

**BIG AND LITTLE DARBY CREEKS, OHIO**

**WILD AND SCENIC RIVER EVALUATION  
AND ENVIRONMENTAL ASSESSMENT**

Findings Regarding the State of Ohio's  
Application for Designation of the Big and Little Darby Creeks  
into the National Wild and Scenic Rivers System  
Under Section 2(a)(ii)  
of the Wild and Scenic Rivers Act

**Rivers, Trails, and Conservation Programs  
National Park Service  
Midwest Regional Office  
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## TABLE OF CONTENTS

Introduction .....	1
Purpose .....	1
Structure of this Report .....	1
The Wild & Scenic Rivers Act and Designation Process .....	2
Darby Creek Segments Proposed for Designation .....	3
Map of the Darby Creek Watershed .....	4
State Designation and Management Requirements .....	5
State Scenic River Designation .....	5
State/Local River Management Responsibility .....	5
Darby Creeks Protection Plan .....	7
Recommendations .....	7
Plan Implementation .....	8
Evaluation of Eligibility and Classification .....	9
Introductions .....	9
Eligibility Findings .....	10
Upper Big Darby Creek .....	12
Lower Big Darby Creek .....	12
Little Darby Creek .....	13
Classification Findings .....	13
Upper Big Darby Creek .....	14
Lower Big Darby Creek .....	14
Little Darby Creek .....	14
Conclusion .....	14
Evaluation of Resource Protection and Management .....	15
Introduction .....	15
Methodology .....	15
Protection Mechanisms .....	16
Laws and Regulations .....	16
Table 1A: Big Darby Protection .....	17
Table 1B: Little Darby & Incorp. Areas Protection .....	18
Public and Private Conservation Lands .....	21
Physical Limitations to Development .....	22
Summary .....	22
Management Framework .....	22
Prospects for Continued Protection .....	25
Conclusion .....	25

Support for Designation .....	26
Local Governments .....	26
State Government .....	26
Private Organizations .....	27
Environmental Assessment .....	28
Introduction .....	28
Alternatives Evaluated .....	28
Environmental Impacts of the Alternatives .....	29
Impacts of Alternatives on Natural Resources .....	29
Impacts of Alternatives on Recreational Resources .....	31
Impacts of Alternatives on Cultural Resources .....	31
Impacts of Alternatives on Socioeconomic Values .....	32
Evaluation of Alternatives .....	33
Conclusions and Recommendations .....	34
Designation .....	34
Classification .....	34
River Management .....	34
List of Documents, Persons, and Agencies Consulted .....	37
Distribution List, List of Preparers .....	39
Appendix A - Procedures and Criteria for Designating State-Administered Rivers .....	40

# INTRODUCTION

## PURPOSE

In October of 1990, Governor Richard F. Celeste of the State of Ohio petitioned the Secretary of the Interior to designate the Big and Little Darby Creeks under section 2(a)(ii) of the National Wild and Scenic Rivers Act. The 1990 application did not contain all the information needed to make an evaluation of eligibility and protection; a revised application which is considered adequate for evaluation purposes was submitted to the National Park Service (NPS) in February of 1992. This report assesses the extent to which the Darby Creeks meet designation requirements; it also describes the potential environmental impacts attributable to the designation of the Darby Creeks as a component of the National Wild and Scenic Rivers System.

For a river to qualify under section 2(a)(ii), four requirements must be met:

- 1) the river must have been designated as a component of the state's wild, scenic, or recreational river system by or pursuant to an act of the state legislature;
- 2) it must be administered by an agency or political subdivision of the state at no cost to the Federal government except for administration and management of federally owned lands;
- 3) it must meet the eligibility criteria required of all national wild and scenic rivers, i.e. it must be free-flowing and possess one or more outstandingly remarkable resource values; and
- 4) there must be effective mechanisms in place to provide for long-term protection of its outstanding resources.

In addition, before the Secretary of the Interior can take action, a proposal must be evaluated for potential impacts as required by the National Environmental Policy Act (NEPA) and both the proposal and the NEPA document must be circulated for appropriate federal agency review.

## STRUCTURE OF THIS REPORT

The introductory section provides a description of the segments proposed for designation and a summary of the national wild and scenic river designation process. In the second section, state actions leading to the Governor's request for administrative designation are evaluated to ensure compliance with requirements for administratively-designated rivers. The third section

provides a summary of the Plan upon which the request to designate the river is based.

The creeks' eligibility for designation into the national system, which is based on an evaluation of the creek's free-flowing condition and the existence of one or more outstanding river-related resource values within the river corridor, is assessed in the fourth section. This section also contains recommendations for the river segment classifications (wild, scenic, or recreational) which should be used if the creeks are designated. The fifth section evaluates the resource protection and management of the creek's outstanding resources and determines whether they have been provided adequate long-term protection. The sixth section consists of a synopsis of governmental and non-governmental organization's support in seeking national wild and scenic river designation.

