The Wild & Scenic River Study Process

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FOREWORD

Most rivers are added to the National Wild and Scenic Rivers System (National System) through federal legislation, after a study of the river's eligibility and suitability for designation by one or more of the four federal agencies[1] responsible for wild and scenic rivers (WSRs).[2] Congress authorizes a study by adding the river to Section 5(a) of the Wild and Scenic Rivers Act (Act). Agencies are also required to consider and evaluate rivers on lands they manage for potential designation while preparing their broader land and resource management plans under Section 5(d)(1) of the Act.

The steps in the evaluation process are the same regardless of how a river is identified for study; however, there are important differences in statutory protection and in study intensity. This paper compares and contrasts the WSR study process for congressionally authorized and agency-identified study rivers as a basis for increasing consistency in agency application and public understanding.

INTRODUCTION

Congress identified 27 rivers for study with the enabling legislation in 1968; by December of 1999, 136 rivers had been identified for study by either the Secretary of the Interior or the Secretary of Agriculture through Section 5(a). Of this total, 43 have been added to the National System. In recent years, thousands of rivers have been identified for study through a provision of the Act which was little noticed originally. Section 5(d)(1) directs federal agencies to consider the potential of WSRs in their planning processes, and its application has resulted in numerous individual river designations and statewide legislation (e.g., Omnibus Oregon Wild and Scenic Rivers Act, P.L. 100-557; Michigan Scenic Rivers Act, P.L. 102-249).

Section 5(d)(1) has also resulted in preparation of the Nationwide Rivers Inventory (NRI) by the Secretary of the Interior. The NRI lists rivers and river segments that appear to meet minimum

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[1] Bureau of Land Management, National Park Service, U. S. Fish and Wildlife Service, and U.S. Forest Service.

[2] Rivers may also be added to the National System through "instant" designations, whereby Congress amends the Act to designate the river without a prior study, or, under the provisions of Section 2(a)(ii) of the Act, rivers may be added through an administrative action by the Secretary of the Interior based on a state governor's request. The latter process is described in detail elsewhere in this *Reference Guide.*

Act eligibility requirements based on their free-flowing status and resource values, and which are therefore afforded some protection from the adverse impacts of federal projects until such time as they can be studied in detail.[3]

Both 5(a) and 5(d)(1) studies require determinations to be made regarding the candidate river's eligibility, classification and suitability. Eligibility and classification represent an inventory of existing conditions. Eligibility is an evaluation of whether a candidate river is free-flowing and possesses one or more outstandingly remarkable values (ORVs). If found eligible, a candidate river is analyzed as to its current level of development (water resources projects, shoreline development, and accessibility) and a recommendation is made that it be placed into one or more of three classes—wild, scenic or recreational.

The final procedural step, suitability, provides the basis for determining whether or not to recommend a river as part of the National System. A suitability analysis is designed to answer the following questions:

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

2) Will the river's free-flowing character, water quality, and ORVs be protected through designation? Is it the best method for protecting the river corridor? In answering these questions, the benefits and impacts of WSR designation must be evaluated and alternative protection methods considered.

3) Is there a demonstrated commitment to protect the river by any nonfederal entities who may be partially responsible for implementing protective management?

Shared procedural steps and contrasts in statutory protection and study intensity are considered in detail in the following sections.

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[3] Maintained by the National Park Service, the NRI was compiled in part to fulfill Section 5(d)(1)'s mandate that federal agencies consider impacts on potential WSRs in all agency "planning for the use and development of water and related land resources." This inventory, originally completed in 1982 and updated in 1993, seeks to identify such rivers based on the Act's basic eligibility criteria. Under a Presidential Directive issued in 1979, each federal agency, as part of its normal planning and environmental review processes, is required to take care to avoid or mitigate adverse effects to rivers in the NRI.

STATUTORY BACKGROUND

The following sections of the Act describe aspects of the study process identified in Sections 5(a) and 5(d)(1) and the protective management provided by statute for congressionally authorized study rivers:

Direction to Evaluate Rivers

Section 5(a): Lists rivers authorized for study as potential additions to the National System.

Section 5(d)(1): *In all planning for the use and development of water and related land resources, consideration shall be given by all federal agencies involved to potential national wild, scenic and recreational river areas, and all river basin and project plan reports submitted to the Congress shall consider and discuss any such potential. The Secretary of the Interior and the Secretary of Agriculture shall make specific studies and investigations to determine which additional wild, scenic and recreational river areas within the United States shall be evaluated in planning reports by all federal agencies as potential alternative uses of the water and related land resources involved.*

Policy to Protect Certain Rivers (Eligibility)

Section 1(b) in part: *It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations.*

Classification

Section 2(b) in part: *Every wild, scenic or recreational river in its free-flowing condition, or upon restoration to this condition, shall be considered eligible for inclusion in the National Wild and Scenic Rivers System and, if included, shall be classified, designated, and administered as one of the following:*

1) Wild river areas -- Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with

watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America.

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

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

Suitability and Recommendation

Congress identified the factors to be considered and documented as a basis for determining the suitability of a river for the National System in Sections 4(a), 5(c) and 6(c).

Section 4(a) in part: *The Secretary of the Interior or, where national forest lands are involved, the Secretary of Agriculture or, in appropriate cases, the two Secretaries jointly shall study and submit to the President reports on the suitability or nonsuitability for addition to the national wild and scenic rivers system of rivers which are designated herein or hereafter by the Congress as potential additions to such system. . . . In conducting these studies the Secretary of the Interior and the Secretary of Agriculture shall give priority to those rivers:*

(I) with respect to which there is the greatest likelihood of developments which, if undertaken, would render the rivers unsuitable for inclusion in the national wild and scenic rivers system, and

(ii) which possess the greatest proportion of private lands within their areas. . . . Each report, including maps and illustrations, shall show among other things the area included within the report; the characteristics which do or do not make the area a worthy addition to the system; the current status of landownership and use in the area; the reasonably foreseeable potential uses of the land and water which would be enhanced, foreclosed, or curtailed if the area were included in the national wild and scenic rivers system; the federal agency (which in the case of a river which is wholly or substantially within a national forest, shall be the Department of Agriculture) by which it is proposed the area, should it be added to the system, be administered; the extent to which it is proposed that such administration, including the costs thereof, be shared by state and local agencies; and the estimated cost to the United States of acquiring necessary lands and interests in land

and of administering the area, should it be added to the system. Each such report shall be printed as a Senate or House document.

Section 4(b): *Before submitting any such report to the President and the Congress, copies of the proposed report shall, unless it was prepared jointly by the Secretary of the Interior and the Secretary of Agriculture, be submitted by the Secretary of the Interior to the Secretary of Agriculture or by the Secretary of Agriculture to the Secretary of the Interior, as the case may be, and to the Secretary of the Army, the Secretary of Energy, the head of any other affected Federal department or agency and, unless the lands proposed to be included in the area are already owned by the United States or have already been authorized for acquisition by Act of Congress, the Governor of the State or States in which they are located or an officer designated by the Governor to receive the same. Any recommendations or comments on the proposal which the said officials furnish the Secretary or Secretaries who prepared the report within ninety days of the date on which the report is submitted to them, together with the Secretary's or Secretaries' comments thereon, shall be included with the transmittal to the President and the Congress.*

Section 5(c): *The study of any of said rivers shall be pursued in as close cooperation with appropriate agencies of the affected state and its political subdivisions as possible, shall be carried on jointly with such agencies if request for such joint study is made by the state, and shall 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 national wild and scenic rivers system.*

Section 6(c) in part: *Neither the Secretary of the Interior nor the Secretary of Agriculture may acquire lands by condemnation, for the purpose of including such lands in any national wild, scenic or recreational river area, if such lands are located within any incorporated city, village or borough which has in force and applicable to such lands a duly adopted, valid zoning ordinance that conforms with the purposes of this Act. . . .*

Protective Management for Congressionally Authorized Study Rivers (5(a))

Sections 7(b) and ©): *(b) The Federal Power Commission [FERC] shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act, as amended, on or directly affecting any river which is listed in section 5, subsection (a), of this Act, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have*

a direct and adverse effect on the values for which such river might be designated, as determined by the Secretary responsible for its study or approval --

(I) during the ten-year period following enactment of this Act [October 2, 1968] or for a three complete fiscal year period following any Act of Congress designating any river for potential addition to the national wild and scenic rivers system, whichever is later, unless, prior to the expiration of the relevant period, the Secretary of the Interior and where national forest lands are involved, the Secretary of Agriculture, on the basis of study, determine that such river should not be included in the national wild and scenic rivers system and notify the Committees on Interior and Insular Affairs of the United States Congress, in writing, including a copy of the study upon which the determination was made, at least one hundred and eighty days while Congress is in session prior to publishing notice to that effect in the Federal Register: Provided, That if any Act designating any river or rivers for potential addition to the national wild and scenic rivers system provides a period for the study or studies which exceeds such three complete fiscal year period the period provided for in such Act shall be substituted for the three complete fiscal year period in the provisions of this clause (I); and

(ii) during such interim period from the date a report is due and the time a report is actually submitted to the Congress; and

(iii) during such additional period thereafter as, in the case of any river the report for which is submitted to the President and the Congress for inclusion in the national wild and scenic rivers system, is necessary for congressional consideration thereof or, in the case of any river recommended to the Secretary of the Interior for inclusion in the national wild and scenic rivers system and under section 2(a)(ii) of this Act, is necessary for the secretary's consideration thereof, which additional period, however, shall not exceed three years in the first case and one year in the second.

Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a potential wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or diminish the scenic, recreational, and fish and wildlife values present in the potential wild, scenic or recreational river area on the date of designation of a river for study as provided in section 5 of this Act. No department of agency of the United States shall, during the periods hereinbefore specified, recommend authorization of any water resources project on any such river or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior and, where national forest lands are involved, the Secretary of

Agriculture in writing of its intention so to do at least sixty days in advance of doing so without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this Act and would affect the component and the values to be protected by it under this Act.

©) The Federal Power Commission [FERC] and all other federal agencies shall, promptly upon enactment of this Act, inform the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, of any proceedings, studies, or other activities within their jurisdiction which are now in progress and which affect or may affect any of the rivers specified in section 5, subsection (a), of this Act. They shall likewise inform him of any such proceedings, studies, or other activities which are hereafter commenced or resumed before they are commenced or resumed.

