

A vertical photograph of a snowy mountain landscape. In the foreground, a dark, textured tree trunk runs vertically down the center. To the right, a river flows through a valley, surrounded by dense evergreen forests. The background shows a snow-covered mountain peak under a clear sky. The overall scene is serene and natural.

Lists and Appendixes

PREPARERS AND CONTRIBUTORS

PLANNING TEAM

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CONTRIBUTORS

During the planning process, contributions were made by the following individuals. These individuals, who represented various agencies, organizations, or themselves, were called upon to guide development of alternatives, discuss issues, review draft documents, comment on proposals, and provide professional information and guidance.

Bill Allen, Tennessee Citizens for Wilderness Planning
Bob Allen, Tennessee Department of Environment and Conservation
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Dave Sharrow, Hydrologist, Water Resources Division, Washington Office, NPS
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Martha Wallus, Administrative Assistant for Congresswoman Marilyn Lloyd
Bob Wheeley, Cumberland Rapid Transit
Jim Wiggins, Assistant Superintendent, Big South Fork NRRRA
Ron Wilson, Management Assistant, Big South Fork NRRRA

SCOPING PROCESS

The Park Service announced its intention to prepare a General Management Plan and Development Concept Plan for the Obed WSR on October 21, 1992. A "Notice of Intent" indicating that the NPS would prepare an Environmental Impact Statement for the plan and to begin scoping for that process was published in the Federal Register on Friday, October 30, 1992.

Public workshops and an "open house" were conducted during the scoping and planning process. Their purpose was to identify all issues, alternatives, and impact topics that should be considered in planning and to keep the public informed throughout plan formulation.

The first discussions with public involvement were held at a Management Objectives Workshop in Wartburg, Tennessee, on May 27 and 28, 1992. A nominal group process was used to develop the management objectives. These objectives are a series of clear statements which will guide the management of the Obed WSR as well as this GMP. The process involved reviewing the legislation, developing a statement of purpose, developing statements of significance, listing issues currently affecting the area, and the drafting of management objectives based on the aforementioned factors.

A second workshop was held in Wartburg during September of 1992. This workshop used the results of the Management Objective Workshop to guide development of preliminary alternatives. Results from this Alternatives Development Workshop were used by the planning team to provide direction and serve as the foundation for the alternatives contained in this document

An "Open House" was held on Tuesday, October 27th, 1992, from 4:00 to 8:00 p.m. at the Obed Administration and Visitor

Contact Center in Wartburg, Tennessee. The purpose of this open house was to make as many people as possible aware of this planning effort and give them a chance to become a part of the effort. Attendees were asked to discuss their ideas and concerns about issues and to submit written questions or comments regarding their view of how the Obed Wild and Scenic River should be managed and developed.

Throughout the planning process, members of the planning team have been in contact with local, State, and Federal government agencies, special interest groups, interested persons, and other members of the public to gather information. The following agencies and organizations were contacted in addition to those previously listed.

Federal Agencies

U.S. Environmental Protection Agency
Region IV, Water Management Division: Water Quality Standards Section,
Morris Flexnor

Tennessee Valley Authority

U. S. Department of the Interior:

Fish and Wildlife Service:

Cookeville Field Office - Jim Widlak

Asheville Field Office - Dick Biggins

National Park Service, Denver Service Center:

Mining and Minerals Branch

Water Resources Division

U.S. Department of Agriculture, Soil Conservation Service:

Resource & Conservation District
Coordinator

Cumberland County Extension Agent

Fentress County Extension Agent

Morgan County Extension Agent

State Agencies

Tennessee Department of Environment and Conservation:

Division of Water Pollution Enforcement, Manager, Sim Crownover:
Storm Water Runoff
Non-point Source Discharge
Industrial Discharge

Office of Surface Mines:

Oil Reclamation and Permitting
Mining related water pollution,
Don Owen

Resource Alteration Program

State Heritage Program, Andrea Shea

State Naturalist, Mack Pritchard

Tennessee Wildlife Resources Agency

Local Agencies and Organizations

Emory River Watershed Development Association

**LIST OF AGENCIES,
ORGANIZATIONS, AND
INDIVIDUALS TO WHOM COPIES
OF THE DRAFT
ENVIRONMENTAL IMPACT
STATEMENT ARE BEING SENT**

Federal Agencies

Advisory Council on Historic Preservation
Department of Agriculture
 Forest Service
 Soil Conservation Service
Department of Defense
 Army Corp of Engineers
Department of the Interior
 Bureau of Indian Affairs
 Fish and Wildlife Service
 Geological Survey
 Minerals Management Division
Environmental Protection Agency
Tennessee Valley Authority

State Agencies and Officials

Office of the Governor
Representative Marilyn Lloyd
Roane State Community College
 Department of Environmental
 Studies
 Library
Tennessee Department of Environment
and Conservation - Others
 Division of Forestry
 Division of Water Pollution
Tennessee Emergency Management
Agency
Tennessee Technical University
 Water Center
 Library
Tennessee Wildlife Resources Agency

County and Local Governments

Cumberland County
 Chamber of Commerce
 Commission
 Manager
 Planning Commission
 Public Library
East Tennessee Development Association
Emory River Watershed Development
Association
Fentress County
 Commission
 Public Library
Morgan County
 Historian
 Public Library
 Public Schools
 Resource Development Council
Upper Cumberland Development Associa-
tion

Organizations

American Rivers, Inc.
East Tennessee Whitewater Club
National Parks & Conservation Association
Tennessee Citizens for Wilderness Plan-
ning
Tennessee Conservation League
Tennessee Scenic Rivers Association

APPENDIX A: Legislation



Public Law 90-542
90th Congress, S. 119
October 2, 1968

An Act

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Wild and Scenic Rivers Act".

Wild and Scenic
Rivers Act.

(b) It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes.

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

SEC. 2. (a) The national wild and scenic rivers system shall comprise rivers (i) that are authorized for inclusion therein by Act of Congress, or (ii) that are designated as wild, scenic or recreational rivers by or pursuant to an act of the legislature of the State or States through which they flow, that are to be permanently administered as wild, scenic or recreational rivers by an agency or political subdivision of the State or States concerned without expense to the United States, that are found by the Secretary of the Interior, upon application of the Governor of the State or the Governors of the States concerned, or a person or persons thereunto duly appointed by him or them, to meet the criteria established in this Act and such criteria supplementary thereto as he may prescribe, and that are approved by him for inclusion in the system, including, upon application of the Governor of the State concerned, the Allagash Wilderness Waterway, Maine, and that segment of the Wolf River, Wisconsin, which flows through Langlade County.

National wild
and scenic
rivers system.

82 STAT. 906
82 STAT. 907

(b) A wild, scenic or recreational river area eligible to be included in the system is a free-flowing stream and the related adjacent land area that possesses one or more of the values referred to in section 1, subsection (b) of this Act. Every wild, scenic or recreational river in its free-flowing condition, or upon restoration to this condition, shall be considered eligible for inclusion in the national wild and scenic rivers system and, if included, shall be classified, designated, and administered as one of the following:

Eligibility
for inclusion.

(1) Wild river areas—Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America.

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

(3) Recreational river areas—Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some

development along their shorelines, and that may have undergone some impoundment or diversion in the past.

national wild
system

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

(1) CLEARWATER, MIDDLE FORK, IDAHO.—The Middle Fork from the town of Kooskia upstream to the town of Lowell; the Lochsa River from its junction with the Selway at Lowell forming the Middle Fork, upstream to the Powell Ranger Station; and the Selway River from Lowell upstream to its origin; to be administered by the Secretary of Agriculture.

(2) ELEVEN POINT, MISSOURI.—The segment of the river extending downstream from Thomasville to State Highway 142; to be administered by the Secretary of Agriculture.

(3) FEATHER, CALIFORNIA.—The entire Middle Fork; to be administered by the Secretary of Agriculture.

(4) RIO GRANDE, NEW MEXICO.—The segment extending from the Colorado State line downstream to the State Highway 96 crossing, and the lower four miles of the Red River; to be administered by the Secretary of the Interior.

STAT. 907
STAT. 908.

(5) ROGUE, OREGON.—The segment of the river extending from the mouth of the Applegate River downstream to the Lobster Creek Bridge; to be administered by agencies of the Departments of the Interior or Agriculture as agreed upon by the Secretaries of said Departments or as directed by the President.

(6) SAINT CROIX, MINNESOTA AND WISCONSIN.—The segment between the dam near Taylors Falls, Minnesota, and the dam near Gordon, Wisconsin, and its tributary, the Namekagon, from Lake Namekagon downstream to its confluence with the Saint Croix; to be administered by the Secretary of the Interior: *Provided*, That except as may be required in connection with items (a) and (b) of this paragraph, no funds available to carry out the provisions of this Act may be expended for the acquisition or development of lands in connection with, or for administration under this Act of, that portion of the Saint Croix River between the dam near Taylors Falls, Minnesota, and the upstream end of Big Island in Wisconsin, until sixty days after the date on which the Secretary has transmitted to the President of the Senate and Speaker of the House of Representatives a proposed cooperative agreement between the Northern States Power Company and the United States (a) whereby the company agrees to convey to the United States, without charge, appropriate interests in certain of its lands between the dam near Taylors Falls, Minnesota, and the upstream end of Big Island in Wisconsin, including the company's right, title, and interest to approximately one hundred acres per mile, and (b) providing for the use and development of other lands and interests in land retained by the company between said points adjacent to the river in a manner which shall complement and not be inconsistent with the purposes for which the lands and interests in land donated by the company are administered under this Act. Said agreement may also include provision for State or local governmental participation as authorized under subsection (c) of section 10 of this Act.

(7) SALMON, MIDDLE FORK, IDAHO.—From its origin to its confluence with the main Salmon River; to be administered by the Secretary of Agriculture.

(8) WOLF, WISCONSIN.—From the Langlade-Menominee County line downstream to Keshena Falls; to be administered by the Secretary of the Interior.

(b) The agency charged with the administration of each component of the national wild and scenic rivers system designated by subsection

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(a) of this section shall, within one year from the date of this Act, establish detailed boundaries therefor (which boundaries shall include an average of not more than three hundred and twenty acres per mile on both sides of the river); determine which of the classes outlined in section 2, subsection (b), of this Act best fit the river or its various segments; and prepare a plan for necessary developments in connection with its administration in accordance with such classification. Said boundaries, classification, and development plans shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the President of the Senate and the Speaker of the House of Representatives.

