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SECTION 1500.00 - WILD AND SCENIC RIVERS

SECTION 1510.00 - INTRODUCTION

Many Idaho rivers are protected or under consideration for protection by a federal, state, or local government agency. This section includes information and requirements that apply when a transportation project will impact a river designated as a Federal Wild and Scenic River or part of Idaho's Scenic River System.

1510.01 Summary of Requirements. Both federal and state legislation protects the wild and scenic values of certain rivers. Transportation projects may adversely affect wild and scenic rivers if they are within a one-quarter mile of a river shoreline and:

- Require an EIS or EA.
- Require new right-of-way, earth moving, grading, or pile driving.
- Involve a bridge replacement.

For such projects, both ITD and FHWA encourage early coordination with responsible management agencies. If the river area meets Section 4(f) criteria for protection of certain parks, recreational areas, wildlife or waterfowl refuges, and historic properties, a Section 4(f) report may be required in addition to a NEPA document (see [Section 1720.02](#)). For possible permitting requirements, see [Section 760.00](#).

1510.02 Abbreviations and Acronyms. Abbreviations and acronyms used in this chapter are listed below.

FWA	Federal Wilderness Act
NCDOT	<not stated; p. 7>
NPS	National Park Service(?)
NTSA	National Trails System Act
WSR	Wild and Scenic River

1510.03 Federal Wild and Scenic River Definitions.

Designated River—River area added to the National Rivers System by an act of Congress.

Nationwide Rivers Inventory— A national listing of rivers potentially suitable for inclusion in the National Rivers System.

Recreational River Areas— Rivers or sections of rivers that are readily accessible by road or railroad that may have undergone some impoundment or diversion in the past.

Scenic River Areas— Rivers or sections of rivers free of impoundment, with shorelines or watersheds still largely undeveloped, but still accessible in places by roads.

Study River —River area to be studied to determine if it qualifies for addition to the National Rivers System.

Wild River Areas— Areas or sections of rivers of the United States that are free of impoundment and generally inaccessible, except by trail, with watersheds or shorelines essentially untouched and waters unpolluted. They represent vestiges of America prior to European settlement.

1510.03.01 State Scenic River Definitions.

Modified Natural—River area where the associated natural environment of the river area is relatively undisturbed with little evidence of cultural development and natural resource management. Forest roads, hunters' cabins, and semi-primitive campgrounds may be evident. Natural features dominate the viewscape.

Primitive— River area that is in pristine condition with minimal evidence of human activity.

Rural—River area characterized by extensive agricultural and other resource-related activities. Cultural development is typically scattered homes and communities.

Urban— River area intensively modified by cultural activities and primarily residential or light commercial development. The river has high water quality and highly rated natural features such as historical and archaeological sites, fisheries resources, wildlife, or recreational values.

1510.03.02 Other.

Wilderness— Areas defined in the Wilderness Act where “the earth and its community of life are untrammelled by man, where man is a visitor who does not remain....”

SECTION 1520.00 - APPLICABLE STATUTES AND REGULATIONS

1520.01 National Environmental Policy Act. The National Environmental Policy Act (NEPA), 42 USC Section 4231, requires that all actions sponsored, funded, permitted, or approved by federal agencies undergo planning to ensure that environmental considerations such as impacts related to wild and scenic rivers are given due weight in project decision-making. Federal implementing regulations are at 23 CFR 771 (FHWA) and 40 CFR 1500–1508 (CEQ). For details on NEPA see [Section 200.00](#).

1520.02 Federal.

1520.02.01 Wild and Scenic Rivers Act. The Wild and Scenic Rivers Act (PL 90-542, 16 USC Chapter 28; [Exhibit 1500-1](#)) designates certain rivers for special protection. Federally designated Wild and Scenic Rivers within Idaho are:

- Clearwater River – Kooskia to Lowell
- Lochsa River – Confluence with Selway River to Powell River Ranger Station (part of Clearwater system)
- St. Joe River – Confluence of the north Fork of the St. Joe River to St. Joe Lake
- Main Salmon River – Mouth of North Fork to Long Tom Cabin

- Middle Fork of the Salmon River –Dagger Falls to the confluence of the Middle Fork and the Main Salmon.
- Snake River – Hells Canyon Dam to section 1, T5N, R47E, Willamette Meridian
- Rapid River – Headwaters of the main stem to National Forest Boundary, and west fork, wilderness boundary to main stem
- Selway River – source to mouth

These Idaho rivers are included on the Nationwide Rivers Inventory and are protected by CEQ regulations. In addition, the U.S. Forest Service is proposing several rivers that are not on the National Rivers Inventory for special consideration. For more information about this legislation, designated rivers, and federal management agencies, see the National Wild and Scenic Rivers homepage at <http://www.nps.gov/rivers/>.

1520.02.02 Wilderness Act. The Federal Wilderness Act (FWA) of 1964 (16 USC, 1131-1136) aimed to establish a national wilderness preservation system that would protect unspoiled lands from encroachment by “permanent improvements or human habitation.” Generally, land falling under the Act is managed by the same agency that managed it prior to wilderness designation. The Act defines wilderness as areas where “the earth and its community of life are untrammelled by man, where man is a visitor who does not remain....” About 7.5% (4,015,061 acres) of all lands in Idaho (52,960,576 acres) are designated as wilderness. For more information about the Act, wilderness maps, and other wilderness information, see the Wilderness Information Network Homepage at <http://www.wilderness.net/>; click Legislation.