In the seventh section, the environmental impacts of national designation are compared to the impacts of the "no action" alternative. The eighth section concludes the report with the National Park Service's findings of whether the creek meets the eligibility criteria and protection requirements and whether designation would have a significant environmental impact. It also has recommendations for providing further protection of resource values.

## **THE WILD & SCENIC RIVERS ACT AND DESIGNATION PROCESS**

The Wild and Scenic Rivers Act (P.L. 90-542, as amended), authorized in 1968 was intended to protect certain free-flowing rivers with outstanding resources in their natural condition for the use and enjoyment of present and future generations, and to balance the nation's water resource development policies with a river conservation and recreation policy. Designated rivers receive protection from new hydropower projects and from federally-assisted water resource projects (including projects funded, licensed, or sponsored by the federal government) which would alter the river's free-flowing condition or have a direct and adverse effect on the river's outstanding resources.

The Act established two alternative processes by which rivers can be designated as components of the National Wild and Scenic Rivers System. One is through Congressional action, whereby section 3(a) of the Act is amended to include the newly-designated river segment(s). This legislative route is usually followed for rivers on federal land, including those which have been the subject of Congressionally-authorized studies conducted by a federal agency such as the Bureau of Land Management or the Forest Service. Congressional action has also brought rivers surrounded by mostly privately-owned lands into the National Wild and Scenic Rivers system; most of these rivers have had Congressionally-authorized studies conducted prior to designation.

Rivers can also be designated by administrative action taken by the Secretary of the Interior. Section 2(a)(ii) of the Wild and Scenic Rivers Act allows the governor of a state to make a formal application to the Secretary of the Interior for river designation through such an administrative action. Instead of conducting a full-scale study of the river proposed for

designation, the National Park Service conducts a brief evaluation of the river's state-protected status and eligibility as well as indications of support for protection. The NPS then advises the Secretary of its findings. (Please see Appendix A, HCRS Procedures, section E.)

If it is determined that an application meets the Section 2(a)(ii) requirements, the Secretary publishes a notice of administrative designation in the Federal Register and notifies the Federal Energy Regulatory Commission (FERC) and other affected federal agencies. Following completion of a 90-day interagency and public comment period, and after all comments have been addressed, the Secretary takes final action regarding designation.

Rivers designated under Section 2(a)(ii) receive the full protection afforded all national wild and scenic rivers. Rivers designated through administrative action must be managed by the state or its political subdivisions rather than by the federal government except for any adjoining federal lands. The Section 2(a)(ii) provision is, therefore, ideally suited to rivers that flow through private lands and where there is a strong tradition of local management of significant natural resources.

### **DARBY CREEKS SEGMENTS PROPOSED FOR DESIGNATION**

A total of 85.9 miles of the Big and Little Darby Creeks have been proposed for designation. Included in this proposal are the following segments:

**Upper Darby Creek** 32.1 miles, from the Champaign-Union County line (River Mile 71.8) downstream to the Conrail railroad trestle (RM 39.7), which is 0.9 mile upstream of US 40.

**Lower Darby Creek** 34.1 miles, from the confluence with Little Darby Creek (RM 34.1) near Georgesville to the Scioto River.

