

AMENDING THE WILD AND SCENIC RIVERS ACT, AND
FOR OTHER PURPOSES

OCTOBER 4, 1988.—Ordered to be printed

Mr. UDALL, from the Committee on Interior and Insular Affairs,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 4164]

[Including cost estimate of the Congressional Budget Office]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 4164) to amend the Wild and Scenic Rivers Act, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, line 3, strike all after the enacting clause and insert in lieu thereof:

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Mark O. Hatfield Oregon Wild and Scenic Rivers Act of 1988"

SEC. 2. AMENDMENTS TO THE WILD AND SCENIC RIVERS ACT.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274) is amended by adding the following new paragraphs at the end thereof:

"(66) BIG MARSH, OREGON.—The 15-mile segment from the northeast quarter of section 15, township 26 south, range 6 east, to its confluence with Crescent Creek in the northeast quarter of section 20, township 24 south, range 7 east; to be administered by the Secretary of Agriculture as a recreational river. Notwithstanding any other provision of this Act, the Secretary of Agriculture may undertake construction activities to enhance and restore wetland resources associated with Big Marsh Creek.

"(67) CHETCO, OREGON.—The 44.5-mile segment from its headwaters to the Siskiyou National Forest boundary; to be administered by the Secretary of Agriculture as follows:

"(A) The 25.5-mile segment from its headwaters to Boulder Creek at the Kalmiopsis Wilderness boundary as a wild river.

"(B) The eight-mile segment from Boulder Creek to Steel Bridge as a scenic river.

"(C) The 11-mile segment from Steel Bridge to the Siskiyou National Forest boundary, one mile below Wilson Creek, as a recreational river.

"(68) CLACKAMAS, OREGON.—The 47-mile segment from Big Springs to Big Cliff; to be administered by the Secretary of Agriculture as follows:

"(A) The 4-mile segment from Big Springs to the Forest Service Road 4690 bridge, as a scenic river.

"(B) The 3.5-mile segment from the Forest Service Road 4690 bridge to the junction with Oregon State Highway 224, as a recreational river.

"(C) The 10.5-mile segment from Oregon State Highway 224 to the June Creek Bridge, as a scenic river.

"(D) The 9-mile segment from the June Creek Bridge to Tar Creek, as a recreational river.

"(E) The 5.5-mile segment from Tar Creek to just south of Indian Henry Campground, as a scenic river.

"(F) The 14.5-mile segment just south of Indian Henry Campground to Big Cliff, as a recreational river.

"(69) CRESCENT CREEK, OREGON.—The 10-mile segment from the southwest quarter of section 11, township 24 south, range 6 east, to the west section line of section 13, township 24 south, range 7 east; to be administered by the Secretary of Agriculture, as a recreational river.

"(70) CROOKED, OREGON.—The 17.3-mile segment from the National Grassland boundary to Dry Creek; to be administered by the Secretary of the Interior as follows:

"(A) The 9.3-mile segment from the National Grassland boundary to Lake Billy Chinook, one mile west of Highway 97, as a recreational river.

"(B) The 8-mile segment from Bowman Dam to Dry Creek as a recreational river.

"(71) DESCHUTES, OREGON.—(A) The 40.4-mile segment from Wickiup Dam to northern boundary of Sunriver at the southwest quarter of section 20, township 19 south, range 11 east; to be administered by the Secretary of Agriculture, as a recreational river.

"(B) The 11-mile segment from the northern boundary of Sunriver at the southwest quarter of section 20, township 19 south, range 11 east, to Lava Island Camp; to be administered by the Secretary of Agriculture as a scenic river.

"(C) The 3-mile segment from Lava Island Camp to the Bend Urban Growth Boundary at the southwest corner of section 13, township 18 south, range 11 east; to be administered by the Secretary of Agriculture, as a recreational river.

"(D) The 19-mile segment from Oden Falls to the Upper End of Lake Billy Chinook; to be administered by the Secretary of the Interior, as a scenic river.

"(E) The 100-mile segment from the Pelton Reregulating Dam to its confluence with the Columbia River; to be administered by the Secretary of the Interior, as a recreational river. To facilitate the administration of the segment designated under this subparagraph the State of Oregon, pursuant to a cooperative agreement with the Secretary of the Interior, shall be the lead management entity in managing access to, and on, such segment, except for lands within the exterior boundaries of the Warm Springs Indian Reservation and other Indian trust lands. All ordinances to determine whether access conforms to, and maintains the integrity of, such segment shall be developed and administered by the State of Oregon with the approval of the Secretary of the Interior.

"(72) DONNER UND BLITZEN, OREGON.—The 72.8-mile segment from its headwaters to the southern boundary of the Malheur National Wildlife Refuge, including its major tributaries; to be administered by the Secretary of the Interior, as a wild river, as follows:

"(A) The 16.75-mile segment of the Donner und Blitzen from its confluence with the South Fork Blitzen and Little Blitzen.

"(B) The 12.5-mile segment of the Little Blitzen from its headwaters to its confluence with the South Fork Blitzen.

"(C) The 16.5-mile segment of the South Fork Blitzen from its headwaters to its confluence with the Little Blitzen.

"(D) The 10-mile segment of Big Indian Creek from its headwaters to its confluence with the South Fork Blitzen.

"(E) The 3.7-mile segment of Little Indian Creek from its headwaters to its confluence with Big Indian Creek.

"(F) The 13.25-mile segment of Fish Creek from its headwaters to its confluence with the Donner und Blitzen.

"(73) **EAGLE CREEK, OREGON.**—The 27-mile segment from its headwaters to the Wallowa-Whitman National Forest boundary at Skull Creek; to be administered by the Secretary of Agriculture as follows:

"(A) The 4-mile segment from its headwaters to the Eagle Cap Wilderness boundary at Hummingbird Mountain, as a wild river.

"(B) The 15.5-mile segment from the Eagle Cap Wilderness boundary at Hummingbird Mountain to Paddy Creek, as a recreational river.

"(C) The 6-mile segment from Paddy Creek to Little Eagle Creek, as a scenic river.

"(D) The 1.5-mile segment from Little Eagle Creek to the Wallowa-Whitman National Forest boundary, as a recreational river.

"(74) **ELK, OREGON.**—The 19-mile segment to be administered by the Secretary of Agriculture as follows:

"(A) The 17-mile segment from the confluence of the North and South Forks of the Elk to Anvil Creek, as a recreational river.

"(B) The 2-mile segment of the North Fork Elk from the falls to its confluence with the South Fork, as a wild river.

"(75) **GRANDE RONDE, OREGON.**—The 43.8-mile segment from its confluence with the Wallowa River to the Oregon-Washington State line; to be administered as follows:

"(A) The 1.5-mile segment from its confluence with the Wallowa River to the Umatilla National Forest boundary in section 11, township 3 north, range 40 east to be administered by the Secretary of Agriculture, as a recreational river.

"(B) The 17.4-mile segment from the Umatilla National Forest boundary in section 11, township 3 north, range 40 east, to the Wallowa-Whitman National Forest boundary approximately one-half mile east of Grossman Creek; to be administered by the Secretary of Agriculture, as a wild river.

"(C) The 9-mile segment from the Wallowa-Whitman National Forest boundary approximately one-half mile east of Grossman Creek to Wildcat Creek; to be administered by the Secretary of the Interior, as a wild river.

"(D) The 15.9-mile segment from Wildcat Creek to the Oregon-Washington State line; to be administered by the Secretary of the Interior, as a recreational river.

"(76) **IMNAHA, OREGON.**—The 68-mile segment from its confluence with the North and South Forks of the Imnaha River to its mouth; to be administered by the Secretary of Agriculture as follows:

"(A) The 6-mile segment from its confluence with the North and South Forks of the Imnaha River to Indian Crossing, as a wild river.

"(B) The 58-mile segment from Indian Crossing to Cow Creek, as a recreational river.

"(C) The 4-mile segment from Cow Creek to its mouth, as a scenic river

"(77) **JOHN DAY, OREGON.**—The 147.5-mile segment from Service Creek to Tumwater; to be administered by the Secretary of the Interior as a recreational river.

"(78) **JOSEPH CREEK, OREGON.**—The 8.6-mile segment from Joseph Creek Ranch, one mile downstream from Cougar Creek, to the Wallowa-Whitman National Forest boundary; to be administered by the Secretary of Agriculture, as a wild river.

"(79) **LITTLE DESCHUTES, OREGON.**—The 12-mile segment from its source in the northeast quarter of section 15, township 26 south, range 6.5 east, to the north section line of section 12, township 26 south, range 7 east; to be administered by the Secretary of Agriculture, as a recreational river.

"(80) **LOSTINE, OREGON.**—The 16-mile segment from its headwaters to the Wallowa-Whitman National Forest boundary; to be administered by the Secretary of Agriculture as follows:

"(A) The 5-mile segment from its headwaters to the Eagle Cap Wilderness boundary, as a wild river.

"(B) The 11-mile segment from the Eagle Cap Wilderness boundary to the Wallowa-Whitman National Forest boundary at Silver Creek, as a recreational river.

"(81) **MALHEUR, OREGON.**—The 5.5-mile segment from Malheur Ford south to the Malheur National Forest boundary at the west section line of section 15, township 18 south, range 35 east; to be administered by the Secretary of Agriculture, as a wild river.