1520.02.03 National Trails System Act. The National Trails System Act (NTSA) (16 USC, 1241-1249) was established in 1968 to provide for recreation, public access, enjoyment, and appreciation of the “open-air, outdoor areas and historic resources of the nation.” The Act is applicable in portions of Wild and Scenic Rivers where trails systems exist. It is available online at <http://www4.law.cornell.edu/uscode/>. Select Title 16, Conservation, and Chapter 27, National Trails System

1520.02.04 Section 4(f) Public Lands Regulations. Section 4(f) of the 1966 Department of Transportation Act, Title 23, CFR 771.135(d), mandates protection of certain parks, recreational areas, wildlife or waterfowl refuges, and historic properties. Highway projects can only cross these special lands if there is no feasible and prudent alternative and the sponsoring agency demonstrates that all possible planning to minimize harm has been accomplished. For details on Section 4(f) see [Section 1740.01](#).

This title is applicable to portions of Wild and Scenic Rivers that are being used for purposes designated in Section 4(f). Public lands adjacent to a wild and scenic river also may be subject to Section 4(f) protection.

1520.02.05 Condition 7 of the Corp. of Engineers. Nationwide permit program, states that no activity can occur in a Wild and Scenic River until “the appropriate Federal Agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.”

SECTION 1530.00 - POLICY GUIDANCE

None.

SECTION 1540.00 - MOUS, MOAS, IAS

1540.01 Section 4(f) Involvement. Two memoranda between the Office of Environmental Policy and FHWA (June 6, 1978 and May 26, 1981) clarify how Section 4 (f) applies to portions of wild and scenic river areas that are being used or designated for use as a park, recreation, wildlife or waterfowl refuge, or historic preservation. These state that Section 4(f) applicability to Wild and Scenic Rivers is not based solely on a system's designation as a Wild and Scenic River, but rather on whether the system is a "significant publicly owned recreation area." The memoranda are available online in FHWA's Environmental Guidebook at <http://www.fhwa.dot.gov/environment/>. Click Environmental Guidebook, then Wild & Scenic Rivers and Wilderness Areas.

1540.02 Presidential Directive. An August, 1979 Presidential Directive requires federal agencies to take care to avoid or mitigate adverse effects on rivers identified as wild, scenic, or recreational. For a detailed memorandum from the Council on Environmental Quality outlining procedures for interagency consultation to comply with this directive, see Policy Guidance for Wild and Scenic Rivers (October 3, 1980) in FHWA's Environmental Guidebook at <http://www.fhwa.dot.gov/environment/>. Click Environmental Guidebook, then Wild & Scenic Rivers and Wilderness Areas.

SECTION 1550.00 - TECHNICAL GUIDANCE

District Environmental Managers need to monitor projects in their Districts and coordinate with the Environmental Affairs Office and FHWA whenever a project is in the vicinity of a Wild and Scenic River. Although specific permits may not be required, environmental documentation will be necessary.

1550.01 ITD Technical Guidance.

1550.01.01 General. ITD has no formal report for Wild and Scenic Rivers. For projects that may affect a federal or state-designated Wild or Scenic River, this section includes general guidance for assessing potential requirements. Most rivers in Idaho are protected or under consideration for protection by either a federal, state, or local governmental agency. [Exhibit 1500-1](#) gives details on wilderness and scenic values by river reach for all Idaho rivers listed in the Nationwide Rivers Inventory.

Projects have the potential for adversely affecting wild and scenic rivers if they are within a one-quarter-mile of a river shoreline and:

- Require an EIS or EA.
- Require new right-of-way, earth moving, grading, or pile driving.
- Involve bridge replacement.

For such projects, the ITD district staff should contact the appropriate agency. If the project is in or near a national forest, the district ranger should also be contacted.

Management plans have been developed for each Wild and Scenic River. These plans must be reviewed as part of the Section 4(f) study (see [Section 1740.00](#)), and will help determine whether Section 4(f) is applicable. For each alternative that would take such land, coordination with the agency responsible for managing the river will provide information on the management plan, specific affected land uses, and any necessary Section 4(f) coordination. Responsible agencies are:

State Parks and Recreation Commission

Responsible for managing all state scenic rivers. Contact the appropriate regional State Parks office for projects near a Scenic River corridor or State Park.

National Park Service, Recreation Programs

Responsible for managing all rivers on the Nationwide Rivers Inventory.

1550.01.02 Compliance with the WSRA (Section 7). Federally assisted ITD construction projects determined to be “water resources projects” (e.g. bridge replacements) are subject to Section 7 of the WSRA. Section 7 determinations are made by the federal river-administering agency for federally administered WSRs and by the NPS for state-administered WSRs. Evaluation standards vary by project location (i.e., within the bed/banks of a designated/congressionally authorized study river or within the bed/banks upstream, downstream or on a tributary to the river). The evaluation standards can be found in the document “Wild and Scenic Rivers Act: Section 7” which can be found at <http://www.udpc.net/pdf/section7.pdf>.

