



From the Council

Many of us remember the generational “wisdom” to never trust anyone over the age of 30. We learned that wisdom to be false, especially as so many of us crossed that temporal line in the sand. It turns out this side of 30 isn't so bad, for human beings and conservation laws alike. As we observed the 30th birthday of the Wild and Scenic Rivers Act on October 2, 1998, we could not help but reflect with pleasure on the strength and size of our national system of protected rivers.

We could also not help but ponder the future of the Act, and the role it will play in the years to come. The Council addressed the question, convening a forum on the future of the Act, detailed in the following article. The diversity of attendees brought a diversity of views to the forum. In conclusion, the Wild and Scenic Rivers Act does not flow in an isolated channel; it is but one stream in the watershed of our country's environmental conservation law.

The 30th Anniversary Forum was also an opportunity to reflect on the future of the Council. For the strength of the National System not only rests with free-flowing waterways, but with the skilled administrators of those rivers. The Council has focused on the needs of river administrators, adding new papers to the *Reference Guide*, expanding the web site, offering presentations and training around the country, and creating the first national brochure on wild and scenic rivers.

We hope to see you in Charleston, South Carolina, on April 19-22 at the River Management Society symposium, *Blending Art and Science in River Management*, which is sponsored in part by the Council.

30th Anniversary Forum

Forty participants, representing a range of wild and scenic river related interests, attended a two-day forum in Shepherdstown, West Virginia, in November 1998. The forum was jointly convened by the Council and the River Management Society, and was facilitated by professors Ed Krumpe and Bill McLaughlin from the University of Idaho. Its purpose was to bring together state and federal river managers, conservation advocates, and representatives of user groups to develop a vision for the future role of the Wild and Scenic Rivers Act (Act) as a river conservation tool.

Participants Take Virtual Tour of the System

The forum began with a context-setting slide show by Tim Palmer — author, photographer, and lecturer — illustrating the diversity of the 158 rivers in the National Wild and Scenic Rivers System (National System). Tim shared insights from his many years of experience paddling, photographing and writing about America's finest rivers; he described our efforts over the past thirty years to protect and sustain these rivers.

Other forum sessions focused on accomplishments by agencies and organizations in studying, designating and managing wild and scenic rivers, and also identified barriers to success in using the Act as a river conservation tool. According to the participants, major accomplishments include a trend of increasing reliance on collaboration among all levels of government, as well as residents, river users, and advocates, in the protection of wild and scenic rivers. The group also acknowledged that federal agencies are becoming more proactive in studying and managing wild and scenic rivers, implementing the Act's mandates. The establishment and ongoing work of the Council was seen as particularly vital to this effort.

Barriers to the use of the Act as a river conservation tool were mainly attributed to lack of public and political support, lack of understanding, mistrust of federal agency involvement, and, in some cases, outright misinformation about the consequences of designation. A shortage of agency resources for river studies and management was also seen as a problem. The group felt that interagency interpretation and application of the Act was sometimes inconsistent, and that nongovernmental organizations (NGOs) could do a better job of formulating a national strategy to increase public awareness of, and support for, the National System.

The new wild and scenic river brochure is now available. For copies, please contact any Council member.

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Agenda for the Future -- the Action Plan

Based on these identified strengths and weaknesses, participants formulated an action plan, identifying the groups responsible for completing each action. Four major action categories emerged:

- Build Congressional support;
- Improve education about WSRs;
- Increase coordination among NGOs; and
- Improve river management.

Several of the priority actions — especially those associated with education and river management — were seen to be primarily the Council's responsibility to implement. Such actions include the preparation and distribution of educational products, often in collaboration with others. Actions to improve river management focused on better communication and coordination among managing and regulatory agencies; ensuring that agency guidelines, manuals, etc., are up-to-date and consistent with the Act; and guaranteeing that all designated rivers have a current management plan.

Forum Speaks to Council Future

The forum provided much-needed feedback to the Council on the condition of the National System, support for continued use of the Act to protect rivers, and the Council's possible role in achieving goals identified by the group. Based on the final list of action items developed at the forum, the Council still has much work to do in improving interagency consistency, improving public outreach and education, and ensuring river management needs are given the attention they merit within each agency.