"(82) **MCKENZIE, OREGON.**—The 13.3-mile segment from Clear Lake to Scott Creek; to be administered by the Secretary of Agriculture, as a recreational river as follows:

"(A) The 4.5-mile segment from Clear Lake to Tamolitch Falls.

"(B) The 2.2-mile segment from Tamolitch Falls to the maximum pool at Trail Bridge Reservoir.

"(C) The 6.6-mile segment from the base of the developments at Trail Bridge Reservoir to Scott Creek.

"(83) METOLIUS, OREGON.—The 28.6-mile segment from the south Deschutes National Forest boundary to Lake Billy Chinook, to be administered as follows:

"(A) The 11.5-mile segment from the south Deschutes National Forest boundary (approximately 2,055.5 feet from Metolius Springs) to Bridge 99; to be administered by the Secretary of Agriculture as a recreational river.

"(B) The 17.1-mile segment from Bridge 99 to Lake Billy Chinook; to be administered as a scenic river under a cooperative management agreement between the Secretary of the Interior and Agriculture, respectively, and the Confederated Tribes of the Warm Springs Reservation.

"(84) MINAM, OREGON.—The 39-mile segment from its headwaters at the south end of Minam Lake to the Eagle Cap Wilderness boundary, one-half mile downstream from Cougar Creek; to be administered by the Secretary of Agriculture, as a wild river.

"(85) NORTH FORK CROOKED, OREGON.—The 32.3-mile segment from its source at Williams Prairie to one mile from its confluence with the Crooked River; to be administered as follows:

"(A) The 3-mile segment from its source at Williams Prairie to the Upper End of Big Summit Prairie; to be administered by the Secretary of Agriculture as a recreational river.

"(B) The 3.7-mile segment from the Lower End of Big Summit Prairie to the bridge across from the Deep Creek Campground; to be administered by the Secretary of Agriculture as a recreational river.

"(C) The 8-mile segment from the bridge across from the Deep Creek Campground to the Ochoco National Forest boundary, one-half mile from Lame Dog Creek; to be administered by the Secretary of Agriculture as a scenic river.

"(D) The 1.5-mile segment from the Ochoco National Forest boundary to Upper Falls; to be administered by the Secretary of the Interior as a scenic river.

"(E) The 11.1-mile segment from Upper Falls to Committee Creek; to be administered by the Secretary of Agriculture as a wild river.

"(F) The 5-mile segment from Committee Creek to one mile from its confluence with the Crooked River; to be administered by the Secretary of the Interior as a recreational river.

"(86) NORTH FORK JOHN DAY, OREGON.—The 90.7-mile segment from its headwaters in the North Fork of the John Day Wilderness Area at section 13, township 8 south, range 36 east, to its confluence with the John Day River to be administered as follows:

"(A) The 3.5-mile segment from its headwaters in the North Fork of the John Day Wilderness at section 13, township 8 south, range 36 east, to the North Fork of the John Day Wilderness boundary; to be administered by the Secretary of Agriculture as a wild river.

"(B) The 7.5-mile segment from the North Fork of the John Day Wilderness boundary to Trail Creek; to be administered by the Secretary of Agriculture as a recreational river.

"(C) The 24.3-mile segment from Trail Creek to Big Creek; to be administered by the Secretary of Agriculture as a wild river.

"(D) The 10.5-mile segment from Big Creek to Texas Bar Creek; to be administered by the Secretary of Agriculture as a scenic river.

"(E) The 8.3-mile segment from Texas Bar Creek to its confluence with Camas Creek; to be administered by the Secretary of Agriculture as a recreational river.

"(F) The 16.6-mile segment from its confluence with Camas Creek to Mallory Creek; to be administered by the Secretary of the Interior as a recreational river.

"(G) The 10-mile segment from Mallory Creek to Cabin Creek; to be administered by the Secretary of the Interior as a wild river.

"(H) The 10-mile segment from Cabin Creek to Deer Creek; to be administered by the Secretary of the Interior as a recreational river.

"(87) NORTH FORK MALHEUR, OREGON.—The 39-mile segment from its headwaters to Beulah Reservoir to be administered as follows:

"(A) The 25.5-mile segment from its headwaters to the Malheur National Forest boundary; to be administered by the Secretary of Agriculture as a scenic river.

"(B) The 13.5-mile segment from the Malheur National Forest boundary to Beulah Reservoir; to be administered by the Secretary of the Interior as a scenic river.

"(88) NORTH FORK MIDDLE FORK WILLAMETTE, OREGON.—The 42.3-mile segment from Waldo Lake to the Willamette National Forest boundary; to be administered by the Secretary of Agriculture as follows:

"(A) The 8.8-mile segment from Waldo Lake to the south line of section 36, township 19 south, range 5½, as a wild river;

"(B) The 6.5-mile segment from the south line of section 36, township 19 south, range 5½ to Fisher Creek as a scenic river.

"(C) The 27-mile segment from Fischer Creek to the Willamette National Forest boundary, as a recreational river.

"(89) NORTH FORK OWYHEE, OREGON.—The 8-mile segment from the Oregon-Idaho State line to its confluence with the Owyhee River; to be administered by the Secretary of the Interior as a wild river.

"(90) NORTH FORK SMITH, OREGON.—The 13-mile segment from its headwaters to the Oregon-California State line; to be administered by the Secretary of Agriculture as follows:

"(A) The 6.5-mile segment from its headwaters to Horse Creek, as a wild river.

"(B) The 4.5-mile segment from Horse Creek to Baldface Creek, as a scenic river.

"(C) The 2-mile segment from Baldface Creek to the Oregon-California State line, as a wild river.

"(91) NORTH FORK SPRAGUE, OREGON.—The 15-mile segment from the head of River Spring in the southwest quarter of section 15, township 35 south, range 16 east, to the northwest quarter of the southwest quarter of section 11, township 35 south, range 15 east; to be administered by the Secretary of Agriculture as a scenic river.

"(92) NORTH POWDER, OREGON.—The 6-mile segment from its headwaters to the Wallowa-Whitman National Forest boundary at River Mile 21; to be administered by the Secretary of Agriculture as a scenic river.

"(93) NORTH UMPQUA, OREGON.—The 33.8-mile segment from the Soda Springs Powerhouse to Rock Creek to be administered as follows:

"(A) The 25.4-mile segment from the Soda Springs Powerhouse to the Umpqua National Forest boundary; to be administered by the Secretary of Agriculture as a recreational river.

"(B) The 8.4 mile segment from the Umpqua National Forest boundary to its confluence with Rock Creek; to be administered by the Secretary of the Interior as a recreational river.

"(94) POWDER, OREGON.—The 11.7 mile segment from Thief Valley Dam to the Highway 213 bridge; to be administered by the Secretary of the Interior as a scenic river.

"(95) QUARTZVILLE CREEK, OREGON.—The 12-mile segment from the Willamette National Forest boundary to Slack Water in Green Peter Reservoir; to be administered by the Secretary of the Interior as a recreational river.

"(96) ROARING, OREGON.—The 13.7-mile segment from its headwaters to its confluence with the Clackamas River; to be administered by the Secretary of Agriculture as follows:

"(A) The 13.5 mile segment from its headwaters to one-quarter mile upstream of the mouth, as a wild river.

"(B) The 0.2 mile segment from one-quarter mile upstream of the mouth to its confluence with the Clackamas River, as a recreational river.

"(97) SALMON, OREGON.—The 33.5-mile segment from its headwaters to its confluence with the Sandy River to be administered as follows:

"(A) The half-mile segment from its headwaters to one-half mile downstream; to be administered by the Secretary of Agriculture as a recreational river. In establishing detailed boundaries under subsection (b) of this section, the Secretary shall exclude from such boundaries the Timberline Lodge Winter Sports Area.

"(B) The 6.25-mile segment from one-half mile from the headwaters to the south boundary line at section 6; to be administered by the Secretary of Agriculture as a scenic river.

"(C) The 15-mile segment from the boundary line at section 6 to the junction with the south fork of the Salmon River; to be administered by the Secretary of Agriculture as a wild river.

"(D) The 3.5-mile segment from the junction with the south fork of the Salmon River to the Mt. Hood National Forest boundary; to be administered by the Secretary of Agriculture as a recreational river.

"(E) The 3.2-mile segment from the Mt. Hood National Forest boundary to Lyp Creek; to be administered by the Secretary of the Interior as a recreational river.

"(F) The 4.8-mile segment from Lyp Creek to its confluence with the Sandy River; to be administered by the Secretary of the Interior as a scenic river.

"(98) SANDY, OREGON.—The 24.9 miles in 2 segments from its headwaters to the west line of the east half of the northeast quarter of section 6, township 1 south, range 4 east at Dabney State Park to be administered by the Secretary of Agriculture as follows:

"(A) The 4.5-mile segment from its headwaters to the section line between sections 15 and 22, township 2 south, range 8 east, as a wild river.

"(B) The 7.9-mile segment from the section line between sections 15 and 22, township 2 south, range 8 east to the Mt. Hood National Forest boundary, as a recreational river.

"(C) The 12.5-mile segment from the east boundary of sections 25 and 36, township 1 south, range 4 east in Clackamas County near Dodge Park, downstream to the west line of the east half of the northeast quarter of section 6, township 1 south, range 4 east, in Multnomah County at Dabney State Park, the upper 3.8 miles as a scenic river and the lower 8.7 miles, as a recreational river. The Secretary of Agriculture shall administer the segment designated under this subparagraph through a cooperative management agreement with the Governor of Oregon and the counties of Multnomah and Clackamas in accordance with section 10(e) of this Act.