Section 8(b): *All public lands which constitute the bed or bank, or are within one-quarter mile of the bank, of any river which is listed in section 5, subsection (a), of this Act are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States for the periods specified in section 7, subsection (b), of this Act. Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, subject only to valid existing rights, including valid Native selection rights under the Alaska Native Claims Settlement Act, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (77) through (88) of section 5(a) are hereby withdrawn from entry, sale, State selection or other disposition under the public land laws of the U.S. for the periods specified in section 7(b) of this Act.*

Section 9(b): *The minerals in any federal lands which constitute the bed or bank or are situated within one-quarter mile of the bank of any river which is listed in section 5, subsection (a) of this Act are hereby withdrawn from all forms of appropriation under the mining laws during the periods specified in section 7, subsection (b) of this Act. Nothing contained in this subsection shall be construed to forbid prospecting or the issuance of leases, licenses, and permits under the mineral leasing laws subject to such conditions as the Secretary of the Interior and, in the case of national forest lands, the Secretary of Agriculture find appropriate to safeguard the area in the event it is subsequently included in the system. Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (77) through (88) of section 5 (a), are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto, during the periods specified in section 7(b) of this Act.*

Section 12(a): *The Secretary of the Interior, the Secretary of Agriculture, and the head of any other Federal department or agency having jurisdiction over any lands which include, border upon, or are adjacent to, any river included within the National Wild and Scenic Rivers System or under consideration for such inclusion, in accordance with section 2(a)(ii), 3(a) or 5(a), shall take such action respecting management policies, regulations, contracts, plans, affecting such lands, following November 10, 1978, as may be necessary to protect such rivers in accordance with the purposes of this Act. Such Secretary or other department or agency head shall, where appropriate, enter into written cooperative agreements with the appropriate state or local official for the planning, administration, and management of federal lands which are within any rivers for which approval has been granted under section 2(a)(ii). Particular attention shall be given to scheduled timber harvesting, road construction, and similar activities which might be contrary to the purposes of this Act.*

STUDY INITIATION

Section 5(a) Congressionally Authorized Studies

Studies authorized under Section 5(a) of the Act are usually initiated at the request of local residents, river conservation organizations, and user groups. They may also result from an individual congressional delegate's personal interest in a particular river, or may be requested by the Administration based on an agency's priorities or identification of worthy segments. Usually, interest in protecting a river through national designation stems from concerns about the adverse impacts of a proposed federally permitted or authorized water resources project, e.g., a proposed new dam or hydroelectric facility. A WSR study may also be perceived as a way to focus attention on a river's conservation needs, to increase intergovernmental coordination and cooperation, or to provide federal funds and staff assistance in the development of a river conservation plan. Rivers proposed for study under Section 5(a) of the Act are usually, but not always, listed in the NRI.

An act of Congress is needed to list a river for study in Section 5(a).[4] Thus, it can take several years from introduction of the study legislation for a proposed study to be authorized, assuming the proposal succeeds. By helping to identify major interest groups, this lead time often serves

[4] WSR study legislation typically includes text amending Section 5(a) of the Act with the study segment information. Time periods are often specified through amendments to Section 5(b), while stand-alone sections of the study legislation provide detailed direction on the conduct of the study. The entire text of the study legislation is codified by a public law number as a free-standing statute.

to enhance broad participation in the actual study process. For rivers that flow through non-federal lands, the dialogue among stakeholders that occurs while study legislation is being prepared can also help indicate the extent of local support for river protection. This is an important factor in the ultimate outcome of the study: Without broad-based support for the exercise of local land use powers and voluntary conservation initiatives, study rivers that flow through nonfederal areas are seldom found suitable for designation.

In addition to identifying the department and agency responsible for the study, Congress also frequently provides specific direction concerning its scope and the involvement of stakeholders in the Section 5(a) legislation. For example, for the eleven rivers authorized for study in Michigan (P.L. 102-249, 1992), the Secretary of Agriculture was required to consult with each River Study Committee established in the Michigan Scenic Rivers Act and to "encourage public participation and involvement through hearings, workshops, and other such means as are necessary to be effective." Congress may also create a federal advisory committee (FAC) to assist the study agency in gathering resource information about the river, assessing its conservation needs, and developing recommendations concerning the river's suitability for designation. In addition, Congress may instruct the study agency to consider specific management alternatives in its assessment of a river's suitability for designation.

Section 5(d)(1) Agency-Identified Studies

WSR study under Section 5(d)(1) results in identification and evaluation of potential additions to the National System through agency planning processes. Typically, such study is conducted in agency land use plans (i.e., Bureau of Land Management (BLM) resource management plans, National Park Service (NPS) general management plans, U.S. Forest Service (USFS) land and resource management plans, and U.S. Fish and Wildlife Service (USFWS) refuge plans). Through land use plans, rivers and streams in the affected planning area are evaluated as to their eligibility and given a preliminary classification if found eligible. A determination is made as to their suitability in the agency's decision document for the plan. This multiple-river approach utilizes the National Environmental Policy Act (NEPA) process for the broader-level plan, i.e., a separate river-by-river study is not conducted. Such a comprehensive treatment of river and resource management strategies provides a broad perspective for public review and input.

Under certain conditions, agency policy allows for the suitability assessment of rivers found eligible in a land use plan to be deferred. This approach requires a separate NEPA analysis at a later date, focused on the suitability determination. A suitability study conducted independently of the land use planning process typically requires increased staff time to create and evaluate "stand-alone" river management alternatives, and limits the context of river and resource decisions presented to the public.

For agencies where WSR evaluation was not completed in the land use plan, or through separate analysis, individual river(s) must be evaluated in site-specific (project-level) planning if the project might jeopardize the river's eligibility for WSR designation. The river is assessed as a part of the NEPA analysis for the site-specific project, or through a separate study conducted as a precursor to analysis of the proposed activity.

STUDY PROCESS

5(a) Congressionally Authorized Studies

Studies under Section 5(a) usually take several years to complete. In part, this is due to the intensive public involvement associated with such studies when they involve rivers that flow through nonfederal lands. The presence of large acreages of nonfederal lands within the river study area requires the study team to engage in an in-depth analysis of complex existing and potential protective mechanisms under multiple local and state authorities.

The first step of the study process is to convene an interdisciplinary study team (IDT). Comprised of federal agency or contract personnel, this team is responsible for findings regarding the study river's eligibility and suitability for designation. Additional information on the river's resource values, along with guidance on alternative river conservation and management approaches, is provided through public/stakeholder involvement. Input from local, tribal, county and state governments, along with landowners, user groups, and other major stakeholders, is sought through a variety of means. In some cases, Congress creates a FAC to work with the agency on the study. In other situations, pre-existing advisory groups created under a state or local river program, along with interested individuals who chose to participate, can help ensure that public involvement in the study is optimized. Frequently, individuals who have particular interest and expertise in certain aspects of the study process (e.g., public education, public involvement, or technical flow and water quality issues) provide critical assistance with these specific study tasks. Their involvement—often on a voluntary basis—makes a substantial contribution to the overall study, freeing federal agency staff to serve as overall coordinators of the study effort. In any case, the study team should create a public involvement strategy that ensures the broadest possible participation in the study.

Once the study team is assembled, an inventory and assessment of the segment's resources is conducted, leading to a determination of the river's eligibility. This determination is also based on an assessment of the river's free-flowing character. Although rivers authorized for study under Section 5(a) have usually already been determined to be free-flowing, additional analysis

may be needed for segments that have undergone some alteration in the past (e.g., through low-head dams, weirs, minor diversion works, or bank stabilization projects).

In cases where a dedicated Section 5(a) study budget exists, the study process may be of longer duration and greater intensity than for a Section 5(d)(1) study. Sometimes the study budget is even sufficient to pay for technical products, such as instream flow analyses, habitat evaluations, and recreational use surveys. These "studies within the study" help establish benchmarks for the protection of ORVs, and this information will generally result in enhanced river protection even if WSR designation is not achieved.

Other Section 5(a) study products may include "vulnerability" analyses, identifying nonfederal areas within the study area that could be susceptible to inappropriate land use changes. River management plans, which are not technically required until after a river is designated, may be prepared during 5(a) studies. This is especially beneficial if large areas of nonfederal lands are involved. By mapping out a river's post-designation management framework in advance, this approach allows local residents to make informed decisions about whether to support WSR designation. Such support is particularly important along rivers that will be managed in partnership with local governments and private landowners. To evaluate local support, a municipal vote on designation is often the final step in the study process.

5(d)(1) Agency-Identified Studies

Potential WSRs are identified by agency personnel and the public in land use plans and, much less frequently, at the site-specific planning level. When the study process is conducted in a land use plan, the time frame for completion is two to five years. In the situation where the suitability of rivers found eligible in a land use plan is deferred to a separate study, the time frame for completion is two to three years. The time frame for completion of a river study conducted in a site-specific plan is also typically two to three years.

Although completing WSR studies in agency land use planning does not require a separate budget, the river study component is a significant cost in most plans. A study requires convening an IDT comprised of appropriate subject matter specialists. The IDT is responsible for technical studies, incorporating WSRs into land use planning alternatives, and determining environmental consequences.

Deferring the suitability study to a separate planning effort increases the cost by requiring a river-specific analysis to be conducted under the NEPA. Conducting the river study in a site-specific plan incurs the additional costs of including required WSR findings and analysis along with the NEPA analysis for the specific project proposal.

Land use plans prepared by agencies are revised on either a 10- to 15-year cycle or on an issue basis. WSR eligibility findings and/or suitability determinations should be reviewed during the revision process; however, absent changed resource conditions and/or trends, or changed levels of local support, the results of a WSR study are typically incorporated into the plan revision.

REQUIRED FINDINGS

The following findings are required for all river studies conducted under Section 5 of the Act.

Eligibility

To be eligible for designation, a river must be free-flowing and possess one or more ORVs. Thus, the eligibility analysis consists of an examination of the river's hydrology, including any man-made alterations, and an inventory of its natural, cultural and recreational resources. There are a variety of methods to determine whether certain resources are so unique, rare or exemplary as to make them outstandingly remarkable. The determination that a river area contains ORVs is a professional judgment on the part of the IDT, based on objective, scientific analysis. Input from organizations and individuals familiar with specific river resources should be sought and documented as part of the process.