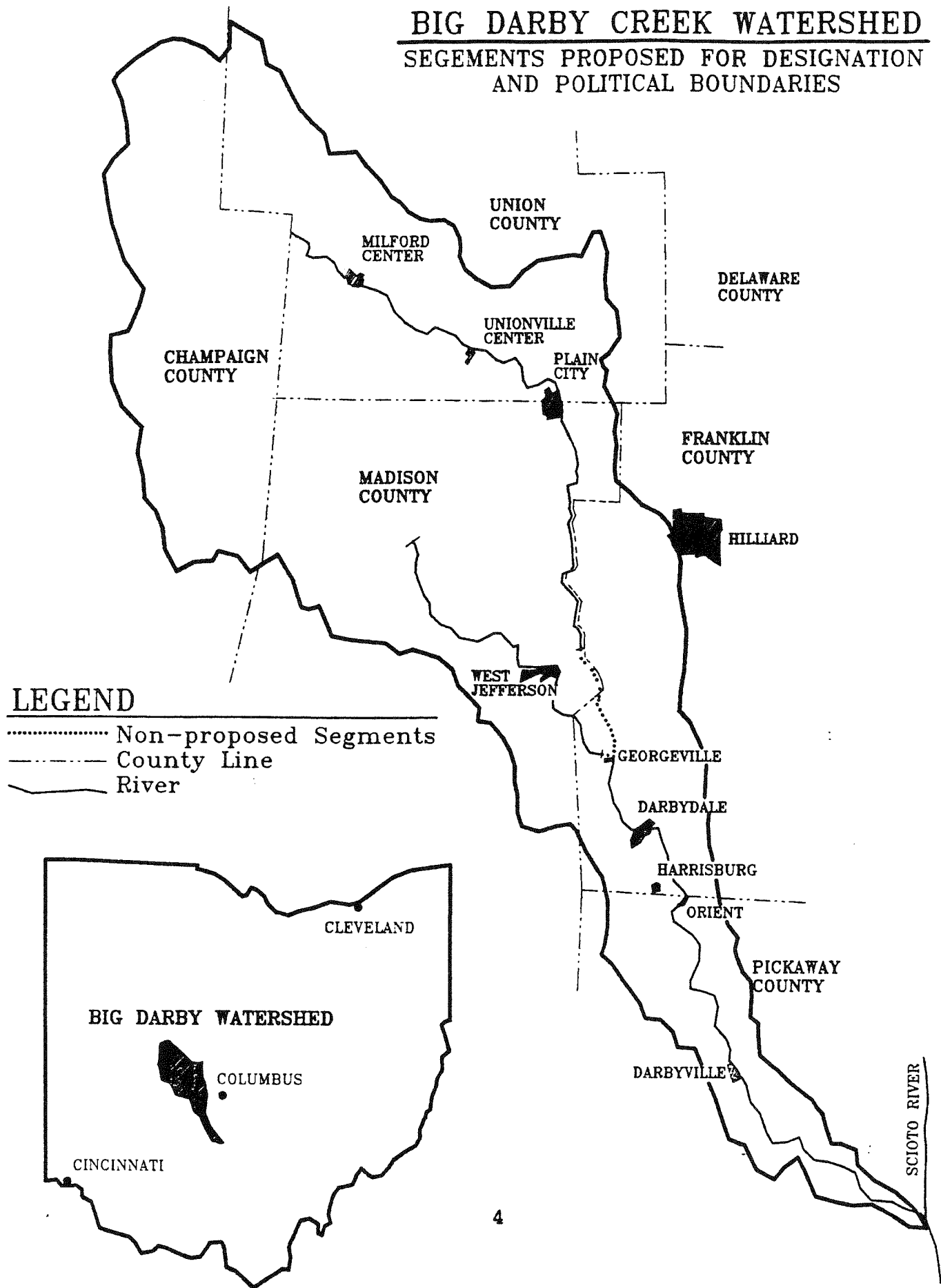
**Little Darby Creek** 19.7 miles, from Lafayette-Plain City Road Bridge (RM 20.5) to 0.8 mile upstream from the confluence with Big Darby Creek (RM 0.8).

The balance of the Big and Little Darby Creeks not proposed for designation are not included in the State designation and are therefore not eligible for designation under Section 2(a)(ii).

FIGURE 1

# BIG DARBY CREEK WATERSHED

## SEGEMENTS PROPOSED FOR DESIGNATION AND POLITICAL BOUNDARIES



## **STATE DESIGNATION AND MANAGEMENT REQUIREMENTS**

As described in the Introduction, there are several requirements which must be met before the Secretary of the Interior can take action to designate a river. The first two requirements are:

- 1) the river is a designated component of the state's wild, scenic, or recreational river system by or pursuant to an act of the state legislature;
- 2) the river is administered by an agency or political subdivision of the state;

The purpose of this section is to determine whether the application meets these first two requirements. Evaluations of the Darby Creeks' eligibility and protection are found in the fourth and fifth sections.

Our findings are as follows:

### **State Scenic River Designation**

In 1974, a broad coalition of citizens' groups, local governments, historical societies, and the Ohio Farm Bureau requested that the Big and Little Darby Creeks be included in the Ohio Scenic River System. The Darby Creeks were designated a Scenic River on June 22, 1984, under the Ohio Scenic Rivers Act, Section 1501.16 of the Ohio Revised Code (ORC). This Act, passed by the Ohio Senate and House of Representatives on May 17, 1972, and approved by the Governor on June 1, 1972, grants the Director of the Ohio Department of Natural Resources approval authority over public projects within the corridor and outside of municipalities.

Based on the state's designation of the Big and Little Darby Creeks as part of the Ohio Scenic River System, we find that the first Section 2(a)(ii) administrative designation criterion has been satisfied.

### **State and Local River Management Responsibility**

Ohio law enables all levels of local government including village, township, municipality, and county to adopt zoning regulations. These include ORC Chapter 713.06, Division of Municipalities into Zones; ORC Chapter 303.02, County Commissioners May Regulate Building and Land Use in Unincorporated Territories for Public Purposes; and ORC Chapter 519.02, Township Trustees May Regulate Building and Land Use in Unincorporated Territories for Public Purposes. These, in addition to health regulations and floodplain regulations, may be and have been tailored by each local government to protect the river. The specific river protection aspects of local governments along the Darby Creeks will be



discussed under "Evaluation of Protection" in the fifth section.