"(99) SOUTH FORK IMNAHA, OREGON.—The 9-mile segment from its headwaters to the confluence with the Imnaha River; to be administered by the Secretary of Agriculture as a wild river.

"(100) SOUTH FORK JOHN DAY, OREGON.—The 48-mile segment from the Malheur National Forest to its confluence with the John Day River; to be administered by the Secretary of the Interior as a recreational river.

"(101) SQUAW CREEK, OREGON.—The 15.4-mile segment from its source to the hydrologic gaging station 800 feet upstream from the intake to the McAllister ditch to be administered by the Secretary of Agriculture as follows:

"(A) The 6.6-mile segment from the source to the Three Sisters Wilderness boundary, as a wild river.

"(B) The Soap Fork Squaw Creek from its source to its confluence with Squaw Creek, as a wild river.

"(C) The North Fork from its headwaters to Squaw Creek, as a wild river.

"(D) The South Fork from its headwaters to Squaw Creek, as a wild river.

"(E) The Park Creek Fork from its headwaters to Squaw Creek, as a wild river.

"(F) The 8.8-mile segment from the boundary of the Three Sisters Wilderness Area to the hydrologic gaging station 800 feet upstream from the intake of the McAllister ditch, as a scenic river.

"(102) SYCAN, OREGON.—The 54-mile segment from its headwaters to Coyote Bucket at the Fremont National Forest boundary; to be administered by the Secretary of Agriculture as follows:

"(A) The 21.4-mile segment from its headwaters to the west section line of section 22, township 32 south, range 14 east, as a scenic river.

"(B) The 8.6-mile segment from the west section line of section 22, township 32 south, range 14 east, to the Fremont National Forest boundary in the southeast quarter of section 10, township 33 south, range 13 east, as a recreational river.

"(C) The 24-mile segment from the Fremont National Forest boundary in the southeast quarter of section 10, township 33 south, range 13 east, to Coyote Bucket at the Fremont National Forest boundary, as a scenic river.

"(103) UPPER ROGUE, OREGON.—The 40.3-mile segment from the Crater Lake National Park boundary to the Rogue River National Forest boundary; to be administered by the Secretary of Agriculture as follows:

"(A) The 0.5-mile segment from the Crater Lake National Park boundary to approximately 0.1-mile downstream from the forest road 6530760 (West Lake Road) crossing, as a scenic river.

"(B) The 6.1-mile segment from approximately 0.1-mile downstream from the forest road 6530760 (West Lake Road) crossing to Minehaha Creek, as a wild river.

"(C) The 33.7-mile segment from Minehaha Creek to the Rogue River National Forest boundary, as a scenic river.

"(104) WENAHA, OREGON.—The 21.55-mile segment from the confluence of the North Fork and the South Fork to its confluence with the Grande Ronde River; to be administered by the Secretary of Agriculture as follows:

"(A) The 18.7-mile segment from the confluence of the North Fork and South Fork to the Umatilla National Forest, as a wild river.

"(B) The 2.7-mile segment from the Umatilla National Forest boundary to the easternmost boundary of the Wenaha State Wildlife Area, as a scenic area.

"(C) The 0.15-mile segment from the easternmost boundary of the Wenaha State Wildlife Area to the confluence with the Grand Ronde River, as a recreational river.

"(105) WEST LITTLE OWYHEE, OREGON.—The 51-mile segment from its headwaters to its confluence with Owyhee River; to be administered by the Secretary of the Interior as a wild river.

"(106) WHITE, OREGON.—The 44.5 mile segment from its headwaters to its confluence with the Deschutes River in the following classes:

"(A) The 2-mile segment from its headwaters to the section line between sections 9 and 16, township 3 south, range 9 east; to be administered by the Secretary of Agriculture, as a recreational river. In establishing detailed boundaries under subsection (b) of this section, the Secretary of Agriculture shall exclude from such boundaries the Mt. Hood Winter Sports Area.

"(B) The 13.6-mile segment from the section line between sections 9 and 16, township 3 south, range 9 east, to Klip Creek; to be administered by the Secretary of Agriculture as a recreational river.

"(C) The 6.5-mile segment from Klip Creek to the Mt. Hood National Forest boundary; to be administered by the Secretary of Agriculture as a wild river.

"(D) The 19.2-mile segment from the Mt. Hood National Forest boundary to the Highway 197 bridge to be administered by the Secretary of the Interior as a wild river.

"(E) The 3.6 mile segment from the Highway 197 bridge to River Mile 2.2; to be administered by the Secretary of the Interior as a recreational river.

"(F) The 1.6 mile segment from River Mile 1.6 to its confluence with the Deschutes River; to be administered by the Secretary of the Interior as a recreational area."

SEC. 3. WILD AND SCENIC RIVER STUDIES.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276), is amended by adding the following new paragraphs at the end thereof:

"(100) BLUE, OREGON.—The segment from its headwaters to the Blue River Reservoir.

"(101) CHEWAUCAN, OREGON.—The segment from its headwaters to the Paisley Urban Growth boundary to be studied in cooperation with the basin planning process currently underway.

"(102) PINE CREEK, OREGON.—All its tributaries and mainstem, including from its headwaters to the bridge over Pine Creek at Carson and the segment from the headwaters of North Pine Creek to its confluence with Pine Creek and from the confluence with Pine Creek to its mouth.

"(103) SOUTH FORK MCKENZIE, OREGON.—The segments from its headwaters to the upper end of Cougar Reservoir and from the lower end of Cougar Reservoir to its confluence with the McKenzie River.

"(104) STEAMBOAT CREEK, OREGON.—The entire creek.

"(105) UPPER KLAMATH, OREGON.—The segment from immediately below John Boyle Dam to the Oregon-California State line.

"(106) WALLOWA, OREGON.—The segment from its confluence with the Minam River to its confluence with the Grande Ronde River.

"(107) JOHN DAY, OREGON.—(A) The segment of the North Fork John Day from Deer Creek approximately one mile upstream from Monument to its confluence with the mainstem of the John Day River at Kimberly.

"(B) The segment of the South Fork John Day from Smokey Creek to the mouth.

"(C) The 9-mile segment from its headwaters at section 28, township 15 south, range 35 east to Blue Mountains Hot Springs.

"(D) The segment of the mainstem John Day from Blue Mountains Hot Springs to Cottonwood Creek.

"(E) The 5.7-mile segment from Cottonwood Creek to Goose Rock.

"(F) The segment of the mainstem John Day from Goose Rock to Service Creek.

"(108) JOSEPH CREEK, OREGON.—The segment from the Crow Creek Bridge to Joseph Creek Ranch, one mile downstream from Cougar Creek.

"(109) WILLIAMSON, OREGON.—The segment from the west Winema National Forest boundary to its mouth."

SEC. 4. INDIAN TREATY LANDS.

Where Indian treaty lands exist in association with lands included in the National Wild and Scenic Rivers System under this Act, the Secretaries of the Interior and Agriculture, as appropriate, shall fully consult and enter into written cooperative management agreements with the affected Indian tribe for planning, administration, and management of such areas.

SEC. 5. ADMINISTRATIVE PROVISIONS.

Nothing in this Act shall affect any of the following:

(1) The jurisdiction of responsibilities of an Indian tribe with respect to fish, wildlife, land, and water management.

(2) Any right, privilege, or immunity of any Indian or Indian tribe afforded under Federal treaty, agreement, or statute.

(3) The water and land claims, present or future, of an Indian tribe.

(4) Any amendment to the license for the Pelton Hydroelectric Project (FERC Project No. 2030), or any relicensing of such project, which does not have a direct and adverse effect on any river segment designated under this Act as a component of the national wild and scenic rivers system.

(5) The rights or jurisdiction of Indian tribes over waters or any river or stream within the affected river area or stream, or over any ground water resources.

(6) The beneficial ownership interest of land held in trust, now or hereafter, by the United States for Indian tribes or individual Indians.

SEC. 6. CITY OF PORTLAND.

Nothing in this Act shall preclude or impair the licensing, development, operation, or maintenance of city of Portland, Oregon, water resources facilities on those portions of the Bull Run or Little Sandy Rivers that are outside the boundary of the wild and scenic river area as designated in this Act. Nothing in this Act is intended or shall be construed to affect any rights, obligations, privileges, or benefits granted to the city of Portland, Oregon, under any prior authority of law or under any agreement or administrative ruling entered into or made effective before the effective date of this Act.

PURPOSE

The purpose of H.R. 4164¹ is to amend the National Wild and Scenic Rivers Act to designate certain river segments as wild and scenic and to provide for the study of other river segments for possible wild and scenic designation within the State of Oregon.

BACKGROUND

There are over 35,000 miles of rivers and streams within the State of Oregon. The 1982 Nationwide Rivers Inventory and forest management plans prepared by the U.S. Forest Service have identified many river segments within the state as containing significant scenic, recreational, cultural, geological and fisheries resources. Currently, segments of four Oregon rivers (Snake, Lower Rogue, Lower Illinois and Owyhee) totaling 317 miles have been designated national wild and scenic rivers. Segments of three rivers (North Umpqua, Snake, and Lower John Day) totaling 185 miles have

¹ H.R. 4164 was introduced by Representative DeFazio for himself and Mr. AuCoin and Mr. Wyden on March 16, 1988. A similar bill H.R. 4259 was introduced by Representative Denny Smith on March 25, 1988.

been formally designated for study as potential components of the national wild and scenic rivers system.