Some kind of introductory sentence explaining these points would be helpful.

- Within the bed/banks of a designated or congressionally authorized study river corridor, the river-administering agency determines whether there are “direct and adverse effects” to the values (free-flowing condition, water quality and the outstandingly remarkable values). Any project that results in a “direct and adverse effect” on the values is prohibited. See **Appendix C** of the “*Wild and Scenic Rivers Act: Section 7*”;
- Within the bed/banks upstream, downstream or on a stream tributary to a designated river corridor, the river-administering agency determines whether the proposed project would “invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area” on the date of its designation. See **Appendix D** of the “*Wild and Scenic Rivers Act: Section 7*”; and
- Within the bed/banks upstream, downstream or on a stream tributary to a congressionally authorized study river corridor, the river-administering agency determines whether the proposed project would “invade the area or diminish the scenic, recreational, and fish and wildlife values present in the area” on the date of its authorization for study. Note: This standard provides greater protection during the shorter-term study process because “diminish” is not qualified by “unreasonably.” See **Appendix E** of the “*Wild and Scenic Rivers Act: Section 7*”.

In the analysis process, opportunities for improved design or a better location for a bridge may lessen the impacts on river resources and allow better connection of the river with its floodplain.

1550.01.03 Coordination. The ITD should identify any proposed, federally assisted action having a foreseeable effect on a WSR or a congressionally authorized study river early in the planning process. NCDOT should begin to coordinate with the river-administering agency and other interested parties when such projects are identified. For each alternative under consideration, the environmental analysis will identify the potential effects on the natural, cultural and recreational values of the designated or study river. If any alternatives could adversely impact the values for which a river was designated, or foreclose options to designate a congressionally authorized study river, those alternatives cannot be selected, absent the elimination of adverse effects. The NEPA process will facilitate, but does not substitute for, a Section 7 determination by the river-administering agency. However, Section 7 consultation and determinations should occur within the umbrella of the project NEPA phase.

NPS'S ROLE WITH RESPECT TO STATE-ADMINISTERED RIVERS

Although it is the responsibility of the State of Idaho to serve as the river-administering agency for WSRs designated under Section 2(a)(ii) of the WSRA, the NPS retains responsibility for making the Section 7 determination, preferably in consultation with the State of Idaho.

1550.01.04 Types of activities likely to be exempt from Section 7 of the WSRA. The WSRA does not exempt any types of federally assisted or sponsored water resources projects from compliance. Neither the DOI nor USDA considers highway reconstruction, including replacement or modification of bridges, to be maintenance. Maintenance projects such as painting, resurfacing, or replacement of superstructure or guardrails presumably do not involve construction in the bed/banks of a river and therefore are not water resources projects. It is also unlikely that bridge and roadway construction upstream, downstream or on tributaries of designated rivers will invade or unreasonably diminish the scenic, recreational, fish or wildlife values of the designated river, and they usually will not require a Section 7 determination by the river administrator. This is also true for congressionally authorized study rivers except the standard is “diminish” rather than “unreasonably diminish.” The further the project is from the designated or study area the more likely this will be the case. Early consultation with the river administrator is advised.

Relative to the NRI, CEQ guidance states:

“...repair or rehabilitation of existing structures would not have a negative impact except if the action would result in significant expansion of the facility or if the construction process itself would cause an irreversible impact on the environment.”

1550.01.05 Design changes required through Section 7 of the WSRA. Design changes may be required only if the river-administering agency intends to make an adverse determination under Section 7 and suggests measures to eliminate the adverse effects. Continued contact and coordination with the administering agency is crucial

during project development. For example, aesthetic treatments may be required if the project adversely affects scenic values. Staff of FHWA and the river-administering agency should also consider opportunities in project design based on direction in the river management plan. While such opportunities, e.g., increased or decreased access, are not a part of the Section 7 determination, assuming such components are not water resources projects, their inclusion in project design may protect or enhance river values in conformance with direction to all federal agencies in Section 12(a) of the WSRA and possible formal agreements with specific administering agencies.

1550.01.06 Section 4(f) of the DOT Act of 1966 applicability. Publicly owned public parks, recreation areas, refuges, and historic sites within a WSR corridor are subject to Section 4(f). Lands in WSR corridors managed for multiple uses may or may not be subject to Section 4(f) depending on the manner in which they are administered by the managing agency. Close examination of the management plan is required prior to any use of these lands for transportation purposes. Section 4(f) would apply to those portions of the land specifically designated in a management plan for recreation or other Section 4(f) uses. Where the management plan does not identify specific uses or where there is no plan, ITD must consult further with the river-administering agency to make a Section 4(f) determination. Note, FHWA makes the 4(f) determination.