Publication in
Federal Register.

82 STAT. 909

82 STAT. 909

SEC. 4. (a) The Secretary of the Interior or, where national forest lands are involved, the Secretary of Agriculture or, in appropriate cases, the two Secretaries jointly shall study and from time to time submit to the President and the Congress proposals for the addition to the national wild and scenic rivers system of rivers which are designated herein or hereafter by the Congress as potential additions to such system; which, in his or their judgment, fall within one or more of the classes set out in section 2, subsection (b), of this Act; and which are proposed to be administered, wholly or partially, by an agency of the United States. Every such study and plan shall be coordinated with any water resources planning involving the same river which is being conducted pursuant to the Water Resources Planning Act (79 Stat. 244; 42 U.S.C. 1962 et seq.).

Each proposal shall be accompanied by a report, including maps and illustrations, showing among other things the area included within the proposal; the characteristics which make the area a worthy addition to the system; the current status of landownership and use in the area; the reasonably foreseeable potential uses of the land and water which would be enhanced, foreclosed, or curtailed if the area were included in the national wild and scenic rivers system; the Federal agency (which in the case of a river which is wholly or substantially within a national forest, shall be the Department of Agriculture) by which it is proposed the area be administered; the extent to which it is proposed that administration, including the costs thereof, be shared by State and local agencies; and the estimated cost to the United States of acquiring necessary lands and interests in land and of administering the area as a component of the system. Each such report shall be printed as a Senate or House document.

Report, maps,
etc.Printing as
Senate or
House document.

(b) Before submitting any such report to the President and the Congress, copies of the proposed report shall, unless it was prepared jointly by the Secretary of the Interior and the Secretary of Agriculture, be submitted by the Secretary of the Interior to the Secretary of Agriculture or by the Secretary of Agriculture to the Secretary of the Interior, as the case may be, and to the Secretary of the Army, the Chairman of the Federal Power Commission, the head of any other affected Federal department or agency and, unless the lands proposed to be included in the area are already owned by the United States or have already been authorized for acquisition by Act of Congress, the Governor of the State or States in which they are located or an officer designated by the Governor to receive the same. Any recommendations or comments on the proposal which the said officials furnish the Secretary or Secretaries who prepared the report within ninety days of the date on which the report is submitted to them, together with the Secretary's or Secretaries' comments thereon, shall be included with the transmittal to the President and the Congress. No river or portion of any river shall be added to the national wild and scenic rivers system subsequent to enactment of this Act until the close of the next full session of the State legislature, or legislatures in case more than one

State is involved, which begins following the submission of any recommendation to the President with respect to such addition as herein provided.

(c) Before approving or disapproving for inclusion in the national wild and scenic rivers system any river designated as a wild, scenic or recreational river by or pursuant to an act of a State legislature, the Secretary of the Interior shall submit the proposal to the Secretary of Agriculture, the Secretary of the Army, the Chairman of the Federal Power Commission, and the head of any other affected Federal department or agency and shall evaluate and give due weight to any recommendations or comments which the said officials furnish him within ninety days of the date on which it is submitted to them. If he approves the proposed inclusion, he shall publish notice thereof in the Federal Register.

Publication in
Federal Register.

Potential
additions.
Designation.

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

- (1) Allegheny, Pennsylvania: The segment from its mouth to the town of East Brady, Pennsylvania.
- (2) Bruneau, Idaho: The entire main stem.
- (3) Buffalo, Tennessee: The entire river.
- (4) Chattooga, North Carolina, South Carolina, and Georgia: The entire river.
- (5) Clarion, Pennsylvania: The segment between Ridgway and its confluence with the Allegheny River.
- (6) Delaware, Pennsylvania and New York: The segment from Hancock, New York, to Matamoras, Pennsylvania.
- (7) Flathead, Montana: The North Fork from the Canadian border downstream to its confluence with the Middle Fork; the Middle Fork from its headwaters to its confluence with the South Fork; and the South Fork from its origin to Hungry Horse Reservoir.
- (8) Gasconade, Missouri: The entire river.
- (9) Illinois, Oregon: The entire river.
- (10) Little Beaver, Ohio: The segment of the North and Middle Forks of the Little Beaver River in Columbiana County from a point in the vicinity of Negly and Elkton, Ohio, downstream to a point in the vicinity of East Liverpool, Ohio.
- (11) Little Miami, Ohio: That segment of the main stem of the river, exclusive of its tributaries, from a point at the Warren-Clermont County line at Loveland, Ohio, upstream to the sources of Little Miami including North Fork.
- (12) Maumee, Ohio and Indiana: The main stem from Perrysburg, Ohio, to Fort Wayne, Indiana, exclusive of its tributaries in Ohio and inclusive of its tributaries in Indiana.
- (13) Missouri, Montana: The segment between Fort Benton and Ryan Island.
- (14) Moyie, Idaho: The segment from the Canadian border to its confluence with the Koorenai River.
- (15) Obed, Tennessee: The entire river and its tributaries, Clear Creek and Daddys Creek.
- (16) Penobscot, Maine: Its east and west branches.
- (17) Pere Marquette, Michigan: The entire river.
- (18) Pine Creek, Pennsylvania: The segment from Ansonia to Waterville.
- (19) Priest, Idaho: The entire main stem.
- (20) Rio Grande, Texas: The portion of the river between the west boundary of Hudspeth County and the east boundary of Terrell County on the United States side of the river: *Provided*, That before undertaking any study of this potential scenic river, the Secretary of the Interior shall determine, through the channels of appropriate

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executive agencies, that Mexico has no objection to its being included among the studies authorized by this Act.

(21) Saint Croix, Minnesota and Wisconsin: The segment between the dam near Taylors Falls and its confluence with the Mississippi River.

(22) Saint Joe, Idaho: The entire main stem.

(23) Salmon, Idaho: The segment from the town of North Fork to its confluence with the Snake River.

(24) Skagit, Washington: The segment from the town of Mount Vernon to and including the mouth of Bacon Creek: the Cascade River between its mouth and the junction of its North and South Forks: the South Fork to the boundary of the Glacier Peak Wilderness Area: the Suiattle River from its mouth to the Glacier Peak Wilderness Area boundary at Milk Creek: the Sauk River from its mouth to its junction with Elliott Creek: the North Fork of the Sauk River from its junction with the South Fork of the Sauk to the Glacier Peak Wilderness Area boundary.

(25) Suwannee, Georgia and Florida: The entire river from its source in the Okefenokee Swamp in Georgia to the gulf and the outlying Ichetucknee Springs, Florida.

(26) Upper Iowa, Iowa: The entire river.

(27) Youghiogheny, Maryland and Pennsylvania: The segment from Oakland, Maryland, to the Youghiogheny Reservoir, and from the Youghiogheny Dam downstream to the town of Connellsville, Pennsylvania.

(b) The Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture shall proceed as expeditiously as possible to study each of the rivers named in subsection (a) of this section in order to determine whether it should be included in the national wild and scenic rivers system. Such studies shall be completed and reports made thereon to the President and the Congress, as provided in section 4 of this Act, within ten years from the date of this Act: *Provided, however*, That with respect to the Suwannee River, Georgia and Florida, and the Upper Iowa River, Iowa, such study shall be completed and reports made thereon to the President and the Congress, as provided in section 4 of this Act, within two years from the date of enactment of this Act. In conducting these studies the Secretary of the Interior and the Secretary of Agriculture shall give priority to those rivers with respect to which there is the greatest likelihood of developments which, if undertaken, would render them unsuitable for inclusion in the national wild and scenic rivers system. Studies.

(c) The study of any of said rivers shall be pursued in as close cooperation with appropriate agencies of the affected State and its political subdivisions as possible, shall be carried on jointly with such agencies if request for such joint study is made by the State, and shall include a determination of the degree to which the State or its political subdivisions might participate in the preservation and administration of the river should it be proposed for inclusion in the national wild and scenic rivers system.

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

Land acquisition.

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

(b) If 50 per centum or more of the entire acreage within a federally administered wild, scenic or recreational river area is owned by the United States, by the State or States within which it lies, or by political subdivisions of those States, neither Secretary shall acquire fee title to any lands by condemnation under authority of this Act. Nothing contained in this section, however, shall preclude the use of condemnation when necessary to clear title or to acquire scenic easements or such other easements as are reasonably necessary to give the public access to the river and to permit its members to traverse the length of the area or of selected segments thereof.

(c) Neither the Secretary of the Interior nor the Secretary of Agriculture may acquire lands by condemnation, for the purpose of including such lands in any national wild, scenic or recreational river area, if such lands are located within any incorporated city, village, or borough which has in force and applicable to such lands a duly adopted, valid zoning ordinance that conforms with the purposes of this Act. In order to carry out the provisions of this subsection the appropriate Secretary shall issue guidelines, specifying standards for local zoning ordinances, which are consistent with the purposes of this Act. The standards specified in such guidelines shall have the object of (A) prohibiting new commercial or industrial uses other than commercial or industrial uses which are consistent with the purposes of this Act, and (B) the protection of the bank lands by means of acreage, frontage, and setback requirements on development.

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

(e) The head of any Federal department or agency having administrative jurisdiction over any lands or interests in land within the authorized boundaries of any federally administered component of the national wild and scenic rivers system designated in section 3 of this Act or hereafter designated for inclusion in the system by Act of Congress is authorized to transfer to the appropriate secretary jurisdic-

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tion over such lands for administration in accordance with the provisions of this Act. Lands acquired by or transferred to the Secretary of Agriculture for the purposes of this Act within or adjacent to a national forest shall upon such acquisition or transfer become national forest lands.

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

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

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

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

SEC. 7. (a) 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 (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), on or directly affecting any river which is designated in section 3 of this Act as a component of the national wild and scenic rivers system or which is hereafter designated for inclusion in that system, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area on the date of approval of this Act. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration, or request appropriations to begin

Right of use and occupancy.

"Improved property."

Water resources projects. Restrictions.

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construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior or the Secretary of Agriculture, as the case may be, in writing of its intention so to do at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this Act and would affect the component and the values to be protected by it under this Act.