The State of Oregon administers a Scenic Waterways program, established in 1970. The program protects segments of 11 rivers totaling 656 miles, which includes portions of 3 national wild and scenic rivers.

The U.S. Forest Service and the Bureau of Land Management have been studying rivers within the state as part of their land management planning processes, in fulfillment of the provisions of Sec. 5(d) of the Wild and Scenic Rivers Act which has formed a basis for a statewide wild and scenic rivers bill.

SECTION-BY-SECTION ANALYSIS

Section 1. Provides that this Act may be referred to as the "Mark O. Hatfield Oregon Wild and Scenic Rivers Act of 1988"

Section 2. Amends Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274) to add segments of 41 rivers in the State of Oregon as components of the national wild and scenic rivers system. The Committee has found these river segments to have the outstandingly remarkable qualities required by the Act for designation. In addition 10 segments are designated for study as possible wild and scenic river additions.

The Committee has provided for management of these river segments pursuant to the policies and practices set forth in the Wild and Scenic Rivers Act. The Committee recognizes that a variety of uses including, but not limited to, such activities as grazing, timber harvest, mining, agriculture, utility, transportation and residential uses will continue to take place on private and public lands within the wild and scenic river corridors. It is the Committee's intention that all such activities be allowed to continue, insofar as they do not conflict with the policies and purposes of the Wild and Scenic Rivers Act.

The Committee has been concerned with some of the information that has been disseminated regarding management of lands and water within and around a designated river corridor. The Committee would strongly note that the Forest Service in testimony before the Committee stated that:

To the extent authorized by law, the Forest Service has been protecting the outstanding remarkable features of each eligible river so as to not jeopardize eventual designation. Special standards guide decisions related to timber management, dam construction, hydroelectric development, mining, road construction, recreation development, and other activities. These same standards would guide the development of a specific plan for any river that is eventually designated. As a result, designation would have little effect on day-to-day management of the river corridor.

These standards do not preclude timber harvest outside the corridor of potential wild rivers providing it is done in a visually sensitive manner. Timber management is also allowed within the corridor of potential scenic or recreational rivers if designed to protect the outstanding values associated with the river. These same standards have been

in effect since the rivers were placed on the Nationwide Rivers Inventory, and they would be the basis for development of a management plan for any river that is designated. Therefore, designation would have very little effect on timber harvest.

Furthermore, the Committee notes that with regard to condemnation of private lands and interests under authority of the Wild and Scenic Rivers Act, the Forest Service testified that it had never used its authority to condemn private lands in Oregon and had rarely used it elsewhere in the country. The Forest Service stated it had used its condemnation authority to acquire scenic easements in Oregon, but even that was of a very limited nature. The Committee recognizes that condemnation should only be used after all other attempts to resolve the problem have failed.

The Committee would further note that designation of a wild and scenic river segment, by itself, will not automatically result in additional restrictions on activities adjacent to a designated segment. The administering federal agencies already have land management policies that take into account wild and scenic river designations in the management of adjacent lands.

The Committee understands that the U.S. Forest Service, the Bureau of Land Management and the State of Oregon have entered into Memorandums of Understanding to assist compliance with the State's water quality standards. The Committee notes that Members of the Oregon delegation recently consulted with the State on the impact of this policy both on and upstream of designated wild and scenic rivers. Copies of the correspondence have been made part of the hearing record. The Committee concurs in the existing policy of cooperation between federal and state agencies to protect the water quality values of rivers and streams within the State and commends the State for its leadership on this matter.

On the 100 mile segment of the Deschutes River described in subparagraph (71)(E), it is the Committee's intent that the Secretary shall fully consult and enter into cooperative management agreements, pursuant to Section 10(e) of the Wild and Scenic Rivers Act, with the State of Oregon and the Confederated Tribes of Warm Springs. The Committee notes that the State of Oregon designated this segment as a component of the State Scenic Waterways Program in 1970. Except for lands within the boundaries of the Warm Springs Indian Reservation, the legislation provides that the State of Oregon shall be the lead management entity on this segment of the Deschutes River. As amended, H.R. 4164 provides that the Confederated Tribes of Warm Springs shall, similarly, be the lead management entity on all lands within the boundaries of the Warm Springs Reservation that border upon this segment.

It is the Committee's intent and expectation that with regard to the segments of the Elk River designated by paragraph (74) of this Act the Secretary shall employ management practices upstream of the designated segments that protect the fish habitat and water quality values of the designated segments.

The Committee notes that the segment of the John Day River designated by paragraph (77) of this Act is a State Scenic Waterway. It is the intent of the Committee that the Secretary consult

and enter into a cooperative agreement, pursuant to Section 10(e) of the Wild and Scenic Rivers Act, with the State for this section of the John Day.

For the 13.3 mile segment of the McKenzie River designated by paragraph (82) the Committee expects the Secretary in establishing detailed boundaries under Section 3(b) of the Wild and Scenic Rivers Act to exclude from the designated segments any developments that are unsuitable for inclusion in the national wild and scenic rivers system.

On the Metolius River designated under paragraph (83) the bill exempted the approximately 157 acres of land from the Metolius Springs to the National Forest boundary from designation. Exclusion of this private property from federal designation is an acknowledgement of the unique public/private partnership that has been developed to manage this extremely fragile and vulnerable environment.

In establishing detailed boundaries under section 3(b) of the Wild and Scenic Rivers Act for those segments of the Salmon and White Rivers designated by paragraphs (97) and (106) H.R. 4164, as amended, provides that the Secretary shall exclude the Timberline Lodge and Mt. Hood Winter Sports Areas. The general area around the Upper Salmon and White Rivers incorporates much of the Timberline Lodge/Mt. Hood Meadows Winter Recreation Area. This area is a longtime winter recreation area for hundreds of thousands of visitors annually. Among other considerations, the area is currently being promoted as a possible site for the 1998 Winter Olympic Games. Wild and scenic designation for this river is expected to complement, and not interfere with, that effort. The Committee understands that designation and classification does not necessarily preclude the Secretary from exercising discretion to approve construction, operation, and maintenance of ski lifts, ski runs, and associated facilities for the land comprising the Timberline Lodge/Mt. Hood Meadows Winter Recreation Area outside the designated river corridor boundaries insofar as such construction does not involve water resource projects and is consistent with protecting the values for which these river segments are designated.

For the 15.4 mile segment of Squaw Creek designated by paragraph (101) the Secretary may undertake activities, consistent with the provisions of the Wild and Scenic Rivers Act, to provide protection for the town of Sisters from a rapid discharge of Carver Lake.

Section 3. This Section amends Section 5(a) of the Wild and Scenic Rivers Act to provide for studies of 10 river segments in the State of Oregon for possible inclusion in the national wild and scenic rivers system.

While many of these study rivers are thought to possess the necessary outstandingly remarkable qualities, there is a lack of information about them that makes further study advisable. Such studies shall be carried out as provided in Section 4(a) of the Wild and Scenic Rivers Act. The studies will provide the Congress and the public with a comprehensive assessment of resource values, land-ownership and uses, and management options. The Committee would note that such studies in no way deprive private landowners of the beneficial use of their lands during the period of study.

In the Act adding the Illinois and Owyhee Rivers to the Wild and Scenic Rivers System in 1984, the Secretary of Agriculture was directed to "preserve, protect, and enhance" the anadromous fish resource in Steamboat Creek. Since 1984, the Umpqua National Forest has made a strong effort to meet that management guidance.

However, it should be noted that, despite these efforts, summertime water temperature in Steamboat Creek commonly reaches 75 degrees Fahrenheit, which is approximately 17 degrees higher than fisheries biologists recommend for sound anadromous fisheries. Therefore, Steamboat Creek has been designated a study river to determine whether wild and scenic status would offer management tools to better protect this important value. The Committee intends that the Forest Service shall continue its efforts to enhance the fisheries in Steamboat Creek, with an emphasis on protecting and enhancing temperature and turbidity levels in Steamboat Creek.

In addition, the Committee expects the Forest Service and the Bureau of Land Management to protect and enhance the fisheries and water quality of the tributaries of Steamboat Creek, including Canton Creek, to optimize fish production. Those efforts should include, where necessary, increased law enforcement activities.

As amended, H.R. 4164 provides for a study of the Upper Klamath River, rather than designation as was originally proposed. The Committee believes this is a reasonable compromise to the controversies that have surrounded the river's possible designation. As provided in Section 4(a) of the Wild and Scenic Rivers Act, the study will provide the Congress with a comprehensive assessment of the river and its nearby environs.

The Committee would note that nothing in the Wild and Scenic Rivers Act prohibits or prevents a federal agency from carrying forth any studies or proceedings short of licensure. The Committee believes that no irrevocable decisions should be made before the Congress has the opportunity to pass judgement on the advisability or inadvisability of Wild and Scenic designation for this river.

Section 4. This section provides that for those river segments that contain Indian treaty lands, the appropriate Secretary will consult and enter into cooperative management agreement with the affected Indian tribe for planning, administration, and management of such areas.