1550.01.07 Related Internet Links.

- US Code: [16 USC 1271-1287](#)
- Code of Federal Regulations: [36 CFR 251](#) (land uses), [36 CFR 292](#) (), [36 CFR 297](#) (wild & scenic rivers), [43 CFR 3800](#) (mining claims), [43 CFR 8340](#) (ORVs), [43 CFR 8350](#) (management areas), [43 CFR 8360](#) (visitor services), [43 CFR 8370](#) (use authorizations)
- [NPS National Wild & Scenic Rivers System](http://www.rivers.gov/) (<http://www.rivers.gov/>)
- [FHWA Environmental Guidebook](#)

1550.02 FHWA Technical Advisory. [FHWA Technical Advisory T 6640.8A \(Exhibit 300-4\)](#) gives guidelines for preparing NEPA and 4(f) documents, including specifically sections on Wild and Scenic Rivers. If a proposed action could have adverse effects on a river in the National Wild and Scenic Rivers System or a river under study for designation, the draft EIS should identify early coordination with the agency responsible for managing the listed or studied river. For each alternative, the EIS should identify the potential adverse effects on natural, cultural, and recreational values.

Adverse effects include alteration of the free-flowing nature of the river, alteration of the setting, or deterioration of water quality. If it is determined that any of the alternatives could foreclose options to a designated or study river, or adversely affect the qualities for which a river was designated, the draft EIS needs to reflect consultations with the managing agency on avoiding or mitigation the impacts (23 CFR 771.123). The final EIS should identify measures that will be included in the preferred alternative to avoid or mitigate such impacts. See [Section 1700.00](#) for Section 4(f) requirements.

SECTION 1560.00 - PERMITS

No specific permits are required for Wild and Scenic Rivers. However, close agency coordination is needed on studies, agency determination of impacts and possible mitigations, and selection of alternatives. See [Section 760.00](#) for information on water quality permits that may be needed for work affecting Wild and Scenic Rivers

SECTION 1570.00 - NON-ROAD PROJECT REQUIREMENTS

The same policies, procedures, and permits that apply to road projects generally apply to non-road projects; for example emergency airstrips or rail lines located near a designated wild or scenic river.

SECTION 1580.00 - EXHIBITS

Exhibit 1500-1: Wild and Scenic Rivers Act

(P.L. 90-542, as amended)

(16 U.S.C. 1271-1287)

¹An Act To provide for a National Wild and Scenic Rivers System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that,

(a) this Act may be cited as the "Wild and Scenic Rivers Act."

Congressional declaration of policy.

(b) 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. The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes.

Congressional declaration of purpose.

(c) The purpose of this Act is to implement this policy by instituting a national wild and scenic rivers system, by designating the initial components of that system, and by prescribing the methods by which and standards according to which additional components may be added to the system from time to time.

Composition of system; requirements for State-administered components.

SECTION 2. (a) The national wild and scenic rivers system shall comprise rivers (i) that are authorized for inclusion therein by Act of Congress, or (ii) that are designated as wild, scenic or recreational rivers by or pursuant to an act of the legislature of the State or States through which they flow, that are to be permanently administered as wild, scenic or recreational rivers by an agency or political subdivision of the State or States concerned, that are found by the Secretary of the Interior, upon application of the Governor of the State or the Governors of the States concerned, or a person or persons thereunto duly appointed by him or them, to meet the criteria established in this Act and such criteria supplementary thereto as he may prescribe, and that are approved by him for inclusion in the system, including, upon application of the Governor of the State concerned, the Allagash Wilderness Waterway, Maine; that segment of the Wolf River, Wisconsin, which flows through Langlade County; and that segment of the New River in North Carolina extending from its confluence with Dog Creek downstream approximately 26.5 miles to the Virginia State line. Upon receipt of an application under clause (ii) of this subsection, the Secretary shall notify the Federal Energy Regulatory Commission and publish such application in the *Federal Register*. Each river designated under clause (ii) shall be administered by the State or political subdivision thereof without expense to the United States other than for administration and management of federally owned lands. For

purposes of the preceding sentence, amounts made available to any State or political subdivision under the Land and Water Conservation [Fund] Act of 1965 or any other provision of law shall not be treated as an expense to the United States. Nothing in this subsection shall be construed to provide for the transfer to, or administration by, a State or local authority of any federally owned lands which are within the boundaries of any river included within the system under clause (ii).

Classification.

(b) A wild, scenic or recreational river area eligible to be included in the system is a free-flowing stream and the related adjacent land area that possesses one or more of the values referred to in Section 1, subsection (b) of this Act. 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.

(The act goes on from here to list the wild and scenic rivers designated by state at the time of the act. Exhibit 1500-1 shows the current wild and scenic river status in Idaho)

Establishment of boundaries; classification.

(b) The agency charged with the administration of each component of the national wild and scenic rivers system designated by subsection (a) of this section shall, within one year from the date of designation of such component under subsection (a) (except where a different date if [is] provided in subsection (a)), establish detailed boundaries therefore (which boundaries shall include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of the river); and determine which of the classes outlined in section 2, subsection (b), of this Act best fit the river or its various segments. Notice of the availability of the boundaries and classification, and of subsequent boundary amendments shall be published in the *Federal Register* and shall not become effective until ninety days after they have been forwarded to the President of the Senate and the Speaker of the House of Representatives.

Public availability of maps and descriptions.

(c) Maps of all boundaries and descriptions of the classifications of designated river segments, and subsequent amendments to such boundaries, shall be available for public inspection in the offices of the administering agency in the District of Columbia and in locations convenient to the designated river.

Review requirements for early designations and management plans.