The development of river protection measures in the Darby Creek basin is monitored and encouraged by staff of the Ohio Scenic Rivers Program, the Darby Creeks Scenic River Advisory Council, and by the Darby Creek Partners. The Ohio Scenic Rivers staff strives not only to prevent negative impacts created by public projects but is also responsible for and spends the majority of its time working with local governments and the public to adopt river protection measures. The Darby Creeks Scenic River Advisory Council is appointed by the Director of the Ohio Department of Natural Resources to "advise the Director on acquisition of land and easements, ...and other aspects of establishment and administration of the area which may affect the local interest." The Darby Creek Partnership is an informal association of governmental and non-governmental entities which focus on implementing river protection programs. Together these groups establish a network which follows and influences local river protection actions.

Thus, through the authorities of State law in Ohio and through the activities of the Ohio Scenic Rivers Program, the Darby Creeks Scenic River Advisory Council, and the Darby Creeks Partners, a management framework for the river has been established. This management framework also ensures that the requirement stated in section 2(a)(ii) of the Wild and Scenic Rivers Act, "Each river designated under clause (ii) shall be administered by the State or political subdivision thereof without expense to the United States other than for administration and management of federally owned lands," is fulfilled.

## DARBY CREEKS PROTECTION PLAN

**RECOMMENDATIONS** The Plan focuses on protection of the riparian ecosystem and on protecting water quality by recommending environmentally sensitive land use activities in the watershed. The Plan's primary focus for management of the area is as follows:

- 1) Establish Local River Protection Bylaws. The Plan recommends that land use management along the Darby Creeks remain primarily a local responsibility. It recommends that each of the four counties and the local communities adopt river protection zoning bylaws to establish a protected corridor, including floodplain areas and a 120 foot buffer of native vegetation, within which an integral part of the river's natural integrity and scenic beauty would be preserved.
- 2) Promote Voluntary Land Conservation Measures The Columbus and Franklin County Metropolitan Park District (Metro Parks) and The Nature Conservancy (TNC) actively encourage private property owners to place their riparian lands under conservation easement. The Ohio Department of Natural Resources also encourages developers to include riparian conservation easements in their subdivision proposals to local governments. Conservation easements allow property owners to maintain ownership of their riverfront property while agreeing to keep these lands in an undeveloped state.
- 3) Protect Free-Flowing Character The plan includes provisions to protect the free-flowing aspect of the creeks by maintaining Ohio Department of Natural Resources (ODNR) case-by-case review authority of U.S. Army Corps of Engineers Clean Water Act Section 404 permits. The ODNR ensures through an internal policy that its own projects do not negatively impact state designated scenic rivers.
- 4) Identify Causes of Non-point Source Pollution and Promote Voluntary Measures to Reduce It The plan recommends the coordination among federal, state, and local agencies, non-governmental organizations, and the general public to identify and reduce sources of non-point pollution in the watershed.
- 5) Seek National Wild and Scenic River Designation Eighty-six miles of the Big and Little Darby Creeks are being proposed for designation under the National Wild and Scenic River Act under Section 2(a)(ii). State designation provides the Director of the Department of Natural Resources with approval authority over public projects within the corridor but outside of municipal limits. National designation complements state designation by prohibiting federally funded or federally permitted water resources projects which would adversely affect natural or cultural resource values.

**PLAN IMPLEMENTATION** The plan is a work in progress. Local river protection bylaws have been adopted in one county, are in the midst of being written into another county's zoning code, and minimal protection is provided in two other counties. Conservation easements and land purchased for protection are becoming more common on the central portion of the creek system. A broad array of individuals, organizations, and agencies have orchestrated studies of non-point source pollution, levied funds for implementing best management practices, and educated the public about the need to become involved in the protection effort. In October of 1990, Governor Richard Celeste requested the Secretary of the Interior to designate the Big and Little Darby Creeks as a state-administered component of the National Wild and Scenic River System. Each of these aspects of the plan will be more fully described in subsequent sections of this report.

# EVALUATION OF ELIGIBILITY AND CLASSIFICATION

## INTRODUCTION

The Wild and Scenic Rivers Act states that to be eligible for designation into the Wild and Scenic Rivers System, a river or river segment must be free-flowing and, with its immediate environment, must possess one or more outstandingly remarkable resource values.

The requirement that a river must be "free flowing" in order to be eligible for wild and scenic designation is found in sections 1(b) and 2(b) of the Act. Section 16(b) defines "free-flowing" as:

" . . . 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."

The second eligibility criterion, found in Section 1(b) of the Act, is the possession of "outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values."<sup>1</sup> Because the term "outstandingly remarkable" is not defined, the determination of whether a river possesses outstanding resources is based on the professional judgement of resource specialists. In accordance with agency guidelines, these resources, which must be river dependent, are considered outstanding if they are unique or exemplary in a regional or national context.

