

# Two Decades of River Protection

*A Report on the  
National Wild and Scenic Rivers System  
Past, Present and Future*

By Anne Watanabe, Esq.

November 18, 1988

On the Occasion of the National River System's Twentieth Anniversary

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The views contained herein are those of the author or are the personal opinions of those interviewed during the preparation of this report and do not represent the official position of the Department, the Park Service, or any agency of the United States Government.

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November 18, 1988

Dear Friend and Colleague:

In honor of the twentieth anniversary of the National Wild and Scenic Rivers System, we asked Seattle attorney, conservationist, and public servant Anne Watanabe to prepare this report and, through it, to begin a process.

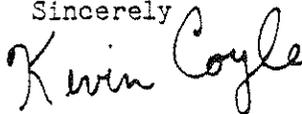
Those who are concerned with the protection of rivers in the United States think often about how the rivers movement can be made more effective and, in particular, how the Wild and Scenic Rivers Program can be strengthened. Ms. Watanabe was given a very difficult task. Her job was to delve into the past for a retrospective on the national rivers system and then to move to the future and capture the ideas of dozens of river savers on where river conservation should be going.

The process started with this paper will continue through the Wild and Scenic System's 20th anniversary conference, "Celebrate America's Rivers," sponsored jointly by American Rivers, the Forest Service, the Bureau of Land Management, and the National Park Service, in Alexandria, Virginia on November 18 and 19, 1988. It will continue with the writing of the conference proceedings and will undoubtedly lead to many bold new river protection programs in the public and private sectors.

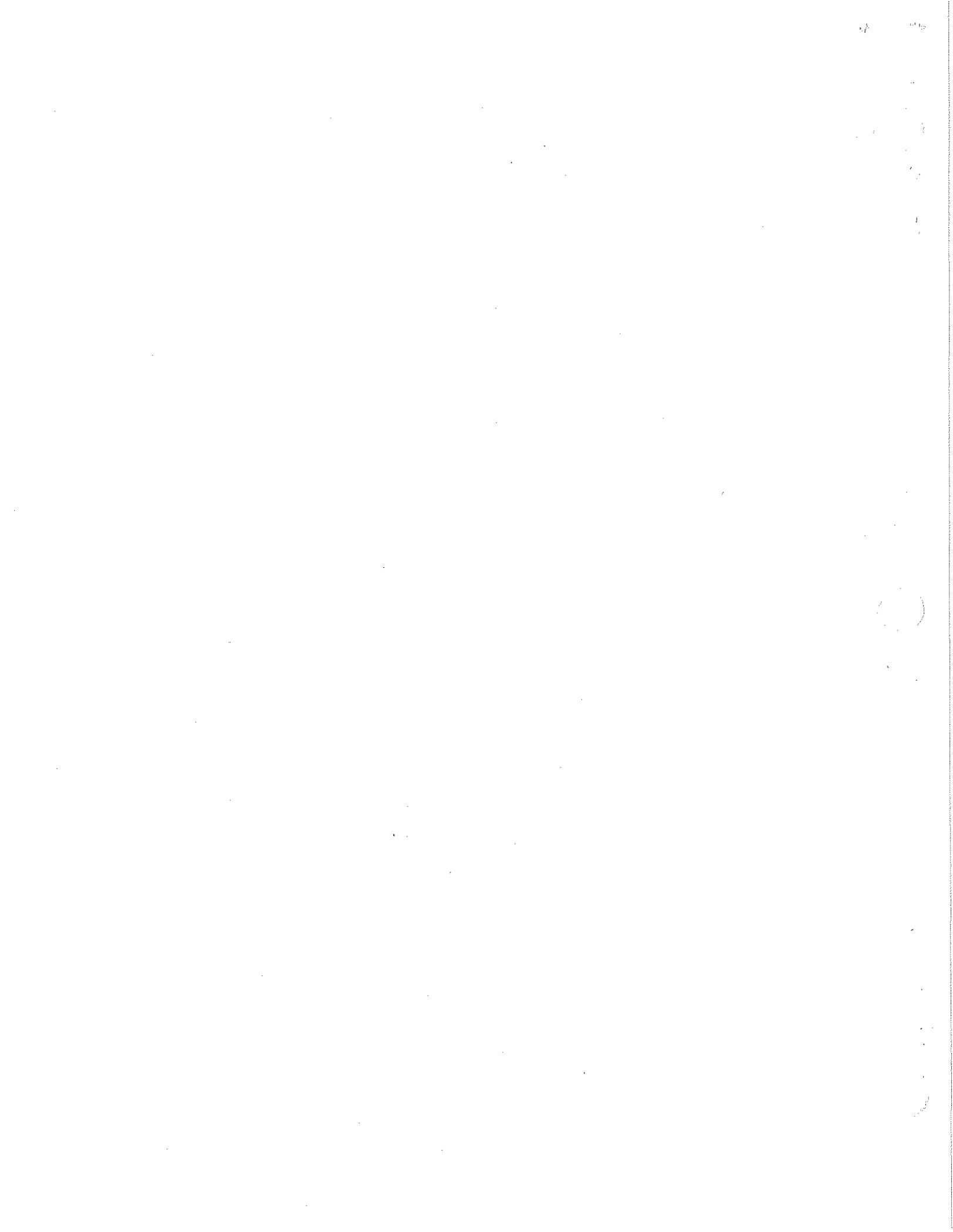
Having worked off-and-on in river conservation for the past 16 years, I find the insights offered to Anne and by her to be thought-provoking and helpful in getting a fix on the rapidly evolving field of river-saving.

I applaud Anne for taking an enormous amount of time to interview the dozens of people who contributed to this report and the National Park Service for supporting her work. This report is clearly a worthy contribution to the national rivers program as it moves into its third decade.

Sincerely



Kevin J. Coyle  
Vice President and  
Conservation Director  
American Rivers, Inc.



## TWO DECADES OF RIVER PROTECTION

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--Past, Present and Future--

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### INTRODUCTION

"The adjacent mountains commonly rise so high as to conceal the more distant and lofty mountains from our view...I can scarcely form an idea of a river running to great extent through such a rough mountainous country without having its stream intercepted by some difficult and dangerous rapids or falls."

Meriwether Lewis  
July 24, 1805, on the Missouri

As Lewis and Clark made their way across North America, they anticipated each stretch of river that lay ahead with wonder and fear--the rivers were as wild as the rest of the countryside, presenting a hazard to man and boat. Today, many of those same "difficult and dangerous rapids" lie smooth as glass, captured long ago by dams for power or water. Many others have been dredged and straightened to accommodate navigation, or they have been channelized. Concurrently, increasing numbers of people seek out free-flowing rivers for boating, swimming, fishing, or simple aesthetics. And the ecological significance of rivers and their shorelines is beginning to be better understood, and valued.

In 1968, the Federal Wild and Scenic Rivers Act was enacted to partially counter the river-destructive policies of the past with a river preservation policy. Since then, 119 major river segments totalling some 9,200 miles have been included in the Wild and Scenic Rivers System. This represents less than one third of one percent of all rivers in the U.S. and is far less than the estimated 600,000 river miles, or 17 percent of all river miles that have been dammed--hardly an even balance. American Rivers, the nation's principal river conservation organization, describes this as the "extinction" of rivers at the rate of 65 miles of river impounded for every one preserved. Why is river conservation so far behind?

Some of those who work with the system say that the process of adding rivers is too cumbersome, often requiring two trips through Congress--one to authorize a study of the river, another to add the river to the system. The studies can drag on for years. And some say that because no single agency has responsibility for administering the system, it lacks the agency support that would otherwise nurture the system and expand it more quickly.

Perhaps it's quality, not just quantity, that's the key here. Some river system critics wonder if we're trying to make the system too inclusive. "Leave out the piddly stuff," they say; "those urbanized water corridors may be the

locals' favorite fishing or canoeing stretches, but they are hardly of national significance, and do not belong in the same system with rivers of more heroic proportions--the Snakes and the Skagits." They say that the Wild and Scenic system is meant to contain a select, elite group of rivers. But, others counter, "there's no other game in town; a river that is not protected by the Federal system is fair game for the first federal water project that comes along. Better to save the river and damn the system, than vice versa. "

Others believe the Act is underutilized, the system is meant to be larger and more inclusive than any of us dream right now. The National Wild and Scenic Rivers System in their judgement has the potential to encompass a vast network of protected, managed rivers of many shapes, sizes and types, and an equally dazzling array of federal-state-local-private management options. To realize this potential, however, there must be higher levels of public and private funding, and more creative use of available resource management tools. A more active rivers constituency among government and citizens is also clearly needed.

Who's right? Is the system too big, too small? Is it adequate to serve as the basis for protecting and managing the broad spectrum of river types that can be considered eligible for addition to the system? In other words, is the Wild and Scenic Rivers System working in the way it was meant to? If not, are there changes that should be made in the way rivers are designated or managed under the Act, or in the provisions of the Act itself? Finally, do we need to look at alternatives to the Act in order to meet river protection challenges?

This paper was prepared to assess the history and progress of the Wild and Scenic Rivers program and to look at these and other questions, as well as possible answers. Because an evaluation of the effectiveness of the Act necessarily has to do with the system's performance to-date, the first two chapters of this paper contain a review of the origins of the Wild and Scenic Rivers System and its early implementation.

## CHAPTER I. A POLICY OF BALANCE

By the beginning of this century, the frontier had, according to Frederick Jackson Turner, been closed at least for ten years. The nation had passed beyond the age of investigating its territory, and was industriously taming the natural landscape. Rivers, like other natural resources, were harnessed to serve the needs of growing populations.

Already, thousands of river miles had been dredged and transformed into canals to serve navigation and transportation needs. And, in the ensuing decades, dams for water storage and flood control followed our eastern urbanization and our movement west. By the year 1900, more than one half of the nation's electricity came from hydroelectric plants. Burgeoning communities and new industries required greater quantities of water. And, increasingly, larger-scale irrigation projects allowed farms and subdivisions to flourish in the desert.

As the nation proceeded through the 20th century, the federal government readily assumed the role of national water developer. The U.S. Army Corps of Engineers and Interior's Bureau of Reclamation planned and oversaw the construction of massive water projects across the country. High dams and expansive reservoirs were regarded with more admiration than were the wild rivers they replaced. Federal water resource development policy, with its perceived potential to bring prosperity, became a complex blend of economics and power politics, as regions vied for water projects. But even in the early days of dams and canals, it was recognized that changing a river's flow had negative effects. Farms and homes were flooded by new dams, and fishing holes, hunting grounds, and scenic areas were destroyed. Less evident were some of the more complex changes that occurred in a river ecosystem--for example, the loss of nutrients to downstream areas because soil, instead of flowing to the sea, simply accumulated behind a dam. But most Americans deemed this a fair price to pay for the benefits derived from water projects. Most would have agreed with Theodore Roosevelt that rivers allowed to run out to sea represented the waste of a valuable commodity.

And yet, as river mile after river mile ceased to flow freely, voices of dissent were raised. Conflicts over river development projects would start out locally: rural families along the Cumberland River fighting for homes threatened by Tennessee Valley Authority dams or fishermen fighting new dams on the Potomac. Some of these skirmishes escalated into mythical battles that were waged before the nation. For example, Grand Canyon and Glen Canyon, both on the Colorado River, represented triumph and bitter defeat, respectively, for river preservationists. But both conflicts focused attention on the values of the free-flowing rivers that would be lost if the dams were built.