(d)(1) For rivers designated on or after January 1, 1986, the Federal agency charged with the administration of each component of the National Wild and Scenic Rivers System shall prepare a comprehensive management plan for such river segment to provide for the protection of the river values. The plan shall address resource protection, development of lands and facilities, user capacities, and other management practices necessary or desirable to achieve the purposes of this Act. The plan shall be coordinated with and may be incorporated into resource management planning for affected adjacent Federal lands. The plan shall be prepared, after consultation with State and local governments and the interested public within 3 full fiscal years after the date of designation. Notice of the completion and availability of such plans shall be published in the *Federal Register*.

(2) For rivers designated before January 1, 1986, all boundaries, classifications, and plans shall be reviewed for conformity within the requirements of this subsection within 10 years through regular agency planning processes.

Requirements for study reports.

SECTION 4. (a) 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. The President shall report to the Congress his recommendations and proposals with respect to the designation of each such river or section thereof under this Act. Such studies shall be completed and such reports shall be made to

the Congress with respect to all rivers named in subparagraphs 5(a) (1) through (27) of this Act no later than October 2, 1978. 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. Every such study and plan shall be coordinated with any water resources planning involving the same river which is being conducted pursuant to the Water Resources Planning Act (79 Stat. 244; 42 U.S.C. 1962 et seq.). 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 land ownership 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.

(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.

Review requirements for State components.

(c) Before approving or disapproving for inclusion in the national wild and scenic rivers system any river designated as a wild, scenic or recreational river by or pursuant to an act of the State legislature, the Secretary of the Interior shall submit the proposal to the Secretary of Agriculture, the Secretary of the Army, the Secretary of Energy, and the head of any other affected Federal department or agency and shall evaluate and give due weight to any recommendations or comments which the said officials furnish him within ninety days of the date on

which it is submitted to them. If he approves the proposed inclusion, he shall publish notice thereof in the *Federal Register*.

Study boundaries.

(d) The boundaries of any river proposed in section 5(a) of this Act for potential addition to the National Wild and Scenic Rivers System shall generally comprise that area measured within one-quarter mile from the ordinary high water mark on each side of the river. In the case of any designated river, prior to publication of boundaries pursuant to section 3(b) of this Act, the boundaries also shall comprise the same area. This subsection shall not be construed to limit the possible scope of the study report to address areas which may lie more than one-quarter mile from the ordinary high water mark on each side of the river.

Study rivers.

SECTION 5. (a) The following rivers are hereby designated for potential addition to the national wild and scenic rivers system:

- (2) **Bruneau, Idaho.** -- The entire main stem.
- (14) **Moyie, Idaho.** -- The segment from the Canadian border to its confluence with the Kootenai River.
- (19) **Priest, Idaho.** -- The entire main stem.
- (22) **Saint Joe, Idaho.** -- The entire main stem.
- (23) **Salmon, Idaho.** -- The segment from the town of North Fork to its confluence with the Snake River.
- (46) **Owyhee, South Fork, Oregon.** -- The main stem from the Oregon-Idaho border downstream to the Owyhee Reservoir.
- (50) **Snake, Wyoming.** -- The segment from the southern boundaries of Teton National Park to the entrance to Palisades Reservoir.
- (57) **Snake, Washington, Oregon, and Idaho.** -- The segment from an eastward extension of the north boundary of section 1, township 5 north, range 47 east, Willamette meridian, downstream to the town of Asotin, Washington.

Study periods.

(b)(1) The studies of rivers named in subparagraphs (28) through (55) of subsection (a) of this section shall be completed and reports thereon submitted by not later than October 2, 1979: *Provided*, That with respect to the rivers named in subparagraphs (33), (50), and (51), the Secretaries shall not commence any studies until -- (i) the State legislature has acted with respect to such rivers, or (ii) one year from the date of enactment of this Act [January 3, 1975], whichever is earlier. Studies of the river[s] named in paragraphs (38), (55), (83), and (87) shall be completed and the reports transmitted to the Congress not later than January 1, 1987.

(Includes Owyhee, South Fork in Oregon and the Snake I Wyoming. References to other rivers in the remaining 49 states have been eliminated from this section.)

Additional study requirements.

(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.

Federal agency consideration of wild and scenic values.

(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 potentials. 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.

(2) The Congress finds that the Secretary of the Interior, in preparing the Nationwide Rivers Inventory as a specific study for possible additions to the national wild and scenic rivers system, identified the Upper Klamath River from below the John Boyle Dam to the Oregon-California State line. The Secretary, acting through the Bureau of Land Management, is authorized under this subsection to complete a study of the eligibility and suitability of such segment for potential addition to the national wild and scenic rivers system. Such study shall be completed, and a report containing the results of the study shall be submitted to Congress by April 1, 1990. Nothing in this paragraph shall affect the authority or responsibilities of any other Federal agency with respect to activities or action on this segment and its immediate environment.

Acquisition procedures and limitations.

SECTION 6. (a)(1) The Secretary of the Interior and the Secretary of Agriculture are each authorized to acquire lands and interests in land within the authorized boundaries of any component of the national wild and scenic rivers system designated in section 3 of this Act, or hereafter designated for inclusion in the system by Act of Congress, which is administered by him, but he shall not acquire fee title to an average of more than 100 acres per mile on both sides of the river. Lands owned by a State may be acquired only by donation or by exchange in accordance with the subsection (d) of this section. Lands owned by an Indian tribe or a political subdivision of a State may not be acquired without the consent of the appropriate governing body thereof as long as the Indian tribe or political subdivision is following a plan for management and protection of the lands which the Secretary finds protects the land and assures its use for purposes consistent with this Act. Money appropriated for Federal purposes from the land and water conservation fund shall, without prejudice to the use of appropriations from other sources, be available to Federal departments and agencies for the acquisition of property for the purposes of this Act.