(b) 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, as amended, on or directly affecting any river which is listed in section 5, subsection (a), of this Act, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river might be designated, as determined by the Secretary responsible for its study or approval—

49 Stat. 863.
16 USC 791a.

Publication
in Federal
Register.

(i) during the five-year period following enactment of this Act unless, prior to the expiration of said period, the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, on the basis of study, conclude that such river should not be included in the national wild and scenic rivers system and publish notice to that effect in the Federal Register, and

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

Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a potential wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or diminish the scenic, recreational, and fish and wildlife values present in the potential wild, scenic or recreational river area on the date of approval of this Act. No department or agency of the United States shall, during the periods hereinbefore specified, recommend authorization of any water resources project on any such river or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture in writing of its intention so to do at least sixty days in advance of doing so and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this Act and would affect the component and the values to be protected by it under this Act.

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

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82 STAT. 215

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

Sec. 8. (a) All public lands within the authorized boundaries of any component of the national wild and scenic rivers system which is designated in section 3 of this Act or which is hereafter designated for inclusion in that system are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States.

(b) All public lands which constitute the bed or bank, or are within one-quarter mile of the bank, of any river which is listed in section 5, subsection (a), of this Act are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States for the periods specified in section 7, subsection (b), of this Act.

Sec. 9. (a) Nothing in this Act shall affect the applicability of the United States mining and mineral leasing laws within components of the national wild and scenic rivers system except that—

Mining and mineral leasing laws.

(i) all prospecting, mining operations, and other activities on mining claims which, in the case of a component of the system designated in section 3 of this Act, have not heretofore been perfected or which, in the case of a component hereafter designated pursuant to this Act or any other Act of Congress, are not perfected before its inclusion in the system and all mining operations and other activities under a mineral lease, license, or permit issued or renewed after inclusion of a component in the system shall be subject to such regulations as the Secretary of the Interior or, in the case of national forest lands, the Secretary of Agriculture may prescribe to effectuate the purposes of this Act:

(ii) subject to valid existing rights, the perfection of, or issuance of a patent to, any mining claim affecting lands within the system shall confer or convey a right or title only to the mineral deposits and such rights only to the use of the surface and the surface resources as are reasonably required to carrying on prospecting or mining operations and are consistent with such regulations as may be prescribed by the Secretary of the Interior or, in the case of national forest lands, by the Secretary of Agriculture; and

(iii) subject to valid existing rights, the minerals in Federal lands which are part of the system and constitute the bed or bank or are situated within one-quarter mile of the bank of any river designated a wild river under this Act or any subsequent Act are hereby withdrawn from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto.

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

(b) The minerals in any Federal lands which constitute the bed or bank or are situated within one-quarter mile of the bank of any river which is listed in section 5, subsection (a) of this Act are hereby withdrawn from all forms of appropriation under the mining laws during the periods specified in section 7, subsection (b) of this Act. Nothing contained in this subsection shall be construed to forbid prospecting or the issuance or leases, licenses, and permits under the mineral leasing laws subject to such conditions as the Secretary of the Interior and, in the case of national forest lands, the Secretary of Agriculture find appropriate to safeguard the area in the event it is subsequently included in the system.

82 STAT. 916

Administration.

SEC. 10. (a) Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its esthetic, scenic, historic, archeologic, 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.

16 USC 1131
note.

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

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

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

Cooperative
agreements with
State or local
governments.

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

Assistance in
financing State
and local proj-
ects.

16 USC 4601-4
note.

16 USC 4601-
4601-3.

SEC. 11. (a) The Secretary of the Interior shall encourage and assist the States to consider, in formulating and carrying out their comprehensive statewide outdoor recreation plans and proposals for financing assistance for State and local projects submitted pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), needs and opportunities for establishing State and local wild, scenic and recreational river areas. He shall also, in accordance with the authority contained in the Act of May 23, 1963 (77 Stat. 49), provide technical assistance and advice to, and cooperate with, States, political subdivisions, and private interests, including nonprofit organizations, with respect to establishing such wild, scenic and recreational river areas.

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(b) The Secretaries of Agriculture and of Health, Education, and Welfare shall likewise, in accordance with the authority vested in them, assist, advise, and cooperate with State and local agencies and private interests with respect to establishing such wild, scenic and recreational river areas.

SEC. 12. (a) The Secretary of the Interior, the Secretary of Agriculture, and heads of other Federal agencies shall review administrative and management policies, regulations, contracts, and plans affecting lands under their respective jurisdictions which include, border upon, or are adjacent to the rivers listed in subsection (a) of section 5 of this Act in order to determine what actions should be taken to protect such rivers during the period they are being considered for potential addition to the national wild and scenic rivers system. Particular attention shall be given to scheduled timber harvesting, road construction, and similar activities which might be contrary to the purposes of this Act.

Administration and management policies. Review.

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

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

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

Fish and wildlife. Jurisdiction under State and Federal laws.

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

Compensation for water rights.

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

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

82 STAT. 917
82 STAT. 918

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

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

Easements and rights-of-way. (g) The Secretary of the Interior or the Secretary of Agriculture, as the case may be, may grant easements and rights-of-way upon, over, under, across, or through any component of the national wild and scenic rivers system in accordance with the laws applicable to the national park system and the national forest system, respectively: *Provided*, That any conditions precedent to granting such easements and rights-of-way shall be related to the policy and purpose of this Act.

Claim and allowance as charitable contribution or gift. 76 Stat. 1034. 68A Stat. 410. SEC. 14. The claim and allowance of the value of an easement as a charitable contribution under section 170 of title 26, United States Code, or as a gift under section 2522 of said title shall constitute an agreement by the donor on behalf of himself, his heirs, and assigns that, if the terms of the instrument creating the easement are violated, the donee or the United States may acquire the servient estate at its fair market value as of the time the easement was donated minus the value of the easement claimed and allowed as a charitable contribution or gift.

Definitions. SEC. 15. As used in this Act, the term—
 (a) "River" means a flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes.
 (b) "Free-flowing", as applied to any river or section of a river, means existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence, however, of low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the national wild and scenic rivers system shall not automatically bar its consideration for such inclusion: *Provided*, That this shall not be construed to authorize, intend, or encourage future construction of such structures within components of the national wild and scenic rivers system.
 (c) "Scenic easement" means the right to control the use of land (including the air space above such land) for the purpose of protecting the scenic view from the river, but such control shall not affect, without the owner's consent, any regular use exercised prior to the acquisition of the easement.

Appropriations. SEC. 16. There are hereby authorized to be appropriated such sums as may be necessary, but not more than \$17,000,000, for the acquisition of lands and interests in land under the provisions of this Act.
 Approved October 2, 1968.

Revised

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 1623 accompanying H. R. 18260 (Comm. on Interior & Insular Affairs) and No. 1917 (Comm. of Conference).

SENATE REPORT No. 491 (Comm. on Interior & Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 113 (1967): Aug. 8, considered and passed Senate.
 Vol. 114 (1968): July 15, Sept. 12, considered and passed House, amended, in lieu of H. R. 18260.
 Sept. 25, House agreed to conference report.
 Sept. 26, Senate agreed to conference report.

PUBLIC LAW 94-486—OCT. 12, 1976

90 STAT. 2327

Public Law 94-486
94th Congress

An Act

To amend the Wild and Scenic Rivers Act, and for other purposes.

Oct. 12, 1976

[S. 1506]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*Wild and Scenic
Rivers Act
amendments.

TITLE I—FLATHEAD, MONTANA

SEC. 101. Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271 et seq.) is amended by adding the following new paragraph at the end thereof:

“(13) FLATHEAD, MONTANA.—The North Fork from the Canadian border downstream to its confluence with the Middle Fork; the Middle Fork from its headwaters to its confluence to the South Fork; and the South Fork from its origin to the Hungry Horse Reservoir, as generally depicted on the map entitled ‘Proposed Flathead Wild and Scenic River Boundary Location’ dated February 1976; to be administered by agencies of the Departments of the Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President. Action required to be taken under subsection (b) of this section shall be taken within one year from the date of enactment of this paragraph. For the purposes of this river, there are authorized to be appropriated not more than \$6,719,000 for the acquisition of lands and interests in lands. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.”

16 USC 1274.

Appropriation
authorization.

TITLE II—MISSOURI, MONTANA

SEC. 201. Section 3(a) of the Act is further amended by adding at the end thereof the following new paragraph:

“(14) MISSOURI, MONTANA.—The segment from Fort Benton one hundred and forty-nine miles downstream to Robinson Bridge, as generally depicted on the boundary map entitled ‘Missouri Breaks Freeflowing River Proposal’, dated October 1975, to be administered by the Secretary of the Interior. For the purposes of this river, there are authorized to be appropriated not more than \$1,800,000 for the acquisition of lands and interests in lands. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.”

Appropriation
authorization.

SEC. 202. After consultation with the State and local governments and the interested public, the Secretary shall, pursuant to section 3(b) of the Wild and Scenic Rivers Act and within one year of enactment of this Act—

Consultation.
16 USC 1274.
note.

(1) establish detailed boundaries of the river segment designated as a component of the National Wild and Scenic Rivers System pursuant to section 1 of this Act (hereinafter referred to as the “river area”): *Provided*, That the boundaries of the portion of the river area from Fort Benton to Coal Banks Landing and the portion of the river area within the boundaries of the Charles M. Russell National Wildlife Range shall be drawn to include only the river and its bed and exclude all adjacent land except significant historic sites and such campsites and access

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points as are deemed necessary by the Secretary, and to which the Secretary finds no reasonable alternative, as set forth in the management plan required pursuant to clause (2) of this section; and

16 USC 1273.

(2) determine, in accordance with the guidelines in section 2(b) of the Wild and Scenic Rivers Act, which of the three classes—wild river, scenic river, or recreation river—best fit portions of the river segment, designate such portions in such classes, and prepare a management plan for the river area in accordance with such designation.

Management.
16 USC 1274
note.
16 USC 1271
note.