In order to be assessed as outstandingly remarkable, a river-related value must be a unique, rare or exemplary feature that is significant at a comparative regional or national scale. Dictionary definitions of the words "unique" and "rare" indicate that such a value would be one that is a conspicuous example from among a number of similar values that are themselves uncommon or extraordinary. One possible procedure would be to list all of the river's special values and then assess whether they are unique, rare or exemplary within the state, physiographic province, ecoregion, or the other area of comparison. Only one such value is needed for eligibility.

The area, region or scale of comparison is not fixed, and should be defined as that which serves as a basis for meaningful comparative analysis; it may vary depending on the value being considered. Typically, a "region" is defined on the scale of an administrative unit, a portion of a state, or an appropriately scaled physiographic or hydrologic unit.[5]

[5] For more guidance on the selection of appropriate regions in the assessment of a value's significance, see "A Systematic Approach to Determining the Eligibility of Wild and Scenic River Candidates," Land and Water Associates, 1989.

While the spectrum of resources that may be considered is broad, all values should be directly river-related. That is, they should:

1) Be located in the river or on its immediate shorelands (generally within 1/4 mile on either side of the river);

2) Contribute substantially to the functioning of the river ecosystem; and/or

3) Owe their location or existence to the presence of the river.

The following eligibility criteria are offered to foster greater consistency within the federal river-administering agencies. They are intended to set minimum thresholds to establish ORVs and are illustrative but not all-inclusive. If utilized in an agency's planning process, these criteria may be modified to make them more meaningful in the area of comparison, and additional criteria may be included.

1) **Scenery:** The landscape elements of landform, vegetation, water, color and related factors result in notable or exemplary visual features and/or attractions. When analyzing scenic values, additional factors—such as seasonal variations in vegetation, scale of cultural modifications, and the length of time negative intrusions are viewed—may be considered. Scenery and visual attractions may be highly diverse over the majority of the river or river segment.

2) **Recreation:** Recreational opportunities are, or have the potential to be, popular enough to attract visitors from throughout or beyond the region of comparison or are unique or rare within the region. Visitors are willing to travel long distances to use the river resources for recreational purposes. River-related opportunities could include, but are not limited to, sightseeing, wildlife observation, camping, photography, hiking, fishing, hunting and boating.

    - Interpretive opportunities may be exceptional and attract, or have the potential to attract, visitors from outside the region of comparison.

    - The river may provide, or have the potential to provide, settings for national or regional usage or competitive events.

3) **Geology:** The river, or the area within the river corridor, contains one or more example of a geologic feature, process or phenomenon that is unique or rare within the region of comparison. The feature(s) may be in an unusually active stage of development, represent a "textbook" example, and/or represent a unique or rare combination of geologic features (erosional, volcanic, glacial or other geologic structures).

4) **Fish:** Fish values may be judged on the relative merits of either fish populations, habitat, or a combination of these river-related conditions.

   - *Populations:* The river is nationally or regionally an important producer of resident and/or anadromous fish species. Of particular significance is the presence of wild stocks and/or federal or state listed (or candidate) threatened, endangered or sensitive species. Diversity of species is an important consideration and could, in itself, lead to a determination of "outstandingly remarkable."

   - *Habitat:* The river provides exceptionally high quality habitat for fish species indigenous to the region of comparison. Of particular significance is habitat for wild stocks and/or federal or state listed (or candidate) threatened, endangered or sensitive species. Diversity of habitats is an important consideration and could, in itself, lead to a determination of "outstandingly remarkable."

5) **Wildlife:** Wildlife values may be judged on the relative merits of either terrestrial or aquatic wildlife populations or habitat or a combination of these conditions.

   - *Populations:* The river, or area within the river corridor, contains nationally or regionally important populations of indigenous wildlife species. Of particular significance are species considered to be unique, and/or populations of federal or state listed (or candidate) threatened, endangered or sensitive species. Diversity of species is an important consideration and could, in itself, lead to a determination of "outstandingly remarkable."

   - *Habitat:* The river, or area within the river corridor, provides exceptionally high quality habitat for wildlife of national or regional significance, and/or may provide unique habitat or a critical link in habitat conditions for federal or state listed (or candidate) threatened, endangered or sensitive species. Contiguous habitat conditions are such that the biological needs of the species are met. Diversity of habitats is an important consideration and could, in itself, lead to a determination of "outstandingly remarkable."

6. **Prehistory:** The river, or area within the river corridor, contains a site(s) where there is evidence of occupation or use by Native Americans. Sites must have unique or rare characteristics or exceptional human interest value(s). Sites may have national or regional importance for interpreting prehistory; may be rare and represent an area where a culture or cultural period was first identified and described; may have been used concurrently by two or more cultural groups; and/or may have been used by cultural groups for rare sacred purposes. Many such sites are listed on the National Register of Historic Places, which is administered by the NPS.

7. **History:** The river or area within the river corridor contains a site(s) or feature(s) associated with a significant event, an important person, or a cultural activity of the past that was rare or one-of-a-kind in the region. Many such sites are listed on the National Register of Historic Places. A historic site(s) and/or features(s) is 50 years old or older in most cases.

8. **Other Values:** While no specific national evaluation guidelines have been developed for the "other similar values" category, assessments of additional river-related values consistent with the foregoing guidance may be developed -- including, but not limited to, hydrology, paleontology and botany resources.

Classification

The Act and Interagency Guidelines[6] provide the following direction for establishing preliminary classifications for eligible rivers:

> ***Wild rivers:*** *Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America.*
>
> ***Scenic rivers:*** *Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.*
>
> ***Recreational rivers:*** *Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.*

Study rivers are given a preliminary classification according to the table on the next page. Where levels of human activity vary within the study area, the study reach may be segmented into more than one class. Congress sometimes classifies the river at the time of designation based upon the study agency's report, but in cases where Congress does not do this, the responsible federal agency establishes the designated river's classification(s) when promulgating its boundaries.

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[6] "Department of the Interior and Agriculture Interagency Guidelines for Eligibility, Classification and Management of River Areas," published in the *Federal Register* (Vol. 47, No. 173; September 7, 1982, pp. 39454-39461), provides direction to agencies in the study and administration of WSRs.

Classification Criteria for Wild, Scenic and Recreational River Areas

ATTRIBUTE	WILD	SCENIC	RECREATIONAL
Water Resources Development	Free of impoundment.	Free of impoundment.	Some existing impoundment or diversion. The existence of low dams, diversions, or other modifications of the waterway is acceptable, provided the waterway remains generally natural and riverine in appearance.
Shoreline Development	Essentially primitive. Little or no evidence of human activity. The presence of a few inconspicuous structures, particularly those of historic or cultural value, is acceptable. A limited amount of domestic livestock grazing or hay production is acceptable. Little or no evidence of past timber harvest. No ongoing timber harvest.	Largely primitive and undeveloped. No substantial evidence of human activity. The presence of small communities or dispersed dwellings or farm structures is acceptable. The presence of grazing, hay production, or row crops is acceptable. Evidence of past or ongoing timber harvest is acceptable, provided the forest appears natural from the riverbank.	Some development. Substantial evidence of human activity. The presence of extensive residential development and a few commercial structures is acceptable. Lands may have been developed for the full range of agricultural and forestry uses. May show evidence of past and ongoing timber harvest.
Accessibility	Generally inaccessible except by trail. No roads, railroads or other provision for vehicular travel within the river area. A few existing roads leading to the boundary of the river area is acceptable.	Accessible in places by road. Roads may occasionally reach or bridge the river. The existence of short stretches of conspicuous or longer stretches of inconspicuous roads or railroads is acceptable.	Readily accessible by road or railroad. The existence of parallel roads or railroads on one or both banks as well as bridge crossings and other river access points is acceptable.
Water Quality	Meets or exceeds federal criteria or federally approved state standards for aesthetics, for propagation of fish and wildlife normally adapted to the habitat of the river, and for primary contact recreation (swimming), except where exceeded by natural conditions.	No criteria prescribed by the Act. The Federal Water Pollution Control Act Amendments of 1972 have made it a national goal that all waters of the United States be made fishable and swimmable. Therefore, rivers will not be precluded from scenic or recreational classification because of poor water quality at the time of their study, provided a water quality improvement plan exists or is being developed in compliance with applicable federal and state laws.	

Suitability

The final step in the river assessment process is the determination of suitability. This step provides the basis for determining which rivers should be recommended for addition to the National System.

Suitability is designed to answer these questions:

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

2) Will the river's free-flowing character, water quality, and ORVs be protected through designation? Is it the best method for protecting the river corridor? In answering these questions, the benefits and impacts of WSR designation must be evaluated, and alternative protection methods considered.

3) Is there a demonstrated commitment to protect the river by any nonfederal entities who may be partially responsible for implementing protective management?

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

1) Characteristics which do or do not make the area a worthy addition to the National System. These characteristics are described in the Act (see factors 2 through 7) and may include additional suitability factors (8 through 13).

2) The current status of land ownership and use in the area.

3) The reasonably foreseeable potential uses of the land and water that would be enhanced, foreclosed or curtailed if the area were included in the National System.

4) The federal agency that will administer the area should it be added to the National System.

5) The extent to which the agency proposes that administration of the river, including the costs thereof, be shared by state and local agencies.

6) The estimated cost to the United States of acquiring necessary lands and interests in lands and of administering the area should it be added to the National System.

7) A determination of the degree to which the state or its political subdivisions might participate in the preservation and administration of the river should it be proposed for inclusion in the National System.

Additional suitability factors may also be considered by the IDT. The following list is not all inclusive; other factors may be developed for a particular river study. Possible considerations include:

8) An evaluation of the adequacy of local zoning and other land use controls in protecting the river's ORVs by preventing incompatible development. This evaluation may result in a formal finding that the local zoning fulfills Section 6(c)'s requirements, which in turn preempts the federal government's ability to acquire land through eminent domain if the river is designated.

9) The state/local government's ability to manage and protect the ORVs on nonfederal lands. This factor requires an evaluation of the river protection mechanisms available through the authority of state and local governments. Such mechanisms may include, for example, statewide programs related to population growth management, vegetation management, water quantity or quality, or protection of river-related values such as open space and historic areas.

10) Support or opposition to designation. Assessment of this factor will define the political context. The interest in designation or nondesignation by federal, state, local and tribal governments and national and local publics should be considered, as well as the state's political delegation.