For the purposes of the Big and Little Darby Creeks review, the regional context is defined as Ohio and the Eastern Cornbelt Plains ecoregion described by the U.S. Environmental Protection Agency. The latter includes western Ohio, the majority of Indiana, and a very small portion of southeastern Michigan. The Darby Creeks are located close to the large population center of Columbus and its metropolitan area.

Once found eligible for designation, river segments receive one of three possible classifications according to criteria found in Section 2(b) of the Act. Classification is based on the degree of accessibility and development within the river corridor and ranges from

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<sup>1</sup> For the purposes of this report, the term "outstanding resources" will be substituted for the phrase "outstandingly remarkable . . . values" found in the Act.

"Wild" for the most primitive and inaccessible segments, through "Scenic," to "Recreational" for those segments which are readily accessible or which may have undergone past diversion or impoundment. A river's proposed classification provides guidance in the preparation of management plans for rivers because designated rivers are administered to protect and enhance the values which cause them to be designated. Types and intensity of development at the time of designation should be maintained. Thus the proposed segment classifications included in this report are provided to guide compliance with section 10(a) of the Act.

## **ELIGIBILITY FINDINGS**

### **Free-Flowing Condition**

The segments proposed for designation contain only one low dam. The existence of low dams at the time a river is proposed for inclusion in the national wild and scenic river system does not bar its consideration for inclusion as mentioned above.

### **Resource Analysis**

**Biological Resources:** The Big and Little Darby Creek aquatic community is recognized nationally for its biodiversity. In the 556.6 square mile watershed, eighty-four species of fish plus eight hybrids have been identified for Big Darby Creek; 55 species of fish and four hybrids have been identified for Little Darby Creek. The Scioto Madtom (Noturus trautmani), a Federally-listed endangered species was last taken in 1957 from Big Darby Creek. Although the United States Fish and Wildlife Service continues to list the Scioto Madtom as endangered, the species may be extinct. Under consideration for Federally-listed endangered status is the Eastern Sand Darter (Ammocrypta pellucida). The four State-listed endangered fish species found in the watershed include the Northern Brook Lamprey (Ichthyomyzon fossor), Blacknose Shiner (Notropis heterolepis), Northern Madtom (Noturus stigmosus), and Spotted Darter (Etheostoma maculatum).

The high biodiversity of fish species in the Darby Creeks is reflected in the Index of Biotic Integrity (IBI) rating for the creeks. This index, determined by the Ohio Environmental Protection Agency (OEPA), factors into its calculation the number of fish species found, the presence of certain indicator species, the numbers of individuals found, population structure, and other characteristics of the fish community. The Darby Creeks' IBI rating ranges between 36 and 58 with an average of 47; the values range from 12 to 60 for most streams in Ohio. Consequently, the Darby Creeks rank among the most diverse fish communities in Ohio.

The biodiversity of similar sized rivers in the rest of the Eastern Corn Belt Plains does not approximate that of the Darby Creeks. The rivers which come closest to having the Darby

Creek's species richness with respect to fish include Laughery Creek, a 343 square mile watershed containing 62 species, and the Flat Rock Creek, a 542 square mile watershed harboring 57 species. Both rivers are in Indiana.

A high diversity of molluscs also is found in the creeks. Thirty-eight species of live molluscs were found in 1986; 35 live species and 5 historical records were recovered in 1990. The Northern Riffleshell (Epioblasma rangiana) and the Clubshell Mussel (Pleurobema clava) are Federally-listed endangered species. Three species of mollusc are under consideration for Federally-listed endangered status: Snuffbox (Epioblasma triquetra), Salamander Mussel (Simpsonaias ambigua), and the Rayed Bean (Villosa fabalis). The species listed as living State endangered include: Washboard (Megalonaias nervosa), Clubshell Mussel (Pleurobema clava), Rabbitsfoot (Quadrula c cylindrica), Rayed Bean (Villosa fabalis), and Northern Riffleshell (Epioblasma rangiana).

Other rivers of similar size in the Eastern Cornbelt Plains and in Ohio at a minimum have 10 mollusc species fewer than the Darby Creeks. Examples include Sugar Creek in Indiana, a stream which harbors 25 species, and Fish Creek in Ohio and Indiana, which harbors 28 species.

It is the high biodiversity found in the Big and Little Darby Creek as an entire unit which is unique in Ohio and the Eastern Cornbelt Plains. The number of species found in each separate segment is not unique; however, each segment contains at least one species of significance.

**Hydrologic Resource:** The OEPA has classified the Darby Creeks as an Exceptional Warmwater Habitat, a classification of waters capable of supporting and maintaining an exceptional community of warmwater aquatic organisms having a species diversity, composition, and functional organization comparable to the seventy-fifth percentile of the reference sites identified on a statewide basis.