The growing awareness of and appreciation for rivers mirrored the national concern for the preservation of wilderness. By the 1950's, efforts to preserve individual rivers in their natural, free-flowing condition were taking place across the country.

Paul Bruce Dowling, executive director of the America the Beautiful Fund in Washington, D.C., was the secretary of the newly-formed Missouri chapter of

The Nature Conservancy in the mid-1950's. Dowling recalls that rivers were a highly visible resource to the people of Missouri. "We were just lucky enough to have started The Nature Conservancy, the first in the Midwest." Through Conservancy work, Dowling and other river preservationists were familiar with conservation tools such as easements and inventories. A "natural coalescing" of these tools occurred in the cause of river protection, in particular for the Current and Jacks Fork rivers. At a National Park Service hearing in 1957 on a proposed national recreation area on the Current, Dowling and The Nature Conservancy called for a "national river" designation for the river. Dowling says that he was well aware of "other rivers, nationwide, that people were trying to preserve."

John and Frank Craighead are renowned wildlife biologists who share a lifetime of experience in studying and advocating the protection of natural areas and resources. Both brothers were involved early on in the national efforts to preserve rivers. John Craighead notes that prior to passage of the Wild and Scenic Rivers Act, "there was lots of effort by the Bureau of Reclamation and the Corps of Engineers to dam just about everything they could ... When we'd go to meetings to oppose the dams, we were always in the position of taking a negative stand." The Craigheads determined that they needed to take the initiative away from the dam-builders by proposing an alternate "use" for unique rivers: preservation.

In a 1962 issue of Naturalist magazine, the Craigheads outlined a system of rivers inventory and classification that was to become the basis for the Federal Wild and Scenic system. "River systems and their shore environments are major recreational resources, yet at the present time they are uninventoried and unclassified," they wrote. Without such an inventory, they argued, there was no basis for comparing the recreational value of rivers and watersheds with other potential uses. They envisioned four major classes of rivers: (1) Wild--essentially primitive rivers, free of impoundments and inaccessible except by trail; (2) Semi-Wild--accessible in places by roads, but still largely in primitive condition; (3) Semi-harnessed/Developed--readily accessible by road, impounded or diverted in the lower stretches, heavy land use in the watersheds, but upper reaches still unimpounded and undeveloped; and (4) Harnessed/Developed--characterized by impoundments, and other developments, but containing stretches valuable for recreation.

Because of the efforts of conservationists, the federal government had begun to re-examine its policies toward rivers and other natural areas. In 1960, the National Park Service issued its report on Water Recreation Needs in the United States, 1960-2000, which recommended: "That certain streams be preserved in their free-flowing condition because their natural scenic, scientific, aesthetic and recreational values outweigh their value for water development and control purposes." The report listed the Allagash (Maine), the Current and Eleven Point (Missouri), and the Rogue (Oregon) as rivers possessing such values, and recommended that a study be made to determine what other streams had such values.

The Outdoor Recreation Resources Review Commission was created by Congress in 1958 to study the nation's recreational needs, and the Craigheads urged the commission to set up a system of river evaluation. The Commission

issued a report in 1962 recommending that certain rivers should be preserved in their natural, free-flowing condition, and that "recreation should be recognized as a beneficial use of water." That same year, the President approved a policy statement providing in part for the preservation of wild areas of rivers, to be considered by federal agencies.

An important development at this time was the 1961 appointment of former Arizona Congressman Stewart Udall as Secretary of the Interior. Udall was well-versed in the politics of water resources, and had supported dams that would bring water to his state. But as Tim Palmer points out in Endangered Rivers and the Conservation Movement, "Udall personified the upheaval happening in water development philosophy." No longer representing just Arizona, Secretary Udall evaluated rivers from a national perspective, and began to seek a balance between the nation's need for water development and its need to preserve free-flowing rivers for future generations. In the spring of 1963, Frank Craighead prepared a paper containing a suggested program of river classification and inventory for the Department of Interior. About the same time, Udall created the Bureau of Outdoor Recreation, which began to carry out a rivers study program. The Bureau collected a list of some 650 rivers for possible study, eventually selecting 22 of these for the first round of consideration.

States were moving forward with their own river protection laws: Wisconsin passed a wild and scenic rivers act in 1965; Maine designated the Allagash Wilderness Waterway in 1966, and many others were soon to follow.

Meanwhile, legislation was introduced in Congress that laid the groundwork for a national rivers act. The Current and Eleven Point rivers in Missouri received the "national river" designation Paul Bruce Dowling had sought earlier, when the Ozark National Scenic Riverways Area was established in 1964. These rivers would be protected from dams and administered by the National Park Service. Senator Gaylord Nelson of Wisconsin, who as governor of that state had sought the protection of the St. Croix River and its tributary, the Namekagon, introduced a bill in 1963 to give the St. Croix national status. The bill passed the Senate, but did not pass the House. Nelson would later find another vehicle for the St. Croix.

The Wilderness Act was signed into law in 1964. Some saw the wilderness program as a way to also save free-flowing, natural rivers. John and Frank Craighead worked closely with Olaus Murie and other conservation leaders on the wilderness bill to include specific language on river protection in the legislation. John Craighead recalls: "It became clear that the Wilderness Society wasn't going to do anything on rivers [in the bill]--they had a lot of other issues to contend with, and they felt it [river protection language] would weaken their case." But the passage of the Wilderness Act indicated that the climate might be right for a separate and distinct river protection bill--the public had clearly demonstrated its commitment to the preservation of unique and unreplaceable natural environments.

In his 1965 State-of-the-Union Address, President Lyndon Johnson said it was time to identify and preserve free-flowing stretches of river "before growth and development make the beauty of the unspoiled waterway only a

memory." That same year, Senator Frank Church of Idaho introduced S. 1446, the Wild Rivers Act, which declared that "our 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." The bill would have designated certain "wild river areas" where rivers were to be protected in their free-flowing state. It did not include a classification system.

National conservation organizations, including the Wilderness Society, the Izaak Walton League, and the National Audubon Society, supported the concept but regarded the bill as too limited, primarily a no-dams bill that was vague as to the types of development activities that would be allowed along the designated rivers. So conservationists instead turned to the rivers bill sponsored by Representative John Saylor of Pennsylvania (who regarded the Senate bill as "half-baked"). Ironically, S. 1446 also ran into trouble with private landowner groups, who opposed its grant of land acquisition authority. The bill was amended to deny eminent domain authority in cases where more than one half of the river frontage was already in federal ownership. S. 1446 was approved by the Senate in 1966 but did not pass the House Interior Committee, where it ran into Chair Wayne Aspinall of Colorado, who was not overly interested in saving wild rivers.

In his January 1967 message to Congress, President Johnson reiterated his recommendation for the establishment of a nationwide system of scenic rivers:

I renew my recommendation--overwhelmingly approved by the Senate during the 89th Congress--to establish a National Scenic Rivers System to maintain and restore segments of selected rivers in their natural state.

Senator Church reintroduced his bill as S. 119 in the 90th Congress, but by this time, other wild rivers bills were competing for congressional action. Representative Saylor reintroduced his bill as H.R. 90, the National Scenic Rivers Act, which used a three-part classification system of wild, scenic and recreational, and designated more rivers for preservation than did the Church bill. The Department of Interior also proposed a bill, which became H.R. 6166. And in April of 1967, Representative Aspinall introduced his own rivers bill, H.R. 8416.

This complex bill recognized six types of rivers, but recommended only four rivers for "instant" designation, all in relatively unpopulated areas of the West: the Rio Grande, the Rogue, the Salmon and the Clearwater. As the House set about the task of choosing between House bills, Church's S. 119 was moving through the Senate.

Senator Gaylord Nelson, who today is Counselor to the Wilderness Society, recalls that during this time, he and Wayne Aspinall had gotten stranded in the Chicago airport for several hours awaiting a flight. Nelson asked whether the St. Croix, which was the subject of its own protective legislation, should be added to Aspinall's bill. He [Aspinall] said, "If you want to have it [the St. Croix legislation] pass, don't add it to the Wild and Scenic Bill. Lyndon called me and said he wanted the Wild and Scenic Bill to pass, but there are

too many things ahead of this bill." "He said that Johnson [despite his long congressional career] had never marked up a bill, and didn't know how difficult it was to do," said Nelson in recounting the story. "Next year, though, the Wild and Scenic bill was moving along, so we stuck the St. Croix in it," Nelson recounts.

That next year was 1968, an election year, and it appeared unlikely that a national river bill would be passed before the end of the session. But the Senate and House resolved the differences in their respective bills, and the Wild and Scenic Rivers Act that emerged combined the features of several bills, the majority retained from the Aspinall bill. The Act was signed by President Johnson on October 2, 1968. That this law was intended to balance past river development policies was clearly expressed by the President in his remarks at the bill's signing:

An unspoiled river is a very rare thing in this Nation today. Their flow and vitality have been harnessed by dams and too often they have been turned into open sewers by communities and by industries. It makes us all very fearful that all rivers will go this way unless somebody acts now to try to balance our river development.

We are establishing a National Wild and Scenic System which will complement our river development with a policy to preserve sections of selected rivers in their free-flowing conditions and protect water quality and other conservation values.

President Johnson's faith in the Act as a complement to river development is perhaps best demonstrated by his having signed into law just two days earlier the Colorado River Basin Project Act. That bill, "a proud companion" to conservation measures signed by the President, would:

[L]et us build aqueducts and powerplants and a network of projects for irrigation, for community water supplies, for flood control, and for electricity, and finally for recreation.

We will do all of this without defiling or without despoiling the ancient and the spectacular landscapes along the Colorado...

Eight river sections were initially included as "instant" designations. These were the middle forks of the Clearwater for 185 miles and the Salmon for 104 miles (Idaho); 44 miles of the Eleven Point (Missouri); 77 miles of the Feather (California); 52 miles of the Rio Grande and four miles of the Red River (New Mexico); 85 miles of the Rogue (Oregon); 200 miles of the St. Croix and the Namekagon (Minnesota and Wisconsin); and 25 miles of the Wolf (Wisconsin).

The 1968 Act also provided for studies of 27 other river segments to determine whether they were eligible and suitable for designation.

River conservationists now had protective legislation of their own, a policy of river protection to balance against the dams and canals; but what did it mean? A brief review of the Wild and Scenic Rivers Act and guidelines may be helpful at this point.

The Wild and Scenic system consists of three types of rivers: (1) wild river areas, unimpounded and unpolluted, generally inaccessible except by trail, "vestiges of primitive America"; (2) scenic river areas, free of impoundments and largely undeveloped along the shorelines, but accessible by roads in places; and (3) recreational river areas, possibly impounded or diverted in the past, readily accessible by road--some development along the river's shorelines does not prevent it from being included.

The Act provides two methods of designating a river, i.e., adding it to the system. Rivers can be added through (1) an act of Congress, or (2) action of the Secretary of Interior at the request of the governor(s) of the state(s) in which the river is located. If designation occurs at the state's request, the river must be part of a state wild and scenic river system, (or at least protected under state law) and must be administered by the state or a political subdivision at no expense to the federal government, except for the administration of federally owned lands in the corridor. The mere fact of being free-flowing is not enough to make a river eligible for addition to the system. The river must also possess "outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values" in order to be eligible.