Sec. 203. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall manage the river area pursuant to the provisions of this Act and the Wild and Scenic Rivers Act, and in accordance with the provisions of the Taylor Grazing Act (48 Stat. 1269), as amended (43 U.S.C. 315), under principles of multiple use and sustained yield, and with any other authorities available to him for the management and conservation of natural resources and the protection and enhancement of the environment, where such Act, principles, and authorities are consistent with the purposes and provisions of this Act and the Wild and Scenic Rivers Act.

Land acquisition.

16 USC 1277.

(b) (1) The Secretary may acquire land and interests in land only in accordance with the provisions of this Act and the Wild and Scenic Rivers Act and the limitations contained in section 6 of that Act and only: (A) at Fort Benton for the visitor facility as provided in subsection (g) (2) of this section; (B) at the site of Fort McKenzie; (C) in that portion of the river area downstream from Fort Benton to Coal Banks Landing for historic sites, campsites, and access points in accordance with section 202 (1) of this Act; and (D) in that portion of the river area downstream from Coal Banks Landing so as to provide, wherever practicable and necessary for the purposes of this Act and the Wild and Scenic Rivers Act, rim-to-rim protection for such portion.

Condemnation.

(2) In accordance with section 6(b) of the Wild and Scenic Rivers Act, the Secretary shall not acquire fee title to any lands by condemnation under the authority of that Act or this Act, except that the Secretary may use condemnation when necessary and within the limitations on acquisition set forth in clause (1) of this subsection to clear title, acquire scenic easements, or acquire such other easements as are reasonably necessary to give the public access to the river segment within the river area and to permit its members to traverse the length of said river area or of selected portions thereof.

Development.

(3) The Secretary shall, to the extent feasible, give priority in expenditure of funds pursuant to this Act for the acquisition and development of campsites and historic sites, including the site of the visitor center at Fort Benton and the site of Fort McKenzie.

Easements.

(c) Consistent with the provisions of this Act and the Wild and Scenic Rivers Act, the Secretary may issue easements, licenses, or permits for rights-of-way through, over, or under the lands in Federal ownership within the river area, or for the use of such lands on such terms and conditions as are in accordance with the provisions of this Act, the Wild and Scenic Rivers Act, and other applicable law.

Bridge construction.

(d) The Secretary is authorized to permit the construction of a bridge across the river in the general vicinity of the community of Winifred, Montana, in order to accommodate the flow of north-south traffic. Such construction shall be in accordance with a plan which is mutually acceptable to the Secretary and State and local highway officials, and which is consistent with the purposes of this Act and the Wild and Scenic Rivers Act.

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(e) To the extent and in a manner consistent with the purposes of the Wild and Scenic Rivers Act the Secretary shall permit such pumping facilities and associated pipelines as may be necessary to assure the continuation of an adequate supply of water from the Missouri River to the owners of lands adjacent to the river and for future agricultural use outside the river corridor. The Secretary is authorized to permit such pumping facilities and associated pipelines for use for fish, wildlife, and recreational uses outside the river corridor.

Pumping facilities and associated pipelines.

(f) The Secretary shall permit hunting and fishing in the river area in accordance with applicable Federal and State laws, except that he may designate zones where, and periods when, no hunting or fishing shall be permitted for reasons of public safety or administration.

Hunting and fishing.

(g) (1) The Secretary, acting through the Bureau of Land Management, shall exercise management responsibilities in the river area for:

- (A) the grazing of livestock;
- (B) the application of the United States mining and mineral leasing laws;
- (C) the management of fish and wildlife habitat;
- (D) the diversion and use of water for agricultural and domestic purposes;
- (E) the acquisition of lands and interests therein;
- (F) the administration of public recreational uses of, and any historic sites and campsites in, the river area; and
- (G) all other management responsibilities except those set forth in paragraph (2) of this subsection.

(2) The Secretary, acting through the National Park Service, shall be responsible for the construction, operation, and management of any visitor facility in or near Fort Benton which is found necessary in accordance with the management plan developed pursuant to section 202 and the provision, at such facility, of interpretive services for the historic, archeological, scenic, natural, and fish and wildlife resources of the area.

Visitor facility, construction.

TITLE III—OBED, TENNESSEE

SEC. 301. Section 3(a) of the Act is further amended by adding the following new paragraph at the end thereof: 16 USC 1274.

“(15) OBED, TENNESSEE.—The segment from the western edge of the Catoosa Wildlife Management Area to the confluence with the Emory River: Clear Creek from the Morgan County line to the confluence with the Obed River. Daddys Creek from the Morgan County line to the confluence with the Obed River; and the Emory River from the confluence with the Obed River to the Nemo bridge as generally depicted and classified on the stream classification map dated December 1973. The Secretary of the Interior shall take such action, with the participation of the State of Tennessee as is provided for under subsection (b) within one year following the date of enactment of this paragraph. The development plan required by such subsection (b) shall include cooperative agreements between the State of Tennessee acting through the Wildlife Resources Agency and the Secretary of the Interior. Lands within the Wild and Scenic River boundaries that are currently part of the Catoosa Wildlife Management Area shall continue to be owned and managed by the Tennessee Wildlife Resources Agency in such a way as to protect the wildlife resources and primitive character of the area, and without further development of roads, campsites, or associated recreational facilities unless deemed necessary by that agency for wildlife management practices. The

Cooperative agreements.

90 STAT. 2330

PUBLIC LAW 94-486—OCT. 12, 1976

Appropriation authorization. Obed Wild and Scenic River shall be managed by the Secretary of the Interior. For the purposes of carrying out the provisions of this Act with respect to this river, there are authorized to be appropriated such sums as may be necessary, but not to exceed \$2,000,000 for the acquisition of lands or interests in lands and not to exceed \$400,000 for development. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.”

TITLE IV—HOUSATONIC, CONNECTICUT

16 USC 1276. SEC. 401. Subsection (a) of section 5 of the Act is further amended by adding at the end thereof the following:
“(58) Housatonic, Connecticut: The segment from the Massachusetts-Connecticut boundary downstream to its confluence with the Shepaug River.”

TITLE V—SECTION IV AMENDMENT

16 USC 1275. SEC. 501. Subsection (b) of section 4 of the Act is amended by deleting the final sentence thereof.

TITLE VI—FEATHER, CALIFORNIA

16 USC 1274. SEC. 601. Subsection (a) of section 3 of the Act is further amended by striking the paragraph numbered (3) and inserting in lieu thereof:
Administration. “(3) FEATHER, CALIFORNIA.—The entire Middle Fork downstream from the confluence of its tributary streams one kilometer south of Beckwourth, California; to be administered by the Secretary of Agriculture.”

TITLE VII—PIEDRA, COLORADO

16 USC 1276. SEC. 701. Paragraph (47) of section 5(a) of the Act is amended by striking out “including the tributaries and headwaters on national forest lands”.

Approved October 12, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1657 accompanying H.R. 15422 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-502 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 121 (1975): Dec. 4, considered and passed Senate.

Vol. 122 (1976): Sept. 27, considered and passed House, amended, in lieu of H.R. 15422.

Sept. 28, Senate concurred in House amendments.

Note.—A change has been made in the slip law format to provide for one-time preparation of copy to be used for publication of both slip laws and the United States Statutes at Large volumes. Comments from users are invited by the Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

APPENDIX B: Memorandum Of Understanding

MEMORANDUM OF UNDERSTANDING
Between
UNITED STATES DEPARTMENT OF THE INTERIOR
and
TENNESSEE WILDLIFE RESOURCES AGENCY

THIS AGREEMENT is made and entered into this 14th day of February, 1984, by and between the United States of America, acting through the National Park Service, U. S. Department of the Interior, by the Superintendent, Obed Wild and Scenic River (hereinafter Service) and the Tennessee Wildlife Resources Agency, acting by and through its Executive Director (hereinafter Agency).

ARTICLE I. BACKGROUND and OBJECTIVES

WHEREAS, the Obed Wild and Scenic River (Obed) was designated a component of the wild and scenic river system by virtue of 16 U.S.C. 1274 (d) (15) (1976) (hereinafter the Act); and

WHEREAS, pursuant to the Act of October 2, 1968, Pub. L. No. 90-542, 16 U.S.C. 1281 (c), the Secretary may utilize his general statutory authorities in the administration of the Obed as a unie of the National Park System; and

WHEREAS, pursuant to the Act of October 2, 1968, Pub. L. 90-542, 16 U.S.C. 1281 (e), the Service may enter into agreements with the Agency; and

WHEREAS, pursuant to 70-1-302 (7) Tennessee Code Annotated (1983), the Agency is authorized to enter into agreements with the United States of America; and

WHEREAS, the Act charged the Seretary of the Interior with the ultimate responsibility for the management of the Wild and Scenic River, but it also states that the lands within the river boundaries that are currently part of the Catoosa Wildlife Management Area shall continue to be owned and managed by the Tennessee Wildlife Resources Agency. It is therefore deemed necessary, appropriate, and in the public interest for the Agency and the Service to cooperate in planning for the mangement of the above-described lands in accordance with the stated purpose of the Wild and Scenic River--that purpose being to preserve and protect the Obed Wild and Scenic River as a free-flowing ribver which posses ses outstanding scenic, recreational, geologic, and fish and wildlife values, for the protection of the wildlife resources and the primitive character of the area, for the protection of the water quality of the river, for the benefit and enjoyment of future generations, and for other vital national conservation purposes.

NOW, THEREFORE, in consideration of the foregoing premises and of the mutual covenants hereinafter contained, the parties hereto agree as follows:

ARTICLE II. STATEMENT OF WORK

A. In addition to the other obligations contained in this Agreement, the Agency shall:

1. Manager and administer Agency lands described below in accordance with the purpose and policies outlined in the Wild and Scenic Rivers Act, as amended, Public Law 90-542:

a. Those lands enclosed within the rims of the gorge of the Wild and Scenic River, or, if there is no readily definable gorge rim, those lands which are visible from the thread of the river.

b. A strip of land extending back from the gorge of the river for a distance of 100 feet in areas where the gorge rim is readily visible from the thread of the river.

c. Those lands lying in the gorges of streams that are tributary to the Obed River, Daddys Creek, and Clear Creek, which are visible from the thread of the river.

2. Keep the Service informed of its policies, procedures, and management needs as they relate to planning, development, and administration of the river corridor within the area under the jurisdiction of the Agency.

