquisition.** The Secretary of the Interior and the Secretary of Agriculture are authorized to acquire lands and interests in land within the boundaries of WSR System components they administer, but they may not acquire fee title to an average of more than 100 acres per mile on both sides of the river, with special provisions for one ANILCA river we manage in Alaska. Lands owned by a state may be acquired only by donation or exchange. Lands owned by an Indian tribe or a political subdivision of a state may not be acquired without consent of the appropriate governing body. The Act contains additional specifications on land acquisition, including restrictions on condemnation. §§ 1277 and 1285b.

**Restrictions on Water Resources Projects.** The Act prohibits the Federal Energy Regulatory Commission (FERC) from licensing construction of a dam, water conduit, reservoir, powerhouse, transmission line or other project works under the Federal Power Act on or directly affecting a river designated as an actual or potential WSR System component.

No U.S. department or agency may assist by loan, grant, license or otherwise in the construction of a water resources project that would have a direct and adverse effect (as determined by the Secretary responsible for the river) on the values for which a river is designated as an actual or potential System component. This does not preclude licensing or assistance to developments below or above an actual or potential wild, scenic or recreational river area or on a stream tributary which will not

invade the area or diminish the scenic, recreational and fish and wildlife values of the area. § 1278.

**Withdrawal of Public Lands.** All public lands within the authorized boundaries of WSR System components, or areas designated as potential additions to the WSR System, are withdrawn from entry, sale or other disposition under U.S. public land laws. § 1279.

**Federal Mining and Mineral Leasing Laws.** The Act does not affect the applicability of federal mining and mineral leasing laws within components of the WSR System, except that: prospecting, mining operations and other activities on mining claims which have not been perfected, and mining operations under a mineral lease, license or permit, are subject to regulations to effectuate the Act's purposes; mining claims affecting lands within the WSR System must convey a right only to the mineral deposits; and minerals in the bed or bank, or within one-quarter mile of the bank, of an actual or potential component river are withdrawn from all forms of appropriation under the mining laws and from operation of the mineral leasing laws. § 1280.

**Administration.** Each WSR System component must be administered to protect and enhance the values which caused it to be included in the WSR System. Primary emphasis must be given to protecting its aesthetic, scenic, historic, archaeologic and scientific features.

A portion of a WSR System component that is within the national wilderness preservation system as established by the Wilderness Act is subject to the provisions of both Acts. A System component administered through the National Park Service becomes part of the national park system (with legislative exceptions), and a WSR System component administered through the U.S. Fish and Wildlife Service becomes part of the national wildlife refuge system. All the laws applicable to the various systems must be followed, with the more restrictive provisions applying in the case of a conflict. § 1281.

The Secretary of the Interior, the Secretary of Agriculture, and the heads of other federal departments or agencies with jurisdiction over lands within the WSR System, or under consideration for inclusion, must take action through management policies, regulations, contracts and plans to protect the areas in accordance with the purposes of the Act. The Secretary of the Interior may lease federally owned land which is within the boundaries of a WSR System component and which has been acquired by the Secretary under the Act. Leases are subject to restrictive covenants as necessary to carry out the purposes of the Act. § 1283 and 1285a.

**Assistance to State and Local Projects.** The Act requires the Secretary of the Interior to assist states in considering opportunities for establishing wild, scenic and recreational areas, when formulating and carrying out comprehensive outdoor recreation plans and proposals for financing submitted pursuant to the Land and



Water Conservation Fund Act of 1965. The Secretaries of the Interior and Agriculture, or the heads of other federal agencies, must assist states, political subdivisions, landowners, private organizations and individuals to plan, protect and manage river resources. For these purposes, the federal government may make federal facilities available to volunteers. § 1282.

**State Jurisdiction and Responsibilities.** The Act does not affect the jurisdiction or responsibilities of states with respect to fish and wildlife. Hunting and fishing must be permitted under applicable state and federal laws and regulations on lands and waters administered as parts of the WSR System, unless, in the case of hunting, those lands are within a national park or monument. The jurisdiction of the U.S. and states over stream waters in a WSR System component must be determined by established law. A taking by the U.S. of a water right entitles the owner to just compensation. The Act does not alter interstate compacts which contain a portion of the System. § 1284.