Federal agency consideration of wild and scenic values.

(2) When a tract of land lies partially within and partially outside the boundaries of a component of the national wild and scenic rivers system, the appropriate Secretary may, with the consent of the landowners for the portion outside the boundaries, acquire the entire tract. The land or interest therein so acquired outside the boundaries shall not be counted against the average one-hundred-acre-per-mile fee title limitation of subsection (a)(1). The lands or interests therein outside such boundaries shall be disposed of, consistent with existing authorities of law, by sale, lease, or exchange.

(b) If 50 per centum or more of the entire acreage outside the ordinary high water mark on

both sides of the river within a federally administered wild, scenic or recreational river area is owned in fee title by the United States, by the State or States within which it lies, or by political subdivisions of those States, neither Secretary shall acquire fee title to any lands by condemnation under authority of this Act. Nothing contained in this section, however, shall preclude the use of condemnation when necessary to clear title or to acquire scenic easements or such other easements as are reasonably necessary to give the public access to the river and to permit its members to traverse the length of the area or of selected segments thereof.

(c) 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. In order to carry out the provisions of this subsection the appropriate Secretary shall issue guidelines, specifying standards for local zoning ordinances, which are consistent with the purposes of this Act. The standards specified in such guidelines shall have the object of (A) prohibiting new commercial or industrial uses other than commercial or industrial uses which are consistent with the purposes of this Act, and (B) the protection of the bank lands by means of acreage, frontage, and setback requirements on development.

(d) The appropriate Secretary is authorized to accept title to non-Federal property within the authorized boundaries of any federally administered component of the national wild and scenic rivers system designated in section 3 of this Act or hereafter designated for inclusion in the system by Act of Congress and, in exchange therefore, convey to the grantor any federally owned property which is under his jurisdiction within the State in which the component lies and which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal or, if they are not approximately equal, shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(e) The head of any Federal department or agency having administrative jurisdiction over any lands or interests in land within the authorized boundaries of any federally administered component of the national wild and scenic rivers system designated in section 3 of this Act or hereafter designated for inclusion in the system by Act of Congress is authorized to transfer to the appropriate Secretary jurisdiction over such lands for administration in accordance with the provisions of this Act. Lands acquired by or transferred to the Secretary of Agriculture for the purposes of this Act within or adjacent to a national forest shall upon such acquisition or transfer become national forest lands.

(f) The appropriate Secretary is authorized to accept donations of lands and interests in land, funds, and other property for use in connection with his administration of the national wild and scenic rivers system.

(g)(1) Any owner or owners (hereinafter in this subsection referred to as "owner") of improved property on the date of its acquisition, may retain for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term not to exceed twenty-five years, or in lieu thereof, for a term ending at the death of the owner, or the death of his spouse, or the death of either or both of them. The owner shall elect the term to be reserved. The appropriate Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such a date of the right retained by the owner.

(2) A right of use and occupancy retained pursuant to this subsection shall be subject to termination whenever the appropriate Secretary is given reasonable cause to find that such use and occupancy is being exercised in a manner which conflicts with the purposes of this Act. In the event of such a finding, the Secretary shall tender to the holder of that right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination. Such right of use or occupancy shall terminate by operation of law upon tender of the fair market price.

(3) The term "improved property", as used in this Act, means a detached, one-family dwelling (hereinafter referred to as "dwelling"), the construction of which was begun before January 1, 1967, (except where a different date is specifically provided by law with respect to any particular river), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the appropriate Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

Restrictions on hydro and water resource development projects on designated rivers.

SECTION 7. (a) 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 (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), on or directly affecting any river which is designated in section 3 of this Act as a component of the national wild and scenic rivers system or which is hereafter designated for inclusion in that system, 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 was established, as determined by the Secretary charged with its administration. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area on the date of designation of a river as a component of the national wild and scenic rivers system. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration, or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior or the Secretary of Agriculture, as the case may be, in writing of its intention so to do at least sixty days in advance, and 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. Any license heretofore or hereafter issued by the Federal Power Commission [FERC] affecting the New River of North Carolina shall continue to be effective only for that portion of the river which is not included in the national wild and scenic rivers system pursuant to section 2 of this Act and no project or undertaking so licensed shall be permitted to invade, inundate or otherwise adversely affect such river segment.

Restrictions on hydro and water resource development projects on study rivers.

(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 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 or 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 and 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.

(c) 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.

Grants under Land and Water Conservation Fund Act of 1965.

(d) Nothing in this section with respect to the making of a loan or grant shall apply to grants made under the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-5 et seq.).

Limitations to entry on public lands.

(a) Designated rivers.

SECTION 8. (a) All public lands within the authorized boundaries of any component of the national wild and scenic rivers system which is designated in section 3 of this Act or which is hereafter designated for inclusion in that system are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States. This subsection shall not be construed to limit the authorities granted in section 6(d) or section 14A of this Act.