Recent Designations

Sudbury, Assabet and Concord Rivers

The most recent addition to the National System is a 29-mile segment of the Sudbury, Assabet and Concord (SuAsCo) Rivers in eastern Massachusetts (P.L. 106-20). These rivers were designated on April 9, 1999, almost 224 years to the day after the first shot of the American Revolution was fired across the Concord River at the North Bridge. The SuAsCo Rivers are celebrated for their place in American history and for additional outstanding resources, including recreation, wildlife habitat, scenery and literary values. The Transcendentalist writers and philosophers Ralph Waldo Emerson and Henry David

Thoreau frequented the reaches now protected by the Act, and the rivers figure prominently in their writings. The ornithologist Ludlow Griscom pioneered modern field observation techniques in the area, keeping meticulous records of waterfowl and other birds he encountered within the rivers' extensive freshwater marshes. Today, much of the land along the 29-mile segment is protected through public ownership (including portions within the Great Meadows National Wildlife Refuge and Minute Man National Historical Park) and private conservation easements. Remaining areas are subject to strong land use restrictions, including statewide controls over most new structures within riparian zones.

The SuAsCo will be managed by the NPS in partnership with a local advisory group — the SuAsCo River Stewardship Council. The Stewardship Council's primary function is to implement the river management plan written during the wild and scenic river study. It also serves to coordinate the myriad local, state and federal programs that affect the rivers' flows, water quality, wildlife and recreational use. Residents of the eight riverfront towns spoke almost unanimously when they voted to request designation at the end of the wild and scenic study. Their legacy is knowing that local river conservation efforts have now been matched by a new layer of protection through national designation of these outstanding waterways.

Lumber River

Meandering lazily through the lowland hardwood swamps of North Carolina, the Lumber River has long been known and appreciated by locals for its solitude and recreational opportunities. Now it's been recognized nationally. On September 29, 1998, Secretary Babbitt added 81 miles of the river to the National System.

In addition to the "outstandingly remarkable value" of scenery reflected in the river's black water, the NPS found four other values to be nationally significant — the richly varied wildlife, including numerous endangered species; a prolific fishery supported by a high diversity of species and a long, unbroken habitat; endangered plant species living in a wide range of plant communities, supporting the wildlife and fisheries; and exceptional recreation spanning a gamut of opportunities from canoeing to fishing, from fossil hunting to simply enjoying the solitude.

One of the interesting aspects of this designation is the manner in which the NPS made its recommendations. While it found all 115 miles of the Lumber nominated by North Carolina eligible, it initially found that only 64 miles were adequately protected by the state to warrant designation as a state-managed river under Section 2(a)(ii).

However, the draft report and environmental assessment included eligibility findings and NEPA documentation for the entire 115 miles, with the recommendation that if the state or local governments provided additional protection in the future, those segments could be added with a minimum of analysis. It was hoped this would stimulate further protection of the river, a hope that was realized immediately when the city of Lumberton passed a special river protection zoning overlay that allowed an additional 17 miles to be recommended in the final study report.

Hanford Reach, Columbia River

While the future of the Hanford Reach as a wild and scenic river is still being debated in Congress, protection for this unique, starkly beautiful part of the Columbia River is somewhat more secure thanks to the announcement by President Clinton on November 5, 1999, that 57,000 acres on the north shore will be managed as a national wildlife refuge. Often called the North Slope or the Wahluke Slope (Wanapum for “walking uphill a long way”), this area, untouched as a result of being part of the Hanford Nuclear Reservation, was recommended as a refuge in June of 1994 by the NPS. At the same time, the NPS also recommended that the river be added to the National System.

The Hanford Reach was recommended for designation due to its Native American cultural resources, archeological sites, hydrologic and geologic resources, rare plant and animal species, fall chinook spawning habitat, and standing as one of the last intact remnants of shrub-steppe habitat.

Legislation Pending -- 106th Congress, End of First Session

- Columbia River, Hanford Reach (Washington), House of Representatives (H.R.) bill 1314 and Senate (S.) bill 715, to designate, referred to House Natural Resources Subcommittee on National Parks and Public Lands and Senate Energy and Natural Resources Subcommittee on Parks, Preservation and Recreation
- Lower Delaware (New Jersey and Pennsylvania), H.R. bill 2317 and S. bill 1296, to designate, passed Senate
- Lamprey (New Hampshire), H.R. 1615 and S. 972, to designate additional mileage
- Taunton (Massachusetts), H.R. 2778 and S. 1569, to authorize study, passed Senate
- White Clay Creek (Delaware and Pennsylvania), S. 1849 to designate
- Wilson Creek (North Carolina), H.R. 1749, to designate

Interagency River Managers Workshop

The second biennial Interagency River Managers Workshop was held at the BLM Training Center in Phoenix, Arizona, on May 10-13, 1999. The Forest Service sponsored the workshop with the help of the BLM, NPS, USFWS, and River Management Society. Approximately 130 people attended the four-day workshop, representing federal and state agencies as well as private organizations.