**Appropriations Authorized.** Congress authorized to be appropriated specific sums for land acquisition and development of rivers designated for inclusion in the System. §§ 1274 and 1287.

\* Source: [ipl.unm.edu/cwl/fedbook/wildrive.html](http://ipl.unm.edu/cwl/fedbook/wildrive.html)

## Appendix B

### National Park Service Wild and Scenic River Statutory Requirements

WSRA	Direction	Requirements
Section 1(b)	Defines purposes. Describes general values for which rivers are added to the National System.	Describe ORVs in detail in CRMP to guide future management actions and serve as baseline for monitoring.
Section 2(b)	Identifies and describes classes: wild, scenic and recreational.	Define river's initial landscape character from which to establish standards for future in-corridor land-use changes.
Sections 3(b) and 3(c)	Directs establishment of detailed boundary and classifications. Describes notice requirements.	Submit final boundary package to Congress and publish in Federal Register within one year of designation.
Sections 3(d)(1) and 3(d)(2)	Directs development of a CRMP and defines its specific content.	Develop within three years of designation. Provide direction to protect and enhance river values.
Section 4	Identifies suitability factors for designation, study report requirements, review requirements for State components, and interim boundaries.	Submit reports to the Secretaries of Agriculture and Army and to Chairman of Federal Power Commission, or other affected Federal agencies, the Governor of affected State/s, prior to publication in the Federal Register.
Section 5(d)(1)	Directs studies and investigations during planning process.	Identify and evaluate potential wild and scenic rivers within National Park System.
Sections 6(a)(1) through 6(g)(1)-(3)	Describes land acquisition procedures and limitations.	Maintain text and history of property-specific easements.
Section 7	Regulates certain federal water resources projects. Provides standards of evaluation to protect designated and study rivers from harmful effects of federally assisted water resources projects.	NPS may approve/deny 404 and other permits. Must conduct specific project review and document findings, generally submitted to the Corps.
Section 8	Authorizes land withdrawal from entry, sale or other disposition under U.S. public land laws.	Withdraw all public lands which constitute the bed/bank, or within ¼ mile of the bank under public land laws.
Section 9(a)	Provides limitation on mineral activity.	Provide direction for discretionary mineral activity in the CRMP, as appropriate
Section 10(a)	Establishes a non-degradation and enhancement policy.	Develop a monitoring plan.
Section 10(d)	Allows use of NPS general statutory authority for commercial outfitting.	Permit commercial outfitting and require, as appropriate, non-regulatory or regulatory permits for private use.
Section 10(e)	Provides for cooperative agreements between NPS and state and local governments.	Develop, as appropriate, agreements with states and political subdivisions to protect and enhance river values.
Section 11(b)(1)	Authorizes the NPS to provide technical assistance and funds to plan, protect and manage river	Develop, as appropriate, written cooperative agreements with others to protect and enhance river values.

	resources.	
Section 12(a)	Directs NPS to protect river values in activities within or proximate to the river corridor.	Consider actions on lands within and proximate to the river corridor relative to protecting free-flow, water quality and outstanding values.
Section 12(c)	Directs cooperation with EPA and state agencies to protect and improve water quality.	Describe baseline conditions, identify water quality issues, and develop protection strategy.
Sections 13(c)	Establishes federal reservation of water.	Identify flow-dependent values and develop a strategy to protect.

## Appendix C

### National Park Service Wild and Scenic River Management Responsibilities

#### Wild & Scenic Rivers<sup>5</sup>

Alagnak River (AK)  
Alatna River (AK)  
Aniakchak River (AK)  
Bluestone River (WV)  
Cache la Poudre River (CO)  
Charley River (AK)  
Chilikadrotna River (AK)  
Delaware River, Lower (NJ, PA)  
Delaware River, Middle (NJ, PA)  
Delaware River, Upper (NY, PA)  
Farmington (W. Branch) River (CT)  
Flathead River (MT)  
Great Egg Harbor River (NJ)  
John River (AK)  
Kern River (CA)  
Kings River (CA)  
Klamath River (CA)  
Kobuk River (AK)  
Lamprey River (NH)  
Maurice River (NJ)  
Merced River (CA)