11) The consistency of designation with other agency plans, programs or policies and in meeting regional objectives. Designation may help or impede the "goals" of other tribal, federal, state or local agencies. For example, designation of a river may contribute to state or regional protection objectives for fish and wildlife resources. Similarly, adding a river which includes a limited recreation activity or setting to the National System may help meet statewide recreation goals. Designation might, however, limit irrigation and/or flood control measures in a manner inconsistent with regional socioeconomic goals.

12) The contribution to river system or basin integrity. This factor reflects the benefits of a "systems" approach, i.e., expanding the designated portion of a river in the National System or developing a legislative proposal for an entire river system (headwaters to mouth) or watershed. Numerous benefits are likely to result from managing an entire river or watershed, including the ability to design a holistic protection strategy in partnership with other agencies and the public.

13) The potential for water resources development. The intent of the Act is to preserve selected rivers from the harmful effects of water resources projects. Designation will limit development of water resources projects as diverse as irrigation and flood control measures, hydropower facilities, dredging, diversion and channelization.

The suitability of a river for designation as a WSR involves considerable judgment on the part of the study team. While guidelines are available, the suitability determination is influenced by the unique characteristics and conditions associated with each particular river. Controversial issues may influence the suitability recommendation for a river; however, there are typically a number of facets to any issue, and eliminating a river from consideration due only to controversy usually does not resolve the issue. The needs and desires of private landowners, small communities, and river users is an important component of the recommendation.

In both 5(a) and 5(d)(1) studies, it is useful to outline the management approach that is recommended in Sections 3(b) and ©) should the river be designated. For 5(a) studies, this exercise may include development of the detailed comprehensive river management plan required for WSRs. For 5(d)(1) study rivers, development of the responsible agency's preliminary management intent may suffice.

NEXT STEP: RECOMMENDATION

5(a) Congressionally Authorized Studies

The decision on whether to recommend designation of a Section 5(a) study river is made through a formal WSR study report.[7] The study report should comply with the NEPA,[8] including an analysis of the impacts of the designation/no designation alternatives, along with other appropriate river protection alternatives. The report is written by the responsible federal agency's study staff, usually with major input from the advisory group, and reviewed at the agency and departmental level. Before this report becomes final, it is subject to a 90-day review by the heads of the following departments and agencies:

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[7] When a FAC is involved in the study process, that body, as part of its formal duties, is usually requested to advise the relevant departmental Secretary as to whether the river should be designated. The FAC's decision is usually incorporated in the study report.

[8] The Council on Environmental Quality's NEPA regulations can be found at 40 CFR 1500-1508. Specific authority for the preparation of a legislative environmental impact statement for WSR studies is found at 40 CFR 1506.8(b)(2)(ii).

- Secretary of the Interior (for studies conducted by the USFS).
- Secretary of Agriculture (for studies conducted by the BLM, NPS or USFWS).
- Secretary of the Army.
- Chairman of the Federal Energy Regulatory Commission (FERC).
- Head of any other affected federal department or agency.
- Governor of the state where the river is located (unless the federal government already owns, or had been authorized to purchase, the area within the proposed boundaries).

Any comments received from these officials within the 90-day period, along with the study agency's responses, are included with the study report when it is transmitted to the President. The President then delivers the report to Congress, fulfilling the Administration's study mandate.

For rivers that are recommended for designation, congressional action sometimes precedes completion of the formal study process. Often the same interest groups that helped initiate the Section 5(a) study legislation take the lead in urging designation once it has been determined that the river is eligible and suitable and that broad local support warrants this step. When such support is apparent, members of Congress are often responsive to requests to designate, even before the study report is written. Because the addition of a river to the National System is a legislative rather than an administration action (except for rivers designated under Section 2(a)(ii)), official support from the Administration is not needed in order for a river designation bill to pass Congress. However, the study report should contain important information about the recommended management framework for the proposed WSR, including the tribal, state, local and federal entities that should be responsible for its administration, a proposed operating budget, and any special considerations regarding boundaries or land acquisition (e.g., Section 6(c) findings) that should be incorporated in the designation legislation. Such information about the river and the study is also very useful to the congressional committees which review WSR designation bills. Because of this, it is advisable for designation proponents to wait until at least a draft study report is available before urging their congressional delegation to file the designation legislation.

Congress may or may not act upon river designation legislation. Hearings will likely be held in the appropriate subcommittees of the House Committee on Resources and the Senate Energy and Natural Resources Committee. Administration witnesses will be requested to testify at these hearings, and their testimony will be based on findings in the study report. Other study participants may also be invited to testify, particularly for studies where FACs were involved.

5(d)(1) Agency-Identified Studies

The decision whether or not to recommend designation of a Section 5(d)(1) study river is made through the decision document for the unit plan or separate study. Regardless of whether the

suitability study is conducted in a land use plan, or analyzed in a separate study, the river recommendation is made through a record of decision (ROD) for an environmental impact statement (EIS). In addition to an extensive public scoping process, development of a land use plan/EIS, with its associated notice of availability published in the *Federal Register*, provides an opportunity for the public and other tribal, federal, state and local agencies to make formal comments on the draft land use plan/EIS. A written response is prepared for all substantive comments, and such comments are essential in development of the final land use plan/EIS and eventual decision.

The river-administering agencies have considerable latitude in how and when to transmit the study report to Congress. Development of a final study report for a recommended river may be delayed pending: 1) an appropriate aggregation of river recommendations into omnibus legislation; 2) the opportunity to add a single or multiple river bill in other federal legislation; or 3) development of a local/national constituency and/or congressional support. Once a draft bill for a recommended 5(d)(1) river(s) is completed, the study report, including bill language, is transmitted by the Secretary of Agriculture or the Interior to Congress (after Office of Management and Budget review).

Congress may or may not act upon the river designation bill. If members introduce bills of their own volition rather than upon request by the Administration, it is more likely hearings will be held in the appropriate subcommittees of the House Committee on Resources and Senate Energy and Natural Resources Committee. Administration witnesses may be requested to testify at these hearings. On occasion, field hearings take place in the state or local area of the proposed legislation.

PROTECTIVE MANAGEMENT

The table beginning on the next page compares and contrasts the interim protection afforded congressionally authorized and agency-identified study rivers under Sections 5(a) and 5(d)(1), respectively. The important differences in protection are a function of the genesis of the study. A river authorized for study by Congress receives statutory protection under Sections 7(b), water resources projects; 8(b), land disposition; and 9(b), mining and mineral leasing. A river identified for study through agency planning processes ***is not*** protected under the Act. Rather, protection of its free flow, water quality, and ORVs occurs through other agency authorities.

5(a) Congressionally Authorized Studies

The listing of a study river in Section 5(a) of the Act triggers protections under Sections 7(b), 8(b) and 9(b). Section 7(b)'s protection includes prohibitions against the issuance of FERC licenses for hydropower generation and transmission facilities, and the review of all other federally sponsored, permitted or assisted water resources projects that could affect the segment's free-flowing character, or the values that make it eligible for designation. Section 8(b) withdraws from entry, sale or other disposition all public lands within a one-quarter mile corridor on both sides of Section 5(a) study rivers for the periods specified in Section 7(b).[21] Section 9(b) withdraws locatable minerals from all forms of appropriation under the mining laws during the periods specified in Section 7(b).

The protections in Sections 7(b), 8(b) and 9(b) last throughout the study process, including a three-year period following the transmittal of the final study report by the President to Congress, regardless of the study's eligibility and suitability findings. After expiration of the three-year period, the segment ceases to be subject to protection under the Act, unless, of course, Congress has added it to the National System in the meantime.

In addition, once the river has been found eligible, and the appropriate classification has been chosen for the segment(s), the integrity of the identified classification must be maintained, even if the study report ultimately recommends a different classification should the segment(s) be designated. This period of protection of the river's classification extends for the same three years following the submittal of the report to Congress.

5(d)(1) Agency-Identified Studies

The identification of a river for study through an agency's planning process does not trigger any protection under the Act. To manage the river for its potential inclusion into the National System, the agency must use other authorities to protect its free flow, water quality, ORVs, and preliminary or recommended classification. River-administering agencies have considerable authority for protecting such values on federal lands and, absent direct authority on nonfederal lands, an ability to work in partnership with state and local governments to protect river values.

Importantly, identifying rivers as eligible, or eligible and suitable, does not create any new agency authority; rather, it focuses the management actions within the discretion of the federal river-administering agency on protecting identified river values. Once a river is found eligible, the respective agency is committed to evaluate all actions within its control through the filter of

[21] For several rivers in Alaska authorized for study in 1980, the area of public lands withdrawn under this section extends two miles on both sides of the rivers.

the river's potential for designation. Some specific authorities for protecting river-related values include the Clean Water Act for free flow and water quality, the Endangered Species Act for plant and animal species within a river corridor, and the Archaeologic Resources Protection Act for cultural resources.

Agency-identified study river protection continues unless a river is determined not suitable for designation. For nonsuitable Section 5(d)(1) rivers, protection of river values reverts to the direction provided in the underlying land use plans for the area.

For agency-identified study rivers, the preliminary (inventoried) classification is to be maintained absent a suitability determination that recommends a classification other than the preliminary classification. The recommended classification is to be maintained throughout the duration of the land use plan.

CASE STUDIES

Clarion River

Location: Allegheny National Forest (NF), Northwestern Pennsylvania

Authority: Section 5(a) of the Act, as amended by P.L. 104-314

Background: The Clarion River, which forms the southern boundary of the Allegheny NF, is located in northwestern Pennsylvania and is a tributary of the Allegheny River. The Clarion and Allegheny Rivers were included in the enabling legislation in 1968 as 5(a) study rivers. In 1969, the United States Department of the Interior (USDI), Bureau of Outdoor Recreation, concluded that the Clarion did not meet minimum eligibility requirements due to poor water quality (i.e., excessive acid mine drainage, inadequately treated municipal sewage, and industrial wastes) and the lack of any ORVs. They did not study the Allegheny River.

In 1975, the Clarion was included in the NRI based upon re-evaluation of what constitutes ORVs and proposals to improve water quality. The river's water quality has steadily improved since the early 1980's, with a corresponding increase in the recreational use of the river and the establishment of commercial liveries serving a steadily growing canoe, kayak and tubing market.

Allegheny NF staff completed a WSR assessment of the Allegheny River in 1990, recommending 87 miles for designation. The Clarion was not evaluated in the forest planning process. The Allegheny was designated in 1992, and, reacting to increased public interest in

protecting the Clarion, Congress authorized it for study a second time in this legislation. A minor tributary of the Clarion, Mill Creek, was also included in the study because of a proposal for siting a low-level hazardous waste incinerator in its watershed and the resulting public concern for a protection mechanism.