**Other Resources:** The Darby Creeks environs contain other resources which, though noteworthy, do not meet the criteria necessary to be labeled "outstanding." Foremost is the scenic resource, with a gently rolling terrain in the headwaters emerging into steep 100' slopes in the midsection and gradually levelling out into an expansive floodplain near the creek's confluence with the Scioto River. The combination of the Darby Creek's topography and stream banks, which are mostly forested, provides an excellent example of a typical central-Ohio rural stream. In addition, important cultural and historical resources such as Indian mounds and structures listed on the National Register of Historic Places are found in the creek's corridors.

**UPPER BIG DARBY CREEK** [32.1 miles, from the Champaign-Union County line (River Mile 71.8) downstream to the Conrail railroad trestle (RM 39.7), which is 0.9 mile upstream of US 40]

#### **Free-Flowing Condition**

This segment contains one low dam; the dam is 3' in height and is located at RM 66.3, in Milford Center, Union County. This dam impounds water for approximately 0.2 miles and passes the natural stream flow. The existence of this low dam does not bar consideration of Big Darby for designation, as mentioned in the introduction to this section. The creek has not been channelized nor has water been diverted from this section. Thus it meets the free-flowing eligibility criterion in the National Wild and Scenic Rivers Act.

#### **Outstanding Resources**

In addition to contributing to the composite high number of species of the Darby Creek system, the upper Big Darby Creek segment harbors the Rayed Bean mollusc which is under consideration for federal endangered status. This segment meets the eligibility criterion because it is an integral component of an outstanding biological resource.

**LOWER BIG DARBY CREEK** [34.1 miles, from the confluence with Little Darby Creek (RM 34.1) near Georgesville to the Scioto River]

#### **Free-Flowing Condition**

This segment is without dams or impoundments and it has not been channelized nor has water been diverted from it. A section of the creek upstream from McLean Mill Road bridge at river mile 4.2 has considerable rip-rap on its bank but its existence is not enough to disqualify this segment. Thus it meets the free-flowing eligibility criterion in the National Wild and Scenic Rivers Act.

#### **Outstanding Resources**

In addition to contributing to the composite high number of species of the Darby Creek system, the lower Big Darby Creek segment contains the greatest number of species. The Eastern Sand Darter, the Snuffbox, the Clubshell, the Salamander mussel, and the Rayed Bean, are all under consideration for federal endangered status. The Washboard (Megalonaias nervosa) and the Rabbitsfoot (Quadrula cylindrica) are state endangered species but are not under consideration for federal endangered status. The federally endangered Scioto Madtom was found in this section. This segment

therefor meets the eligibility criterion because of its contribution to an outstanding biological resource.

**LITTLE DARBY CREEK** [19.7 miles, from Lafayette-Plain City Road Bridge (RM 20.5) to 0.8 mile upstream from the confluence with Big Darby Creek]

### **Free-Flowing Condition**

This segment is without dams or impoundments and it has not been channelized nor has water been diverted from it. Thus it meets the free-flowing eligibility criterion in the National Wild and Scenic Rivers Act.

### **Outstanding Resources**

In addition to contributing to the composite high number of species of the Darby Creek system, the Little Darby Creek harbors three species under consideration for federal endangered status, the Northern Riffleshell (*Epioblasma rangiana*), the Clubshell, and the Rayed Bean. The Rabbitsfoot is a state endangered species also found in this segment. This segment therefor meets the eligibility criterion because of its contribution to an outstanding biological resource.

## **CLASSIFICATION FINDINGS**

The segments of the Big and Little Darby Creeks were evaluated to determine the classification which best fits the existing condition of each segment. The classifications are defined according to the following criteria:

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 river that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines undeveloped, but accessible in places by roads.
3. **Recreational river areas** - Those rivers or sections of river 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.



## **UPPER BIG DARBY CREEK**

### **Proposed Classification: Recreational**

This 32.1 mile section has experienced some development which is concentrated around the towns of Plain City, Milford Center, Unionville Center, and the small community of Amity. Bridge crossings are not uncommon. Row crops approach the creek in several places. Paralleling roads exist within one quarter mile of the creek on one or both sides for 82% of the total frontage (52.8 miles out of 64.2), making the creek readily accessible. These developments meets the criteria for a recreational river.

## **LOWER BIG DARBY CREEK**

### **Proposed Classification: Scenic**

The shoreline of this 34.1 mile section is largely primitive and undeveloped. Within 1000 feet of the creek only the two villages of Orient and Darbydale and the two small communities of Georgesville and Darbyville exist. Roads occasionally reach and bridge the river. Row crops approach the creek in many places. These developments meet the criteria for a scenic river.

## **LITTLE DARBY CREEK**

### **Proposed Classification: Scenic**

The shoreline of this 19.7 mile section is largely primitive with some dispersed development near the Village of West Jefferson and along its upper reaches. Roads occasionally reach and bridge the creek. Row crop approach the creek in several places. These developments meet the criteria for a scenic river.