In addition, the Act provides a study procedure to determine a river segment's eligibility and suitability for addition to the system. If the river runs through national forest lands, the Forest Service conducts the study. Otherwise, the study will be conducted by the Department of Interior, through the BLM, if the river crosses its lands, or the National Park Service. If both Agriculture and Interior have jurisdiction over the study area, they will conduct the study jointly. The National Park Service generally conducts studies where the lands are primarily privately owned. At the end of the study, the responsible agency reports to the President, who in turn makes a recommendation to Congress (Congress is not bound by this recommendation). Congress must pass legislation to add the river to the system.

The Act protects designated rivers from federally-licensed water resource projects. The Federal Energy Regulatory Commission (identified in the Act by its former name, the Federal Power Commission) cannot license dams, reservoirs, or other projects directly affecting any designated river. Furthermore, no federal agency may assist in the construction of any water resources project that would have a direct and adverse effect on the values for which the river was designated. Similar protection is afforded study rivers for the three-year period following the enactment of study legislation, unless the study legislation provides a longer protection period.

Each designated river segment is to be managed so as to "protect and enhance" those values that caused it to be designated in the first place.

Limited authority to acquire and control land is granted to the managing agency. If more than 50 percent of the designated river area is already owned by public agencies, the federal managing agency may not use condemnation to obtain fee title, although easements may still be condemned. And, the agency cannot acquire fee title (even from willing sellers) to more than an average of 100 acres per mile on both sides of a river. The agency is also prohibited from condemning and acquiring lands or interests in lands zoned by an incorporated city, village or borough, provided the zoning ordinances are consistent with the purposes of the Act. Generally, existing patterns of land use and ownership within the designated area are permitted.

## CHAPTER II. THE EARLY YEARS OF THE SYSTEM

Despite the existence of the new Federal Wild and Scenic Rivers System, not much seemed to have changed on the river preservation front. Bitter battles were still being waged over proposed dams all across the country: Hells Canyon on the Snake in Idaho; the Blue Ridge Project on the New River in North Carolina, which despite its name is the oldest river in America, younger only than the Nile; Tocks Island Dam on the Middle Delaware; New Melones on the Stanislaus; and other projects that had been authorized prior to the creation of the Wild and Scenic Rivers System. By 1973, five years after the Act's passage, only four rivers had been added to the system, three of which were added via the "2(a)ii" or "state route" of designation by the Secretary of Interior at the request of state governments.

"The law was a difficult birthing for Congress, and they had only included those rivers that weren't very controversial," remarks Bill Painter, who was the first executive director of the Washington D.C.-based American Rivers Conservation Council (now American Rivers) in 1973, and is now a policy analyst with the Environmental Protection Agency. Painter notes that even though the Wild and Scenic Rivers Act had passed, there was no lead conservation group that focussed on rivers at a national level. "No one was pushing very hard to get the studies done or to get the rivers designated once the studies were complete." The fledgling river system was in danger of "falling through the cracks...it wasn't a priority for anyone."

Brent Blackwelder, of the Environmental Policy Institute in D.C. and founding chair of American Rivers, agrees that the system languished during the first few years. Blackwelder himself was embroiled in some of the major river battles at the time, such as that over the Tennessee-Tombigbee Waterway in the South, and points out that most of the conservationists' energies were directed at stopping ongoing projects that posed immediate threats to rivers.

In 1973, river conservationists, meeting in Denver, Colorado, decided that what was needed was a conservation group whose exclusive goal would be to get rivers into the Wild and Scenic System, to use the Act in the positive way that the Craigheads had envisioned twenty years before. When Mike Fremont (now on the American Rivers Board of Directors) threw \$100 onto the table and others followed suit, American Rivers was born.

One of its greatest successes in those early years was the designation by the Secretary of the Interior of the upper New River in North Carolina. Working out of a modest office with an equally modest budget, Bill Painter recalls that it often "did not take a huge amount of resources to make a difference," in getting rivers protected under the Wild and Scenic Rivers Act. The New River case was a prime example. The Blue Ridge Project, a huge pumped storage hydro project by the Appalachian Power Company, had already been licensed by the Federal Power Commission. American Rivers took the lead role in the successful designation campaign, and its victory brought national recognition to itself and renewed attention to the Wild and Scenic Rivers Act.

American Rivers went on to succeed in helping dozens of rivers to be added to the Wild and Scenic Rivers System--either in a lead or assisting role, the organization has been partly responsible, with the help of many other groups, for the addition of over three fourths of the river miles in the system. American Rivers has a high profile in the river conservation scene: lobbying on Capitol Hill, meeting and strategizing with river conservationists across the country, and consulting with federal and state agencies.

Ken Olson, president of American Rivers, well represents the spirit of the organization. Quoting Thoreau and speaking of the "elemental and unadorned" experience of a free-flowing river, Olson is nevertheless quick to abandon poetry (and to urge his staff do likewise) in relentless pursuit of the bottom line--river miles saved, streamside acres preserved, dams blocked.

#### A Minimum System - The Nationwide Rivers Inventory

The creation of American Rivers in 1973 was the response of citizens in the conservation community to the need for a nationwide rivers constituency. But the federal government at this time was also taking a lead role in re-evaluating the Wild and Rivers System.

Congress had been considering studies of individual rivers, judging each proposed addition to the Wild and Scenic System against the Act's somewhat vague and subjective criteria, with no larger, system-wide framework as a context. Under section 5(d) of the Wild and Scenic Rivers Act, the Departments of Interior and Agriculture were required to make "specific studies and investigations" to identify potential additions to the system. All federal agencies were to consider Wild and Scenic status as an alternative use of these identified river areas, when planning for their use and development. Thus, the Act could serve as a significant planning tool if such river areas were identified. Section 5(d) would later become one of the most powerful tools available to river advocates.

The Department of Interior's Bureau of Outdoor Recreation (BOR), which at this time had responsibility for Interior's river studies, began to look at the possibility of identifying the ultimate size of the Wild and Scenic Rivers System. In 1975, James Watt (later to become President Reagan's controversial Secretary of the Interior) was the head of BOR, issued a memorandum outlining the goal and procedures for identification of a "minimum system." The minimum system criteria ostensibly represented an attempt to inject some uniformity and predictability into the designation process. On these criteria, BOR would base its "minimum recommendation to Congress on which river segments should be protected." The criteria included:

(a) the qualitative scores and ranking resulting from the above steps, and

(b) other factors such as the percent of the river corridor in private ownership and imminence and degree of development threat.

According to Bern Collins of the National Park Service, it was during the Watt years as Secretary of the Interior that the agency developed the practice of finding rivers eligible under the Wild and Scenic criteria, but not suitable for federal protection because of the amount of land in private ownership, or because of competing uses that made designation controversial. Collins notes that the President's Office of Management and Budget at that time wanted to limit the size of the system, to perhaps 50 river segments or so, with only a handful of rivers from the four major physiographic sections of the continent.

Interior planners, though, wanted representation of every kind of river within each of the smaller physiographic sections. So when the Carter Administration took over in 1977, the inventory took on a much larger scope than had been anticipated by the previous administration. The end result was the Nationwide Rivers Inventory (NRI), published by the National Park Service in 1982. Out of the approximately 3 million river and stream miles in the country (excluding Alaska and Montana), some 61,700 miles, or under 2% of the total, were found to still possess "sufficient natural or cultural attributes" to qualify for inclusion in the Wild and Scenic Rivers System. Even though the inventory represents a small fraction of the country's rivers, this "minimum system" (as it was originally conceived) of over 1500 river segments is more than twelve times the size of the existing national system.

Today, the NRI is used as a source from which to select study rivers, but is with a few notable exceptions still largely underutilized as a planning and preservation tool. The Forest Service and the Bureau of Land Management take the NRI into account in their land and resource planning, but this still leaves out about 60 percent of the list. Such agencies as the Department of Defense and the Federal Energy Regulatory Commission do not have a formal policy as to NRI rivers, despite the significant impacts that the agencies can have on these rivers.

However, the NRI has of late been receiving renewed attention from river managers and conservationists. As noted above, the Forest Service and Bureau of Land Management as part of their ongoing planning activities, are evaluating every NRI-listed river within their jurisdiction for possible addition to the Wild and Scenic Rivers System. And many river conservationists, including American Rivers, have suggested granting a minimum level of protection, such as a ban on hydroelectric projects, to every river on the NRI. The NRI's potential as an adjunct, or possibly alternative, to the Wild and Scenic System is discussed in more detail in a later chapter.

It is important to keep in mind, however, that the NRI is far from complete, particularly in the West. It was first undertaken in the eastern and midwestern regions of the Bureau of Outdoor Recreation in order to test its implementation. It was not finally undertaken in the western regions until the last days of the Carter Administration, and so field work was cut short early in 1981. As a result, many rivers that might otherwise have been added to the NRI were left off. Some of these left-off rivers are being identified through the public lands planning process of the Forest Service and the BLM. A recent review by the Ashley National Forest in Utah, for example, found six rivers to be eligible for inclusion in the national rivers system, even though only one

of them was on the NRI. Coyle of American Rivers believes that when the NRI is finally completed it may be twice its current size.

### CHAPTER III. THE SECOND DECADE

As the Wild and Scenic Rivers Act approached its tenth anniversary, it was far from a success, despite the efforts of American Rivers and other conservation groups. Yet there was reason to hope for improvement--the election of a new president.

In his May 1977 message to Congress, President Carter noted that the Wild and Scenic Rivers System was faltering:

To date only 19 free-flowing rivers, totalling 1,655 miles, have been designated as part of the National Wild and Scenic Rivers System....We must identify as quickly as possible the best remaining candidates for inclusion in the Wild and Scenic Rivers System before they are dammed, channelized, or damaged by unwise development along their banks.

President Carter then took up his own challenge by proposing legislation to add eight rivers totalling 1,303 miles to the system, as well as studies of twenty more rivers.

In January of 1978, the Bureau of Outdoor Recreation was renamed the Heritage Conservation and Recreation Service (HCRS). Four months later, HCRS was given responsibility for historic preservation matters, previously a function of the National Park Service. In exchange, the Park Service was given the responsibility for river studies.

Despite the change in administration and the reorganization of BOR, by 1978, the tenth anniversary of the Act, there seemed little to celebrate. Instead, the General Accounting Office issued a scathing report on the slow growth of the Wild and Scenic Rivers System. Entitled Federal Protection and Preservation of Wild and Scenic Rivers is Slow and Costly, the report charged that:

The national system is growing slowly, and the processes for adding rivers are not functioning well. The preservation of rivers currently in the system has also progressed slowly.

The GAO criticized federal agencies for taking "an inordinate amount of time--an average of more than six and a half years from congressional designation" to complete the river studies. The reasons for this, said the GAO, were that the Departments of Interior and Agriculture had failed to develop formal guidelines for studies, and that the study teams often lacked experienced personnel. The report stated that the values of some study rivers were deteriorating due to the slowness of the designation process, because the river's study status brought increased recreational use during the interim. Interestingly enough, a later GAO report would make an opposite claim--that rivers which were studied but not designated suffered no significant degradation of values. (In its 1986 report, "Certain Rivers Not in National System Generally Retain Original Values," the GAO examined 13 rivers which were studied but not recommended for federal designation. The GAO concluded that: "For most of the rivers we reviewed, the characteristics that originally

qualified them for inclusion in the national system have not been negatively changed.") This is an assertion that is contested by conservationists who reach a different conclusion from the same facts presented in the report.