For three years following the designation of the Allegheny, forest staff focused their efforts on forming two FACs to assist with the development of a management plan as directed in the legislation. Resources were not available to begin the study of the Clarion. Forest staff were able, however, to enter into several cooperative agreements to begin to assess the river's eligibility—a survey of potentially rare dragonflies and damselflies with the Western Pennsylvania Conservancy and an inventory of special concern plants and unique natural communities with Clarion University.

In 1994, the Allegheny NF was approached by the Pennsylvania State University (PSU) Department of Landscape Architecture to provide a challenging project for their junior landscape architecture students. This ambitious effort was formalized in a cooperative agreement to assess the visual, recreational and heritage attributes of the upper 52 miles of the Clarion, the reach most likely to meet eligibility requirements. The PSU effort was lead, coincidentally, by three professors with extensive interest and experience in river issues at the state level and beyond. The project culminated with a community presentation and published class report in late 1995. The report identified the river's regionally significant recreational and scenic values. In March of 1996, forest staff completed and released the *Clarion River Eligibility Report*, concluding that 52 miles were eligible with outstandingly remarkable recreational and scenic values. Approximately 17 miles qualified for scenic classification and 35 miles as recreational.

Also in 1994, a diverse community-based group interested in protecting the Clarion River watershed formed the Clarion River Basin Commission (CRBC). The CRBC is directed by the county commissioners of the five counties in the upper Clarion watershed. Their mission is to provide leadership and action to improve the ecological condition of the watershed with a primary focus on water quality. The CRBC membership is open to private individuals, municipal representatives, business people, and organizations. Agency representatives, including Allegheny NF staff, serve in a nonvoting capacity.

Outcome: Based on the release of the eligibility report, Congressman William Clinger, the sponsor of the study authorization, met with forest staff to discuss the future of the Clarion River. He concluded that it was timely to propose legislation to designate the Clarion without further (suitability) study, based on the extensive and successful study and planning effort associated with the Allegheny River, the recommendations of cooperator's reports assessing the values and regional importance of the Clarion River, and public interest in protecting the river. Congressman Clinger announced his planned retirement in the fall of 1996 and spent the last

days of his 18-year House career introducing legislation and successfully gaining support for the designation of the Clarion River. The Clarion was added to the National System in 1996.

The CRBC completed a comprehensive plan of the upper Clarion River watershed in 1997, receiving a Pennsylvania Rivers Conservation Grant. By invitation, USFS staff served on the technical steering committee for this study. Forest leadership made a decision to assist the CRBC with completion of their basin-wide plan before initiating a WSR management plan for the Clarion River.

Observations:

- The assistance of cooperators in identifying important river values was invaluable in providing needed expertise to the USFS and in gaining public support for designation.

- The use of partners to help assess river values decreased the cost of completing the eligibility report on this river its with significant private and nonfederal ownerships.[22]

- The willingness of Allegheny NF staff to facilitate and support the study process, working with many other partners and citizen advocates, contributed to increased trust between the interested parties and eventual support for WSR designation of this private-land river.

- Developing a sense of trust and understanding through intensive public involvement in WSR management can facilitate public support for subsequent protection efforts on nearby rivers.

Lamprey River

Location: Southeastern New Hampshire, tributary to the Great Bay Estuary

Authority: Section 5(a) of the Act, as amended by P.L. 102-214

Background: The history of local interest in protecting the Lamprey River can be traced to the late 1970's when the Strafford Regional Planning Commission (SRPC) convened an advisory group to study the river and prepare a master plan for its conservation. The interest of the advisory group in protecting the river coalesced the formation of an independent advocacy

[22] National forest, state park, forest and game lands account for approximately 64% of the ownership in the Clarion River corridor. The remainder is comprised of several hundred private and corporate landowners, most having seasonal and permanent homes along the river.

organization based around the river—the Lamprey River Watershed Association. One of the items recommended in the plan, and inherited by this group, was to investigate the possibility of designating the Lamprey as a WSR.

Formal efforts to pursue a WSR study began in 1987 in response to heightened awareness of river values and growing frustration with local and state officials' inability to have their concerns recognized by the FERC regarding proposed hydroelectric development at an existing small mill dam in Durham, New Hampshire. On December 11, 1991, Congress authorized a three-year study of a segment of the Lamprey River for potential inclusion in the National System.

The NPS approached the study with two primary goals: 1) to assist local communities in preparing and implementing a river conservation plan that addressed how best to protect the river's special qualities; and 2) to determine whether the study segment of the Lamprey should be added to the National System.

Additionally, the study strategy addressed two local and congressional expectations.

1) The river management plan developed during the study emphasized private, local and state conservation measures as alternatives to federal land acquisition and management.

2) Federal designation of the study segment would only be recommended if there was strong local support expressed by vote of town meetings or town councils.

The study was conducted in formal partnership with the Lamprey River Advisory Committee (LRAC), the New Hampshire Department of Environmental Services (NHDES), and the SRPC, with roles defined through cooperative agreements. Informal, though important, partnerships were also maintained with numerous other local interests, including town boards, the Lamprey River Watershed Association, and the New Hampshire Fish and Game Department.

Through these agreements, the NHDES provided substantial staff assistance for the study; the SRPC provided GIS mapping services; and the LRAC served as the central coordinating body, guiding all major study activities. The NPS also entered into a cooperative agreement with The Nature Conservancy to support two years of field research on selected indicator wildlife species and significant river-related plants and plant communities.

One of the most important elements of the study strategy was to involve the interested public to the greatest extent possible. The LRAC, whose members are nominated by the towns to represent diverse interests, was the focal point for public involvement and instrumental in developing a public involvement plan. Some highlights of public involvement opportunities included:

- Monthly public meetings of the LRAC.
- A survey of all riverfront landowners regarding river management and protection issues.
- Town-by-town public forums held at the study's midpoint to discuss the draft resource assessment and riverfront landowner survey results and to gather input to the early stages of management plan development.
- Wide distribution of the draft Lamprey River Management Plan, including the mailing of summaries to all riverfront landowners and notifications of availability in local papers.
- Plan review by town planning boards, conservation commissions, town councils, and boards of selectmen.

Booths at town fairs, articles in local and regional publications, numerous talks with citizens' groups, and similar outreach efforts supplemented the above activities.

Outcome: The study found 23.5 miles of the river eligible for designation based on its free-flowing character and the presence of outstanding ecological, anadromous fish, and historical resource values. The entire eligible river area was found suitable based on an analysis of its potential to be managed and protected effectively. Principal factors considered included physical limitations to development; local, state and federal regulatory programs; the inclusion of the Lamprey in Lee and Durham as a component of the New Hampshire Rivers Management and Protection Program; and local acceptance of the management plan prepared as a part of this study.

At the conclusion of the study in 1995, there was strong local support for designation in the towns of Newmarket, Durham and Lee, corresponding to 11.5 miles of river. The additional 12-mile eligible segment within the town of Epping was found to meet the criteria for eligibility and suitability pending evidence of broad-based local support expressed through town meeting vote.

Legislation designating the 11.5-mile segment was enacted in November, 1996. This legislation also contained the following language regarding the additional 12-mile segment in Epping:

> *UPSTREAM SEGMENT. -- Upon request by the Town of Epping, which abuts an additional 12 miles of river found eligible for designation as a recreational river, the Secretary of the Interior shall offer assistance regarding continued involvement of the town of Epping in the implementation of the Lamprey River Management Plan and in consideration of the potential future addition of that portion of the river within Epping as a component of the Wild and Scenic Rivers system.*

In 1999, the town of Epping voted overwhelmingly to seek designation, and legislation was filed in Congress to add this segment to the National System.

Observations:

- By emphasizing a study approach that created a solid long-term management platform for the river (through research, management plan development, and partnership formation), a seamless transition to post-designation management was possible.

- Had designation not occurred, a solid foundation would have been laid for ongoing management; realistically, however, the resources to hold everything together and maintain momentum would probably not have existed without NPS support.

- The substantial ecological field research conducted during the study was critical to building support for the designation. Protection for habitat was emphasized above recreational use (which was intentionally de-emphasized), proving that people do care about habitat and wildlife, not just identifying with human resource use benefits.

Squirrel River

Location: Northwest Alaska

Authority: Section 5(a)of the Act, as amended by P.L. 96-487

Background: The Squirrel River in northwest Alaska was designated a study river by amendment of the Wild and Scenic Rivers Act through the Alaska National Interest Lands Conservation Act of 1980. This river flows through lands managed by the BLM; however, in 1980, the BLM was not delegated the authority to conduct 5(a) studies for the Secretary of the Interior. Thus, the NPS began the Squirrel River study process in 1981, drafting a FEIS and study report in 1985. This document, which recommended designation, was never finalized due to concerns on the part of the USDI Office of Environmental Policy and Compliance (OEPC).

In late 1993, BLM's Kobuk District Manager made completion of the Squirrel River study a priority for her staff. The BLM, with the advice of the OEPC, determined that the time elapsed necessitated beginning a new study process under the NEPA. The scoping phase began in 1994 through a series of public meetings, and continued through 1997 with solicitation of comments on a preliminary DEIS. The purpose of this preliminary DEIS was to provide public input on the description of the existing environment and preliminary analysis of alternatives before the BLM settled on the agency's preferred alternative. At the end of scoping, the river had been

determined to be eligible, with four ORVs identified—recreation, fish, scenery and cultural heritage.[23]

The DEIS was published in 1998, and the BLM identified the river as not suitable in its preferred alternative. The FEIS was issued in January of 1999 substantially unchanged from the draft. The ROD, issued in September of 1999, found the Squirrel not suitable as an addition to the National System.

After the BLM completed the scoping process, there was little public controversy on whether or not to add the Squirrel to the National System. Public meetings were held in Anchorage, Fairbanks, Kotzebue and Kiana.[24] Turnout at these meetings was very low, except in Kiana where the majority of adults in the village attended.

During the scoping period, after the issues had been discussed in public meetings, native organizations and local governments from villages in the area met and developed a unified position opposed to designation. They explained their position was based on a desire for local control of land management and a desire to maintain potential for economic development. Local leaders did not believe that recreation or tourism would be economically significant with or without designation. They also came to believe that designation would reduce the likelihood of mineral development and transportation system improvements. Economic development opportunity is very important in rural Alaska, particularly at this time when state and federal funding for rural programs is perceived to be decreasing. A further factor in their thinking, as explained in public meetings, was that their use of lands in nearby conservation system units had been limited by USDI agencies.