## **CONCLUSION**

In summary, the nominated segments of the Upper Big Darby Creek, the Lower Big Darby Creek, and the Little Darby Creek are eligible to be a component of the National Wild and Scenic River system. The river segments are free-flowing and possess the outstanding resource of high biological diversity among the fish and mollusc populations.

Although the scenic attributes of the Darby Creeks are not necessarily outstanding in the region, these qualities are of great significance to the residents of the area as well as to those who are interested in protecting intact natural river systems.

# EVALUATION OF RESOURCE PROTECTION AND MANAGEMENT

## INTRODUCTION

This section describes a set of criteria used by the National Park Service to determine whether a river is adequately protected through private, local, and/or state level actions to warrant designation as a state-administered component of the National Wild and Scenic Rivers System under Section 2(a)(ii) of the federal Wild and Scenic Rivers Act. It also contains an evaluation of the extent to which the application for designation of the Darby Creeks meets each of the criteria. The positive impacts on conservation of the river's natural resources resulting from state and local actions taken since the onset of the Darby Protection process are described here as part of the resource protection evaluation, rather than in the Environmental Assessment section.

## METHODOLOGY

In order for a river to be appropriate for designation as a national Wild and Scenic River under Section 2(a)(ii), three essential elements must be established. These elements are 1) long-term **protection** for the river's outstanding resources; 2) a **management framework** that does not rely on active federal management; and 3) the prospects for **continued protection**.

First, the river's outstanding resources -- the resources which make it eligible for designation -- must be assured of long-term protection. Since the federal government's role on Section 2(a)(ii) rivers is limited to reviewing federal or federally-assisted "water resources projects," the protection of outstanding resources located on or associated with riparian lands must be provided through state, local, and private land-use mechanisms. The "Evaluation of Protection" section assesses the adequacy of such existing mechanisms in protecting the resources described above in "Eligibility Findings" for each Darby Creek community.

Second, a non-federal management framework for the long-term stewardship of river resources must be in place prior to designation. This requirement is based on Section 2(a)(ii) of the Act, which states that rivers so designated "shall be administered by the State or political subdivision thereof without expense to the United States other than for administration and management of federally owned lands." The "Management Framework" section evaluates the existing Darby Creek Partnership in meeting this requirement.

Third, evidence is needed that the existing protection plan will persist and that it is likely that additional protection measures will be implemented as the need arises. This section reflects the current status of public sentiment for overall river protection and the probability that their interest will result in further river protection successes.

## **PROTECTION MECHANISMS**

There are four major forms of protection for the Darby Creek's outstanding biological resources:

- 1) laws and regulations;
- 2) public and private land ownership for conservation purposes;
- 3) physical limitation to additional shorelands development; and,
- 4) governmental and nongovernmental programs which focus on the Darby Creeks for implementation of best management practices to reduce non-point source pollution.

As explained above, these protective tools focus on managing land use along the river in order to ensure the preservation of outstanding resources associated with these riparian areas. (Please see Appendix A, HCRS Procedures, section F.)

### **Laws, Regulations, and Implementation**

#### **Local**

The Darby Creeks Plan defines the corridor as a 2,000 foot wide corridor, one which "extends parallel to the streams, out 1000 feet from the normal water line, on both sides of each creek." Within that 2000 foot corridor, local communities are encouraged to protect a 120-foot vegetated buffer on each side of the stream and to allow only appropriate uses in the floodplain.

Protection of the buffer and floodplain is the minimum goal sought for each community; some have sought additional protection for the creeks. These are described below and depicted in the matrix shown in Tables 1A and 1B. This matrix depicts the land use protection mechanisms along the four counties and larger villages along the three nominated Darby Creeks segments.

Tables 1A and 1B require some description. First, the floodplain protection column refers to a selection made by a local government from the three allowable rises (1/10 foot, 1/2 foot, one foot) in the 100 year flood elevation; this selection is required in order to participate in the National Flood Insurance Program. The larger the allowable rise in flood elevation, the closer to the river buildings may be permitted in the floodplain. Secondly, the number of river miles is provided in two forms, one in total river mileage frontage equalling the sum of the lengths of each side of the creek; the other is the actual length of a river segment, with the length of the longer side given when the sides are of unequal length.