#### Areas<sup>6</sup>

Missouri River (NE, SD)  
Mulchatna River (AK)  
Musconetcong River (NJ)  
Niobrara River (NE)  
Noatak River (AK)  
N. Fork Koyukuk River (AK)  
Obed River (TN)  
Rio Grande River (TX)  
Saint Croix River (WI, MN)  
Salmon River (AK)  
Sudbury, Assabet, Concord River (MA)  
Tinayguk River (AK)  
Tlikakila River (AK)  
Tuolumne River (CA)  
Wekiva River (FL)  
White Clay Creek (PA, DE)

#### Section 2(a)(ii) Wild & Scenic,

American River (Lower) (CA)  
Allagash Wilderness Waterway (ME)  
Big and Little Darby Creeks (OH)  
Cossatot River (AR)  
Eel River (CA)  
Klamath River (CA)  
Klamath River (OR)  
Little Beaver River (OH)  
Little Miami River (OH)  
Loxahatchee River (FL)  
Lumber River (NC)  
Middle Fork Vermillion River (IL)  
New River (NC)  
St. Croix River (Lower) (MN, WI)  
Smith River (CA)  
Trinity River (CA)  
Wallowa River (OR)  
Westfield River (MA)  
Wolf River (WI)

#### Nat'l Rivers: Nat'l Recreation

Buffalo National River (AR)  
Chattahoochee NRA (GA)  
Ozark National Scenic Riverway (MO)  
Big South Fork NRR (KY)

#### Nationwide Rivers Inventory

3,400 River Segments

<sup>5</sup> The NPS is responsible for Section 7 determinations, but does not manage the lands along the banks

<sup>6</sup> Non-WSRs which have Section 7 – like language and responsibilities

## **Appendix D**

### **List of Pending Legislation and Studies Underway**

Currently, the National Park Service is working on the following Congressionally authorized studies. These studies should be completed in FY 2006, and could result in additional National Park Service management responsibilities:

- Taunton River Wild and Scenic River Study (Massachusetts),
- Eightmile River Wild and Scenic River Study (Connecticut), and
- New River Wild and Scenic River Study (West Virginia and Virginia)

While the National Park Service has not taken an official position on all of the legislation currently introduced by Congress, the following river study bills are pending in the 109<sup>th</sup> Congress:

- Lower Farmington River & Salmon Brook Wild and Scenic Study Act of 2005 (HR1344, S 435), Connecticut
- Perquimans River Wild and Scenic River Study Act of 2005 (HR 4105), North Carolina

**Appendix E**  
**River Management Planning for Wild and Scenic Rivers**  
**Under National Park Service Responsibility**

<b>Wild and Scenic River/State</b>	<b>Year River Designated</b>	<b>NPS Management Unit</b>	<b>Current Management Plan Type and Date</b>
St. Croix, MN, WI	1968, 72, 76	St. Croix NSR	GMP, 1998
Wolf, WI	1968	Tribal Management	
Obed, TN	1976	Obed WSR	GMP, 1995
Flathead, MT	1976	Glacier NP	GMP, 1999
Rio Grande, TX	1978	Rio Grande WSR	GMP, 2005
Missouri, NE, SD	1978, 91	Missouri NRR	GMP, 1999
Delaware (Upper), NY, PA	1978	Upper Delaware SRR	GMP, 1987
Delaware (Middle), NJ, PA	1978	Delaware Water Gap NRA	GMP, 1987; RMP, 1994
Alagnak, AK	1980	Katmai NP; Aniakchak NMP; Alagnak Wild River	Alagnak RMP, 1983
Aniakchak, AK	1980	Katmai NP; Aniakchak NMP; Alagnak Wild River	Aniakchak GMP, 1986
Charley, AK	1980	Yukon-Charley Rivers NP	Charley Wild RMP, 1985
Mulchatna, AK	1980	Lake Clarke NPP	GMP, 1984
Tlikakila, AK	1980	Lake Clarke NPP	GMP, 1984
Chilikadrotna, AK	1980	Lake Clarke NPP	GMP, 1984
John, AK	1980	Gates of the Arctic NP	GMP amendment underway
Kobuk, AK	1980	Gates of the Arctic NP	GMP amendment underway
Alatna, AK	1980	Gates of the Arctic NP	GMP amendment underway
Koyukuk (N. Fk), AK	1980	Gates of the Arctic NP	GMP amendment underway
Noatak, AK	1980	Gates of the Arctic NP	GMP amendment underway
Tinayguk, AK	1980	Gates of the Arctic NP	GMP amendment underway
Salmon, AK	1980	Western Arctic NP	Kobuk Valley GMP, 1986
Klamath, CA	1981	Redwood NP	GMP, 2000
Tuolumne, CA	1984	Yosemite NP	CRMP in progress