Outcome: The final report, which will consist of the FEIS and ROD, has not yet been prepared for transmittal to the Secretary of the Interior. This is scheduled for early 2000.

Observations:

- The BLM was unable to provide evidence to indicate that WSR designation improves local economic factors in remote areas. There is a perceived loss of government funds targeted at rural Alaskan communities. When mining companies told villagers that WSR designation would make large-scale mineral development less likely, people took it very seriously. Even though the analysis of alternatives found mineral development very

[23] The cultural heritage value concerned the close relationship between the local native people and the Squirrel River, recognizing local stories explaining geographic features, as well as the importance of the river to the subsistence lifestyle.

[24] Kiana is located at the confluence of the Squirrel and Kobuk Rivers.

unlikely in the next 15 years, both political leaders and elders urged local people to take a long view, stressing local control and management flexibility. This led to the conclusion by many that designation was too constraining.

- To generate meaningful input from native communities and organizations, it is important to allow sufficient time for them to develop a considered decision involving everyone. It is helpful to become aware of native communication styles and to conduct public meetings and discussions accordingly. The BLM sought assistance from native liaison staff who knew the organizations and individuals of the area. Although the planning team members had many years experience working with villagers, local knowledge was essential to good communication.

- River planners working in remote areas with an economy focused on natural resources are often faced with the difficulty of building a trusting relationship, and trust is obviously desirable during the study process. In this case, the BLM heard many complaints about federal management of nearby parks and refuges as justification for skepticism about how local involvement would be handled if the Squirrel were designated. Although trust was improved through the study process, the planning team never completely overcame the widely held belief that, if the river was designated, local people would eventually be restricted in their use of the area to favor visitors from "outside."

- It is important to weigh the timing of a river study with its likelihood of developing meaningful river protection strategies. In this case, recent conflicts between local residents and people from outside the area, mainly involving increased hunting pressure, were on everyone's mind. People were also concerned by loss of government funding and jobs in the region. Some elders warned that the relative affluence villagers currently enjoyed was likely to end in the next few years, necessitating a greater reliance on subsistence. There was a lot of social uncertainty, and this was probably reflected in a preference for flexibility. The planning team felt that if the study had been completed earlier there might have been more support for designation or other specific federal protection for the Squirrel River's ORVs.

Wallowa River

Location: Northeastern Oregon

Authority: Section 5(a) of the Act, as amended by P.L. 100-557, and Section 2(a)(ii) of the Act

Background: In 1988, the Omnibus Oregon Wild and Scenic Rivers Act designated 40 Oregon rivers into the National System. At the same time, it authorized the study of six more rivers,

including the Wallowa, for possible inclusion. Although the USFS manages no lands along the Wallowa (the BLM is the major federal landowner), it was designated as the lead agency in assessing the Wallowa River's potential for designation. The USFS spent four years working with local communities, other agencies, and other concerned parties in developing the study and its recommendations, releasing the *Wallowa River Wild and Scenic River Study Report and Final Legislative Environmental Impact Statement* (LEIS) in September of 1994. The BLM was made a cooperating agency for preparation of the LEIS at the initiation of the study due to their land ownership along the Wallowa and joint administration with the USFS of the Grande Ronde WSR, downstream of the Wallowa study segment.[25] The NPS was added as a cooperating agency under the NEPA between the draft and final LEIS because of the interest that developed for adding the river to the National System through Section 2(a)(ii) of the Act.[26]

The Wallowa was added to the Oregon State Scenic Waterways System in 1988 through voter initiative; program objectives are to preserve and protect the natural setting, water quality, and free-flowing condition of rivers. Consequently, the Oregon Parks and Recreation Department (OPRD) was an essential partner in preparation of the LEIS.

Because the river corridor contains only a small amount of federal land, an extensive public involvement program was conducted to ensure that the resulting alternatives represented the concerns of the interested tribal governments, Wallowa and Union Counties, the state of Oregon, landowners, local residents, and others in how the river is managed. The public involvement consisted of public meetings, newsletters and other mailings to interested parties, ongoing informal meetings with any party requesting them, and formation of an ad hoc work group.[27]

The study report/LEIS identified as a preferred alternative designating the Wallowa as a WSR through Section 2(a)(ii) of the Act. The Wallowa was recommended for designation under Section 2(a)(ii) in order to:

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[25] The Wallowa flows into the Grande Ronde WSR; together, they offer a multi-day float trip. The principal put-in for the Grande Ronde is through the 10-mile segment of the Wallowa River. The ability to provide a desired recreation experience in the Grande Ronde WSR is, in part, dependent on management of the Wallowa.

[26] Only the Secretary of the Interior can designate a river through Section 2(a)(ii) of the Act. The Secretary has traditionally delegated the study/assessment responsibility to the NPS, which then provides the Secretary with its recommendations on whether Section 2(a)(ii) requirements have been met and whether the river should be designated or not. This is the reason the NPS was brought into the Wallowa River study.

[27] The ad hoc work group was created to ensure that diverse viewpoints were considered during each step of the study, from assessment of river values through identification and evaluation of potential protection alternatives. Work group membership was wide-ranging and included representatives of timber, water, livestock, recreation and environmental organizations, private landowners, tribal governments, county governments, and various state and federal agencies. The commitment of the ad hoc work group contributed greatly to the quality of the Wallowa River study.

- Create the best opportunity for continued state coordination of activities such as fish and wildlife habitat and population management.

- Enhance the existing role of the OPRD in recreation management. The OPRD will continue to manage a nearby state park and administer the river corridor under the Oregon Scenic Waterways Act and the Wild and Scenic Rivers Act.

- Protect the ORVs of scenery, recreation, fish and wildlife without additional federal administration and associated costs to the federal government.

- Raise fewer social and economic concerns among those whose jobs are dependent upon resources within the corridor, i.e., the livestock, timber and outdoor recreation industries.

- Provide federal statutory protection from the harmful effects of water resources projects.

Outcome: The state of Oregon supported federal designation under Section 2(a)(ii) with the governor applying to the Secretary of the Interior in December of 1994. The NPS conducted its analysis relying on the USFS eligibility findings and conducted additional analysis of local, state and federal protections. Secretary Babbitt designated 10 miles of the Wallowa River -- from the confluence of the Wallowa and Minam Rivers in the hamlet of Minam downstream to the confluence of the Wallowa and the Grande Ronde Rivers -- on July 23, 1996.

Observations:

- USFS staff did an exceptional job of involving everyone with an interest in the study process, listening to, and addressing, their concerns. Their extensive public involvement dispelled misinformation and misconception and translated into almost universal acceptance of the benefits of adding the Wallowa River to the National System.

- It is important to consult with NPS staff early in a study process in which designation under Section 2(a)(ii) is being considered. This is important under the NEPA and for other cost and study efficiencies.[28]

[28] As a cooperating agency, the NPS was able to use the USFS LEIS as a basis for its own ROD. Had the final LEIS been issued without the NPS as a cooperator, the NPS could have adopted the LEIS only by reissuing it as their own and going through the EIS process again; thereby, expending considerable additional resources, time and money.

Wildcat River

Location: White Mountains of New Hampshire

Authority: Section 5(a) of the Act, as amended by P.L. 100-554

Background: The Wildcat River (a.k.a. Wildcat Brook) originates in the White Mountain NF. It flows south into the picturesque, tourist-oriented town of Jackson where it joins the Ellis River. There were several proposals over the years by outside interests to install hydroelectric generating facilities at Jackson Falls in the center of the town. Jackson Falls are a prominent feature of the town and an important tourist attraction. Issuance of a preliminary permit by the FERC in 1983 for yet another hydropower proposal prompted residents to seek permanent preservation of Jackson Falls through WSR designation. The Act was amended in June of 1984 to authorize a river study with a six-year time limit.

Jackson residents, as is typical of New Englanders, are fiercely loyal to their form of local government. Earlier studies of potential WSRs in New England had foundered on an unwillingness of local residents to relinquish any control over their river and adjacent lands to a federal agency. Hence, the NPS sought a solution that would result in protection of WSR values if the river were found eligible and that would be acceptable to town residents.

Approximately the upper third of the river is in the White Mountain NF, so designation would require protection of WSR values there by the USFS. For the lower river, it was determined that, unlike all previous studies where it was assumed that congressional designation would mean federal management and land acquisition, the town of Jackson would have to provide the required protection. The NPS guided, rather than conducted, the study and left decisions on how non-federal lands along the river would be managed to the town of Jackson. In order to assure that a plan acceptable to Congress and local residents could be developed, a conservation plan had to be developed during the study. This had never before been attempted.

With assistance from the NPS, the town of Jackson developed a river conservation plan. Protective devices included:

1) Dedicating town-owned lands near the river to recreation and open space;

2) Conservation easements;

3) Floodplain regulations;

4) A zoning ordinance based on soil capabilities;

5) Adoption of riverfront restoration measures; and

6) Establishment of a local river commission.

Outcome: The NPS deemed the plan satisfactory to protect river values if fully implemented. The town voted to seek WSR designation. The river was designated on October 28, 1988. However, Congress did display a measure of skepticism about the long-term effectiveness of local management. This was expressed in the following legislative provisions:

- The river outside the White Mountain NF is to be administered by the Secretary of Agriculture through a cooperative agreement with the board of selectmen of the town of Jackson and the state of New Hampshire.

- The Secretary of Agriculture must develop a comprehensive management plan for the river which must be consistent with the town's river conservation plan.

- The Secretary of Agriculture is authorized to acquire land outside the boundary of the NF from willing sellers or by donation.

- The Secretary of Agriculture may acquire scenic easements outside the boundary of the NF, pursuant to limitations imposed by Section 6 of the Act. (It is not clear where this authority would end laterally from the river unless and until the comprehensive management plan establishes river boundaries.)

Observations: During the first 20 years of the WSRs program, only two "private land rivers" were designated following a 5(a) study (lower St. Croix and upper Delaware). The assumption was always that congressional designation meant the river would be administered entirely by a federal agency, usually resulting in land acquisition and regulations. This was seldom acceptable to local residents who opposed designation and stymied legislative efforts. The Wildcat study fully embraced local involvement in study, planning and protection activities, thus placing trust in local government and securing local support. This resulted in Congress, for the first time, designating a river where a federal agency did not have primary management responsibility. Prior to this, all state/locally managed rivers entered the National System following the 2(a)(ii) process. The Wildcat study became the model that the NPS has followed on all subsequent WSR studies, most of which have been on private land rivers. Not all studies have resulted in designation, but local governments usually have developed conservation plans, and that alone is a measure of success in protecting rivers.