The report also asserted that states were not pursuing designation under section 2(a)ii, even though the Act intended "a prominent State role" in the system. The agency stated that the Act "specifically encourages the addition of State wild and scenic rivers to the national system" through the provisions of 2(a)(ii). The report found that states were not participating in the national system because of the increased river use that designation would bring, and because such rivers had to be administered without extra expense to the federal government--Interior had determined that this proviso meant that rivers could not be designated under 2(a)ii where substantial federal holdings were present.

The GAO also complained that the federal agencies were using only one very expensive and controversial strategy to preserve rivers--the acquisition of land in fee or scenic easements. The GAO stated that the intent of the Act was to minimize this approach.

The GAO recommended specific management changes, including: developing guidelines on how the studies should be conducted; holding study teams to the allotted time periods; and requiring personnel to work more closely with state and local governments so as to better utilize their expertise and zoning powers and thereby minimize land acquisitions. The GAO also recommended that Congress amend the Act to remove the "no federal expense" limitation on 2(a)ii designations, and provide financial assistance to the states to administer designated rivers, in order to bring about "a greater Federal-State-local government partnership."

The problems were not all the fault of the departments of Interior and Agriculture. As these two agencies pointed out, among other things, the GAO overlooked the delays (sometimes for years) caused by the President's Office of Management and Budget. The agencies also disagreed with GAO's conclusions that designation had increased recreational use of river areas, and sought recognition that local zoning is not a simple alternative to acquisition. But the GAO report, nonetheless, had resounding repercussions, by drawing attention to the problems the system was experiencing.

An insider's view of what was going wrong with the Wild and Scenic Rivers System at this time is offered by Kevin Coyle, Vice President and Conservation Director for American Rivers, who was Chief of the Studies Division for the Northeast Region of the BOR from 1975 through 1978. He notes that the agency was trying to do its traditional "top-down" planning, emphasizing Interior's longstanding role as a land manager and failing to recognize the realities of public involvement in private land areas such as are in the East. The agency was essentially telling the local populace what sort of river management plan was being prepared for them. As the Upper Delaware River experience demonstrated, this approach simply wouldn't work when much of the river corridor was privately owned. "The original study (in 1970) for the Upper Delaware recommended the acquisition of 36,000 acres of land and easements" Coyle noted, "the planners back then were very nearly run out of the valley on a rail." "It took

years of remedial action to calm things down again and later, post-designation, experience indicates that the local people were alarmed for the duration," he adds.

In the same year as the GAO report, the National Parks and Recreation Act (MPRA) of 1978 was signed into law. The bill, also known as the "Burton bill" after the late California Congressman Phillip Burton who authored it, was a comprehensive package providing for parks and rivers. In his unsuccessful drive for election to Speaker of the House, Burton skillfully employed his position on the House interior Committee to develop a bill that affected two thirds of the nation's congressional districts. The bill was nicknamed "Park Barrel." A side benefit of the NPRA was the breathing of new life into the Wild and Scenic Rivers Program, wresting such rivers as the Upper Delaware, the Skagit, the Missouri and the Saint Joe away from their respective political quagmires and into the system. The number of river miles in the system increased by almost one half, with ten new rivers added, plus seventeen new study rivers authorized.

In his August 1979 Environmental Message to Congress, President Carter again emphasized that priority be given to river preservation. No doubt mindful of the GAO report, Carter declared:

We need to speed up the process for studying Wild and Scenic Rivers for designation and to consider the protection of rivers or parts of rivers which can protect important natural ecosystems.

To accomplish this, the President outlined two separate strategies, both of which would have long-lasting impacts. Declaring that the highest environmental priority of his administration was the passage of adequate protective legislation for Alaska, Carter proposed adding 33 Alaskan rivers to the system. Ultimately, 26 of these were designated, for 3,071 miles--or about one third of the current system total.

Carter's second strategy was to give greater protection to the rivers on the Nationwide Rivers Inventory. The President issued directives to federal agencies, requiring them to "avoid or mitigate adverse effects" on the listed rivers, and assess whether any listed rivers located on their lands were suitable for inclusion in the Wild and Scenic Rivers System, and if so, "to take prompt action to protect the rivers," either by recommending designation or by other "immediate action." This was strong language in favor of the inventoried rivers, yet it was no more than their due under section 5(d) of the Act, which required federal agencies to consider potential designations in all of their planning. The "Carter directive" was formalized into policy by the President's Council on Environmental Quality.

Given its timing, the Carter directive did not have much of a chance to come into its own. The next year, Ronald Reagan was elected, and the river preservation momentum gave way to new administration priorities. HCERS was also merged into the National Park Service, early in 1981 and the budget for implementing the Wild and Scenic Rivers Act was cut. Yet, some work on the national river inventory continued, and it was finally published in 1982. But its

reception was lukewarm; it was not the trigger for multiple designations that river conservationists had hoped for.

So, despite these signs of progress--the Burton bill and the Alaska lands bill, the NRI and the reforms suggested by the BOR task force and the GAO--by the early 1980's, the system was again on the wane. A 1981 issue of Sierra magazine concluded that after more than 12 years, "the Wild and Scenic Rivers System is no further along. The real question is whether it can ever grow to become an actual national system." The article cited now-familiar criticisms of the Act and the System: the long study process, costly and controversial land acquisitions that often galvanized local opposition to river protection, inadequate state protection, the necessity of obtaining Congressional approval twice before a river may be designated. The Wilderness Society, three years into the Reagan Administration, decried the fact that not a single river had been added since the end of the Carter Administration, and declared the program to be "no more than the disarticulated skeleton of a system." The River Conservation Fund, a subsidiary of American Rivers, concluded in its 1984 report on state river conservation programs that the center of river conservation activity was in the states, and not in the federal arena, and that "It seems clear that the National Park Service is all but out of the wild and scenic rivers business." It was a grim time for the Wild and Scenic Rivers System.

There were, however, some important signs of hope. To begin with, by the end of 1987, the designation record had improved somewhat--over a dozen river segments were added to the system, including, in November 1987, the notable addition of the Kings, the Kern, and the Merced rivers in California. More importantly, however, the U.S. Forest Service took the Carter and CEQ directives more seriously than anyone had imagined and issued (back in 1982) directives to all national forests to include the consideration of potential Wild and Scenic Rivers in all land and resource management planning. This quiet action on the part of the agency would later prove to revolutionize the Wild and Scenic Rivers Program. Despite criticism, during the Reagan Administration, 59 of the 119 rivers in the national rivers system were added. The system almost doubled in size.

But today, over twenty years since its creation, it is clear that the Wild and Scenic Rivers System is still heir to many of the problems identified throughout its history. With some added woes: funding is in critically short supply not only for studying candidate rivers, but to manage and preserve those rivers that are in the system. And while in some minds the era of the high dam is over, threats to free-flowing rivers continue. Federal water development projects die hard and in the past ten years have been joined by private, small hydropower projects, which, like their larger cousins, also consume free-flowing rivers. Urbanization of waterways, with its attendant pollution and erosion, may present the ultimate competing use of rivers, one which the Wild and Scenic Rivers Act, with its vague land use restrictions, is as yet ill-equipped to address. The Act is still not the policy and decision-making tool that it was meant to be.

Nonetheless, interest in conserving rivers and in the Wild and Scenic System seems to be increasing. American Rivers has gained members and

political strength, as have prominent regionally-based river organizations such as Friends of the River in California and others. The National Park Service has strengthened and made more active its Rivers and Trail Conservation Assistance Program, through which the Service provides technical and financial assistance to state and local governments and citizens. The Service receives high marks for this program, in which it acts more as technical consultant rather than as resource manager; despite this success, the program still must struggle for adequate funding. Meanwhile, the Forest Service is in the midst of finalizing its Land and Resource Management Planning Process, making decisions about hundreds of river miles within its jurisdiction--including some of the wildest and most pristine in America. The Forest Planning Process has caught the attention of river conservationists, who in turn have been able to forge coalitions with the major environmental groups that are focussed broadly on forest planning, including rivers and shorelines.

## CHAPTER IV. STATUS OF THE WILD AND SCENIC RIVERS SYSTEM--ISSUES

In conducting interviews for this history, one of the oft-voiced complaints about the Wild and Scenic Rivers System is that the designation process contains too many hurdles and so the system is still unfulfilled. Stanford Young, one of the Interior planners who laid the groundwork for the Act in the 1960's, and who feels that the System has made "normal progress" considering the controversy that can accompany a designation, even thinks that the designation process contains too many hurdles.

As was noted earlier, there are two ways to add rivers to the Federal Wild and Scenic Rivers System. The first is through an act of Congress under section 2(a)(i). The second method is by Secretarial designation under section 2(a)(ii), at the request of a state which has protected the river under state law. Section 4(a) of the Act provides for a study of a river to determine its eligibility and suitability for inclusion in the system. A 4(a) study must be authorized by an act of Congress. But the Departments of Interior and Agriculture also undertake a Wild and Scenic River Study under section 5(d), which requires all federal agencies to identify potential additions to the system. At the culmination of the study, the President will make a recommendation to Congress; Congress then decides whether to add the river to the system. Since the passage of the Wild and Scenic Rivers Act twenty years ago, Congress has authorized 105 river studies. Twenty-one of these, or one fifth, have resulted in designation to-date.

Private land and local involvement. One of the most persistent reasons for the low success ratio of Wild and Scenic River Studies is the apparent inability of the Act and the agency personnel to handle the concerns of private landowners and local communities along a river.

Two particular studies demonstrate some of the problems and opportunities involved in implementing the Wild and Scenic Rivers Act vis-a-vis non-federal land areas. In one case, the Upper Delaware River of New York and Pennsylvania, designation of the river went largely unchallenged when the river was tacked onto the "Burton Bill" in 1978. But soon afterward, the management plan became a battleground for Park Service planners, citizens and local governments. In the other case, involving the Wildcat Brook in New Hampshire, the Park Service approached the study as a means of developing a management plan, resolving major conflicts before designation, and in fact providing local interests with a basis for deciding whether they wanted the river designated. The Park Service and river conservationists have hailed this approach as a successful prototype for future studies.

In the first case--on the Delaware--the Park Service inadvertently fostered the perception that the river area was to be made into a public park, courtesy of local landowners. Moreover, problems were compounded when Park Service planners chose to work with county rather than township planners, failing to recognize the tenuous relationship between the county and the townships, and the county planners' lack of experience in addressing issues of conservation of privately held lands. In the end, the management plan earned an award from the American Planning Association but failed to impress local townspeople, who refused to accept it.

Recognizing that things were at an impasse, the Park Service began to assemble a new plan. The revised plan was finally approved early in 1968, nearly ten years after Wild and Scenic designation. The plan has been agreed to by eight of the 14 towns, two states, and the Delaware River Council. The intergovernmental council serves as the managing unit. The Park Service's major responsibility is river recreation. It is also responsible for management decisions on the part of the towns that have chosen not to be part of the council. There is still some local opposition to the plan, in large measure because of distrust of the Park Service.

Chuck Hoffman, a planning consultant who helped shepherd the revised plan through the maze of local and federal politics, believes that the Park Service got into trouble on the Upper Delaware because the traditional Park Service approach tended to ignore local interests. While this lack of sensitivity might not be fatal in areas that are predominately public land, the Upper Delaware situation was something else again. The Park Service certainly had no unilateral management authority. Nevertheless, the Park Service approached the Upper Delaware in a traditional land manager's fashion, according to Hoffman, and "acted like it was a normal situation, and that this was simply a public relations problem." Hoffman notes that the more limited authority given the federal agency in the Upper Delaware legislation "prepared the Wild and Scenic Rivers System for what's likely to be its future"--that is, a less federally-dominated approach, and more of a shared authority/responsibility approach.