Cache La Poudre, CO	1986	Rocky Mountain NP	Master Plan, 1976
Merced, CA	1987	Yosemite NP	Merced River CRMP, 2005
Kings, CA	1987	Sequoia/Kings Canyon NP	GMP, 2007
Kern, CA	1987	Sequoia/Kings Canyon NP	GMP, 2007
Bluestone, WV	1988	Bluestone NSR	CRMP on hold, started in 1990
Niobrara, NE	1991	Niobrara NSR	GMP, 2006
Great Egg Harbor, NJ	1992	Partnership WSR	2000
Maurice, NJ	1993	Partnership WSR	1991
Farmington (W Branch), CT	1994	Partnership WSR	1993
Lamprey, NH	1996, 2000	Partnership WSR	Late 1990's
Sudbury, Assabet, Concord, MA	1999	Partnership WSR	1999
Wekiva, FL	2000	Partnership WSR	Working on GMP
White Clay Ck., DE, PA	2000	Partnership WSR	1998; Amended 2001
Delaware (Lower), NJ, PA	2000	Partnership WSR	1997

GMP – General Management Plan; RMP – River Management Plan; and CRMP – Comprehensive River Management Plan. Some plans may need to be updated, especially in light of the July 2006 federal district court opinion with respect to user capacity in the Merced CRMP

## Appendix F Litigation Involving Wild and Scenic Rivers

Since 1980, the National Park Service has been involved in 12 lawsuits, with the majority of those cases (nine) occurring in the last 12 years (nearly one/year). The number of cases involving the NPS is steadily increasing. The table below summarizes litigation within the WSR System, including litigation involving other federal agencies such as the Bureau of Land Management (BLM), the U.S. Army Corps of Engineers (Corps), U.S. Fish and Wildlife Service (USFWS), the Forest Service (USFS), Federal Highway Administration/Department of Transportation (FHWA/DOT), and the Federal Energy Regulatory Commission (FERC).

<b>River Litigation</b> Wild and Scenic Rivers Cases Involving Federal Agencies [As of 8/1/05]								
<b>Agency/ Department</b>	<b>*Filing or Settlement Date – By Calendar Year</b>							<b>Subtotal by Agency</b>
	2000- Present	1995- 1999	1990- 1994	1985- 1989	1980- 1984	1975- 1979	1970- 1974	
BLM	7	7	1	1	2			18
NPS	3	4	3		1			11
USFWS	1							1
USFS	21	5	2	1	3	2		34
CORPS	2	2	1					5
FHWA/DOT		2						2
FERC	1			1				2
State	3							3
<b>Subtotal</b>	<b>38</b>	<b>20</b>	<b>7</b>	<b>3</b>	<b>6</b>	<b>2</b>	<b>0</b>	<b>76</b>
Joint BLM/FS		1			1			2
Joint BLM/FS/ CORPS		1						1
Joint NPS/FS			1					1
Joint NPS/FWHA		2						2
Joint NPS/ CORPS			1					1
Joint USFWS/ CORPS	1							1



**Appendix G**  
**National Park Service Wild and Scenic Rivers**  
**Named to the Most Endangered Rivers List<sup>1</sup>**

Each year since 1986, American Rivers releases the *America's Most Endangered Rivers* report that identifies rivers nationwide reaching crucial crossroads. The report highlights acute threats rather than chronic conditions; it is not a list of the nation's "worst" or most polluted rivers. American Rivers solicits nominations annually from thousands of river groups, conservation organizations, outdoor clubs, and individual activists. American Rivers staff and scientific advisors review the nominations for the following criteria:

- The magnitude of the threat to the river
- A major decision point in the coming year affecting that threat
- The regional and national significance of the river

Each year, American Rivers has listed at least 2 rivers for which NPS has some management responsibility:

<u>Year</u>	<u>#Year</u>	<u>Rivers</u>
2006	2	Yellowstone River; Shenandoah River
2005	2	Little Miami River; Tuolumne River
2004	3	Colorado River; Big Darby Creek; Mississippi
River		
2003	2	Gunnison River; Rio Grande River
2002	2	Missouri River; Allagash Wilderness Waterway
2001	2	Missouri River; Eel River
2000	5	Missouri River; Chattahoochee River; Rio Grande River; Mississippi River; Green River
1999	2	Missouri River; Yellowstone River
1998	2	Missouri River; Chattahoochee River
1997	4	Missouri River; White Salmon; Wolf River; Potomac River
1996	3	Clarks Fork; Upper Chattahoochee River; White Salmon

<sup>1</sup>American Rivers (AR) is a national non-profit conservation organization dedicated to protecting and restoring healthy natural rivers and the variety of life they sustain for people, fish, and wildlife. Founded in 1973 with a specific focus of increasing the number of rivers protected by the National Wild and Scenic Rivers System and preventing the construction of large new dams, the mission of AR has broadened to address a wide variety of issues affecting people and rivers.

## Appendix H Glossary of Terms

**Comprehensive River Management Plan (CRMP):** The Wild and Scenic Rivers Act requires federal agencies to develop a comprehensive river management plan for designated rivers within three years of designation. The CRMP is intended to establish specific management guidelines to protect the free flowing condition and outstanding values of the river.

**Construction:** Any action carried on with Federal assistance affecting the free-flowing characteristics of a Wild and Scenic River or Study River.

**Federal Assistance:** Any assistance provided by any Federal department or agency associated with a water resources project. Such assistance may include, but is not limited to, a license, permit, or authorization granted by the Federal Energy Regulatory Commission (FERC) under Sections 4(e) and (f) of the Federal Power Act (16 U.S.C. 797); a license, permit or other authorization granted by the Corps of Engineers, Department of the Army, under the Rivers and Harbors Act of 1899 (33 U.S.C. 401 et seq.) and Section 404 of the Clean Water Act (33 U.S. C. 1344); or any other license, permit, grant, loan, or other authorization provided by a Federal department or agency.

**Free-flowing:** As defined in Sec. 16 of the WSR Act, "existing or flowing in natural condition without impoundment, diversion, straightening, riprapping, or other modification of the waterway" (16 U. S. C. 1286(b)).

**National Park:** National Parks (and other units of the National Park system) are established to preserve America's legacy of significant individuals, historical, natural and cultural places and events. Parks are generally large natural areas having many attributes for the public to enjoy. Hundreds of rivers are located in the national parks and other NPS sites, protecting both the river and land areas surrounding them. Battlefield parks, seashores, parkways, and trails are other designations to preserve and interpret America's heritage. In fact, the Park Service has 20 classifications of its 390 sites, several of which are specific to rivers.

**National River:** Is designated by Congress and is a river preserved with its surrounding environments, essentially as a park. The Ozark National Scenic Riverways is the Nation's first and only scenic waterway, protecting 134 miles of Current and Jacks Fork Rivers; on this list, it is included under "National River." Like WSRs, this park's legislation prescribes the protection of the rivers' free-flowing condition.

**Nationwide Rivers Inventory (NRI):** Is a listing, maintained by the NPS, of more than 3,400 free-flowing river segments believed to have outstandingly remarkable values (including scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values), making them potentially eligible for WSR designation.

**Outstandingly Remarkable Values (ORVs):** Protected values of a designated wild and scenic river, as identified in the enabling legislation, or in the river's CRMP. These may include one or more of the following resource values: scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values.

**Partnership Wild and Scenic River:** Eight rivers designated over the last 20 years are known collectively as the Partnership Wild and Scenic Rivers. They generally share the following: administration of the river and implementation of a management plan (developed and approved before designation) is accomplished in a partnership with broadly participatory "Councils" or "Committees" organized on each river specifically for this purpose; federal land acquisition and ownership are not typically authorized in designation legislation or authorized in the Comprehensive River Management Plan; land use continues to be governed by local communities and State statutes, as prior to designation, critical aspects of these State/local controls deemed essential to the long-term preservation of WSR values are incorporated into the Management Plan; the NPS is still responsible for implementing Section 7 of the Act; and the cost and responsibilities associated with managing and protecting river resources are shared among all of the partners.