Arizona Bureau of Land Management

Location: State of Arizona

Authority: Section 5(d)(1); separate resource management plan (RMP) river eligibility determinations consolidated into a statewide suitability assessment including a Secretarial ROD with a FEIS and legislative proposal

Background: The BLM initiated WSR inventories and assessments for lands it administers in the state of Arizona through individual RMPs around 1986. During the next several years, all RMPs made eligibility findings and tentative classifications for rivers within each planning unit. Suitability studies were deferred due to issue complexity, with no schedule for completion.

In May of 1991, the Arizona Rivers Coalition (Coalition) published *Arizona Rivers—Lifeblood of the Desert: A Citizen's Proposal for the Protection of Rivers in Arizona*. This proposal recommended 40 rivers, totaling 1,700 miles, be added to the National System. Of these, 15 river areas were partially under the BLM's administration, with the remainder administered by the USFS. The Coalition's proposal aroused political interest, and by July of 1991, the director of the BLM (along with the chief of the USFS) received a letter from the members of the Arizona congressional delegation inquiring about the status of WSR evaluation in Arizona. In early 1993, based on public input at five congressional information meetings hosted by the BLM, NPS and USFS throughout Arizona, the congressional delegation opted for further study. To accelerate the agencies evaluation of potential WSRs flowing wholly or partially on federal lands, Congress appropriated specific study funds for the BLM and USFS in fiscal years 1993 and 1994.

By 1993, the BLM had completed eligibility assessments for rivers through the six RMPs in the state, including the evaluation of four streams identified in the Coalition's proposal but not evaluated by the BLM. When eligibility was completed, the BLM found 20 river areas, totaling 441 river miles, eligible for inclusion into the National System. These eligible rivers ranged from the Colorado Plateau of northern Arizona to the state's southern deserts and were located in 11 counties and three congressional districts. Public response to the eligibility findings in these planning efforts was minimal.

Statewide suitability criteria were used to evaluate each of the 20 river areas in a consistent manner. By the beginning of October of 1993, suitability assessment reports were completed for each of the 20 river areas. The information in these reports formed the basis for an EIS to evaluate the suitability of the eligible rivers. A project leader and core-team was established to prepare the EIS. A DEIS was completed and released for public review in March of 1994, with formal hearings held on the draft. The FEIS was released in December 1994.

Public participation was significantly greater during the EIS effort. Some concerns were expressed about eligibility findings, the effects of designation on private lands and water rights, the perceived threat of condemnation of private lands, and the need for dual designation (i.e., why WSR designation was needed in existing wilderness or national conservation areas). There were also regional reactions to specific rivers. For example, citizens and local governments in southeast Arizona opposed designation of any rivers in Graham and Greenlee Counties. Similarly, the state of Utah and Washington County (Utah) opposed the determination of the Arizona portion of the Virgin River as suitable. In contrast, southern Arizonans strongly disagreed with the BLM's determination in the DEIS that Cienega Creek was not suitable. Their input was considered and reflected in the FEIS, with the BLM recommending its designation in the legislative proposal.

Outcome: In the FEIS and legislative proposal, the BLM recommended that 13 river areas, containing 25 segments and totaling 233.5 miles, be designated as components of the National System. Though the BLM determined the Arizona segment of the Virgin River suitable, based on the objections of the state of Utah, Washington County, and Washington County Water Conservancy District, the BLM recommended the entire Virgin River, including portions found eligible through other BLM and NPS planning efforts in Utah and Nevada, be authorized by Congress for study under Section 5(a) of the Act. The Virgin River recommendation was appealed by the Utah parties.

In May of 1996, the Assistant Secretary of the Interior signed a ROD supporting the BLM's recommendations, reflected in the following table:

River Name	Miles	Classification
Paria River	28.0	Wild
Big Sandy River	9.2	Wild
Burro Creek	24.2	Wild
Bill Williams River	19.0	Wild, 14.0; Scenic, 5.0
Santa Maria River	17.6	Wild
Aqua Fria River	22.4	Wild, 10.3; Scenic, 12.1
Gila River (Middle)	7.5	Recreational
Gila River (Gila Box)	26.6	Scenic, 15.2; Recreational, 11.4
Bonita Creek	8.1	Recreational
Lower San Francisco	6.4	Recreational
Aravaipa Canyon	10.0	Wild
Cienega Creek	10.5	Scenic
San Pedro River	44.0	Recreational

The Secretary's ROD recommended authorization of the Virgin River as a 5(a) study river while continuing protective management on the 34.5-mile segment in Arizona. This alternative was determined the best approach to coordinate the efforts of federal, state and local governments, plus other interested parties, in evaluation of the Virgin River and its associated tributaries.[29] On April 17, 1997, these recommendation were formally transmitted by the President to Congress. Congress has taken no action on the legislative package to date.

Observations:

- Constituent and congressional interest in WSR study and designation, coupled with specifically appropriated funding, allowed the BLM to support a statewide WSR study team and initiative. A full-time EIS project leader, part-time core team, consistency review group, and strict schedule were established and maintained during development of the EIS. Elevating the EIS to the USDI resulted in one decision by the Secretary of the Interior, rather than waiting to aggregate the results from six separate RMP decisions. This approach proved to be an effective, efficient strategy and the best way to "accelerate" and ensure completion of the process.

- A consistent approach to suitability assessment, as well as consolidating efforts on a statewide basis, helped the public in their review of the pros and cons of designating various combinations of rivers in the state.

- The conservation community was initially unsupportive of the BLM's efforts to "follow the process" due to concerns of delaying their "imminent" statewide bill proposal. However, a change in the membership and focus of the Arizona congressional delegation eliminated the potential for a near-term bill. The BLM recommendations, and associated interim protection, serve to protect identified river values pending future interest in adding Arizona rivers to the National System. If the process had not been completed in this manner, the BLM's statewide river study would likely have been uncoordinated, with no immediate deadline for completion.

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[29] Three appeals from the state of Utah, Washington County, and the Washington County Water Conservancy District were received on the FEIS concerning the determination of the Arizona portion of the Virgin river as suitable. The appeals contested the BLM's eligibility determination and the adequacy of the FEIS relative to the Virgin River. The Interior Board of Land Appeals (IBLA) dismissed these appeals on March 4, 1999, for lack of standing of the protestants and lack of jurisdiction of the IBLA, as the BLM's recommendation in the FEIS were not actions implementing a final decision subject to their review.

Mt. Baker-Snoqualmie National Forest

Location: Mt. Baker-Snoqualmie National Forest, North Cascades, Washington

Authority: Section 5(d)(1); multi-river analysis completed in initial land and resource management plan (LRMP)

Background: The eligibility of 47 rivers or river segments in seven major drainages on the Mt. Baker-Snoqualmie NF was evaluated in the DEIS for the LRMP in 1987. Sixteen of these rivers were evaluated based on their inclusion in the NRI, with 31 added as a result of environmental or recreation user group interest. In the preferred alternative for the DEIS, five of these rivers were found eligible and suitable and recommended for designation into the National System.

Public comment on the DEIS indicated overwhelming support for WSR designation. Almost 2,000 letters, response forms, and petitions were received. There was strong support from the public and other federal and state agencies to re-evaluate rivers on the forest, specifically to recognize the potential national significance of values that were relatively common on the Mt. Baker-Snoqualmie NF. Four rivers were also added for evaluation based on public comment.

In development of the FEIS, eligibility was re-evaluated on 51 rivers. A group of USFS and non-USFS specialists was assembled to develop new eligibility criteria[30] and to review additional resource data. As a result, 47 rivers were found eligible and assigned an appropriate classification (a slightly different combination of eligible rivers than in the DEIS). To determine these eligible rivers' suitability, the forest assembled an IDT whose responsibility was to consider the focus of alternatives developed in the FEIS for the LRMP and determine their compatibility with potential WSR designation. The intent of a specific LRMP alternative dictated the recommendations of suitable rivers; the LRMP alternatives placing greater emphasis on protection and restoration of watersheds included a recommendation for designation of a greater number of rivers.

Outcome: The preferred alternative (Alternative J) in the LRMP recommended 30 rivers (river segments) as potential additions to the National System (1990). As a result of successful statewide legislation in Oregon (Omnibus Oregon Wild and Scenic Rivers Act of 1988), members of the Washington State congressional delegation expressed interest in similar legislation. The USFS consolidated the WSR recommendations resulting from development of the six USFS LRMPs in the state of Washington, preparing briefing materials for the interested

[30] The efforts of Mt. Baker-Snoqualmie NF staff to develop a standardized approach to eligibility predated the development of the interagency eligibility criteria presented in the Required Findings section of this paper. Through the efforts of many agency staff and external partners, national criteria are now available for use in WSR assessments.

congressmen. No bill was introduced, nor have the NF recommendations been forwarded through the Department of Agriculture and President to Congress. The 30 eligible rivers remain allocated as potential WSRs and, within the USFS's authority, afforded interim protection of their free flow, water quality, and ORVs.

Observations:

- The region of comparison needs to include multiple scales. In addition to regional or statewide comparison, values must also be considered from a national perspective. For example, while multiple species of anadromous fish are relatively common in rivers on the Mt. Baker-Snoqualmie NF, this association of multiple species is uncommon nationally. This significance is evidenced by the declining populations of anadromous fish on the west coast and the recent listing of chinook salmon in Puget Sound (1999).

- Forest staff focused the WSR evaluation on river "systems," not river segments. This watershed approach provides an appropriate context for developing river protection strategies. The 47 eligible rivers include forks and principal tributaries of a number of major rivers on the Mt. Baker-Snoqualmie NF.

- This effort was one of the first comprehensive approaches to evaluating WSRs under Section 5(d)(1) conducted in a USFS LRMP. The inclusive method of the analysis, coupled with considerable public involvement efforts, contributed to the fact that there were no appeals of the WSR study process. The USFS planning process also increased awareness of river values.