Hoffman is critical of what he calls the "centralized national planning, one-size-fits-all" management approach traditionally used by federal agencies. He sees this as a major problem in seeking designation for rivers bordered by private land. "We talk about the Wild and Scenic Rivers Act as being adaptable but we never treat it that way." He notes that he hasn't seen enough coordination among federal, state and local authorities in management plans. Nor has he seen enough federal planners who are experienced in local zoning, and project managers who can coordinate federal and nonfederal interests. Importantly, Hoffman also believes that we need to differentiate between federal and privately owned river corridors, and to broaden the range of management tools to suit the rivers and the local situations.

This was precisely the approach taken in the Wild and Scenic River Study of the Wildcat Brook in New Hampshire. The Wildcat flows through the White Mountain National Forest, plunges over Jackson Falls, and runs through the historic Town of Jackson, a resort community of about 600. The land in the river corridor is mix of federal, private, and town-owned. The impetus for a study of the river, predictably, grew out of the threat of a dam.

Legislation providing for the study was passed in 1984. Rolf Diamont, then with the North Atlantic Regional Office of the National Park Service, was the project study leader. The law's sponsors asked the Park Service to look at a range of conservation options. Of particular importance, according to Diamont, was the fact that the study legislation was broad enough to allow for cooperative agreements. These agreements would form the foundation for the Park Service's innovative study approach.

The Park Service and the Town of Jackson quickly developed a basic understanding that the Park Service would not recommend designation unless the town desired such protection and provided adequate local land use measures to protect the river. The Park Service entered into a memorandum of understanding with the U.S. Forest Service, the town, and the state to formalize this working agreement as a guide to the study. Through these cooperative agreements, the Park Service was in a technical assistance role.

After two years, the Town of Jackson adopted a local plan to protect the river and successfully met the standards for adequate protection under the Wild and Scenic Rivers Act. In October of 1988, the river was added to the national rivers system. Diamont describes the Wild and Scenic River study guidelines as a "straightjacket" that fails to encourage innovative approaches, but says the Wildcat Brook team "worked with the system that we had and made the most of its capacity." He believes revisions to the guidelines could smooth the process for river studies in private land areas and improve the prospects for designation citing what happened on the Wildcat as a potential national model.

Two trips through Congress. Congressional approval is required to add a river to the system but it may also be needed for a river to be studied, unless the river is designated by Secretarial action under section 2(a)(ii), (this has occurred only a dozen times) or is studied under Section 5(d) of the Act as part of ongoing federal agency planning. The so-called "instant" designation of rivers--congressional designation of a river without a study--has been a relatively rare occurrence, so that adding a river to the system usually requires two trips through Congress.

The failure of the 2(a)(ii) or state designation route to take hold has been a disappointment to many river conservationists, for it is one way of avoiding the two-trip requirement. Roger Fickes, a river program manager with the Pennsylvania Department of Environmental Resources, says that while, conceptually, it's "probably a good idea," 2(a)(ii) has worked negatively in his state, allowing the federal agencies to avoid controversial designations by recommending that the state designate under 2(a)(ii). Fickes cites as examples Pine Creek and the Youghiogheny River. In the 1970's, both rivers were found eligible, but Interior's Bureau of Outdoor Recreation failed to develop support for designation among the river corridor residents. BOR thus recommended against federal management of the rivers and "took the slippery way out" by recommending state management under 2(a)(ii).

Fickes says that the state was "naive" and thought that it could succeed where the federal government had failed. However, the local residents had been soured on the idea of designation because of BOR's awkward public relations efforts, and BOR's hasty withdrawal after implicating the state only encouraged residents to oppose the state as well. The rivers have yet to be designated. Fickes complains that BOR's use, during the Nixon and Ford administrations, of 2(a)(ii) as an escape route from controversy and federal expense was a contravention of the intent of 2(a)(ii), which was meant to further the protection of wild and scenic rivers.

Fickes admits that there are no easy answers, and even though 2(a)(ii) is capable of being abused, it should not be removed from the Wild and Scenic

Rivers Act. Perhaps the real answer lies in strengthening the commitment and capacity of federal agencies to work with state, local, and private interests in putting rivers into the System.

Jamie Fosburgh, public lands specialist for American Rivers, believes the issue of two trips through Congress may have become less significant in the past two years. "Most of the studies conducted today are through the public lands planning process under section 5(d) of the Act," Fosburgh said. "This vast exercise will, in certain parts of the country, obviate the need for congressionally authorized studies."

Fear of federal condemnation and limits on future land uses. The limited and rarely used condemnation power granted by section 6(a) of the Act has often triggered opposition to designation by local landowners. Acquisition in fee title is limited to not more than an average of 100 acres per mile on both sides of the river, and is prohibited when 50 percent or more of the entire acreage on both sides of the river area is owned by government. Condemnation of easements is still possible but is barred if a local town adopts an appropriate river-protecting zoning ordinance such as was adopted on the Wildcat Brook. A recent survey of Forest Service land acquisition on 16 Wild and Scenic Rivers in the West Coast States revealed that of the 200,000 acres of private land within the river corridors, no land had ever been condemned in fee and only 751 acres in conservation easements had been taken. Likewise, the Bureau of Land Management, which is responsible for 1,382 miles of Wild and Scenic Rivers (for 442,240 acres of corridor) has not condemned any land outright, and only 624 acres for scenic easements.

Despite the limits on acquisition powers, and despite infrequent use of these powers, the word "condemnation" carries a strong emotional wallop for most landowners that may simply overshadow any nice distinctions about the limits of condemnation power. Ralph Godno, former director of the Housatonic Valley Association, notes that the ambiguous language of the Act provided "an easy, constant source of misinterpretation from the several staunch opponents to federal study or designation" when the Shepaug and Housatonic Rivers were considered for Wild and Scenic status. He also believes that the condemnation language will discourage support for river designations in the populous river corridors of the East. John Haubert, a river planner for the Park Service, also describes fears of condemnation as being misconceived and detrimental, since the government has used this power sparingly of late.

However, as Bill Painter points out, eminent domain power was used by federal agencies in the past to gain control over river corridors; federal land managers were concerned with "filling in the green on their maps," and were not as politically savvy as they might have been about the effect this would have on communities. He notes: "If the bottom line is that people lose their land, what's the difference to them," whether they lose it because of a dam or a river designation.

Fears of federal limitations on future land uses can also create opposition to designation. The Act's language regarding its impact on existing and future land uses within the river's corridor is vague and can be a source of confusion to river planners and local landowners alike. The general

interpretation is that the Act protects the status quo as well as any compatible future uses. Tim Krause of the Northwest Rivers Council in Washington writes that the Act:

Establishes a priority in the management scheme--prior users first, then the protection of the river environment, and finally, uses proposed after designation. The overall effect is to maintain the status quo, and not to reestablish wilderness.

Nevertheless, landowner fears of extensive federal interference with land use may remain despite assurances to the contrary.

Conservationists and federal river planners have tried to address landowner fears of federal acquisition and control. Utilizing the study as an opportunity to develop a management plan, as was done with Wildcat Brook, is one method: It allows landowners to help determine what the rules will be after the river is designated, and to know what, as Chuck Hoffman puts it, they are buying into.

Another method is to put specific language into the Wild and Scenic legislation to limit either acquisition or controls on land use, as was done with the Upper Delaware designation or the Farmington River study in Connecticut and Massachusetts. Some observers have suggested that the Wild and Scenic Rivers Act should be amended to remove the power of eminent domain, or a new law, one which protects only a river's free flow, should be created. This suggestion is based on the premise that the benefit of the limited power to control a river's shores is outweighed by the fear and opposition it creates; and that it is becoming increasingly difficult, financially and politically, for agencies to exercise eminent domain powers in any case.

Ken Olson, president of American Rivers, notes that his organization's position has been to address first those threats of permanent, irreversible impacts on rivers--dams. "Once a dam is up, it's up for good." Thus, American Rivers has, on occasion, called for a federal "damless rivers act," which would allow states to designate any river stretch as damless (and require FERC and other federal agencies to honor that designation) but would not grant authority to acquire land or place restrictions on streamside development.

Bern Collins of the National Park Service says that such a "free-flow only" approach could provide a basic level of protection for a wide range of rivers, including the more urban or recreational rivers that the Wild and Scenic Rivers System has tended to ignore. By avoiding the troublesome land use issues that can stop a Wild and Scenic designation, he says, "You can buy time to work on the shoreline issues...in the meantime, it keeps a vital part of the resource open."

The down side to such an approach is that it leaves the managing agency without the assurance that it can control or eliminate conflicting uses. John Haubert, also of the Park Service, agrees that this approach would remove controversy, but notes that as far as the Wild and Scenic Rivers Act is concerned, the original intent was clearly to protect a broader spectrum of

resources than simply the river's flow. In order to be designated, a river must possess "outstandingly remarkable" characteristics in addition to being free-flowing. Obviously, these characteristics--scenery, fish and wildlife, geology, and others--were intended to be preserved too.

If the "free-flow only" approach were adopted in separate legislation, it might become a valuable adjunct to the Wild and Scenic Rivers System, protecting those rivers that are currently deemed too controversial (due to private ownership of riparian lands). However, it could also severely retard further growth of the Wild and Scenic System, since it could divide support for preservation of a river under the Act. Supporters and foes of a particular designation might choose the possibly less controversial route of a simple no-dams bill, rather than deal with the thorny issues of management of privately owned corridors. Ken Olson reminds conservationists that the Wild and Scenic Rivers Act offers very limited protection for river corridors. In the toughest cases, it may be worth exchanging the hope of getting this protection in return for actual passage of a no-dams bill.

Suitability criteria. Another reason why rivers do not become part of the system is because the agency in charge of the study may recommend against designation. It is important to remember that a river may be "eligible" for addition to the system but may still be deemed "unsuitable." The criteria used to determine suitability are not strictly defined and allow for a good deal of agency discretion. The Forest Service's Land and Resource Management Planning Handbook, for example, includes the following factors which may be considered in the determination of suitability: current status of land ownership and use, and the amount of private land involved; "reasonably foreseeable potential uses of the land and water which would be enhanced, foreclosed, or curtailed" if the river were designated, as well as the values that might be lost without designation; the cost of acquiring land; and "other issues and concerns." Over the past eight years, the Park Service has found unsuitable most rivers which abut substantial amounts of private land.

John Kauffman was one of the Interior planners involved with establishing the direction of the Wild and Scenic Rivers Program. He is critical of this avoidance of privately owned river corridors, pointing out that "a great deal of the Act deals with how private property is to be protected." This part of the Act has been forgotten or misunderstood: "In recent years, more and more emphasis has been placed on dealing with rivers in public ownership, backing off from the more difficult job of protecting rivers in private ownership."

Should the agencies be allowed to use "suitability" as a catch-all category--or should the criteria for suitability be more sharply defined? Some argue that in times when the protection of rivers is politically disfavored, the undefined nature of the suitability requirement allows agencies to reject rivers in an unprincipled fashion.