The Committee encourages Indian participation and leadership in river management on Indian lands. The Committee does not wish to usurp tribal authority, but rather has provided a tool for tribes to protect and use the significant river resources found within their lands.

Section 5. This section contains administrative provisions protecting the legitimate legal rights of an Indian tribe to land or waters within a designated river corridor.

The Committee does not wish to impinge on tribal rights. The Committee expects wild and scenic designation to compliment a tribe's legal management and use of land and waters within a designated area.

Section 6. Provides that nothing in this Act shall preclude or impair the licensing, development or maintenance of water resource facilities of the City of Portland on these portions of the

Bull Run or Little Sandy Rivers outside the wild and scenic river boundaries. The section further provides that the Act is not intended to affect whatever legal rights, obligations, privileges or benefits the City of Portland may have had previous to the date of enactment of this Act.

The Committee understands the State of Oregon has the power and responsibility to maintain reasonable minimum stream flows and water quality standards on the segments referenced in this section. The Committee is also aware that a 12.5 mile segment of the Sandy River designated by this Act is part of the State's scenic waterway system. The State has withdrawn the waters of the two tributaries named in this section from appropriation by anyone except the City of Portland. The Oregon Supreme Court has recently ruled, in *Diack v. City of Portland*, 306 Or. 287 (1988), that where the state has the power, it must restrict diversions from the tributaries to protect the recreation, fish, and wildlife use of the scenic waterway. The case makes clear that the State has the power to restrict diversions on these tributaries. The Committee is confident that the public trust doctrine reserves to the State sufficient power to restrict any diversion that threatens those portions of the Sandy River designated by this Act.

LEGISLATIVE HISTORY AND COMMITTEE RECOMMENDATION

A hearing was held by the Subcommittee on National Parks and Public Lands on H.R. 4164 on September 13, 1988. The Subcommittee was discharged from further consideration and the bill was considered by the Committee on Interior and Insular Affairs on September 22, 1988. The Committee considered an amendment in the nature of a substitute offered by Mr. Vento and adopted three amendments to the substitute offered by Mr. Denny Smith. The Committee adopted the amendment and ordered H.R. 4164, as amended, favorably reported to the House on September 22, 1988 by voice vote.

INFLATIONARY IMPACT STATEMENT AND BUDGET ACT COMPLIANCE

Taken in the context of the overall budget, the funding involved is insignificant and the Committee believes no inflationary impact will result from the enactment of this legislation. The analysis of the Congressional Budget Office, which the Committee adopts as its own, follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 30, 1988.

Hon. MORRIS K. UDALL,
*Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 4164, the Mark O. Hatfield Oregon Wild and Scenic Rivers Act of 1988, as ordered reported by the House Committee on Interior and Insular Affairs on September 22, 1988. We estimate that enactment of this bill would result in additional costs to the

federal government totaling approximately \$11 million over the next five years, assuming appropriation of the necessary amounts.

H.R. 4164 would add over 1,400 miles of river in Oregon to the wild and scenic river system. The bill would also add 10 river segments in Oregon to the list of rivers to be studied for inclusion in the wild and scenic river system. Finally, H.R. 4164 would protect certain rights of Indian tribes and the city of Portland.

Based on information provided by the Department of the Interior and the Department of Agriculture, CBO estimates that enactment of this bill would result in additional costs to the federal government totaling approximately \$3 million for river studies and about \$8 million for other management, planning, acquisition, and development activities over the next five years. Of these amounts, about \$2 million would be spent in fiscal year 1989, \$5 million in 1990, and the remainder over the 1991-1993 period.

Enactment of this bill would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo, who can be reached at 226-2860.

Sincerely,

JAMES L. BLUM,
Acting Director.

OVERSIGHT STATEMENT

The Committee intends to carefully monitor the implementation of this legislation to assure compliance with the intent of the Act. No recommendations were submitted to the Committee pursuant to Rule X, clause 2(b)(2).

DEPARTMENTAL REPORT

The Committee requested reports from the Departments of the Interior and Agriculture on May 24, 1988. No reports were received from the departments.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

WILD AND SCENIC RIVERS ACT

* * * * *

SEC. 3. (a) The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system:

(1) * * *

* * * * *

(66) *BIG MARSH, OREGON.*—*The 15-mile segment from the north-east quarter of section 15, township 26 south, range 6 east, to its*

confluence with Crescent Creek in the northeast quarter of section 20, township 24 south, range 7 east; to be administered by the Secretary of Agriculture as a recreational river. Notwithstanding any other provision of this Act, the Secretary of Agriculture may undertake construction activities to enhance and restore wetland resources associated with Big Marsh Creek.

(67) **CHETCO, OREGON.**—The 44.5-mile segment from its headwaters to the Siskiyou National Forest boundary; to be administered by the Secretary of Agriculture as follows:

(A) the 25.5-mile segment from its headwaters to Boulder Creek at the Kalmiopsis Wilderness boundary as a wild river.

(B) The eight-mile segment from Boulder Creek to Steel Bridge as a scenic river.

(C) the 11-mile segment from Steel Bridge to the Siskiyou National Forest boundary, one mile below Wilson Creek, as a recreational river.

(68) **CLACKAMAS, OREGON.**—The 47-mile segment from Big Springs to Big Cliff; to be administered by the Secretary of Agriculture as follows:

(A) The 4-mile segment from Big Springs to the Forest Service Road 4690 bridge, as a scenic river.

(B) The 3.5-mile segment from the Forest Service Road 4690 bridge to the junction with Oregon State Highway 224, as a recreational river.

(C) The 10.5-mile segment from Oregon State Highway 224 to the June Creek Bridge, as a scenic river.

(D) The 9-mile segment from the June Creek Bridge to Tar Creek, as a recreational river.

(E) The 5.5-mile segment from Tar Creek to just south of Indian Henry Campground, as a scenic river.

(F) The 14.5-mile segment from just south of Indian Henry Campground to Big Cliff, as a recreational river.

(69) **CRESCENT CREEK, OREGON.**—The 10-mile segment from the southwest quarter of section 11, township 24 south, range 6 east, to the west section line of section 13, township 24 south, range 7 east; to be administered by the Secretary of Agriculture, as a recreational river.

(70) **CROOKED, OREGON.**—The 17.3-mile segment from the National Grassland boundary to Dry Creek; to be administered by the Secretary of the Interior as follows:

(A) The 9.3-mile segment from the National Grassland boundary to Lake Billy Chinook, one mile west of Highway 97, as a recreational river.

(B) The 8-mile segment from Bowman Dam to Dry Creek as a recreational river.

(71) **DESCHUTES, OREGON.**—(A) The 40.4-mile segment from Wickiup Dam to northern boundary of Sunriver at the southwest quarter of section 20, township 19 south, range 11 east; to be administered by the Secretary of Agriculture, as a recreational river.

(B) The 11-mile segment from the northern boundary of Sunriver at the southwest quarter of section 20, township 19 south, range 11 east, to Lava Island Camp; to be administered by the Secretary of Agriculture as a scenic river.

(C) the 3-mile segment from Lava Island Camp to the Bend Urban Growth Boundary at the southwest corner of section 13, township 18 south, range 11 east; to be administered by the Secretary of Agriculture, as a recreational river.

(D) The 19-mile segment from Oden Falls to the Upper End of Lake Billy Chinook; to be administered by the Secretary of the Interior, as a scenic river.

(E) The 100-mile segment from Pelton Reregulating Dam to its confluence with the Columbia River; to be administered by the Secretary of the Interior, as a recreational river. To facilitate the administration of the segment designated under this subparagraph the State of Oregon, pursuant to a cooperative agreement with the Secretary of the Interior, shall be the lead management entity in managing access to, and on, such segment, except for lands within the exterior boundaries of the Warm Springs Indian Reservation and other Indian trust lands. All ordinances to determine whether access conforms to, and maintains the integrity of, such segment shall be developed and administered by the State of Oregon with the approval of the Secretary of the Interior.

(72) **DONNER UND BLITZEN, OREGON.**—The 72.8-mile segment from its headwaters to the southern boundary of the Malheur National Wildlife Refuge, including its major tributaries; to be administered by the Secretary of the Interior, as a wild river, as follows:

(A) The 16.75-mile segment of the Donner und Blitzen from its confluence with the South Fork Blitzen and Little Blitzen.

(B) The 12.5-mile segment of the Little Blitzen from its headwaters to its confluence with the South Fork Blitzen.

(C) The 16.5-mile segment of the South Fork Blitzen from its headwaters to its confluence with the Little Blitzen.

(D) The 10-mile segment of Big Indian Creek from its headwaters to its confluence with the South Fork Blitzen.

(E) The 3.7-mile segment of Little Indian Creek from its headwaters to its confluence with Big Indian Creek.

(F) The 13.25-mile segment of Fish Creek from its headwaters to its confluence with the Donner und Blitzen.

(73) **EAGLE CREEK, OREGON.**—The 27-mile segment from its headwaters to the Wallowa-Whitman National Forest boundary at Skull Creek; to be administered by the Secretary of Agriculture as follows:

(A) The 4-mile segment from its headwaters to the Eagle Cap Wilderness boundary at Hummingbird Mountain, as a wild river.

(B) The 15.5-mile segment from the Eagle Cap Wilderness boundary at Hummingbird Mountain to Paddy Creek, as a recreational river.

