



Photo: Tom Cameron

## CHAPTER 5

# Wild and Scenic Rivers Act Protections

### *Legislative Guidance*

The Wild and Scenic Rivers Act (P.L. 90-542, as amended) provides the legal foundation and overall guidance for the National Wild and Scenic Rivers System. The following sections of the Act describe provisions for the Wild and Scenic Study process and the protective management provided by statute for congressionally designated rivers.

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...provides protection to designated rivers from potentially adverse federally assisted water resource development projects...

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*Section 1(b) summarizes the intent of the Act:*

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

This section establishes overall federal policy to be implemented through the Wild and Scenic River designation and also applicable to all federal agencies that might undertake activities that could impact the designated river. The National Park Service, in consultation with the Wild and Scenic Committee, will seek to ensure that this policy is recognized and respected by all federal agencies, and that federal actions are consistent with the intent of the designation and Management Plan.

Section 7 provides protection to designated rivers from potentially adverse federally assisted water resource development projects

and prohibits federal licenses for construction of new hydroelectric development:

*The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act . . . on or directly affecting any river which is designated. . . and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established. . . No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established. . .*

The National Park Service will review any proposed federally assisted water resource development project for consistency in protecting and enhancing the values for which the Lower Farmington River and Salmon Brook are designated as a component of the Wild and Scenic Rivers System.

The NPS accomplishes this review through existing regulatory schemes, such as federal

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There are no new permits associated with the designation.

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permitting under the Clean Water Act by the Army Corp of Engineers or EPA, and through the required project review processes for NEPA, under which federal agencies must conduct environmental impact reviews of proposed federal actions. The NPS will coordinate its review with the Wild and Scenic Committee, but cannot cede its review responsibility to the Committee.

There are *no new permits* associated with the designation.

Section 3(d)(1) specifies the requirement for the preparation of a management plan:

*...the Federal agency charged with the administration of each component of the National Wild and Scenic Rivers System shall prepare a comprehensive management plan for such river segment to provide for the protection of the river values. The plan shall address resource protection, development of lands and facilities, user capacities, and other management practices necessary or desirable to achieve the purposes of this Act.*

The Lower Farmington River and Salmon Brook Management Plan has been developed through the Study process to meet the requirements of the Wild and Scenic Rivers Act, and will serve as the Comprehensive Management Plan for the designation.

In connection to the user capacity requirement included within Section 3(d)(1), user capacity is not believed to be a current threat to the ORVs or recreational experience on the Lower Farmington River or Salmon Brook. A follow-up user capacity study is recommended in this Plan to augment the *Use and Economic Importance Study of the Lower Farmington River and Salmon Brook*, and will be conducted following designation as a method to establish a baseline for assessing any future user capacity issues.

There is no distinct lateral boundary or corridor recommended within this Plan or for the Partnership Wild and Scenic River designation of the lower Farmington River and Salmon Brook. Section 3 of the Act envisions that lateral “boundaries” be established for all designated Wild and Scenic Rivers as a part of the management planning process or as recommended through a study process. However since the study area contains little or no federal lands, and there are no plans for federal acquisition,

the NPS has determined that distinct lateral boundaries serve little purpose and often lead to confusion.

Section 10(a) specifies a management scheme for designated rivers:

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

This section establishes a “protect and enhance” policy for management of designated WSRs. The Lower Farmington and Salmon Brook Management Plan has been specifically researched and written to address this mandate, and the NPS and Wild and Scenic Committee will seek to implement the “protect and enhance” standard through Plan implementation.

Section 6(c) prohibits acquisition or condemnation of lands associated with a designated river if the existing protection mechanisms are adequate to protect the Outstandingly Remarkable Values:

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

In the course of the Wild and Scenic Study process it was determined that existing local, state and federal regulations are adequate to protect the resources of the lower Farmington River and Salmon Brook consistent with Section 6(c). Furthermore, this Plan does not envision any federal acquisition of lands associated with the designation. Federal funds appropriated through the NPS may be utilized to support local, NGO or state partners’ acquisition of lands or easements from willing sellers only.