American Rivers believes that one way of addressing this issue is to ask agencies to establish goals and performance measures relating to rivers. Ken Olson believes that conservationists should be asking for objective, measurable goals, similar to the annual harvest rates set for the Forest Service; this would permit agencies to weave river values into their multiple-use formulas.

Roger Fickes thinks that once a river is found eligible, it should be presumed suitable for designation until proven otherwise. Eligibility under the Act does mean that the river has "outstandingly remarkable" features that Congress intended to preserve. Some western national forests, however, have taken the opposite approach of finding a river unsuitable even if it has hydroelectric development potential. It would appear that there should be a tougher standard for proposals to develop projects on eligible rivers rather than the same standard as is applied to any river.

Kevin Coyle, of American Rivers points out the recent passage of the Oregon Omnibus Wild and Scenic Rivers Act as an example of how agency planners can hide behind the suitability criteria. The Forest Service completed its draft Land Resource Management Plans in Oregon and found about thirty rivers eligible for inclusion in the national rivers system. (When the Act passed, a total of forty rivers were included in the system including a number of BLM rivers). The Service only recommended half a dozen as suitable, however, on the basis that the others would spawn too much controversy if designated or their protection was not in the public interest. When the Oregon bill was introduced, these suitability determinations came under the profound scrutiny of the legislative process and, not surprisingly, all but a few of the rivers were found to be completely without controversy. "I call it the problem of anticipatory conflict," said Coyle, "in some cases even the slightest hint of public disapproval will kill a river's chances of designation."

In the West, the suitability criteria can also break down when there is a hope for a water project being built on a river, no matter how remote. The suitability criterion of balancing "reasonably foreseeable uses" is sometimes interpreted by agency personnel to mean "remotely possible." "It is conceivable," said Coyle, "that an individual could block a designation in some states by simply drawing a circle on a map and declaring an intent to build a water project someday." Coyle points out the need to pin down the reasonably foreseeable criterion and to build a more complete evaluation of suitability factors into the river study process.

Cost restrictions on state-initiated designation. Another potential hurdle to designation is the proviso in Section 2(a) that rivers designated by the Secretary of the Interior upon state request be administered without expense to the United States. At a time when states are struggling to maintain a number of programs in the face of dwindling federal assistance, this bar to federal assistance in administering rivers may be too much of a disincentive for many states, particularly since they are still required to otherwise manage and preserve the river to meet the standards of the Act. The bar to federal funding is consistent with the Act's encouragement of state participation and responsibility for river preservation, and its emphasis on minimizing costs to the federal government. But some have suggested that more rivers would be designated if the federal government provided financial incentives, perhaps in the form of matching funds, to encourage more 2(a)(ii) designations. Bill Spitzer, Chief of Recreation Resources Assistance for the National Park Service, points out that some conservation groups support the idea that any state wishing to take on the protection of a nationally significant river should receive added grant incentives. He uses the example of changing the

50-50 matching ratio of the state portion of the Land and Water Conservation Fund to a 75-25 ratio in favor of the state if it seeks to acquire land or develop facilities on a National Wild and Scenic River. The proposed American Heritage Trust Bill that will be taken up in the next Congress now contains such provisions. Spitzer also believes there could be a real advantage in looking at less traditional incentives such as the creative use of loans to encourage states and localities to protect nationally significant rivers.

#### Management and Protection of Rivers in the System

Designation is only the beginning of river protection, but some suggest that it's the end, as far as the Wild and Scenic Rivers System goes. After designation, the preservation of a river is in the hands of the managing agency. Stanford Young, former Interior river planner ("now a full-time steelhead fly fisher") worries that rivers in the system are not properly funded or managed. He points out that under the Act, "once a river is in the system, the intent was to keep it in the condition that it was in," and not to allow degradation. Young has worked with the Forest Service, which manages the Skagit River in Washington, and points out: "A lot of people feel that because the Skagit is in the system, it's safe. That's not true ... the fight's only begun." In Young's case, the fight involved urging Congress to adequately fund the Forest Service and working with the Service for protection of the river.

Jim Huddleston of the National Park Service's Environmental Compliance Section in San Francisco agrees that management of Wild and Scenic Rivers currently falls far short of ensuring non-degradation of the rivers. He echoes Young's observation: "The assumption is that once a river is designated, it's taken care of." But timber harvests, roads, pollution and development can continue to take their toll on a "saved" river. "The emphasis has been to create and acquire [additions to the System]. We think we've saved them, but we're losing these rivers right under our noses." Huddleston points out that on some rivers there may be serious problems in coordinating the actions of all agencies whose actions may affect the river. The Eel River in California is an example, he says, of a "coordination nightmare," involving road repairs, agricultural diversions of water, development on tribal land, and other activities that posed threats to the river's values.

Huddleston points out that the classification system is sometimes interpreted as indicating how much development or degradation will be allowed. Thus, "recreational" rivers are managed to allow greater degradation than "scenic" rivers, when in fact the Act's purpose is to preserve the existing quality of rivers. Huddleston believes that a uniform interpretation of the Act is needed by the managing agencies (he claims that "classification doesn't mean anything" to at least one federal agency's district office). And better communication of that uniform interpretation is needed, especially to the non-resource agencies whose activities can affect rivers, such as the Department of Defense, or Housing and Urban Development.

Ken Olson of American Rivers believes that nonprofit conservation groups can play a crucial role in determining when uniform approaches are needed, and when the special characteristics of a river demand distinct treatment.

In addition to preserving the river, management entails dealing with the human element--recreational use of a river. John Craighead would like to see a balance struck between the regulations that protect against overuse of rivers by recreationalists, and the need for each river runner to have an experience that is "reasonably free and unfettered, not something that's just tame and stratified." As more people turn to rivers for recreation, managing agencies will have to give some thought as to how such a balance can be struck.

Another common assumption about designated rivers is they are all in public ownership. In fact, on the average about one third of the land within the corridors is in private hands. This in itself is not a problem, but on certain rivers there is surprisingly little public ownership, and as a result public recreation use is hard to manage. On the Pere Marquette River in Michigan, there is so little public ownership that fisherman and canoeists often must trespass on private land. Forest Service land acquisition staff point out that even though there are riverside landowners more than willing to sell key parcels along the river, the funding is not there. The Service tries to compensate for lack of funding through strategic land exchanges with a forest. But there is sometimes such a huge inequity between the value of riverside land and unaggregated exchange lands on the outskirts of the forest that the acreage ratios can be as much as 1 to 10. To acquire lands along the river may literally mean reducing the federal holdings in the forest by an tenfold acreage factor, thus raising the ire of local conservationists who would rather see the Service's holdings expanded and not reduced.

On some fishing rivers, there are also profound conflicts between boaters and fisherman. This is particularly true of rivers having significant salmon and steelhead runs. Again, it is not unusual for an irate fisherman to tip over a thoughtless canoeist who has just flushed prize King Salmon out of a favorite fishing hole. The Forest Service has been forced to make a number of management changes to accommodate the two groups. These include designated boating hours that are "off peak" fishing hours and educational programs and materials on the ethics of river use.

If agencies are finding it difficult to protect and manage the rivers now within the system, what will it be like when the many rivers now being recommended for designation by the Forest Service plans are added to the System, dramatically increasing the size of the System? Or what if more omnibus bills besides the Oregon Act pass? These questions will be taken up in the section on trends. Management and protection of rivers in the system may be the next crisis for managing agencies, even as they resolve some of the difficulties in studying and designating rivers.

#### **Trends in Designation and Management**

The Act's vagueness and nonspecificity are in part responsible for some of the problems encountered in its implementation. These aspects of the Act also suggest its great strength--its flexibility. Perhaps Chuck Hoffman is right, and river conservationists and managers by and large fail to treat the Act as an adaptable tool. But a look at recent trends in the designation and study

process, and in the management of Wild and Scenic Rivers, reveals some innovations that attempt to take advantage of the Act's flexibility.

"New generation" studies. The Wildcat Brook study, described earlier, is an example of a river study that does more than simply assess the eligibility and suitability of a river--it also orchestrates the creation of a management plan. The National Park Service has begun to adopt this approach in several of its river studies, especially where there are privately owned lands along the Rivers. Examples of such studies include the Maurice and Great Egg Harbor rivers in New Jersey, and the Farmington River in Connecticut and Massachusetts. "Really one might consider these studies to be 'third generation'" said Glenn Eugster, Chief of Park Planning for the Mid-Atlantic Office of the Park Service. "The second generation might more accurately be identified as the Upper Delaware, the Housatonic and Shepaug (CT) studies where the agency planners tried to reverse the old ways and work more effectively with the public, but they didn't go far enough," said Eugster. Eugster stresses that the conflicts that arose in the Upper Delaware directly affected the design of the Wildcat Brook study. "Unfortunately, we had to learn the Wildcat lessons the hard way," he said.

In these studies, as with Wildcat Brook, the Park Service tends to assume the role of consultant rather than federal land manager. Public participation is paramount, and is often formalized in the form of a steering committee composed of local citizens and officials. A management plan (usually referred to as a "river conservation plan") is developed before the Park Service finalizes its study report, and whether the agency recommends designation depends on the approval of local communities. The river conservation plan typically identifies the resource values involved; goals and objectives regarding those resources; and the roles of federal, state and local governments, landowners and others. Interestingly, the plan may also identify alternatives to Federal Wild and Scenic Rivers protection.

Because the proposed management plan is on the table, objections to designation can be resolved prior to any congressional action, and even if the river is not added to the Wild and Scenic System, there is a management plan for the river. Conservation groups and the Park Service generally view this approach as a successful one. Whether the agency will continue to utilize this approach will probably depend on the availability of funding.

The Park Service appears to be comfortable in its role as consultant and facilitator in the new river studies. Attractive brochures describing studies and inviting public involvement, and easy-to-read self-help handbooks on the Wild and Scenic Rivers Act and river conservation (such as the Mid-Atlantic Regional Office's Riverwork book) are a far cry from the more typically ponderous federal planning documents. As noted below, the Park Service has also developed a separate rivers and trails program in which it serves chiefly as technical consultant.

River Conservation Assistance Program. Section 11 of the Act directs the National Park Service to "encourage and assist" states in the establishment of state and local wild, scenic and recreational river areas. The River Conservation Assistance Program was created to respond to this requirement. Through

this program (which is combined with a trails technical assistance program), Park Service planners provide funding and know-how to states, local governments and citizens, and work with an entire universe of river conservation strategies, of which designation under the Federal Wild and Scenic Rivers Act is but one. For example, through its Statewide Inventories and Assessments program, the Service assists states in inventorying river corridors and their resources. Through a cooperative planning process, the inventory becomes the basis for state conservation and recreation management of the rivers, perhaps in a state wild and scenic rivers program or some other comprehensive resource program. South Carolina has just completed a statewide rivers assessment that will provide a blueprint for how all rivers, not just the those with high scenic value, may be preserved, utilized or managed. Other examples of program activities include organizing workshops to provide information and training on river planning and conservation; providing technical assistance to local governments and citizens attempting to protect particular river corridors; developing accessible sources of information, such as Riverwork, mentioned above, and a forthcoming citizen's guide to the Wild and Scenic Rivers Act.

Chris Brown, former Conservation Director for American Rivers and now coordinator of the Park Service technical assistance program sees the program's main function as "institution building." "Not only do we want completed assessments and river corridor plans that will lead to actual protection," said Brown, "we also want stronger organizations to grow out of our work nationwide." Brown believes strongly that the only truly protected river is one with a vigilant organization looking after it.

