

Improved River Management

Through Council trainings and consultations, there is increased understanding among agency staff about their responsibilities under the WSRA. The Council has provided technical assistance for several recent efforts to develop or update comprehensive river management plans. The Council has also started to document the past and present WSRA legal challenges, assessing their implications for river management, and sharing this information with river managers.

Council members have done a great deal of work to develop a Section 7 rule for the Department of the Interior. This rule is consistent with the Department of Agriculture's rule at 36 CFR 297 (promulgated in 1984), but provides more detail about procedures and reflects an additional 18 years of administrative experience. The DOI rule clarifies terms used in the WSRA and explains in plain English the procedures DOI river-managing agencies use in providing Section 7 determinations to those federal agencies that

construct, or assist others in constructing, water resources projects. The desired effects of the rule are to educate other federal agencies and the public about the requirements of this section of the law and to expedite decision-making by agencies. The final rule is being reviewed by the current administration.

Meanwhile, recognition that there was confusion among state and local agencies, tribal governments, the public, and federal permitting/assisting agencies about responsibility for implementing Section 7 on California's state-administered federally designated rivers led to the development of an interagency agreement that clarifies which federal agency has jurisdiction for making Section 7 determinations. This agreement affects Section 7 determinations on five northern California rivers—American, Eel, Klamath, Smith and Trinity and many of their tributary streams. Prior to this agreement, no federal agency was consistently evaluating water resources projects under Section 7(a). The agreement takes advantage of federal ownership, knowledge of local water resources or land-use issues, proximity of field staff for on-site review, and staff knowledge and expertise.

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From the Council

We congratulate Tony Andersen, Superintendent of the St. Croix National Scenic Riverway, on his recent retirement from the National Park Service. Tony served as the Council's first Chair and provided valuable support in improving interagency coordination in administration of the Wild and Scenic Rivers Act (WSRA). We are also pleased to welcome several new members: Cal Hite, National Park Service, New River Gorge National River; Phil Horning, U.S. Forest Service, Pacific Southwest Region; John Romanowski, U.S. Forest Service, Eastern Region; and Barry Whitehill, U.S. Fish and Wildlife Service, Yukon Flats National Wildlife Refuge.

Our *Reference Guide* now includes nine technical reports explaining various aspects of the WSRA. We are completing several others, as detailed in this newsletter. With the completion of these guidance documents, our focus is shifting to providing training and, in select cases, serving as technical consultants to agency river staff. The standing-room-only attendance at the Council's presentation of *Management of Designated Rivers* at last year's Interagency River Managers Workshop in Minneapolis, Minnesota, attests to the need. We invite you to participate in our upcoming sessions and also encourage river managers seeking training opportunities to contact any Council member. We will make every effort to find you a suitable forum to meet your training needs.

Merced Wild & Scenic River Litigation

In the continuing story of litigation (*Friends of Yosemite Valley et al. v. Norton*) over the Merced Wild and Scenic River, on March 22, 2002, a federal district court ruled largely in favor of the NPS and its Comprehensive River Management Plan (CRMP) for the river. This case is an outgrowth of an earlier suit, *Sierra Club et al. v. Babbitt et al.* In that case, the NPS lost a lawsuit primarily because it had not prepared a management plan for the river in a timely fashion. Background for the case can be found in the Council's recently published paper, *Wild and Scenic River Management Responsibilities* (March 2002).

The major issue in the second suit was whether the June 2000 CRMP, prepared in response to the first suit, provides adequate protection for river values. Specific complaints were that the CRMP:

- lacked baseline data;
- eliminated previously identified 'outstandingly remarkable values' (ORVs);
- fails to protect and enhance the river's free flow and ORVs;
- is driven by decisions made in the Yosemite Valley plan; and
- illegally reclassified a segment from "scenic" to "recreational."

The court ruled in favor of the NPS on all these points, but noted that the NPS failed to specify where and how the General Management Plan for Yosemite National Park had been amended by the CRMP. The NPS has 180 days to complete this process.

Of special interest to the Council, the Court cited two products of the Council as being authoritative sources for guidance to management. These are *The Wild and Scenic Study Process* for a definition of an "outstandingly remarkable value" and *A Compendium of Questions & Answers Relating to Wild & Scenic Rivers* for guidance on establishing river corridor boundaries.

For copies of the Council papers *Wild and Scenic River Management Responsibilities*, *The Wild and Scenic Study Process*, and *A Compendium of Questions & Answers Relating to Wild & Scenic Rivers*, please go to www.nps.gov/rivers/.

Recent Designations

The 106th Congress proved productive for the National Wild and Scenic Rivers System (National System), designating five new rivers and adding to three previous designations. There was also a new study authorization.

New Designations

- Sudbury, Assabet and Concord (SuAsCo) Rivers, Massachusetts, April 9, 1999 (29.0 miles)
- Wilson Creek, North Carolina, August 18, 2000 (23.3 miles)
- Wekiva River, Florida, October 13, 2000 (41.6 miles)
- White Clay Creek, Pennsylvania and Delaware, October 24, 2000 (190.0 miles) – This includes virtually the entire watershed, the first watershed in the National System.
- Wildhorse and Kiger Creeks, Oregon, October 30, 2000 (13.9 miles)

Additions

- Lamprey River, New Hampshire, May 2, 2000 (12.0 miles)
- Three tributaries to the Donner und Blitzen River, Oregon, October 30, 2000 (14.8 miles)
- (Lower) Delaware River, Pennsylvania and New Jersey, November 1, 2000 (67.3 miles) – This brings the total mileage for the longest undammed river in the East to approximately 176 miles.