3. Provide professional advice and assistance to the Service to the extent that funds and personnel availability allow.
4. Construct and maintain improvements at river access points that the Agency and Service mutually agree should be provided on river corridor lands under the jurisdiction of the Agency.
5. Consult with the Service before implementing any program which could have an impact on the management and use of the river.
6. Not permit timber cutting within the gorge of the Wild and Scenic River except for limited operational cuts necessary for safety, approved development projects, or insect and/or disease control. Such activities will be conducted only after consultation with the Service.
7. Permit access through Catoosa Wildlife Management Area to the river over existing roads except:
 - a. During periods of freezing and thawing weather such use would seriously damage the road surfaces, or
 - b. When it is necessary to close a road because a managed hunt is in progress, or
 - c. When the use of a road would have detrimental effect on fish and/or wildlife populations, or
 - d. When public use would interfere with approved wildlife management objectives.
8. Permit the Service to construct and maintain a hiking trail on Agency lands from Nemo Bridge on the Emory River to Devils Breakfast Table on Daddys Creek. The trail will be located adjacent to the gorge rim or, when necessary, within the gorge along the south side of the Emory River, Obed River, and Daddys Creek. It will provide for recreational hiking, hunter access to the river corridor by foot, an emergency escape route for boaters stranded on the river, and foot protection patrols of the river gorge by both agencies. The Service understands that portions of the trail in the future may be in close proximity to timber harvest roads, timber harvest areas, wildlife agricultural openings, and ponds along this restrictive route. At times, the hiking trail could be adjacent to a road or wildlife opening. The trail will connect to Tennessee's Cumberland Trail on each end and be considered a portion of that trail. It will include one primitive campsite to comply with standards for the Cumberland Trail. The Agency will review design and construction standards with the option to make changes prior construction.
9. Permit pedestrian access through the Catoosa Wildlife Management Area on the trail except:
 - a. When a managed hunt is in progress.
 - b. When it may interfere with wildlife management objectives.

B. In addition to the other obligations contained in this Agreement, the Service shall:

1. Prepare plans and specifications for the development of the Obed Wild and Scenic River that are in keeping with the concepts expressed in the Wild and Scenic Rivers Act, after consultation with the Agency. The plans will include those river corridor lands that are under the jurisdiction of the Agency.
2. Keep the Agency fully informed of all plans and programs.
3. Consult with the Agency prior to initiating any plan, program, or regulation that may affect fish and wildlife populations or public use thereof within the lands administered by the Service.
4. Construct, mark, maintain, and patrol the hiking trail from Nemo Bridge to Devils Breakfast Table.

Construction will be in accordance with Service Trail standards and marked as part of Tennessee's Cumberland Trail. Trail head signs and handout information will emphasize management area restrictions.

C. The Agency and the Service will:

1. Meet annually, or more often if necessary, to review the cooperative agreement, administrative and management policies, practices, procedures, regulations, and plans affecting the river lands under their respective jurisdictions.

2. Cooperate in the preservation of life and property and in the suppression of wildfire to the extent permitted by the availability of staff and funds.
3. Notify the other party promptly if a fire is located on, or determined to be a threat to, lands under the jurisdiction of that party.
4. As funds permit, obtain the necessary radio equipment and clearances so that field personnel will be able to work together for the resolution of mutual law enforcement problems and of emergency situations.
5. Regulate recreation use levels on the basis of the carrying capacity of the land and water in order to prevent damage to the resources or deterioration of the recreation experience. Tentative saturation levels have been determined for the river and they will be modified as use data indicates.
6. Cooperate in the enforcement of laws dealing with resource utilization and preservation.
7. Cooperate in the development and implementation of interpretive/public information program which will convey information about the game management area and the river.
8. Agree that nothing in this Agreement shall be construed as obligating either party hereto in the expenditure of funds or for the future payment of money in excess of appropriations authorized by law.
9. Agree that nothing contained herein shall be construed as limiting in any way the responsibility and authority as defined by TCA Chapter 51, Rules and Regulations, Proclamations and Policies promulgated by the Tennessee Commission, or by Federal law of the Secretary, U.S. Department of the Interior, in connection with the administration and protection of lands and resources under their respective jurisdictions.

ARTICLE III. TERM OF AGREEMENT

This agreement shall be effective as of the date first above written and shall terminate five years from that date, unless otherwise amended or extended by the parties in writing.

ARTICLE IV. KEY OFFICIALS

Key Officials:

NPS: Doyle L. Kline, Superintendent
Obed Wild and Scenic River/Big
South Fork NRRRA
P.O. Drawer 630
Oneida, Tennessee 37841
(615) 569-6389

TWRA: John Quillen, Assistant Manager
Region III
216 East Penfield
Crossville, Tennessee 38555
(615) 484-9571

ARTICLE V. PROPERTY MANAGEMENT AND DISPOSITION

Not Applicable

APPENDIX C: Developed Overlook Special Study

BACKGROUND

The management objectives developed in 1992 for Obed Wild and Scenic River (WSR) provide for "scenic overlook experience(s)." This was deemed appropriate for several reasons. In a number of places the gorge provides scenic views and visual "access" to the river for the visitor who is not able to participate in the river-oriented recreation offered by Obed WSR. For a long time, the local elected officials and area residents have desired an easily accessible overlook for themselves and visitors. As a result, the 1978 Development Plan for Obed WSR included an overlook development at two locations; Obed River/Clear Creek Junction and Devils Breakfast Table. Lands were acquired at the Obed River/Clear Creek Junction site to provide a corridor for road access. Funds for construction have been recently received but work has been delayed pending the outcome of this planning effort.

During development of the management objectives, it became clear that area residents strongly desired, and expected, at least one developed overlook. The location most had in mind was Obed River/Clear Creek Junction, a location that has received considerable use by area residents over the years, even without improved access. Development of this site would pose certain difficulties since the management objectives allow for development in the river corridor only in the vicinity of existing bridge crossings and aim to maintain the corridor's primitive character.

METHODOLOGY

Realizing the importance of this issue, the NPS planning team conducted a comprehensive survey of possible overlook sites. Sites considered included "traditional" sites, used by area residents, and sites identified

through field survey, based on view and access potential. Areas investigated included: lands in the vicinity of Nemo Bridge; the rim west of Canoe Hole; both rims of Clear Creek below Lilly Bridge; approximately a mile of the north rim above Obed River above its junction with Clear Creek; and a traditional site at Devils Breakfast Table. Besides the traditionally used sites at Obed River/Clear Creek Junction and Lilly Bluff, only the site above Canoe Hole appeared to have significant potential. However, local interest led the planning team back to the Obed River/Clear Creek Junction area.

An ad hoc committee was established to intensively examine the Obed River/Clear Creek Junction bluff area. The committee members were Kelly Amonett (Morgan County Extension Leader), Don Barger (Southeast Regional Director, National Parks and Conservation Association), Palace Anderson (Roads and Trails Foreman, Big South Fork National River and Recreation Area), and Patricia Trap and John Fischer of the NPS planning team.

The committee initially identified the following characteristics that any developed overlook would need to have in order to be acceptable (not in any order of importance):

1. Easily accessible to the casual visitor within a short time frame.
2. Provides opportunity for a representative view of the Obed WSR river and gorge.
3. Provides some parking and trails.
4. Is accessible to the physically handicapped (if possible).
5. Is not a visual intrusion from the river for boaters and hikers.

6. Will provide a meaningful/educational transition into the Obed WSR corridor.
7. Will be a part of an overall package of other trails and land acquisition, as needed.
8. Is a safe experience (safety being of particular importance here).
9. Requires only reasonable maintenance.
10. Does not significantly affect the environment.
11. Does not contribute to incompatible use over the long term.

A field investigation was made of the Obed River/Clear Creek Junction area, including the access right-of-way, noting opportunities and constraints. A site on the rim was identified for the overlook, and two possibilities for parking were also identified — one with parking back near the county road (concept 1) and one with parking much closer to the overlook, i.e., just behind the first ridge away from the gorge (concept 2).

The committee concluded that concept 1 would not provide for characteristics 1 and 4. Concept 2 would not provide for characteristics 4, 10 and 11, plus, the cost would be significantly higher.

The committee then considered the possibility of acquiring the necessary lands and improving the currently used, traditional access route over privately owned lands (concept 3). The use of a different overlook site would likely result. This concept would not provide for characteristics 4, 5 and 11, plus, the cost would be even higher than concept 2.

Finding difficulties with the Obed River/Clear Creek Junction area, the committee also began to seriously investigate the Lilly Bluff site, a traditionally used site near Lilly Bridge. Previous thoughts of this site were

not encouraging because of the sensitive plant communities known to exist on Lilly Bluff itself, a large sandstone outcrop. The committee obtained information on the site's vegetation as well as past and current human use. Resource Management Specialist Robert Emmott of Big South Fork NRR coordinated a contract with the University of Tennessee to survey the plant community. Human use of the site has resulted in disturbance of the vegetation, littering, cutting of trees, etc. Past efforts of Obed WSR personnel to deter such abuse have been ineffective.

Armed with the results of the vegetation survey and an understanding of the traditional use and abuse of the site, the committee met at the site with other members of the GMP planning team to consider the potential for overlook development. Also present at this meeting by invitation were Ms. Maureen Cunningham (a botanist) and Dr. William Russell (representing TCWP), both having recognized expertise valuable to the resolution of this issue. It was concluded that an elevated boardwalk design should be pursued that would direct visitors up to and through the site and minimize the opportunity to create social trails and other site abuse. By controlling use of the area, relatively undisturbed portions of the site could be protected and disturbed portions would have the opportunity to reestablish. High-quality design, sensitive construction, greater numbers of interested people using the facility, and anticipated non-NPS participation in the project should collectively contribute to a high degree of community pride in the facility. Abuse of the site is expected to virtually cease in a short period of time.

Being near Lilly Bridge, the overlook development at Lilly Bluff would satisfy all the above-mentioned characteristics and also be consistent with established management objectives. In order to ensure the satisfaction of characteristic 10, regarding environmental impact, monitoring the plant

community would be integral to the project. If adverse impacts become evident at any time, immediate corrective steps would be taken. Notwithstanding an established use pattern, NPS might just move, or close for a period, the facility if such action were required to eliminate the impact.