(b) Study rivers.

(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 United States for the periods specified in section 7(b) of this Act.

Limitations on mineral entry and development on Public Lands; designated rivers.

SECTION 9. (a) Nothing in this Act shall affect the applicability of the United States mining and mineral leasing laws within components of the national wild and scenic rivers system except that -- (i) all prospecting, mining operations, and other activities on mining claims which, in the case of a component of the system designated in section 3 of this Act, have not heretofore been perfected or which, in the case of a component hereafter designated pursuant to this Act or any other Act of Congress, are not perfected before its inclusion in the system and all mining operations and other activities under a mineral lease, license, or permit issued or renewed after inclusion of a component in the system shall be subject to such regulations as the Secretary of the Interior or, in the case of national forest lands, the Secretary of Agriculture may prescribe to effectuate the purposes of this Act; (ii) subject to valid existing rights, the perfection of, or issuance of a patent to, any mining claim affecting lands within the system shall confer or convey a right or title only to the mineral deposits and such rights only to the use of the surface and the surface resources as are reasonably required to carrying on prospecting or mining operations and are consistent with such regulations as may be prescribed by the Secretary of the Interior, or in the case of national forest lands, by the Secretary of Agriculture; and (iii) subject to valid existing rights, the minerals in Federal lands which are part of the system and constitute the bed or bank or are situated within one-quarter mile of the bank of any river designated a wild river under this Act or any subsequent Act are hereby withdrawn from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto.

Regulations issued pursuant to paragraphs (i) and (ii) of this subsection shall, among other things, provide safeguards against pollution of the river involved and unnecessary impairment of the scenery within the component in question.

Study rivers.

(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.

Management direction.

SECTION 10. (a) Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its aesthetic, scenic, historic, archaeological, and scientific features. Management plans for any such component may establish varying degrees of intensity for its protection and development, based on the special attributes of the area.

(b) Any portion of a component of the national wild and scenic rivers system that is within the national wilderness preservation system, as established by or pursuant to the Act of September 3, 1964 (78 Stat. 890; 16 U.S.C., ch. 23),³⁹ shall be subject to the provisions of both the Wilderness Act and this Act with respect to preservation of such river and its immediate environment, and in case of conflict between the provisions of these Acts the more restrictive provisions shall apply.

(c) Any component of the national wild and scenic rivers system that is administered by the Secretary of the Interior through the National Park Service shall become a part of the national park system, and any such component that is administered by the Secretary through the Fish and Wildlife Service shall become a part of the national wildlife refuge system. The lands involved shall be subject to the provisions of this Act and the Acts under which the national park system or national wildlife refuge system, as the case may be, is administered, and in case of conflict between the provisions of these Acts, the more restrictive provisions shall apply. The Secretary of the Interior, in his administration of any component of the national wild and scenic rivers system, may utilize such general statutory authorities relating to areas of the national park system and such general statutory authorities otherwise available to him for recreation and preservation purposes and for the conservation and management of natural resources as he deems appropriate to carry out the purposes of this Act.

(d) The Secretary of Agriculture, in his administration of any component of the national wild and scenic rivers system area, may utilize the general statutory authorities relating to the national forests in such manner as he deems appropriate to carry out the purposes of this Act.

(e) The Federal agency charged with the administration of any component of the national wild and scenic rivers system may enter into written cooperative agreements with the Governor of a State, the head of any State agency, or the appropriate official of a political subdivision of a State for State or local governmental participation in the administration of the component. The States and their political subdivisions shall be encouraged to cooperate in the planning and administration of components of the system which include or adjoin State-or county-owned lands.

Federal assistance to others; cooperation; use of volunteers.

SECTION 11. (a) The Secretary of the Interior shall encourage and assist the States to consider, in formulating and carrying out their comprehensive statewide outdoor recreation plans and proposals for financing assistance for State and local projects submitted pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), needs and opportunities for establishing State and local wild, scenic and recreational river areas.

(b)(1) The Secretary of the Interior, the Secretary of Agriculture, or the head of any other Federal agency, shall assist, advise, and cooperate with States or their political subdivisions, landowners, private organizations, or individuals to plan, protect, and manage river resources. Such assistance, advice and cooperation may be through written agreements or otherwise. This authority applies within or outside a federally administered area and applies to rivers which are components of the national wild and scenic rivers system and to other rivers. Any agreement under this subsection may include provisions for limited financial or other assistance to encourage participation in the acquisition, protection, and management of river resources.

(2) Wherever appropriate in furtherance of this Act, the Secretary of Agriculture and the Secretary of the Interior are authorized and encouraged to utilize the following:

(A) For activities on federally owned land, the Volunteers in the Parks Act of 1969 (16 U.S.C. 18g-j) and the Volunteers in the Forest Act of 1972 (16 U.S.C. 558a-558d).

(B) For activities on all other lands, section 6 of the Land and Water Conservation Fund Act of 1965 (relating to the development of statewide comprehensive outdoor recreation plans).

(3) For purposes of this subsection, the appropriate Secretary or the head of any Federal agency may utilize and make available Federal facilities, equipment, tools and technical assistance to volunteers and volunteer organizations, subject to such limitations and restrictions as the appropriate Secretary or the head of any Federal agency deems necessary or desirable.