Besides being popular with local governments and citizens who enjoy more of an equal footing with the agency than they did in the past, the River Conservation Assistance Program represents a neat bit of cost-cutting for the federal government. Nevertheless, in both the 1988 and 1989 budgets, the administration recommended zero funds, although Congress funded the program both years. The Park Service may have made its accomplishments less tangible to federal accountants, because its achievements are no longer measured in solid green patches on a federal map, but in river programs and plans that are carried out by local and state governments.

Chris Brown, who subscribes to the notion that the national rivers system should be the "creme de la creme" of protected rivers, sees the River Conservation Assistance Program as complementing the national system with a much broader agenda that could ultimately take in as many as 10,000 protected rivers at all levels.

Forest Service planning process. In 1982, the U.S. Forest Service issued orders from its Washington office to all national forest supervisors reaffirming that it was a requirement for each forest to identify and evaluate potential Wild and Scenic Rivers according to section 5(d) of the Wild and Scenic Rivers Act as they prepared Land Resource Management Plans under the National Forest Management Act (NFMA). The basis for this planning is the Nationwide Rivers Inventory (NRI), but the 1982 planning orders told the forests to evaluate all rivers on national forest lands and not just those on the NRI. This meant the Forest Service definitely had to evaluate (at minimum) the 500 NRI rivers on its land. This number of rivers is five times as large as the

seemingly long list of 105 rivers Congress has authorized for study under Section 4(a) of the Act over the past 20 years.

In 1986, American Rivers and the Sierra Club Legal Defense Fund (a public interest law firm that specializes in helping conservation organizations) began a systematic review of all final National Forest Land and Resource Management Plans that had been issued by that time. Unfortunately, the plans varied widely in their effectiveness at addressing potential Wild and Scenic Rivers. A few plans were adequate, but the majority failed to comply with the Act or the 1982 direction issued from the Forest Service headquarters. Some plans virtually ignored rivers while others gave them only the most cursory review. In the multi-year press of completing the plans and working with many groups on many other issues, potential Wild and Scenic Rivers had not received proper consideration.

Then, American Rivers and the Sierra Club Legal Defense Fund started filing administrative appeals of the final Forest Service Plans. The appeal process provides citizens, public interest organizations, and others concerned with the management of public lands with the opportunity to officially protest a decision by the agency if it is not fully implementing its duty. American Rivers' appeals of the forest plans eventually brought a response from a high ranking Forest Service official who noted, "It was just one of those issues that was overlooked until it was brought to the Service's attention." By mid-1988, the Service had studied 700 rivers (an indication that the NRI is not complete) and had found 460 of those rivers eligible for inclusion in the national rivers system. The Bureau of Land Management undertook a similar effort about the same time. Though its lands tend to be more arid than those of the Forest Service, the Bureau developed preliminary plans to study more than 100 rivers for possible inclusion in the national rivers system. In the coming years, citizens and others will have ample opportunity to become involved in studies of potential Wild and Scenic Rivers as identified in public lands planning. While, for example, many of the Land Resource Management Plans for the national forests have been issued, the Forest Service often opted to complete the eligibility stage but to defer suitability study of eligible rivers to some later date.

"Through its Forest Planning process, the agency is developing the plans that will guide its management of the National Forests for the next 50 years," said Kevin Coyle of American Rivers. "This is a mammoth task, and a controversial one for the agency, as environmentalists, industries, sports groups and others battle over the agency's alternative scenarios for the nation's forests," he notes.

Historically, the agency's chief concern has been with growing and harvesting a single resource, timber. But the number of interest groups involved with the forest planning process underscores the fact that the Forest Service is faced with major changes in the interests it must serve. A directive issued by agency director F. Dale Robertson points out that the agency is now perforce a recreation agency, with more visitors to its lands than the National Parks. Rivers are a part of the Forest Service's recreational resources, for many of the nation's wildest and most pristine rivers flow through the National Forests.

The Service has responded to American Rivers and the Sierra Club Legal Defense Fund interventions in the planning process by giving more careful attention to rivers," said Bob Dreher, the SCLDF attorney who represents American Rivers. "This program will increase dramatically the number of rivers designated in the next few years," Dreher notes. Deen Lundeen, the rivers coordinator for the Forest Service, notes that in the process of studying rivers, the Forest Service does get involved in assistance and technical support to local river communities and interested groups, but not to the degree that the Park Service does. And Lundeen says that the Forest Service will be spending lots of time during the forest planning process to get local river interests involved. But the agency will not be developing Park Service-style management plans prior to making its recommendation, although Lundeen points out that management prescriptions will be developed to protect the values of each river regardless of whether the river is designated or not.

Perhaps the Park Service approach, which is so well-suited to mixed-ownership river corridors, is not as needed by federal land managers. But Lundeen notes that private ownership is a factor that the Forest Service does face--and at times, as noted earlier, it causes the agency to recommend against the designation of particular rivers. And if the Park Service study approach is viewed not just as a way of dealing with private landowners, but as a means of resolving competing, perhaps conflicting, interests in a river area, it may be worth a second look by an agency whose multiple-use mandate invites conflicts over resources which cannot always be shared. The big question is whether the Forest Service will have the time, money and inclination to do any more with studying potential river designations than it has.

Coyle believes the Forest Service must expand its capacity to provide cooperative efforts with and technical assistance to state and local agencies. "The rivers don't stop at the forest proclamation boundary," he notes, "there are vast opportunities to protect whole rivers if the Service can work more beyond its boundaries." The Wild and Scenic Rivers Act authorizes a Forest Service technical assistance program for rivers. In a state such as Montana, the forest planning process provides a solid opportunity for the state to get involved with the Forest Service and the BLM and generate ideas for its own program and how it wants to participate in implementing the national effort.

River planning by other agencies. American Rivers hopes to see other agencies, particularly the Bureau of Land Management, the Park Service, and the Fish and Wildlife Service, pick up the best elements of the forest planning process.

The Bureau of Land Management has already begun to adapt its approach to river management, again partially in response to the activities of American Rivers. In the summer of 1988, the BLM adopted its own comprehensive planning direction for the study and interim protection of rivers under section 5(d) of the Wild and Scenic Rivers Act. Moreover, the BLM has preliminary plans to study more than 100 rivers over the next three years. To its credit, the BLM has developed guidelines that, in some ways, go beyond the other agencies by calling upon the district offices of the agency to actually amend their

Resource Management plans to include overlooked rivers rather than to wait for the next planning cycle. Gary Marsh of BLM's Washington D.C. office also points out that his agency has been involved in river management as long as have other agencies, with responsibility for more than 25 rivers (approximately 2,000 miles) in the Wild and Scenic Rivers System. But he notes that the agency has only recently become involved with wild and scenic river studies, through its Resource Management planning as well as recognizing its responsibilities for recreation management of rivers. Moreover, with the BLM wilderness planning process winding down, the agency is positioned to devote considerable resources to rivers.

Another new development for the BLM was its receiving a departmental delegation of authority to conduct Wild and Scenic River studies under section 4(a) of the Act. Until recently all 4(a) studies done by Interior were conducted exclusively by the Park Service. By reaching out and asking for the delegation, the BLM is showing a more assertive attitude toward river protection.

Marsh says that the agency is beginning to realize that tourism and recreation are, like grazing and mining, activities with significant revenue potential.

The National Park Service has also indicated an interest in evaluating rivers on its lands which, though not threatened many have national significance and would be worthy additions to the national rivers system.

Some say that section 5(d) of the Wild and Scenic Rivers Act requires all federal agencies to study rivers prior to development. This, for example, may mean that the Federal Energy Regulatory Commission should complete a Wild and Scenic River study prior to granting a license on any river that may be eligible for inclusion in the national rivers system. One aspect of the passage of the Oregon Omnibus Bill was a statement of congressional intent in the law that the NRI be used as a specific study for the purposes of Section 5(d) of the Wild and Scenic Rivers Act. It is conceivable that any proposal that would have adverse effects on an NRI river could be completed only after a river study is done.

State river programs and other alternatives to the Act. As noted above, the Park Service has been working to encourage state and local governments to protect and manage rivers. The River Conservation Fund, in its 1984 assessment of state river conservation programs, observed that "there has been an impressive surge in river conservation at the state, local and private levels." Currently, 31 states have river conservation programs, and more river miles are protected under state river programs than under the federal program (over 11,000 state river miles compared with 9,200 federal river miles). State programs cannot prevent construction of federally licensed water projects (although, under the Electric Consumers Protection Act, the Federal Energy Regulatory Commission is required to consider the extent to which a project is consistent with state river protection programs). But state and local governments can engage in land use control, unlike the federal government.

State river protection programs can take a variety of forms. Most common are the state scenic programs modeled after the federal program and referred to in Section 11 of the Act. Many of these were established soon after the Federal Act was created, but the programs often lack strong statutory protections and are underfunded.

But some states are now rethinking their rivers programs, instead emphasizing programs for individual rivers or comprehensive state-wide assessments. The latter, which are encouraged by the National Park Service, are attempts to comprehensively plan for the future of a state's rivers. By making an initial decision as to which rivers are suitable for preservation, and which are not, the state preservationists avoid costly and time-consuming fights over dams or diversions, and developers gain predictability by knowing which rivers are off-limits from the start.

Some local river communities have preferred to do their own river protection because of fears of federal condemnation powers and reluctance to invite significant state involvement. These programs can be very successful in terms of achieving consensus among local interests, and in addressing problems that may be peculiar to the particular river.

Many river conservationists believe that state and local programs offer an approach superior to the federal program: They do not inspire fears of federal condemnation or control, they can be tailored to the special qualities of the river and the local concerns, and as mentioned above, they offer the potential for effective land-based protection measures. Some observers have suggested that the only thing the state or local programs need to make them complete is the legal authority to ward off federally licensed projects. One approach to this is to require all federal agencies proposing development on a state or NRE river to complete a Wild and Scenic River study prior to beginning the project.

State-initiated omnibus legislation. Oregon river conservationists have, with the support of the Oregon Congressional delegation and such national groups as American Rivers and the Sierra Club, overcome the petty pace of the designation process with huge multiple-river "omnibus" bill. In 1988, omnibus Wild and Scenic River legislation passed the Congress and was signed by the President, adding 40 Oregon rivers, totalling 1,429 miles, to the Wild and Scenic Rivers System. Bob Doppelt of the Oregon Rivers Council, the lead group on the legislation, notes, "the Oregon Omnibus Rivers Act will clearly be a national model for future efforts." "Each statewide bill will be different," Doppelt said, "but there is a real advantage to developing such packages out of the findings of the public lands planning process." River conservationists are excited by this strategy, and the Northwest Rivers Council in Washington is working with its congressional delegation to create a similar package of Washington rivers.

American Rivers points out that while the omnibus bill strategy makes a lot of sense, there are some lessons from the Oregon experience that must be translated in light of the particular circumstances of other states before another statewide omnibus bill is undertaken. In Oregon, for example, Senator Hatfield was a hard working champion of the bill. He is a ranking minority member on the Energy and Natural Resources Committee. Moreover, he is widely

recognized as highly supportive of the timber industry on most issues. Senator Packwood was also highly supportive. Also, the House delegation was particularly hardworking with the three Democrats of the five-member delegation and one republican member of the delegation supporting the bill. As with the Senate, Congressman DeFazio was on the proper committee, and Congressman AuCoin likewise has been supportive of timber interests even with his strong conservation commitment.