(C) The 6-mile segment from Paddy Creek to Little Eagle Creek, as a scenic river.

(D) The 1.5-mile segment from Little Eagle Creek to the Wallowa-Whitman National Forest boundary, as a recreational river.

(74) **ELK, OREGON.**—The 19-mile segment to be administered by the Secretary of Agriculture as follows:

(A) The 17-mile segment from the confluence of the North and South Forks of the Elk to Anvil Creek, as a recreational river.

(B) The 2-mile segment of the North Fork Elk from the falls to its confluence with the South Fork, as a wild river.

(75) **GRANDE RONDE, OREGON.**—The 43.8-mile segment from its confluence with the Wallowa River to the Oregon-Washington State line; to be administered as follows:

(A) The 1.5-mile segment from its confluence with the Wallowa River to the Umatilla National Forest boundary in section 11, township 3 north, range 40 east to be administered by the Secretary of Agriculture, as a recreational river.

(B) The 17.4-mile segment from the Umatilla National Forest boundary in section 11, township 3 north, range 40 east, to the Wallowa-Whitman National Forest boundary approximately one-half mile east of Grossman Creek; to be administered by the Secretary of Agriculture, as a wild river.

(C) The 9-mile segment from the Wallowa-Whitman National Forest boundary approximately one-half mile east of Grossman Creek to Wildcat Creek; to be administered by the Secretary of the Interior, as a wild river.

(D) The 15.9-mile segment from Wildcat Creek to the Oregon-Washington State line; to be administered by the Secretary of the Interior, as a recreational river.

(76) **IMNAHA, OREGON.**—The 68-mile segment from its confluence with the North and South Forks of the Imnaha River to its mouth; to be administered by the Secretary of Agriculture as follows:

(A) The 6-mile segment from its confluence with the North and South Forks of the Imnaha River to Indian Crossing, as a wild river.

(B) The 58-mile segment from Indian Crossing to Cow Creek, as a recreational river.

(C) The 4-mile segment from Cow Creek to its mouth, as a scenic river.

(77) **JOHN DAY, OREGON.**—The 147.5-mile segment from Service Creek to Tumwater; to be administered by the Secretary of the Interior as a recreational river.

(78) **JOSEPH CREEK, OREGON.**—The 8.6-mile segment from Joseph Creek Ranch, one mile downstream from Cougar Creek, to the Wallowa-Whitman National Forest boundary; to be administered by the Secretary of Agriculture, as a wild river.

(79) **LITTLE DESCHUTES, OREGON.**—The 12-mile segment from its source in the northwest quarter of section 15, township 26 south, range 6.5 east, to the north section line of section 12, township 26 south, range 7 east; to be administered by the Secretary of Agriculture, as a recreational river.

(80) **LOSTINE, OREGON.**—The 16-mile segment from its headwaters to the Wallowa-Whitman National Forest boundary; to be administered by the Secretary of Agriculture as follows:

(A) The 5-mile segment from its headwaters to the Eagle Cap Wilderness boundary, as a wild river.

(B) The 11-mile segment from the Eagle Cap Wilderness boundary to the Wallowa-Whitman National Forest boundary at Silver Creek, as a recreational river.

(81) **MALHEUR, OREGON.**—The 5.5-mile segment from Malheur Ford south to the Malheur National Forest boundary at the west

section line of section 15, township 18 south, range 35 east; to be administered by the Secretary of Agriculture, as a wild river.

(82) **MCKENZIE, OREGON.**—The 13.3-mile segment from Clear Lake to Scott Creek; to be administered by the Secretary of Agriculture, as a recreational river as follows:

(A) The 4.5-mile segment from Clear Lake to Tamolitch Falls.

(B) The 2.2-mile segment from Tamolitch Falls to the maximum pool at Trail Bridge Reservoir.

(C) The 6.6-mile segment from the base of the developments at Trail Bridge Reservoir to Scott Creek.

(83) **METOLIUS, OREGON.**—The 28.6-mile segment from the south Deschutes National Forest boundary to Lake Billy Chinook, to be administered as follows:

(A) The 11.5-mile segment from south Deschutes National Foresty boundary (approximately 2,055.5 feet from Metolius Springs) to Bridge 99; to be administered by the Secretary of Agriculture as a recreational river.

(B) The 17.1-mile segment from Bridge 99 to Lake Billy Chinook; to be administered as a scenic river under a cooperative management agreement between the Secretary of the Interior and Agriculture, respectively, and the Confederated Tribes of the Warm Springs Reservation.

(84) **MINAM, OREGON.**—The 39-mile segment from its headwaters at the south end of Minam Lake to the Eagle Cap Wilderness boundary, one-half mile downstream from Cougar Creek; to be administered by the Secretary of Agriculture, as a wild river.

(85) **NORTH FORK CROOKED, OREGON.**—The 32.3-mile segment from its source at Williams Prairie to one mile from its confluence with the Crooked River; to be administered as follows:

(A) The 3-mile segment from its source at Williams Prairie to the Upper End of Big Summit Prairie; to be administered by the Secretary of Agriculture as a recreational river.

(B) The 3.7-mile segment from the Lower End of Big Summit Prairie to the bridge across from the Deep Creek Campground; to be administered by the Secretary of Agriculture as a recreational river.

(C) The 8-mile segment from the bridge across from the Deep Creek Campground to the Ochoco National Forest boundary, one-half mile from Lame Dog Creek; to be administered by the Secretary of Agriculture as a scenic river.

(D) The 1.5-mile segment from the Ochoco National Forest boundary to Upper Falls; to be administered by the Secretary of the Interior as a scenic river.

(E) The 11.1-mile segment from Upper Falls to Committee Creek; to be administered by the Secretary of Agriculture as a wild river.

(F) The 5-mile segment from Committee Creek to one mile from its confluence with the Crooked River; to be administered by the Secretary of the Interior as a recreational river.

(86) **NORTH FORK JOHN DAY, OREGON.**—The 90.7-mile segment from its headwaters in the North Fork of the John Day Wilderness Area at section 13, township 8 south, range 36 east, to its confluence with the John Day River to be administered as follows:

(A) The 3.5-mile segment from its headwaters in the North Fork of the John Day Wilderness at section 13, township 8 south, range 36 east, to the North Fork of the John Day Wilderness boundary; to be administered by the Secretary of Agriculture as a wild river.

(B) The 7.5-mile segment from North Fork of the John Day Wilderness boundary to Trail Creek; to be administered by the Secretary of Agriculture as a recreational river.

(C) The 24.3-mile segment from Trail Creek to Big Creek; to be administered by the Secretary of Agriculture as a wild river.

(D) The 10.5-mile segment from Big Creek to Texas Bar Creek; to be administered by the Secretary of Agriculture as a scenic river.

(E) The 8.3-mile segment from Texas Bar Creek to its confluence with Camas Creek; to be administered by the Secretary of Agriculture as a recreational river.

(F) The 16.6-mile segment from its confluence with Camas Creek to Mallory Creek; to be administered by the Secretary of the Interior as a recreational river.

(G) The 10-mile segment from Mallory Creek to Cabin Creek; to be administered by the Secretary of the Interior as a wild river.

(H) The 10-mile segment from Cabin Creek to Deer Creek; to be administered by the Secretary of the Interior as a recreational river.

(87) **NORTH FORK MALHEUR, OREGON.**—The 39-mile segment from its headwaters to Beulah Reservoir to be administered as follows:

(A) The 25.5-mile segment from its headwaters to the Malheur National Forest boundary; to be administered by the Secretary of Agriculture as a scenic river.

(B) The 13.5-mile segment from the Malheur National Forest boundary to Beulah Reservoir; to be administered by the Secretary of the Interior as a scenic river.

(88) **NORTH FORK MIDDLE FORK WILLAMETTE, OREGON.**—The 42.3-mile segment from Waldo Lake to the Willamette National Forest boundary; to be administered by the Secretary of Agriculture as follows:

(A) The 8.8-mile segment from Waldo Lake to the south line of section 36, township 19 south, range 5½, as a wild river;

(B) The 6.5-mile segment from the south line of section 36, township 19 south, range 5½ to Fisher Creek as a scenic river.

(C) The 27-mile segment from Fischer Creek to the Willamette National Forest boundary, as a recreational river.

(89) **NORTH FORK OWYHEE, OREGON.**—The 8-mile segment from the Oregon-Idaho State line to its confluence with the Owyhee River; to be administered by the Secretary of the Interior as a wild river.

(90) **NORTH FORK SMITH, OREGON.**—The 13-mile segment from its headwaters to the Oregon-California State line; to be administered by the Secretary of Agriculture as follows:

(A) The 6.5-mile segment from its headwaters to Horse Creek, as a wild river.

(B) The 4.5-mile segment from Horse Creek to Baldface Creek, as a scenic river.