**River Corridor:** A river and the adjacent area within the boundaries of a designated river, or a river and the adjacent area within one-quarter mile of the banks of a congressionally authorized study river (one-half mile for rivers authorized under the Alaska National Interest Lands Conservation Act and located outside park unit boundaries). River corridor boundaries must be established within one year of designation, published in the *Federal Register*, and forwarded to Congress.

**River-administering Agency:** One or more of the four federal agencies charged with administration of components of the National Wild and Scenic Rivers System. These agencies are the Bureau of Land Management (BLM), National Park Service (NPS), U.S. Fish and Wildlife Service (USFWS), and U.S. Forest Service (USFS).

**RTCA:** Rivers, Trails, and Conservation Assistance Division

**Section 2(a)(ii) River:** Rivers designated under Section 2(a)(ii) of the Act are those for which the state legislature first adopts protective legislation or a state river designation. Next, the state's governor requests federal protection by the Secretary of the Interior. The NPS conducts a review to ensure that the river meets the Act's eligibility criteria, and seeks public comment. Finally, the NPS makes a recommendation to the Secretary, who has the authority to officially add 2(a)(ii) rivers into the Wild and Scenic Rivers System. The 2(a)(ii) rivers are then managed by the state at no cost to the federal government, except that the NPS must nonetheless perform Section 7 reviews of any proposed water resources projects affecting the river and provide oversight to ensure other requirements of the Act are met. The NPS currently has Sec. 2(a)(ii) responsibilities for 19 rivers (7 in the

Midwest Region, 2 in the Northeast Region, 7 in the Pacific West Region, and 3 in the Southeast Region).

**Section 7 Determination:** A decision document that evaluates whether a federally assisted water resources project affecting a designated WSR or Study River would have impermissible impacts. This document is required prior to any federal permitting or funding action and is usually contained within the lead federal agency's environmental document. It may also serve as a stand-alone document. The NPS is responsible for preparing Section 7 determinations on 56 rivers; this includes the 19 rivers for which NPS has a regulatory role under Sec. 2(a)(ii) of the Act.

**Study Wild and Scenic River:** The river and the adjacent area generally within one-quarter mile on each side of the river as measured from the ordinary high water mark (unless otherwise provided for by law) which is authorized by Congress for study as a potential addition to the National Wild and Scenic River System pursuant to Section 5(a) of the Act. This includes rivers that are either currently under study by the NPS (at the direction of Congress) for WSR designation, or have been studied but no final action has yet been taken.

**Study Period:** The time required to complete a study authorized by Section 5(a) of the Act. The protective moratorium put into effect by Section 7 expires three years from the date the President sends a report with his recommendations to the Congress.

**Water Resources Project:** Any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act, as amended (41 Stat. 1063; 16 U.S.C. 791a); or any construction that would affect free-flowing characteristics, as that term is defined in the Act, of a designated Wild and Scenic River or Study River. Any construction within the bed or bank of a designated Wild and Scenic River or Study River that affects its free-flowing characteristics is a water resources project. Any construction within the bed or bank of river segments upstream, downstream or tributary to a designated Wild and Scenic River or Study River which affects the river's free-flowing characteristics within the designated or study area or impacts its scenic, recreational and fish and wildlife values is a water resources project. Examples of water resources projects include, but are not limited to, fisheries habitat and watershed restoration/enhancement projects; water diversion projects; transmission and pipelines; bridge and other roadway construction/reconstruction projects; dams; water conduits; bank stabilization projects; channelization projects; powerhouses; levee construction; reservoirs; recreation facilities, such as boat ramps or fishing piers; or dredge and fill projects that require a Federal permit, such as from the U.S. Army Corps of Engineers as required by Section 404 of the Clean Water Act (33 U.S. C. 1344). In cases where these projects do not meet the above definition, the projects would not be considered water resources projects.

**Wild and Scenic River (WSR):** A river, including its bed and banks, and adjacent area within the boundaries of a component of the National Wild and Scenic Rivers

System designated pursuant to Section 2(a)(ii) or 3(a) of the Act. Wild and Scenic Rivers are free flowing and protected from damaging development and use. They must possess one or more outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values. As of 2006, a total of 163 rivers have wild and scenic status nationally. The NPS has statutory management and regulatory responsibilities on 37 of these rivers. In addition, the NPS has a regulatory role on another 19 WSRs managed by states or tribes under Section 2(a)(ii) of the Act.