The Oregon effort also had solid leadership from the Oregon Rivers Council. While the group was not particularly well funded, it had dependable volunteer commitments, including Bob Doppelt himself, who worked more than fulltime for a year without compensation. Timing also favored the bill. It simply moved too fast for more successful opposition to surface. There will undoubtedly be more omnibus bills in the future, and it does appear to be the way of the future, but one should be cautious about assuming the Oregon bill came out of a cookie cutter.

A renewed rivers inventory. As noted above, there is a need to complete and update the Nationwide Rivers Inventory. The National Park Service has developed preliminary plans to do just that. This will help the public lands planning process and will increase the chances for establishing partial or interim protection for rivers on the list, because it will be a more reliable legislative tool.

The growing constituency for rivers. The most significant trend may be the growing constituency for rivers. Perhaps, as with many natural resources, appreciation for rivers is a function of how scarce or threatened the public perceives this resource to be. American Rivers remains on the forefront of national river conservation, and its membership lists keep growing, as does its "miles saved" tally of rivers. Regional groups such as the California-based Friends of the River, the Oregon Rivers Council, the Northwest Rivers Council, and the Colorado Environmental Coalition have become larger and more effective in using a variety of tools to preserve rivers.

National groups such as the Sierra Club, the Audubon Society, Wildlife Federation and others are showing more interest in river protection as some of the national wilderness battles subside. Also there are literally hundreds of Forest Service and BLM employees working on rivers today as well as a larger number of Park Service officials. It is this trend that may prove most powerful of all in changing the scope and direction of the Federal Wild and Scenic Rivers System.

After twenty years, the Wild and Scenic Rivers System has yet to mature into a whole, cohesive system such as the National Parks or Wilderness areas. Schizophrenic from its birth, the Wild and Scenic Rivers Act is torn between being an accessible dam-fighter's tool, and being a National Park-like system with definite limitations on size and minimum quality. Two basic futures may await the System: It can continue to be utilized as the basic river protection tool; or it can be treated as a system with a more limited focus on the "gems" of America's rivers, serving as an umbrella for alternative methods of protecting other rivers--state programs or perhaps new legislation to ensure minimum federal protection standards for a larger category of rivers. Choosing

one route over another will affect the way funds are allocated and energies are directed.

In either case, many more river miles must be put into the System, before it fulfills either of these potential roles. Some suggest that we need a national rivers goal--one that gives free-flowing rivers a stature similar to that of the national water policy goal of the early 1970's to make all rivers swimmable and fishable. Such a goal, for example, could be to conserve as many river miles as we dam or alter by other construction.

There are signs that strategic decisions on how to best protect rivers ought to be made fairly soon. As mentioned earlier, interest in rivers appears to be growing, and greater public attention seems to be focussed on the related issues of water quality, and the preservation of wetlands, open spaces, and parks.

At the same time, competing uses for river areas are never far away. Urbanization will only continue, and as it does, rivers will be altered because of shoreline development, and because water will be diverted to wash cars and water lawns. Indeed, most of the population growth in the country is occurring in the sunbelt states, and water will be sought in ever-increasing quantities, to keep the deserts green. Oil prices are low, temporarily forestalling demands for other energy sources; but thousands of license holders for small, privately financed hydropower projects wait, knowing the situation will change. Also, the increasing concern over the "greenhouse effect" (the warming of the earth's atmosphere) due to the burning of fossil fuels may lead to increased pressure for hydropower as a "non-polluting" energy source. And rivers, like many natural resources, are always subject to poor allocation decisions made out of panic at the threat of a scarcity--a season's drought may provide just enough impetus for a new dam that alters a river and its resources forever.

Yet another reason to move forward now is the federal deficit, which many fear will soon bring the nation into a period of austerity both at the federal level and at the state and local levels. If this is true, now may be the time to nurture the System's strength and give it a stronger identity.

River conservationists are well aware of all of these concerns. But finding the way to better utilize the Wild and Scenic Rivers Act may require departure from the classic dam-fighting stance. Glenn Eugster of the National Park Service notes that river conservationists have not always had their priorities well defined, and therefore haven't fared well against other, competing uses of free-flowing rivers.

To this end, Bern Collins believes we need a "hierarchy of river protection" ranging from nationally significant whole watersheds to state and local systems. Ken Olson of American Rivers goes a step further, and urges river conservationists to decide now which rivers can and should be saved, and which cannot. Only by playing such river "triage," he argues, can conservationists maximize their efforts:

But right now, no one in government or conservation is affirmatively choosing which to protect and which to give

over deliberately (rather than by default, as is now the case) to utilitarian purposes. We conservationists must stop congratulating ourselves for the gauzy good feelings coming from "excellent process," "planning," and the like. Each is only a means, not the desired ends, of river conservation. Real success is measurable in the number of river miles and streamside acres permanently protected. "River Triage," River Runner, May 1988.

If conservationists are going to set better priorities they need to decide when and where to rely on the Federal Wild and Scenic Rivers Act to protect rivers.

Continued emphasis on the Federal System as the primary means of river protection. Implementation of the Wild and Scenic Rivers Act thus far has emphasized adding rivers to the Federal System. Yet the history of the program argues against continued dependence on the Federal System to save rivers. Very few rivers have made it into the system, although the forest planning process and possible state-initiated omnibus bills will add more. Unless sweeping changes are made in the process of designation, and in the public's attitude toward federal condemnation, adding rivers to the Federal System will continue to be a slow, chancy process. Indeed, American Rivers calculates that at our current rate of additions to the system, it would take another 140 years for the system to reach American Rivers' goal of 60,000 river miles. It is interesting to note that the organization, whose original goal was to implement the Federal Wild and Scenic Rivers Act, now views the Act as just one tool toward achieving the broader goal of river protection.

And unless significant new sources of funding are found for managing rivers, it seems unlikely that the system can actually afford to include all of the nation's rivers that deserve protection. If, on the other hand, the Act is recognized as being not only the basis for a somewhat limited (although still as yet unfulfilled) Federal System, but also the starting point for greatly expanded state and local participation, the scenario could be different.

A focussed system, with expanded alternatives. In this scenario, rivers that are of national significance would be sought for the Federal system. The starting point for the determination of such rivers already exists, in the form of the Nationwide Rivers Inventory. The rivers of the NRI were listed because they were judged to be the wildest, most pristine rivers remaining. Thus, they should be accorded some form of protection, for example, a ban on hydropower development, until Congress determines whether or not to add them to the Wild and Scenic Rivers System.

Even if the rivers of the NRI are not incorporated into the Wild and Scenic Rivers System, their protection should be given consideration by agencies, under Section 5(d) of the Act. The CEQ directive on the Nationwide Rivers Inventory still stands, although it has not been used by most federal agencies as a guide to policy. A reiteration of the directive, with the establishment of some required process for using the NRI, could adequately protect some rivers without having to go through the designation process.

At the same time, Section 11 of the Act should be given greater emphasis and funding to encourage state and local river protection programs. Programs like the Park Service's River Conservation Assistance Program should be expanded, to provide financial and technical assistance to set up more state river assessments, public education programs, and management programs. Financial incentives could encourage states to set up effective programs that coordinate related state and local protection efforts in the areas of water quality, agricultural lands, hazardous waste, parks and open space.

Perhaps an equally attractive incentive for states would be the power to resist federal water projects. The 1983 State and Local River Conservation Bill sponsored by Senator Durenberger of Minnesota is an example of the consistency provisions that could be added to Section 11 of the Act, requiring the federal government to act in a manner consistent with state protections. Such a program would provide funding and technical assistance to states to set up their own river programs. Once the programs were in place, federal agencies would be prohibited from acting in a manner inconsistent with the program (such as licensing a dam on a state-protected river).

River protection incentives to the private sector could include tax credits to land owners who donate land or conservation easements along rivers to a government agency or a non-profit organization. Moreover there may be merit in establishing public riverbank conservation corporations as a new form of conservation organization operating with financing from bonds and low-cost loans.

Finally, American Rivers has suggested that a new federal agency ought to be created, a river protection agency whose job is to be advocate and planner for rivers. The existing National Park Service Technical Assistance Program might be merged into this agency.

**Conclusions.** On its twentieth birthday, the Wild and Scenic Rivers Act is far from mature. Yet many who have been involved from its inception are pleased with its progress thus far, and are guardedly optimistic for its future.

"I'm pleased that we have a rivers system," says Stan Young. "It came about at a time when a lot of things happened that couldn't happen today." He says that the machinery of the system is largely in place--it's now time to guard against underfunding and complacency regarding the rivers that become part of the system. He is confident that the system--perhaps a hierarchy of local, state and federal systems--will grow: "In time, important rivers will be cherished more and more as people turn to them for recreation."

"I think in some ways, it exceeded our expectations," says John Craighead, and he feels that we are "tremendously fortunate" to have gotten the Alaskan rivers designated before the pressures of resource extraction became overpowering. "I feel very strongly that if the American people want to keep these rivers, to keep them pristine, they've got to be vigilant...not just to add new rivers, but to maintain what we've got."

Fundamental changes in the Act are not needed, says Brent Blackwelder, but active constituencies and adequate levels of funding are. "If we could get a fraction of what is spent on water resources to be spent on technical assistance," the Act's effectiveness would greatly increase.

Kevin Coyle sees the system as growing in leaps each time the rivers issue can be translated into a national issue--the original passage of the bill, the Alaska Lands Act, the National Parks and Recreation Act, and the Oregon Act. Such widescale and highly visible legislative efforts have accounted for about 75 percent of the rivers in the system because they successfully took river protection--normally seen as a local issue--and put it into a national context. The challenge in the future will be to find new packages and new programs to keep river protection prominent in America's conservation agenda.

Tim Palmer, who has probably done more thinking and writing about the river conservation movement than anyone else in the country, is optimistic about the future of the Wild and Scenic Rivers System. He is pleased that the Act has allowed us to protect the most pristine rivers from immediate threats--as in the cases of the New River, the Tuolumne and the Kern. And he views it as a sign of how well established the public appreciation for rivers is, that even in the present political climate, river conservation efforts have moved forward.

He predicts that the system will become more complex in its methods of protecting rivers. "We're well on the way already, because agencies are much more realistic than they were ten years ago." They are more cooperative and sensitive, recognizing their evolving roles as partners in river conservation.

Palmer points out that the system now faces a second generation of river issues. Unlike the earlier threats of dams and canals, the issues now include instream flows, land development and recreation management. While resolving such potential conflicts will not be simple, "interest [in rivers] is spreading and permeating through society," and new constituencies for rivers will find ways to address the new issues. Now is the time for rivers, Palmer maintains; other systems--the parks, wilderness--have matured, and rivers will be the next system to reach maturity.

Perhaps now must be the time for rivers. Conservationists have had over twenty years of experience with the Wild and Scenic Rivers System, a lengthy start-up period by any measure. Rather than abandoning it as a tool for river preservation, its purpose and limitations need to be recognized.

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Anne Watanabe is an attorney and environmental planner for the Washington State Department of Ecology and also holds a graduate degree in urban planning. Prior to working for the state, she was, for several years, in private law practice in Seattle, and before that was an editor for a legal publishing firm. Ms. Watanabe has a strong commitment to rivers, as is reflected in her

continuing leadership role in seeking to protection for the Hanford Reach of the Columbia River, the last free-flowing stretch of a river once filled with many "difficult and dangerous rapids."