Desiring to still provide an opportunity for visitors having more time, ability, and interest in walking farther distances, the undeveloped overlooks in the Obed River/ Clear Creek Junction bluff area would be made more accessible by providing a small parking lot and a trail within the access right-of-way.

Details of the several evaluations referred to in this discussion are on file.

APPENDIX D: Development Cost Estimates

ALTERNATIVE A:

THE PROPOSED ACTION

Development Item	Gross Construction Costs
<i>Lilly Bluff Overlook</i> 900 ft. two lane gravel road 0.4 acre cleared of vegetation 20 space gravel parking area 1100 l.f. surface stabilized trail 1200 l.f. trail 1000 l.f. mile boardwalk and 2 seating areas of recycled polymer composite and wood with railings. stone entrance with bench 1 bench of recycled polymer composite 1 sanitary facility 1 information board	\$301,100
<i>Obed R./Clear Creek Jct. Overlook/Right-Of-Way</i> 200' two lane gravel road 0.14 acre cleared of vegetation 10 space gravel parking area 1 mile trail 1 footbridge 1 sanitary facility 4 picnic tables 4 trash receptacles 1 information board	83,400
<i>Lilly Bridge River Access</i> 14 space paved parking area 500 ft. trail 1500 ft. of surface stabilized trail wooden stairs 3000 s.f. vegetation restoration 20 posts or bollards 3 picnic tables 4 trash receptacles 1 sanitary facility 4 information boards 2 roadway signs	132,700
<i>Jett Bridge River Access</i> 1000 ft. trail 1 information board	5,270

ALTERNATIVE A:
(Continued)

Development Item	Gross Construction Cost
<i>Barnett Bridge River Access</i>	\$14,150
2 roadway signs	
4 gravel parking spaces	
2 picnic tables	
4 trash receptacles	
1 sanitary facility	
1 information board	
300 ft. trail	
<i>Obed Junction River Access</i>	22,600
10 space gravel parking area	
0.5 mile trail	
<i>Norris Ford River Access</i>	5,400
0.25 mile trail	
<i>Nemo/Recreational Subzone Area (includes improvements to Norris Bottoms Campground)</i>	81,750
21 additional gravel parking spaces	
4 additional camp sites	
2 miles of trail	
4 picnic tables	
4 grills	
4 trash receptacles	
<i>Long Distance Trails</i>	583,605
27 miles	
<i>Waysides</i>	55,000
5 at Lilly Bluff	
2 at Lilly Bridge	
<i>Other Information Boards</i>	8,250
2 information boards at Potters Ford and Devils Breakfast Table	
5 information boards along county and state maintained roads	
Subtotal Gross Construction Costs	\$1,293,225
Construction Planning Costs	\$121,875
Total Project Costs	\$1,415,100

**ALTERNATIVE B:
THE CURRENT COURSE**

Development Item	Gross Construction Costs
<p><i>Obed R./Clear Creek Jct. Overlook</i> 1.3 miles two lane gravel road 30 ft. two land concrete bridge 4 acres vegetation cleared 10 space gravel parking area 800 ft. surface stabilized trail 0.5 mile trail 1 overlook platform with railing 1 sanitary facility 4 picnic tables 4 trash receptacles 1 information board</p>	\$1,068,600
<p><i>Lilly Bridge River Access</i> 14 space paved parking area 500 ft. trail 1500 ft. of surface stabilized trail wooden stairs 3000 s.f. vegetation restoration 20 posts or bollards 3 picnic tables 4 trash receptacles 1 sanitary facility 4 information boards 2 roadway signs</p>	132,700
<p><i>Jett Bridge River Access</i> 1,000 feet trail 1 information board</p>	5,270
<p><i>Barnett Bridge River Access</i> 2 roadway signs 4 gravel parking spaces 2 picnic tables 4 trash receptacles 1 sanitary facility 1 information board 300 ft. trail</p>	14,150
<p><i>Obed Junction River Access</i> 0.5 mile two lane gravel road 10 space gravel parking area 500 ft. trail</p>	279,100

ALTERNATIVE B:
(Continued)

Development Item	Gross Construction Costs
<i>Norris Ford River Access</i> 1.5 mile two lane gravel road 500' trail	\$209,700
<i>Nemo/Recreational Subzone Area (includes improvements to Norris Bottoms Campground)</i> 21 additional gravel parking spaces 4 additional camp sites 2 miles of trail 4 picnic tables 4 grills 4 trash receptacles	81,750
<i>Long Distance Trails</i> Not Applicable	0
<i>Waysides</i> 5 at Obed River/Clear Creek Junction 2 at Lilly Bridge	55,000
<i>Other Information Boards</i> 2 information boards at Potters Ford and Devils Breakfast Table 5 information boards along county and state maintained roads	8,250
Subtotal Gross Construction Costs	\$1,854,520
Construction Planning Costs	\$10,500
Total Project Costs	\$1,865,020

APPENDIX E: Building Functions and Space Requirements

Visitor Contact Station and Administrative Headquarters

<u>Function</u>	<u>Space Requirement</u>
Office Space (9 FTEs at 150 s.f. each)	1350 s.f.
Visitor Contact Area	300 s.f.
Rest Rooms	300 s.f.
Audiovisual Area	150 s.f.
Book Sales and Storage	150 s.f.
Library	200 s.f.
Conference Room	300 s.f.
Equipment Storage	250 s.f.
Supply Room	100 s.f.
Mechanical/Janitorial	150 s.f.
<u>Circulation</u>	<u>350 s.f.</u>
TOTAL	3600 square feet

Maintenance Facility

Office Space for 2-3 FTEs	300 s.f.
Boat and Emergency Equipment Storage	1100 s.f.
Rest Room	100 s.f.
Work Area	500 s.f.
<u>Equipment and Vehicle Storage</u>	<u>1000 s.f.</u>
TOTAL	3000 square feet

APPENDIX F: List of Rare and Endangered Species

Scientific Name	Common Name	Federal Status*	State Status**	Probable Habitat
<u>Plants</u>				
<i>Adlumia fungosa</i> fields	Climbing fumatory	—	T	Sandstone boulder
<i>Amelanchier sanguinea</i>	Roundleaf shadbush	—	T	Gravel/sand bars
<i>Arenaria cumberlandensis</i>	Cumberland sandwort	LE	—	
<i>Aureolaria patula</i>	False foxglove	C1	—	
<i>Calamovilfa arcuata</i>	Cumberland sand grass	C1	E	Gravel/sand bars
<i>Conradina verticillata</i>	Cumberland rosemary	LT	T	Gravel/sand bars
<i>Eupatorium luciae-brauniae</i>	Lucy Braun's white snakeroot	C2	—	
<i>Helenium brevifolium</i>	Shortleaf sneezeweed	—	E	Gravel/sand bars
<i>Helianthus eggertii</i>	Eggert's sunflower	C2	SC	Gravel/sand bars
<i>Hexastylis contracta</i>	Southern heartleaf	C2	T	Mixed oak & hemlock forests
<i>Hydrastis canadensis</i>	Goldenseal	3C	T	Mesic deciduous forests
<i>Leucothoe racemosa</i>	Fetter-bush	—	T	Gravel/sand bars
<i>Marshallia grandiflora</i>	Large-flowered Barbara's buttons	C2	E	Gravel/sand bars
<i>Panax quinquefolius</i>	American ginseng	3C	T	Mesic deciduous forests
<i>Polygonella americana</i>	Southern jointweed	—	E	Gravel/sand bars
<i>Polymnia laevigata</i> fields	Tennessee leafcup	3C	SC	Sandstone boulder
<i>Schwalbea americana</i>	American chaffseed	LE	—	
<i>Silphium brachiatum</i>	Cumberland rosinweed	C2	—	
<i>Spiraea virginiana</i>	Virginia spiraea	LT	—	
<i>Sporobolus junceus</i>	a dropseed	—	SC	Gravel/sand bars
<i>Talinum teretifolium</i>	Roundleaf fameflower	—	T	Sandstone outcroppings
<i>Trillium pusillum</i> var. <i>ozarkanum</i>	Ozark least trillium	C2	—	
<i>Utricularia subulata</i>	Zizzag bladderwort	—	T	
<u>Invertebrates</u>				
<i>Cambarus obeyensis</i>	Obey crayfish	C2	—	
<i>Villosa perpurpurea</i>	Purple bean pearly mussel	C2	SC	Riffle areas of Obed R.
<i>Lampsilis virescens</i>	Alabama pearly mussel	LE	—	
<u>Vertebrates</u>				
<i>Aimophila aestivalis</i>	Bachman's sparrow	C2	—	
<i>Cryptobranchus alleganiensis</i>	Hellbender	C2	D	
<i>Esox masquinongy ohioensis</i>	Muskelunge			
<i>Hybopsis monacha</i>	Spotfin chub	LT	T	Obed R., Emory R., Clear Cr. & Daddys Cr.
<i>Neotoma floridana magister</i>	Eastern woodrat	C2	—	
<i>Percina aurantiaca</i>	Tangerine darter	—	T	
<i>Percina macrocephala</i>	Longhead darter	C2	—	
<i>Picoides borealis</i>	Red-cockaded woodpecker	LE	E	

Explanation of Federal Status Designations

*Federal Status, determined by the US Fish and Wildlife Service: Federal Register, 50 (188), September 18, 1985, pp. 37958-37959; September 27, 1985, pp. 39526-39527; Federal Register, 55(35), February 21, 1990, pp. 6184-6228; and 56(225), November 21, 1991, 58804-58836.

LE: Taxa formally listed as endangered.

LT: Taxa formally listed as threatened.

C1: Taxa for which the Service has on file substantial information on biological vulnerability and threats to support the appropriateness to list them as endangered or threatened species. Included are those taxa whose status in recent past is known, but may have already become extinct.

C2: Taxa for which information now in possession of the Service indicated that proposing to list them as endangered or threatened is appropriate, but for which substantial data on biological vulnerability and threat(s) are not currently known or on file to support a proposed rule.
destruction or commercial exploitation.

SC: Special Concern - species requiring special concern because of:

- (1) their rarity in Tennessee as the State represents the limit or near-limit of their geographic range, or
- (2) their status is undetermined because of insufficient information.

C3: Taxa that are no longer being considered for listing as threatened or endangered species. The following subcategories are used to further indicate the reasons(s) for removal from consideration.