(4) No permit or other authorization provided for under provision of any other Federal law shall be conditioned on the existence of any agreement provided for in this section.

Management policies

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 the boundaries of 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.

(b) Nothing in this section shall be construed to abrogate any existing rights, privileges, or contracts affecting Federal lands held by any private party without the consent of said party.

(c) The head of any agency administering a component of the national wild and scenic rivers system shall cooperate with the Administrator, Environmental Protection Agency and with the appropriate State water pollution control agencies for the purpose of eliminating or diminishing the pollution of waters of the river.

Reservation of State and Federal jurisdiction and responsibilities; access to and across wild and scenic rivers.

SECTION 13. (a) Nothing in this Act shall affect the jurisdiction or responsibilities of the States with respect to fish and wildlife. Hunting and fishing shall be permitted on lands and waters administered as parts of the system under applicable State and Federal laws and regulations unless, in the case of hunting, those lands or waters are within a national park or monument. The administering Secretary may, however, designate zones where, and establish periods when, no hunting is permitted for reasons of public safety, administration, or public use and enjoyment and shall issue appropriate regulations after consultation with the wildlife agency of the State or States affected.

(b) The jurisdiction of the States and the United States over waters of any stream included in the national wild, scenic or recreational river area shall be determined by established principles of law. Under the provisions of this Act, any taking by the United States of a water right which is vested under either State or Federal law at the time such river is included in the national wild and scenic rivers system shall entitle the owner thereof to just compensation. Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(c) Designation of any stream or portion thereof as a national wild, scenic or recreational river area shall not be construed as a reservation of the waters of such streams for purposes other than those specified in this Act, or in quantities greater than necessary to accomplish these purposes.

(d) The jurisdiction of the States over waters of any stream included in a national wild, scenic or recreational river area shall be unaffected by this Act to the extent that such jurisdiction may be exercised without impairing the purposes of this Act or its administration.

(e) Nothing contained in this Act shall be construed to alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States which contain any portion of the national wild and scenic rivers system.

(f) Nothing in this Act shall affect existing rights of any State, including the right of access, with respect to the beds of navigable streams, tributaries, or rivers (or segments thereof) located in a national wild, scenic or recreational river area.

(g) The Secretary of the Interior or the Secretary of Agriculture, as the case may be, may grant easements and rights-of-way upon, over, under, across, or through any component of the national wild and scenic rivers system in accordance with the laws applicable to the

national park system and the national forest system, respectively: *Provided*, That any conditions precedent to granting such easements and rights-of-way shall be related to the policy and purpose of this Act.

Land donations.

SECTION 14. The claim and allowance of the value of an easement as a charitable contribution under section 170 of title 26, United States Code, or as a gift under section 2522 of said title shall constitute an agreement by the donor on behalf of himself, his heirs, and assigns that, if the terms of the instrument creating the easement are violated, the donee or the United States may acquire the servient estate at its fair market value as of the time the easement was donated minus the value of the easement claimed and allowed as a charitable contribution or gift.

Lease of Federal lands.

SECTION 14A. (a) Where appropriate in the discretion of the Secretary, he may lease federally owned land (or any interest therein) which is within the boundaries of any component of the national wild and scenic rivers system and which has been acquired by the Secretary under this Act. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this Act.

(b) Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land immediately before its acquisition by the United States.

Exceptions for Alaska.

SECTION 15. Notwithstanding any other provision to the contrary in sections 3 and 9 of this Act, with respect to components of the national wild and scenic rivers system in Alaska designated by paragraphs (38) through (50) of section 3(a) of this Act -- (1) the boundary of each such river shall include an average of not more than six hundred and forty acres per mile on both sides of the river. Such boundary shall not include any lands owned by the State or a political subdivision of the State nor shall such boundary extend around any private lands adjoining the river in such manner as to surround or effectively surround such private lands; and (2) the withdrawal made by paragraph (iii) of section 9(a) shall apply to the minerals in Federal lands which constitute the bed or bank or are situated within one-half mile of the bank of any river designated a wild river by the Alaska National Interest Lands Conservation Act.

Definitions.

SECTION 16. As used in this Act, the term --

(a) "River" means a flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes.

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

(c) "Scenic easement" means the right to control the use of land (including the air space above such land) within the authorized boundaries of a component of the wild and scenic

rivers system, for the purpose of protecting the natural qualities of a designated wild, scenic or recreational river area, but such control shall not affect, without the owner's consent, any regular use exercised prior to the acquisition of the easement. For any designated wild and scenic river, the appropriate Secretary shall treat the acquisition of fee title with the reservation of regular existing uses to the owner as a scenic easement for purposes of this Act. Such an acquisition shall not constitute fee title ownership for purposes of section 6(b).

Authorization of appropriations for land acquisition.

SECTION 17. There are hereby authorized to be appropriated, including such sums as have heretofore been appropriated, the following amounts for land acquisition for each of the rivers described in section 3(a) of this Act:

- Clearwater, Middle Fork, Idaho, \$2,909,800;
- Salmon, Middle Fork Idaho, \$1,837,000

**Exhibit 1500-2: Wild and Scenic Rivers
Map**