- Completing the entire river study process (i.e., eligibility and suitability) in the LRMP was atypical. Far more commonly, USFS staff completed eligibility in the initial LRMP and deferred suitability to a separate study process. The advantages of making recommendations for potential WSR designation in an initial LRMP (or LRMP revision) include: 1) having adequate context for the decision -- the river study is included as part of the resolution of forest-wide issues and contributes to the desired future condition for forest resources; and 2) saving staff time and money -- no separate analysis under the NEPA is required.

South Platte River System

Location: Pike and San Isabel National Forests, Eastern Front, Colorado

Authority: Section 5(d)(1); single river system analysis completed in separate environmental document, subsequent to initial LRMP

Background: Three rivers identified in the NRI were evaluated in the 1984 Pike and San Isabel NF LRMP, with only portions of the South Platte River found eligible. Approximately 26.8 miles of its mainstem, from Elevenmile Dam to the slackwater of Cheesman Reservoir, was classified in three segments, with a specific LRMP management allocation established to protect its eligibility. The portion of the South Platte below Cheesman Reservoir and portions of the North Fork South Platte were not evaluated in the LRMP because of the proposed construction of the Two Forks Dam, which would have made them ineligible for WSR designation. The subsequent veto of the dam by the Environmental Protection Agency (1989) allowed reconsideration of the segments of the South Platte River not evaluated in the LRMP. Based on interest from Denver area water providers and others, Senator Ted Wirth (Colorado) urged the USFS to conduct a WSR study of the entire eligible river under Section 5(d)(1), and Congress appropriated money to the forest for this purpose in 1989.

The principal issues of the WSR study included: the potential for the South Platte to continue to provide water and to serve as water conveyance for the growing Denver metropolitan area; the potential to implement bank stabilization projects to restore structure and function to riparian areas negatively impacted by the increased flow regime associated with reservoir operation; and the ability of the river corridor to continue to provide traditional recreation use (e.g., off-road vehicle use). The South Platte is nationally recognized for its trout fishing and kayaking and is readily accessible for day use and camping to a population of over three million people.

In 1995, the USFS released a draft eligibility study report and notice of intent to conduct a suitability study through a LEIS. As a result of evaluation, five additional segments were found eligible, a total of 72.3 miles. The WSR study report/draft LEIS was released in 1997 with two proposed actions:

- "A2" – A local alternative developed by the metropolitan Denver water providers, local governments, environmental organizations, and recreation, user and other interest groups. This alternative would effect a partnership for the river's management in lieu of WSR designation.

- "J" – A recommendation for WSR designation for the South Platte. The North Fork South Platte was not recommended so as to accommodate future water needs, and three miles of the mainstem was classified as "scenic" to maintain the area for off-highway vehicle use.

Alternative A2, principally sponsored by Denver Water and suburban water providers, was further developed with submittal of the South Platte protection plan to the USFS (1998). The USFS reviewed A2 and developed a new alternative, A3, to reflect internal and public concerns with A2. Alternative A3 described how the local alternative would be implemented with USFS participation, and clarified the standards for development projects on National Forest System

Lands. The USFS chose to produce a supplemental draft LEIS to detail A2 and A3 (anticipated release, spring of 2000). After consideration of public comments, the forest will prepare a final LEIS and ROD.

Outcome: Anticipated final LEIS/ROD.

Observations:

- The WSR study process allowed all participating groups to establish a working relationship following the contentious legal issues surrounding the Two Forks Dam in the 1980's. More specifically, the USFS developed new and positive relationships with water providers, local governments, environmental and recreation groups.

- The costs of evaluating the South Platte through a separate study were high; however, the complexity of the study and divisiveness surrounding the issues were likely better evaluated in a separate study.

- The extensive public involvement focused on river resources and how best to provide public service, rather than on agency boundaries. The emphasis of the study was on alternative methods to achieve desired resource and recreation management within the river corridor.

- The alternatives considered in the South Platte WSR study required considerable definition for each alternative, i.e., enough detail to allow for comparison and evaluation of the "local" and other alternatives. This level of future management intent/direction is not typically included in a 5(d)(1) study.

Tahoe National Forest

Location: Tahoe National Forest, Sierra Nevada, California

Authority: Section 5(d)(1); multi-river analysis completed in separate environmental document, subsequent to initial LRMP

Background: In the 1990 Tahoe NF final LRMP, two rivers were found eligible, with four rivers determined ineligible. During the appeal period for the LRMP, river conservation groups contended that the USFS had not adequately inventoried rivers on the NF for possible inclusion in the National System. They questioned the Tahoe NF's methodology, thoroughness and adherence to procedures outlined in the *Wild and Scenic Rivers Evaluation Handbook* (Forest Service Handbook 1909.12, Chapter 8). Successful appeals of other California NFs, based on

inadequate WSR assessment, prompted Tahoe NF leadership to agree to an interdisciplinary analysis of potential WSRs subsequent to the LRMP. They also agreed to conduct a suitability study for eligible rivers within a reasonable time period.

In 1991, a forest-wide eligibility study was completed. The forest IDT, supported by district specialists, evaluated about 600 rivers and streams using forestwide resource information, as well as local field knowledge. From this screening process, 100 rivers were identified for more detailed study. Eligibility indicators were developed to help the IDT determine which rivers were eligible. These indicators defined local, regional and national significance for each resource.[31] Out of the 100 rivers and streams identified for more detailed study, 30 were found eligible.[32]

Suitability of these 30 rivers was evaluated in two studies—one for both the east and west sides of the NF. The rivers were grouped this way because of common issues and an opportunity to complete the Eastside Study in cooperation with the Bureau of Reclamation (BOR); the BOR was developing a water use plan for the Truckee River watershed containing all of the eastside rivers. Eight rivers were evaluated in the *Eight Eastside Rivers Wild and Scenic River Study Report and FEIS* (Eastside Study), a total of 59 miles.[33] The DEIS was completed in August 1994 and generated 413 letters largely in support of designating all eight rivers. The ROD for the FEIS, signed in February of 1999, recommended the Upper Truckee River as a wild river and Sagehen Creek as a scenic river, a total of fifteen miles. Upper Independence Creek and its entire watershed of 2,528 acres was recommended for designation as a Special Interest Area to protect Lahontan cutthroat trout, a threatened species.

The principal issue in the Eastside Study was which rivers were worthy of national designation. Land uses were largely compatible, and only one river had potential for future dam development for water storage. The majority of public comments supported designating all eight rivers, with some local groups opposed to any WSR designation because of concerns about impacts on traditional uses, including timber harvest, and perceived effects on private lands. An additional

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[31] The efforts of Tahoe NF staff to develop a standardized approach to eligibility predated the development of the interagency eligibility criteria presented in the Required Findings section of this paper. Through the efforts of many agency staff and external partners, national criteria are now available for use in WSR assessments.

[32] One additional river, the Middle Fork American River, was considered in a separate process with the Bureau of Reclamation, BLM, Army Corps of Engineers, California Department of State Parks, and Eldorado NF and found eligible. The Bureau of Reclamation has the lead for conducting suitability in coordination with various Auburn Dam proposals.

[33] One of the eligible eastside rivers was eliminated from further study because it was almost entirely on private land. This river was recommended for further consideration by the state of California if so desired. An additional river from the Lake Tahoe Basin Management Unit was included in the Eastside Study, bringing the total to eight. The Upper Truckee was added because it was part of the BOR water use study.

issue identified early in the study of Sagehen Creek was the existence of a University of California research station along the stream. Researchers were concerned that designation would interfere with their research opportunities and operations. This issue was resolved through meetings with university officials and inclusion of direction in the study report that past and ongoing research activities were complementary to the ecosystem, native fisheries, botanical, and hydrological ORVs.

The 22 remaining rivers were evaluated in the *22 Westside Rivers Wild and Scenic River Study Report and FEIS* (Westside Study), a total of 297 miles. The BLM was a cooperator for the study of one of these rivers, the South Yuba. The California Department of State Parks was also an important partner in the South Yuba River study. The DEIS was completed in May of 1996; over 1,800 public letters were received, including approximately 1,300 form letters requesting additional rivers be determined suitable. The ROD for the FEIS was signed in May of 1999 and recommended three rivers for designation—the North Yuba (recreational and scenic segments), Canyon Creek (scenic), and the South Yuba (recreational and scenic), for a total of 114 miles.

The principal issues with the Westside Study included maintaining the option to develop dams for flood control and water storage within the study segments. Much of the focus of the Westside Study was on the South Yuba River and a proposed flood control dam. The USFS and BLM recommended designation of the Lower South Yuba River (39 miles) because other flood control and water storage options could still occur either downstream on the main Yuba River, on other branches of the Yuba River, or through levee improvements and existing dam reconfigurations. Concern was also expressed about the perceived effects of WSR designation on private lands and mining activities on federal lands.

Outcome: The RODs for the Eastside and Westside Studies amended the LRMP, providing interim protection for recommended rivers. The rivers determined unsuitable will continue to be managed as per LRMP direction. Both these decisions have been appealed, with appellants asserting that more rivers should have been determined suitable. Once the appeals have been resolved, the two studies will be forwarded to the USFS Washington Office. While the Westside Study was moving towards completion, local river groups and the Nevada County Board of Supervisors sponsored Senate Bill 496, a state WSR designation for the South Yuba River. The legislation has been signed by the governor, and the designation as a state WSR will take effect January 1, 2001.

Observations:

- Conducting the WSR assessment separately from an initial LRMP or LRMP revision resulted in a far more time-consuming and costly process with high levels of public interest and involvement.

- While the study costs were high, the issues were considered exhaustively, and the rivers evaluated more carefully, than is likely possible in the LRMP (or LRMP revision) process.

- Working with other agencies in a joint study, while more complicated initially, was productive for the federal agencies and California Department of State Parks and brought additional skills to the planning process.

- To satisfy the public's request to know how the recommended rivers would be managed, forest staff developed a management intent section for the ROD. Including this clarifying text in the DEIS would have been helpful to the USFS and the public.

- Describing USFS land-use issues for rivers with intermingled private lands created great confusion for some of the public and allowed those opposed to WSR designation to make exaggerated claims as to how designation might impact private land. Potential effects on public land uses and on private lands was clearly separated in the FEIS; however, negative public perceptions remained from the initial presentation.

- Completing the WSR assessment outside of the LRMP framework was delayed due to competing USFS priorities, such as major forest fires and associated salvage plans and congressionally required insect and disease thinning projects. These delays, while understandable, were disruptive and prevented timely completion of the studies.