These workshops help to improve management and protection of our nation’s waterways by sharing information and fostering collaboration between federal, state and other river managers. Topics and activities ranged from multi-media presentations, stories and song, to field trips, formal panel discussions, and lots of “hall-talk” networking. Most of the workshop sessions — including recreational carrying capacity, hydropower relicensing, and the role of reserved water rights in river protection — had application to wild and scenic river management. One of the workshop tracks emphasized wild and scenic river management; this track included discussions of the wild and scenic river study process, protections under the Act, interim protection for candidate rivers, and the results of recent litigation. Many of these topics will be discussed further, and several new Council products introduced, at the River Management Society symposium in April of 2000 in Charleston, South Carolina.

The workshop was also an opportunity for Council members to gather feedback on the *Reference Guide* and other Council products, and to determine the need for additional technical papers and training on wild and scenic river topics.

The next Interagency River Managers Workshop is planned for the spring of 2001, and will be hosted by the NPS, probably in Minnesota.

New Council Products

Based on input from river managers, the Council is developing a suite of technical papers related to river management:

- An outline of suggested contents in a comprehensive river management plan (CRMP).
- A description of key process steps in development of a CRMP.
- An interpretation of key provisions of the Act relative to management.

Recent Litigation

There are a number of recent cases which focus on various aspects of wild and scenic river planning and administration, including completing comprehensive river management plans, determining boundaries, establishing management structures for river administration, and interpretation of Sections 7 and 10(a). (Section 7 provides direction for evaluating water resources projects, and Section 10(a) directs protection and enhancement of river values.) The federal government has lost many of these cases, often for not providing adequate protection for wild and scenic river values. These recent cases have important implications for management of many rivers in the National Wild and Scenic Rivers System.

Of particular note are three recent cases:

Merced River, California

On July 12, 1999, the NPS was prevented from letting the final contract to reconstruct flood-damaged portions of the El Portal Road located within the Merced Wild and Scenic River corridor in Yosemite National Park. The U.S. Eastern District Court of California held that the NPS could not determine the effects of the construction on river-related values absent a comprehensive river management plan and ordered one to be prepared within one year.

Niobrara River, Nebraska

On June 15, 1999, the U.S. District Court for the District of Columbia handed down a decision that the federally designated river-administering agency cannot delegate its authority to another management entity. The general management plan used language suggesting a local council would be managing the river with NPS assistance. This case does not, however, preclude the federal river-management agency from entering into partnerships to assist the agency in fulfilling its river-administering responsibilities. The plan is being revised.

Oregon Rivers

Section 10(a) of the Act requires river-administering agencies to evaluate all existing uses to ensure compatibility with the Act in development of their comprehensive river management plans. In the Oregon BLM cases, the court ordered an evaluation of livestock grazing because of claims of damage to riparian resources.

For further information on these cases or the other cases referenced below, please contact a Council member.

Recent Litigation Affecting Wild and Scenic Rivers: River, State, Agency and Case Citation

- Merced River, California, (NPS), *Sierra Club and MERG (Mariposans for Environmentally Responsible Growth) v. Bruce Babbitt et al.*
- Niobrara River, Nebraska, (NPS), *National Park and Conservation Association et al. v. Robert Stanton et al.*
- Niobrara River, Nebraska, (NPS), *David L. Sokol v. Bruce Babbitt et al.*
- St. Croix National Scenic Riverway, Minnesota and Wisconsin, (NPS), *Sierra Club et al. v. USDI, NPS, FHWA, DOT*
- Donner und Blitzen River, Oregon, (BLM), *Oregon Natural Desert Association et al. v. BLM*
- John Day and South Fork John Day Rivers, Oregon, (BLM), *National Wildlife Federation et al. v. Bruce Babbitt et al.*
- Main Owyhee, West Little Owyhee, North Fork Owyhee Rivers, Oregon, (BLM), *Oregon Natural Desert Association et al. v. Bruce Babbitt et al.*
- Snake River, Idaho and Oregon, (USFS), *Hells Canyon Preservation Council et al. v. USDA Forest Service*
- Pecos and East Fork Jemez Rivers, New Mexico, (USFS), *Forest Guardians v. Dan Glickman et al.*
- Implications for all wild and scenic rivers, Section 7 of the Act and nationwide discharge permits under Section 404 of the Clean Water Act, Tulloch Decision, *American Mining Congress v. U.S. Corps of Engineers et al.*