3A - Taxa for which the Service has persuasive evidence of extinction of being destroyed. If rediscovered, such taxa might acquire high priority for listing.

3B - Names that on the basis of current taxonomic understanding do not represent taxa meeting the Acts definition of "species". Such proposed taxa could be reevaluated in the future on the basis of subsequent research.

3C - Taxa that have proven to be more abundant or widespread than was previously believed and/ or those that are not subject to any identifiable threat.

NOTE: The taxa listed in Categories 1 and 2 may be considered candidates for addition as Endangered and Threatened species, and, as such, consideration should be given them in environmental planning.

Explanation of State Status Designations

**The categories for state Status (adapted from the Committee for Tennessee Rare Plants, 1978):

E: Endangered - species now in danger of becoming extinct in Tennessee because of :

- (1) their rarity throughout their range; or
- (2) their rarity in Tennessee as a result of sensitive habitat destruction or restricted area of distribution.

T: Threatened - species likely to become endangered in the immediately foreseeable future as a result of rapid habitat

APPENDIX G: Botanical Investigation of Overlook Sites

REPORT FROM A BOTANICAL INVESTIGATION OF TWO POTENTIAL
OVERLOOK SITES: LILLY BLUFF AND CLEAR CREEK JUNCTION,
OBED WILD AND SCENIC RIVER, MORGAN COUNTY, TENNESSEE

Lilly Bluff Overlook

General Description: Lilly Bluff is located on the Landing Quad (TN) and overlooks Clear Creek slightly south of Lilly Bridge. Lilly Bluff is a clifftop sandstone glade community of high natural quality dominated by *Pinus virginiana*, *Gaylussacia baccata*, *Vaccinium* spp., *Aronia melanocarpa*, and *Amelanchier arborea*. In slight depressions in the sandstone between the patches of woody vegetation, *Ialium mengesii*, *Arenaria glabra*, *Campylopus tallulensis*, *Polytrichum juniperinum*, *Liatris microcephala*, and various lichen species may be found. The glade/bluff is in two sections, a northern section and a southern section.

Unusual Plant Communities and Rare Species: The northern section of the glade/bluff has been negatively impacted and disturbed by campfires and off-road vehicles (ORV's) since the "access road" leads directly to it. This portion of the glade/bluff has over 100 ramets of *Ialium mengesii* (threatened in Tennessee (Somers 1989)) in scattered depressions. (Since the *Ialium* was not yet in flower, I could not personally determine whether it was *I. teretifolium* or *I. mengesii*. According to Robert Emmott (biologist, BSFNRRRA) it has been reliably determined as *I. mengesii*.) This part of the glade/bluff also is weedier than the southern part due to ORV's disrupting the thin soils and removing patches of native vegetation.

The southern section of the glade/bluff, which is reached from the northern portion by crossing through a small patch of forest, is presently of high natural quality. It was also

highlighted as of special significance by Schmalzer and DeSelm (1982). Almost no weedy introduced species are present in this portion of the glade/bluff and the ORV traffic has not yet had an obvious impact on it. The total number of ramets of *Ialium mengesii* found in the depressions of this portion of the glade/bluff probably exceeds 1000. The stunted, scattered *Pinus virginiana* give this section of the glade/bluff a very nice aspect. Near the southern end of this portion of the glade/bluff a shrub was encountered that had small flower buds (very immature) on it the day of my visit to the site (5 May 1993). Neither Dr. B. Eugene Wofford (botanist, University of Tennessee-Knoxville) or myself have been able to identify the shrub from the specimen I collected. Obviously it is not yet known whether the shrub is rare or not. Dr. Wofford and I will probably visit Lilly Bluff to see fully developed flowers next week (17-21 May 1993).

Since the southern portion of Lilly Bluff is of high natural quality and the northern portion has already been negatively impacted, it is strongly recommended that if the glade/bluff is developed that the boardwalk/overlook be placed in the northern section and that the existing dirt road be used for access. The views from either portion of the glade/bluff are very nice. If the boardwalk/overlook is placed in the southern section of the glade/bluff, both the development process itself and the unavoidable off-trail foot traffic after the overlook is put in would decrease the natural quality of the southern section and increase the number of exotic species present in it. Also, the size of the southern half of the glade/bluff is not readily apparent when looking from the northern glade/bluff. Thus a low percentage of the visitors to an overlook platform on the northern glade/bluff would be likely to wander around the southern glade/bluff.

Clear Creek Junction

General Description: The Clear Creek Junction overlook and right-of-way are also located on the Lansing Quad (TN). The overlook would be situated above the Obed River approximately 1.5 miles west-southwest of the Obed River-Clear Creek junction. The proposed right-of-way to this potential overlook site consists of sub-xeric to somewhat mesic upland forests that are typical for the Cumberland Plateau in northern Tennessee. These forests are dominated by various combinations, depending on site conditions, of *Tsuga canadensis*, *Acer rubrum*, *Pinus virginiana*, *Liriodendron tulipifera*, and *Quercus* spp. A swampy streamhead along one side of the proposed right-of-way (see topo photocopy) is dominated by *Liquidambar styraciflua*, *Acer rubrum*, and *Liriodendron tulipifera*. Common herbs in the swampy streamhead include *Thelypteris noveboracensis*, *Oxypolis rigidior*, *Carex debilis*, *C. laxiflora*, *Platanthera clavellata*, *Iris cristata*, *Osmunda cinnamomea*, and *Microstegium vimineum*. The overlook area itself was recently burned and thus consists of young brushy vegetation with lots of dead/injured trees.

Unusual Plant Communities and Rare Species: No unusual plant communities or high quality/highly diverse natural communities were observed along the proposed right-of-way or overlook site.

One species of concern, *Cyrtopodium acaule*, was found in two areas along the proposed right-of-way. One patch consisting of about 12 ramets is about 0.1 mile west of Melton Mill Branch. The other patch is about 0.1 mile east of Melton Mill Branch and consists of greater than 100 ramets. *Cyrtopodium acaule* is not particularly rare, but it is somewhat threatened since many people collect the plants in order to sell them. Since the right-of-way is fairly broad, the trail could easily be placed so that these two populations are not impacted or easily visible to trail users.

SPECIES LISTS

(* indicates rare species or species of concern)

Lilly Bluff

Bryophytes: (nomenclature after Anderson et al. 1990)

Andreaea rothii Web. & Mohr
Aulacomnium palustre (Hedw.) Schwaegr.
Bruchia flexuosa (Sw. ex Schwaegr.) C. M.
Bryum argenteum Hedw.
Campylopus tallulensis Sull. & Lesq. ex Sull.
Ceratodon purpureus (Hedw.) Brid.
Dicranum condensatum Hedw.
D. scoparium Hedw.
D. spurium Hedw.
Ditrichum lineare (Sw.) Lindb.
Hedwigia ciliata (Hedw.) P. Beauv.
Hypnum sp.
Leucobryum albidum (Brid. ex P. Beauv.) Lindb.
Fohlia sp. (probably *P. nutans*)
Polytrichum commune Hedw.
P. juniperinum Hedw.
Sphagnum compactum DC. ex Lam. & DC.

Vascular Plants: (nomenclature after Wofford (1989))

Acer rubrum L.
Amelanchier arborea (Michx.f.) Fern.
Andropogon scoparius Michx.
Arenaria glabra (Michx.) Fern.
Aronia melanocarpa (Michx.) Ell.
Aster surculosus Michx.
Betula lenta L.
Bidens sp.
Bignonia capreolata L.
Comandra umbellata (L.) Nutt.
Crotonopsis elliptica Willd.
Gaultheria procumbens L.
Gaylussacia baccata (Wang.) K. Koch
Houstonia caerulea L.
Hypericum sp.
H. gentianoides (L.) BSP.
Ilex opaca Ait.
Iris verna L.
Juncus effusus L.
J. tenuis Willd.
Kalmia latifolia L.
Lechea sp. (probably *L. racemulosa*)
Lespedeza repens (L.) Bart.
Liatris microcephala (Small) K. Schumann
Nyssa sylvatica Marsh.
Oxydendrum arboreum (L.) DC.
Panicum depauperatum Muhl.
Pinus strobus L.
P. virginiana Mill.
Plantago virginica L.
Poa annua L.
Prunus serotina Ehrhart
Pteridium aquilinum (L.) Kuhn
Quercus alba L.
Rubus sp.
Smilax rotundifolia L.
 **Talinum mengesii* Wolf
Tsuga canadensis (L.) Carr
Uniola laxa (L.) BSP.
Vaccinium arboreum Marsh.
V. melanocarpum C. Mohr.
V. vacillans Torr.
Viburnum dentatum L.
V. rufidulum Raf.
Viola pedata L.
Vitis rotundifolia Michx.
 ?? mystery shrub

Clear Creek Junction Overlook

Vascular Plants:

Acer pennsylvanicum L.
A. rubrum L.
A. saccharum Marsh.
Alnus serrulata (Ait.) Willd.
Amelanchier arborea (Michx.f.) Fern.
Antennaria plantaginifolia (L.) Richardson
A. solitaria Rydb.
Arisaema triphyllum (L.) Schott
Athyrium filix-femina (L.) Roth
Bignonia capreolata L.
Carex debilis Michx.
C. laxiflora Lam.
Carya pallida (Ashe) Engl. & Graebn.
Castanea dentata (Marsh.) Borkh.
C. pumila (L.) Miller
Chimaphila maculata (L.) Pursh
Coreopsis major Walt.
Cornus florida L.
*Cypripedium acaule Ait.
Dioscorea villosa L.
Euonymus americanus L.
Eupatorium fistulosum Barratt
E. rotundifolium L.
Fagus grandifolia Ehrh.
Fraxinus sp.