(C) *The 2-mile segment from Baldface Creek to the Oregon-California State line, as a wild river.*

(91) **NORTH FORK SPRAGUE, OREGON.**—*The 15-mile segment from the head of River Spring in the southwest quarter of section 15, township 35 south, range 16 east, to the northwest quarter of the southwest quarter of section 11, township 35 south, range 15 east; to be administered by the Secretary of Agriculture as a scenic river.*

(92) **NORTH POWDER, OREGON.**—*The 6-mile segment from its headwaters to the Wallowa-Whitman National Forest boundary at River Mile 20; to be administered by the Secretary of Agriculture as a scenic river.*

(93) **NORTH UMPQUA, OREGON.**—*The 33.8-mile segment from the Soda Springs Powerhouse to Rock Creek to be administered as follows:*

(A) *The 25.4-mile segment from the Soda Springs Powerhouse to the Umpqua National Forest boundary; to be administered by the Secretary of Agriculture as a recreational river.*

(B) *The 8.4 mile segment from the Umpqua National Forest boundary to its confluence with Rock Creek; to be administered by the Secretary of the Interior as a recreational river.*

(94) **POWDER, OREGON.**—*The 11.7 mile segment from Thief Valley Dam to the Highway 203 bridge; to be administered by the Secretary of the Interior as a scenic river.*

(95) **QUARTZVILLE CREEK, OREGON.**—*The 12-mile segment from the Willamette National Forest boundary to Slack Water in Green Peter Reservoir; to be administered by the Secretary of the Interior as a recreational river.*

(96) **ROARING, OREGON.**—*The 13.7-mile segment from its headwaters to its confluence with the Clackamas River; to be administered by the Secretary of Agriculture as follows:*

(A) *The 13.5 mile segment from its headwaters to one-quarter mile upstream of the mouth, as a wild river.*

(B) *The 0.2 mile segment from one-quarter mile upstream of the mouth to its confluence with the Clackamas River, as a recreational river.*

(97) **SALMON, OREGON.**—*The 33.5-mile segment from its headwaters to its confluence with the Sandy River to be administered as follows:*

(A) *The half-mile segment from its headwaters to one-half mile downstream; to be administered by the Secretary of Agriculture as a recreational river. In establishing detailed boundaries under subsection (b) of this section, the Secretary shall exclude from such boundaries the Timberline Lodge Winter Sports Area.*

(B) *The 6.25-mile segment from one-half mile from the headwaters to the south boundary line at section 6; to be administered by the Secretary of Agriculture as a scenic river.*

(C) *The 15-mile segment from the boundary line at section 6 to the junction with the south fork of the Salmon River; to be administered by the Secretary of Agriculture as a wild river.*

(D) *The 3.5-mile segment from the junction with the south fork of the Salmon River to the Mt. Hood National Forest boundary; to be administered by the Secretary of Agriculture as a recreational river.*

(E) *The 3.2-mile segment from the Mt. Hood National Forest boundary to Lymp Creek; to be administered by the Secretary of the Interior as a recreational river.*

(F) *The 4.8-mile segment from the Lymp Creek to its confluence with the Sandy River; to be administered by the Secretary of the Interior as a scenic river.*

(98) **SANDY, OREGON.**—*The 24.9 miles in 2 segments from its headwaters to the west line of the east half of the northeast quarter of section 6, township 1 south, range 4 east at Dabney State Park to be administered by the Secretary of Agriculture as follows:*

(A) *The 4.5-mile segment from its headwaters to the section line between sections 15 and 22, township 2 south, range 8 east, as a wild river.*

(B) *The 7.9-mile segment from the section line between sections 15 and 22, township 2 south, range 8 east to the Mt. Hood National Forest boundary, as a recreational river.*

(C) *The 12.5-mile segment from the east boundary of sections 5 and 36, township 1 south, range 4 east in Clackamas County near Dodge Park, downstream to the west line of the east half of the northeast quarter of section 6, township 1 south, range 4 east, in Multnomah County at Dabney State Park, the upper 3.8 miles as a scenic river and the lower 8.7 miles, as a recreational river. The Secretary of Agriculture shall administer the segment designated under this subparagraph through a cooperative management agreement with the Governor of Oregon and the counties of Multnomah and Clackamas in accordance with section 10(e) of this Act.*

(99) **SOUTH FORK IMNAHA, OREGON.**—*The 9-mile segment from its headwaters to the confluence with the Imnaha River; to be administered by the Secretary of Agriculture as a wild river.*

(100) **SOUTH FORK JOHN DAY, OREGON.**—*The 48-mile segment from the Malheur National Forest to its confluence with the John Day River; to be administered by the Secretary of the Interior as a recreational river.*

(101) **SQUAW CREEK, OREGON.**—*The 15.4-mile segment from its source to the hydrologic gaging station 800 feet upstream from the intake to the McAllister ditch to be administered by the Secretary of Agriculture as follows:*

(A) *The 6.6-mile segment from the source to the Three Sisters Wilderness boundary, as a wild river.*

(B) *The Soap Fork Squaw Creek from its source to its confluence with Squaw Creek, as a wild river.*

(C) *The North Fork from its headwaters to Squaw Creek, as a wild river.*

(D) *The South Fork from its headwaters to Squaw Creek, as a wild river.*

(E) *The Park Creek Fork from its headwaters to Squaw Creek, as a wild river.*

(F) *The 8.8-mile segment from the boundary of the Three Sisters Wilderness Area to the hydrologic gaging station 800 feet upstream from the intake of the McAllister ditch, as a scenic river.*

(102) SYCAN, OREGON.—The 54-mile segment from its headwaters to Coyote Bucket at the Fremont National Forest boundary; to be administered by the Secretary of Agriculture as follows:

(A) The 21.4-mile segment from its headwaters to the west section line of section 22, township 32 south, range 14 east, as a scenic river.

(B) The 8.6-mile segment from the west section line of section 22, township 32 south, range 14 east, to the Fremont National Forest boundary in the southeast quarter of section 10, township 33 south, range 13 east, as a recreational river.

(C) The 24-mile segment from the Fremont National Forest boundary in the southeast quarter of section 10, township 33 south, range 13 east, to Coyote Bucket at the Fremont National Forest boundary, as a scenic river.

(103) UPPER ROGUE, OREGON.—The 40.3-mile segment from the Crater Lake National Park boundary to the Rogue River National Forest boundary; to be administered by the Secretary of Agriculture as follows:

(A) The 0.5-mile segment from the Crater Lake National Park boundary to approximately 0.1-mile downstream from the forest road 6530760 (West Lake Road) crossing, as scenic river.

(B) The 6.1-mile segment from approximately 0.1-mile downstream from the forest road 6530760 (West Lake Road) crossing to Minehaha Creek, as a wild river.

(C) The 33.7-mile segment from Minehaha Creek to the Rogue River National Forest boundary, as a scenic river.

(104) WENAHA, OREGON.—The 21.55-mile segment from the confluence of the North Fork and the South Fork to its confluence with the Grande Ronde River; to be administered by the Secretary of Agriculture as follows:

(A) The 18.7-mile segment from the confluence of the North Fork and South Fork to the Umatilla National Forest, as a wild river.

(B) The 2.7-mile segment from the Umatilla National Forest boundary to the easternmost boundary of the Wenaha State Wildlife Area, as a scenic area.

(C) The 0.15-mile segment from the easternmost boundary of the Wenaha State Wildlife Area to the confluence with the Grand Ronde River, as a recreational river.

(105) WEST LITTLE OWYHEE, OREGON.—The 51-mile segment from its headwaters to its confluence with Owyhee River; to be administered by the Secretary of the Interior as a wild river.

(106) WHITE, OREGON.—The 44.5 mile segment from its headwaters to its confluence with the Deschutes River in the following classes:

(A) The 2-mile segment from its headwaters to the section line between sections 9 and 16, township 3 south, range 9 east; to be administered by the Secretary of Agriculture, as a recreational river. In establishing detailed boundaries under subsection (b) of this section, the Secretary of Agriculture shall exclude from such boundaries the Mt. Hood Winter Sports Area.

(B) The 13.6-mile segment from the section line between sections 9 and 16, township 3 south, range 9 east, to Klip Creek; to

be administered by the Secretary of Agriculture as a recreational river.

(C) The 6.5-mile segment from the Klip Creek to the Mt. Hood National Forest boundary; to be administered by the Secretary of Agriculture as a wild river.

(D) The 19.2-mile segment from the Mt. Hood National Forest boundary to the Highway 197 bridge to be administered by the Secretary of the Interior as a wild river.

(E) The 3.6 mile segment from the Highway 197 bridge to River Mile 2.2; to be administered by the Secretary of the Interior as a recreational river.

(F) The 1.6 mile segment from River Mile 1.6 to its confluence with the Deschutes River; to be administered by the Secretary of the Interior as a recreational area.

* * * * *

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

(1) * * *

* * * * *

(100) *BLUE, OREGON.*—The segment from its headwaters to the Blue River Reservoir.

(101) *CHEWAUCAN, OREGON.*—The segment from its headwaters to the Paisley Urban Growth boundary to be studied in cooperation with the basin planning process currently underway.

(102) *PINE CREEK, OREGON.*—All its tributaries and mainstem, including from its headwaters to the bridge over Pine Creek at Carson and the segment from the headwaters of North Pine Creek to its confluence with Pine Creek and from the confluence with Pine Creek to its mouth.

(103) *SOUTH FORK MCKENZIE, OREGON.*—The segments from its headwaters to the upper end of Cougar Reservoir and from the lower end of Cougar Reservoir to its confluence with the McKenzie River.

(104) *STEAMBOAT CREEK, OREGON.*—The entire creek.

(105) *UPPER KLAMATH, OREGON.*—The segment from immediately below John Boyle Dam to the Oregon-California State line.