Study Rivers

- Taunton River, Massachusetts
- Eight Mile River, Connecticut (107th Congress)

The USFS administers Wilson Creek; the BLM manages the Donner und Blitzen River and Wildhorse and Kiger Creeks. The NPS has federal responsibilities for the others.

Ordinarily, NPS responsibility for wild and scenic river management makes the river a part of the National Park System pursuant to Section 10(c). However, the legislation for the lower Delaware, SuAsCo, Wekiva,

and White Clay specifies that these rivers shall not become part of the National Park System and thereby not subject to the rules and regulations applicable to that system. Responsibility for on-the-ground protection for these rivers rests with local and state governments, as outlined in management plans developed by local governments with NPS assistance during the studies and adopted by these local governments. (A plan was not developed for the Wekiva during the study; however, the NPS will be assisting local and state governments in developing one post-designation. The lead planner has just been hired.) In addition to carrying out the Secretary of the Interior's Section 7 responsibilities under the WSRA, the NPS provides ongoing service to the local and state governments in such areas as technical assistance, research, education and outreach, and plan implementation.

The NPS study of the lower Delaware determined that some segments were eligible but not suitable as the adjacent communities did not support designation. In a provision of the WSRA unique to the lower Delaware, Congress has given the Secretary of the Interior authority to designate additional segments if the adjacent communities show support in the future and agree to abide by the river management plan.

Congress also authorized a study of the Taunton River in Massachusetts. The NPS has initiated this study and expects to find the river eligible. A web site for this study is in preparation. The Taunton is a "private-land" river, and the study approach will be that used in other such studies conducted by the NPS since 1985.

So far in the 107th Congress, the Eight Mile River in Connecticut has been authorized for study by the NPS. This study will follow the format used for the Tauton. Also a bill to designate three rivers (Rio de la Mina, Rio Icacos, Rio Mameyes) on the Caribbean National Forest in Puerto Rico has passed the House on May 7 and was referred to the Senate on May 8. These rivers were recommended as a result of the forest planning process. To learn more about the Caribbean National Forest rivers, please use the map on the web site at www.southernregion.fs.fed.us/caribbean/.

30th Anniversary Agenda for the Future – Progress Report

In November 1998, the Council celebrated the 30th anniversary of the WSRA by hosting a symposium on the history and future of the National System. Symposium participants developed a proposed agenda for the future of the National System that included recommendations for improved education, coordination, and management between river-administering agencies, state and local governments, and river advocacy groups. There were four major elements in the agenda:

- Build congressional support for the National System.
- Improve education about wild and scenic rivers.
- Increase coordination among nongovernmental organizations.
- Improve wild and scenic river management.

Of these, improving education and river management are primarily the responsibility of the Council to implement. Over the past three years, we have worked to fulfill these responsibilities in the following ways:

Improved Education on the National System

Starting in 1999, the Council has become increasingly involved in helping train agency staff involved in the day-to-day management of wild and scenic rivers. While the Council is only 13 members strong, and while its members have other full-time responsibilities, we have nonetheless found ways to sponsor trainings in conjunction with other conferences and meetings. So far, members of the Council have conducted Wild and Scenic River Workshops of a day or longer at the following venues:

- May 1999, Interagency River Management Workshop in Phoenix, Arizona.
- October 1999, Council Meeting in Fresno, California.
- March 2000, NPS and USFS Training at Grand Canyon and Phoenix, Arizona.
- May 2000, River Management Society Symposium in Charleston, South Carolina.
- October 2000, BLM and USFS Training in Lakewood, Colorado.

- May 2001, Interagency River Management Workshop in Minneapolis, Minnesota.
- November 2001, BLM and USFS Training in Portland, Oregon.
- February 2002, BLM, NPS and USFS Training in Folsom, California.
- March 2002, NPS and USFS Training at Grand Canyon and Camp Verde, Arizona.
- March 2002, North Carolina State Employees Training in West Jefferson, North Carolina.
- May 2002, River Management Society Symposium in Boise, Idaho.

Popular training topics include implementing Section 7 of the WSRA, which relates to preventing the harmful effects of federal water resource projects on wild and scenic river values, and preparing or updating comprehensive river management plans.

Other Council efforts to improve awareness and understanding of the WSRA include the addition of several technical papers to the *Reference Guide*. We supplemented the *Reference Guide* in March 2002 with a technical paper describing management direction rivers as found in the WSRA and as elaborated upon by the courts. We also expect completion of several other technical papers in 2002, including a paper that discusses water quantity and quality requirements for wild and scenic rivers.

All technical papers and other *Reference Guide* materials are available as downloads from our web site (www.nps.gov/rivers/). The site has undergone a revision and will be the principal means for the Council to communicate with the river community. Check the web site for new technical papers.

The Council cooperated with the USGS to produce an updated (complete to January 2000) map of the National System. This was the 4th comprehensive map produced through interagency cooperation. Copies of the map (and the recently developed wild and scenic river brochure) are available through various agency offices or by contacting a Council member (see members on the last page).

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