Goodyera pubescens (Willd.) R. Br.
Gratiola virginiana L.
Hamamelis virginiana L.
Houstonia caerulea L.
H. purpurea L.
Hexastylis arifolia (Michx.) Small
Hypericum hypericoides (L.) Crantz
Hypoxis hirsuta (L.) Coville
Ilex opaca Ait.
Iris cristata Ait.
Kalmia latifolia L.
Krigia biflora (L.) Willd.
Lindera benzoin (L.) Blume
Liquidambar styraciflua L.
Liriodendron tulipifera L.
Lobelia cardinalis L.
Magnolia macrophylla Michx.
Medeola virginiana L.
Microstegium vimineum (Trin.) Camus
Mitchella repens L.
Nyssa sylvatica Marsh.
Onoclea sensibilis L.
Osmunda cinnamomea L.
O. regalis L.
Oxalis violacea L.
Oxydendrum arboreum (L.) DC.
Oxypolis rigidior (L.) Raf.
Parthenocissus quinquefolia (L.) Planch.
Phlox paniculata L.
Pinus strobus L.
Platanthera clavellata (Michx.) Luer
Polystichum acrostichoides (Michx.) Schott
Potentilla canadensis L.
Prenanthes sp.
Prunella vulgaris L.
Pteridium aquilinum (L.) Kuhn

Quercua alba L.
 Q. coccinea Muenchh.
 Q. rubra L.
 Ranunculus recurvatus Poir.
 Rhododendron maximum L.
 R. periclymenoides (Michx.) Shinnars
 Sambucus canadensis L.
 Sassafras albidum (Nutt.) Nees
 Senecio anonymus A. Wood
 Smilacina racemosa (L.) Desf.
 Smilax glauca Walt.
 S. rotundifolia L.
 Thelypteris noveboracensis (L.) Nieuwl.
 Toxicodendron radicans (L.) Kuntze
 Uvularia perfoliata L.
 U. sessilifolia L.
 Viburnum acerifolium L.
 V. dentatum L.
 Viola blanda Willd.
 V. hastata Michx.
 V. hirsutula Brainerd
 Vitis rotundifolia Michx.

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**APPENDIX H:
Biological opinion
U.S. Fish and Wildlife Service**

D18 (SER-PC)

Dr. Lee A. Barclay, Field Supervisor
U.S. Fish and Wildlife Service
446 Neal Street
Cookeville, Tennessee 38501

Dear Dr. Barclay:

The National Park Service (NPS) is preparing a General Management Plan/Design Concept Plan/Environmental Impact Statement for the Obed Wild and Scenic River and we would like to initiate informal consultation with your agency pursuant to the requirements of Section 7 of the Endangered Species Act. This unit of the NPS encompasses portions of the Obed River, Emory River, Daddys Creek, and Clear Creek in Cumberland, Morgan, and Fentress Counties, Tennessee.

We are requesting a current list of federally listed, threatened or endangered species, candidate species, and special-status species that might occur in these localities, and designated critical habitats for these species.

Enclosed is a copy of a topographic map of the area. The park boundaries are marked and areas where development is expected to occur are also indicated. The proposed development will consist of: improving existing picnic grounds, camping, and parking areas; constructing a long distance trail; and developing a scenic overlook with trails and parking near Lilly Bridge.

All stream sections of the aforementioned rivers within the Obed Wild and Scenic River are listed as Critical Habitat for the spotfin chub (*Cyprinella monacha*). In discussions with Dick Biggins, Asheville Field Office, U.S. Fish and Wildlife Service, we were informed that the purple bean mussel (*Villosa perpurpurea*) is known to occur within the park and is proposed to be listed. Mr. Biggins is sending us a copy of the recovery plan for the spotfin chub and we would appreciate receiving any other information that would be relevant to the Obed Wild and Scenic River's area.

We have reviewed the U.S. Fish and Wildlife Service National Wetland Inventory maps for this area and find no wetlands in the areas we expect to impact. If you know of any wetlands in the area that do not appear on the wetlands inventory maps, we would

2

appreciate knowing about them. If you or your staff have questions, please contact me at 404-331-5835.

Sincerely,

Chris Furqueron
Landscape Architect



United States Department of the Interior
FISH AND WILDLIFE SERVICE

446 Neal Street
Cookeville, Tennessee 38501



October 25, 1993

Mr. Chris Furqueron
National Park Service
Southeast Regional Office
75 Spring Street, S.W.
Atlanta, Georgia 30303

RE: FWS #93-2468

Dear Mr. Furqueron:

Thank you for your letter and enclosure of September 17, 1993, regarding the proposed General Management Plan/Design Concept Plan/Environmental Impact Statement for the Obed Wild and Scenic River in Cumberland and Morgan Counties, Tennessee. The National Park Service proposes to improve existing picnic grounds, camping, and parking areas, construct a long distance trail system, and develop a scenic overlook with trails and parking near Lilly Bridge. The Fish and Wildlife Service (Service) has reviewed the information submitted and offers the following comments.

Review of the Service's National Wetland Inventory maps reveals that there are no forested, emergent, or scrub-shrub wetlands in the vicinity of the proposed actions. In addition, we are not aware of any wetlands that are not indicated on the maps. However, we suggest that you contact the Soil Conservation Service's District Conservationists (Morgan and Cumberland Counties) to find out if hydric soils (and possibly wetlands) exist in the area. Currently, we anticipate no adverse project-related impacts to valuable wetland resources.

According to our records, the following federally listed endangered and threatened species may occur in the impact areas of the proposed actions:

Red-cockaded woodpecker - Picoides borealis (E)
Spotfin chub - Cyprinella monacha (T)
Cumberland sandwort - Arenaria cumberlandensis (E)
American chaffseed - Schwalbea americana (E)
Cumberland rosemary - Conradina verticillata (T)
Virginia spiraea - Spiraea virginiana (T)

The entire reaches of the Obed River, Clear Creek, and Daddys Creek within the Obed Wild and Scenic River have been designated by the Service as critical habitat for the spotfin chub. In addition, the Emory River historically supported populations of the endangered Alabama lamp pearly mussel (Lampsilis virescens). This species has not been found in the river

for over 20 years, but since there have been no recent intensive surveys of these rivers it is possible that L. virescens still exists in low numbers in the Emory River, the lower reach of the Obed River, or the lower reach of Clear Creek.

Section 7 of the Endangered Species Act (Act) requires all Federal agencies to ensure that actions they authorize, fund, or carry out do not jeopardize the continued existence of listed species or result in destruction or adverse modification of designated critical habitat. Agencies must assess potential impacts to listed species and determine if proposed actions may affect them. A "may affect" finding may require initiation of formal consultation with, and issuance of a biological opinion by, the Service.

In addition to listed species, there are species that are not presently listed or proposed, but are being considered by the Service for possible listing in the future. Status review (candidate) species that might occur in the vicinity of the proposed actions include:

Eastern woodrat - Neotoma floridana magister
Bachman's sparrow - Aimophila aestivalis
Longhead darter - Percina macrocephala
Hellbender - Cryptobranchus alleganiensis
Purple bean - Villosa perpurpurea
Obey crayfish - Cambarus obeyensis
Lucy Braun's white snakeroot - Eupatorium luciae-brauniae
False foxglove - Aureolaria patula
Mountain heartleaf - Hexastylis contracta
Barbara's buttons - Marshallia grandiflora
Ozark least trillium - Trillium pusillum var. ozarkanum
Cumberland rosinweed - Silphium brachiatum
Cumberland sand grass - Calamovilfa arcuata

These species are not legally protected at this time, and the consultation requirements of Section 7 of the Endangered Species Act do not yet apply to them. However, they are under consideration for listing in the future and we would appreciate anything you might do to avoid impacting them. The 1988 amendments to the Act direct the Fish and Wildlife Service to monitor populations of status review species and carry out "pre-listing recovery actions" to prevent the need to list them. Any actions taken by the Park Service to conserve and protect these species would be in keeping with the intent of this provision of the Act. Please be aware that the purple bean is known to occur in the project area. Although it is not yet listed, the Service is conducting a status survey to determine if listing is warranted. Pending the results of the status survey, this species may or may not be proposed for listing in the near future. Once proposed, the purple bean will be legally protected by the Endangered Species Act.

Thank you for the opportunity to comment. If you have any questions or if we can be of further assistance, please contact Jim Widlak of my staff at 615/528-6481.

Sincerely,

A handwritten signature in cursive script that reads "Lee A. Barclay".

Lee A. Barclay, Ph.D.
Field Supervisor

APPENDIX I: List of Dams and Impoundments

<u>Official Name</u>	<u>Size*</u>
Buckingham (proposed)	Large
Otter Creek	Intermediate
Lake Tansi	Intermediate
Lake Holiday	Intermediate
Lake Dartmore	Large
Fox Creek Lake	Large
Lake Glastowbury	Intermediate
Lake St. George	Intermediate
Byrd Lake	Intermediate
Larry Turner Lake	Intermediate
Lake Malvern	Small
Good Neighbor Lake	Small
Lake Pomeroy	Small
Linger Lake	Small
Lake Francis	Small
Hill Lake	Small

*Impoundment size classification based upon dam height or maximum capacity:

<u>Size Classification</u>	<u>Max. Capacity (Acre Feet)</u>	<u>Dam's Structural Height</u>
Minor	Capacity < 50 Plus Capacity < 15	and Height < 25 Feet or Height < 6 Feet
Small	50 ≤ Capacity < 1,000	or 25 Feet ≤ Height < 40 Feet
Intermediate	1,000 ≤ Capacity < 50,000	or 40 Feet ≤ Height < 100 Feet
Large	50,000 ≤ Capacity	or 100 Feet ≤ Height

< = Less Than
 ≤ = Less Than or Equal To

National Park Service
 Engineering and Safety Services Division
 Dam and Related Floodplain Inventory Report
 March 10, 1993

U.S. Department of the Interior, National Park Service, WASO March 4, 1993, Call for Southeast Region 1993 Dams Report, October 25, 1993, Review of Southeast Region 1993 Dams Report between Regional Staff and WASO Dams Program Officer.

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As the nation's principal conservation agency, the Department of the Interior has the responsibility for most of our nationally owned public lands and natural and cultural resources. This includes fostering wise use of our land and water resources, protecting our fish and wildlife, preserving the environmental and cultural values of our national parks and historical places, and providing for the enjoyment of life through outdoor recreation. The department assesses our energy and mineral resources and works to ensure that their development is in the best interests of all our people. The department also promotes the goals of the Take Pride in America campaign by encouraging stewardship and citizen responsibility for the public lands and promoting citizen participation in their care. The department also has a major responsibility for American Indian reservation communities and for people who live in island territories under U.S. administration.