(106) *WALLOWA, OREGON.*—The segment from its confluence with the Minam River to its confluence with the Grande Ronde River.

(107) *JOHN DAY, OREGON.*—(A) The segment of the North Fork John Day from Deer Creek approximately one mile upstream from Monument to its confluence with the mainstem of the John Day River at Kimberly.

(B) The segment of the South Fork John Day from Smokey Creek to the mouth.

(C) The 9-mile segment from its headwaters at section 28, township 15 south, range 35 east to Blue Mountains Hot Springs.

(D) The segment of the mainstem John Day from Blue Mountains Hot Springs to Cottonwood Creek.

(E) The 5.7-mile segment from Cottonwood Creek to Goose Rock.

(F) The segment of the mainstem John Day from Goose Rock to Service Creek.

(108) *JOSEPH CREEK, OREGON.*—*The segment from the Crow Creek Bridge to Joseph Creek Ranch, one mile downstream from Cougar Creek.*

(109) *WILLIAMSON, OREGON.*—*The segment from the west Winema National Forest boundary to its mouth.*

ADDITIONAL VIEWS

I appreciate the attention given by the Committee report to certain issues of great concern to many Oregonians. However, the impact of the State of Oregon's water quality standards, including the state's antidegradation policy, on designated wild and scenic river segments in this bill needs further clarification. The Committee report refers to an exchange of letters between Members of the Oregon congressional delegation and the State of Oregon designed to clarify this impact. This Member believes that these letters should be part of the report, in addition to being part of the hearing record.

I would, therefore, like to quote from the letter sent by Members of the Oregon delegation to Fred Hansen, Director of the State of Oregon's Department of Environmental Quality, on September 14, 1988, which stated,

As you may know, we are working on legislation to designate over 40 Oregon rivers and streams for protection under the National Wild and Scenic Rivers Act. It is important that we provide these outstanding national resource waters the recognition and protection they deserve. At the same time, it is imperative that we do so in a fashion that minimizes any adverse effects on Oregon's economy and does not result in any unintended impacts on upstream activities.

We are, therefore, writing to you to make sure that we have an accurate understanding of the applicability of Oregon's water quality standards, including the state's antidegradation policy, to the control of activities that have the potential to generate nonpoint source pollution in areas upstream from designated national wild and scenic river segments. This is a concern raised in testimony by forest landowners, including the USDA Forest Service.

Under existing federal Environmental Protection Agency policy, affirmed most recently in an August 19, 1987, EPA policy memorandum, EPA has stated in relevant part, that:

EPA's water quality standards regulation (40 CFR 131) provides that *State adopted water quality standards shall include designated beneficial uses and water quality criteria to protect those uses as well as include an antidegradation policy*. It is intended that proper installation of State approved BM's [best management practices] will achieve water quality standards. Therefore, water quality standards are to be used to measure the effectiveness of BMPs. In the review and revision

of water quality standards as provided for in the CWA [Clean Water Act], the State should ensure that water quality standards are achievable and that water quality criteria reflect what is needed to assure protection of beneficial uses. As provided for in EPA's National Nonpoint Source Policy Statement, *there should be "flexibility in water quality standards to address the impact of time and space components of NPS as well as naturally occurring events."* This involves the consideration of the variability of natural conditions, magnitude and frequency of impact, and level of acceptable risk.

For proposed management actions, BMPs designed and implemented in accordance with a State approved process will normally constitute compliance with the CWA. The CWA does not itself directly establish a mechanism for enforcing WQs directly against NPS. BMPs developed under a State approved process may be used as performance standards for proposed actions. Applicable water quality standards along with water quality monitoring should be used to measure the effectiveness of BMPs.

Once BMPs have been approved by the State, the BMPs become the primary mechanism for meeting water quality standards. Proper installation, operation and maintenance of State approved BMPs are presumed to meet a landowner's or manager's obligation for compliance with applicable water quality standards. (Emphasis added).

Oregon's water quality standards, promulgated by the EPA properly reflect this direction. At OAR 340-41-026(1)(b)(7) the rules require that "logging and forest management activities shall be conducted in accordance with the Oregon Forest Practices Act so as to minimize adverse effects on water quality." It is our understanding that, consistent with existing federal EPA policy, the state's forest practice rules are the state-approved BMPs and, therefore, "are presumed to meet a landowner's or manager's obligation for compliance with applicable water quality standards," including the state's antidegradation policy at OAR 340-41-026(1)(a).

The situation on federal lands administered by the USDA Forest Service and the Bureau of Land Management is similar. The aforementioned EPA policy memorandum suggests that:

States and operators, managers and/or owners of large tracts of private or public land containing areas of high quality water, where changes in the use or management of the land could pose a threat of degradation, may find it advantageous to negotiate and establish comprehensive planning and operating procedures for the NPS management of such tracts or major portions thereof, consistent with this guidance. Such agreements would include, among

other things, understanding regarding monitoring responsibilities, BMP implementation and plan enforcement.

Such procedures could be incorporated into memoranda of understandings (MOUs) between the parties, which should be reviewed and reexecuted periodically to allow for changes in conditions and/or policy.

It is our understanding that both the USDA Forest Service and the Bureau of Land Management have entered into such memoranda of understandings with the DEQ, and that the requirements and practices contained in Forest Service and BLM timber sales contracts are deemed to be equivalent to those in the state forest practices rules. It is our further understanding with respect to the Forest Service, that the state is reviewing each draft plan prepared under the provisions of the National Forest Management Act of 1976 with the expressed purpose of assuring, among other things, that any new land allocations, standards, or guidelines contained in the draft plans would not contribute to a violation of the state's water quality standards.

Based upon the provisions of the preferred alternatives in the draft plans, the Forest Service has informed us in testimony that the designation of wild and scenic river segments as contemplated in our bill should not, by itself, result in any additional restriction of forest management activities in areas upstream from the designated stream segments as a consequence of the provisions of OAR 340-41-026. The Forest Service is confident that existing mechanisms for working with the DEQ are adequate to assure compliance with the state's water quality standards program without significant timber harvest impacts as the NFMA plans are put into final form.

Would you please confirm whether our understanding of these matters is accurate, and whether the state concurs with the Forest Service's assessment of the extent of any upstream impacts from the proposed legislation. It is our intention to include your response in the legislation history of the final bill so that there will be no confusion over the applicability or impact of Oregon's water quality standards on streams above a segment designated in the legislation.

We may move to mark-up this bill as early as next week. Thank you for a prompt response to this inquiry.

I would also like to cite extensively from Director Hansen's response, dated September 22, 1988, which read,

I am pleased to respond to your letter of September 14, 1988 and confirm our discussion with your staff that occurred prior to September 22, 1988 regarding the applicability of Oregon's water quality standards, including the antidegradation policy, to the control of forest management activities or other activities that have the potential to general nonpoint source pollution in areas upstream from designated national wild and scenic river segments.

Your letter accurately reflects our understanding of EPA policy direction regarding state water quality standards, the required antidegradation policy, and control of nonpoint sources of pollution. Your letter also accurately

reflects Oregon's current adopted standards and program for control of forest management related nonpoint sources of pollution. Finally, we generally agree with the assessment of the U.S. Forest Service relative to the extent of any upstream impacts from the proposed legislation.

Establishment of a wild and scenic river segment, by itself, will not automatically result in additional restrictions on activities upstream from a designated segment. Under existing laws and rules, such activities would have to be conducted in a manner which assures that best management practices are applied, that existing water quality standards are not violated, and that beneficial uses of the waterway downstream from the activity are not adversely affected by changes in water quality.

Perhaps the most significant issue is whether the antidegradation policy contained in Oregon's Water Quality Standards would be interpreted to mean "no scientifically measurable change" in any physical, chemical or biological properties of the water when applied to a wild and scenic river segment. Water quality varies naturally. Some variation or change in water quality can occur without adversely affecting beneficial uses of a stream. We understand that designation of a wild and scenic river segment would not arbitrarily preclude activities upstream by reinterpreting the existing antidegradation policy as a "no measurable water quality change" policy. In order to protect beneficial uses and the special values associated with a designated wild and scenic river segment, however, it is appropriate to make sure that water quality changes resulting from activities upstream are minimized to the maximum extent practicable by use of best management practices.

The Department of Environmental Quality and Environmental Quality Commission are currently in the process of reviewing its non-point source pollution control program. This review process is expected to result in greater emphasis on monitoring and evaluating the effectiveness of best management practices in meeting water quality standards. Improved monitoring may identify the need in some instances to modify current best management practices to assure that water quality standards are met. In addition, the federal Clean Water Act requires states to review and update water quality standards on a three year cycle as appropriate. In conjunction with this process, and pursuant to Environmental Quality Commission policy direction, the current antidegradation policy is being reviewed. Any clarifications of existing rules resulting from these processes would be generally applicable on a statewide basis.

However, if through ongoing review processes, current best management practices are determined to be insufficient to protect the beneficial uses and values in wild and scenic river segments, and perhaps other segments, improved or additional best management practices may be required, or it may be necessary to control more strictly or limit specific activities in portions of the upstream area.

As cited above, correspondence between the Members of the Oregon congressional delegation and the State of Oregon revealed that designation of additional wild and scenic river segments in Oregon would not, by itself, prohibit forest management activities so long as they are consistent with state-approved best management practices in areas upstream from designated segments.

DENNY SMITH.