# BIG DARBY CREEK PROTECTION MECHANISMS

	FLOODPLAIN PROTECTION	BUILDING SETBACK FROM CREEK	PROTECTED VEGETATED BUFFER	SEPTIC SETBACK FROM CREEK	MIN. LOT SIZE ALONG CREEK	SUBDIV. REGS	CONSTRUCTION EROSION/STORM WATER CONTROL	RIVER FRONTAGE IN MILES, EACH SIDE CONSIDERED SEPARATELY					
								PRIVATE		PUBLIC		TOTAL	
								Protected	Unprotected	Protected	Unprotected	Frontage	Length
UNION COUNTY	1' rise in 100 yr. flood elevation	120'	no	no septic in floodplain	no	yes	yes; not ODNR model	0.6	36.0	N.A.	N.A.	38.6	20.3
Alien Twp.			no		no								
Union Twp.			no		no								
Darby Twp.			no		no								
Jerome Twp.			no		no								
MADISON COUNTY	no building in floodplain	120'	120'	no septic in floodplain	1 acre	yes	yes; not ODNR model	0.3	26.1	0.7	0	27.1	21.8
FRANKLIN COUNTY	1/2' rise in 100 yr flood elevation			no septic in floodplain		yes	yes; ODNR model adopted						
Brown Twp.		140' rec.	140' rec.		5 acre rec.			1.9	7.9	2.5	0	12.3	12.3
Prairie Twp.								1.5	2.2	N.A.	N.A.	3.7	3.4
Pleasant Twp.								0.6	14.1	10.3	0	25.0	12.5
PICKAWAY COUNTY	1' rise in 100 yr. flood elevation			10'		yes	yes; not ODNR model	1.5	44.1	4.0	0	49.6	24.8
Darby Twp.		no	no		no								
Scioto Twp.		no	no		no								
Muhlenberg Twp.		no	no		no								
Jackson Twp.		no	no		no								

NOTE: rec. = recommended      N.A. = not applicable

National Park Service      July, 1992

## LITTLE DARBY CREEK PROTECTION MECHANISMS

	FLOODPLAIN PROTECTION	BUILDING SETBACK FROM CREEK	PROTECTED VEGETATED BUFFER	SEPTIC SETBACK FROM CREEK	MIN. LOT SIZE ALONG CREEK	SUBDIV. REGS	CONSTRUCTION EROSION/STORM WATER CONTROL	RIVER FRONTAGE IN MILES, EACH SIDE CONSIDERED SEPARATELY					
								PRIVATE		PUBLIC		TOTAL	
								Protected	Unprotected	Protected	Unprotected	Frontage	Length
MADISON COUNTY	no building in floodplain	120'	120'	no septic in floodplain	1 acre	yes	yes; not ODNR model	2.8	28.8	N.A.	N.A.	31.6	15.8
FRANKLIN COUNTY	1/2' rise in 100 yr flood elevation												
Pleasant Twp.		140' rec.	140' rec.	no septic in floodplain	5 acres rec.	yes	yes; ODNR model	4.9	4.9	0.3	0	5.2	2.8

## INCORPORATED AREAS PROTECTION MECHANISMS

	FLOODPLAIN PROTECTION	BUILDING SETBACK FROM CREEK	PROTECTED VEGETATED BUFFER	SEPTIC SETBACK FROM CREEK	MIN. LOT SIZE ALONG CREEK	SUBDIV. REGS	CONSTRUCTION EROSION/STORM WATER CONTROL	RIVER FRONTAGE IN MILES, EACH SIDE CONSIDERED SEPARATELY					
								PRIVATE		PUBLIC		TOTAL	
								Protected	Unprotected	Protected	Unprotected	Frontage	Length
PLAIN CITY (Big Darby)	1' rise in 100 yr. flood elevation	no	no	public sewer only	no	yes	no	0	0.9	0.1	0	1.0	1.0
WEST JEFFERSON (Little Darby)	1' rise in 100 yr. flood elevation	no	no	public sewer only	no	yes	no	1.0	1.0	0.5	0	1.3	1.3

NOTE: rec.= recommended      N.A. = not applicable

National Park Service

July 1992

Union County has required in its Flood Damage Prevention Resolution that any increase in the base flood elevations within 120 feet of the low water line must be granted prior approval by the Federal Emergency Management Agency. None of the four townships in the county has adopted measures to protect the vegetated buffer. However, the County is preparing to develop a comprehensive plan and will take into consideration river protection measures.

Madison County has adopted in its zoning resolution protection for the 120-foot vegetated buffer. The resolution also includes a prohibition in the 100-year floodplain of all structures and of uses which might adversely affect or unduly restrict the capacity of the channel or floodway.

The Franklin County Commissioners adopted on September 22, 1992, a comprehensive plan for Brown Township and have authorized redrafting of the County Zoning Resolution. The zoning resolution will apply to both Brown and Pleasant Townships under Franklin County zoning authority. The Plan recommends maintaining a 140-foot vegetative corridor along Big Darby Creek, a 15-foot grassed filter strip along all tributaries, and protection of open space and agriculture in the 100-year floodplain. In addition, other measures are recommended to maintain the rural nature of the area between the creek and paralleling roads as well as adjacent to the paralleling roads. These include a 5.0 acre minimum lot size and an agricultural preservation zoning district which would require 50-percent of a site preserved as open space in residential development.

Franklin County's Prairie Township has only 0.6 miles of riverfront within the proposed designated segment; this property has a deed restriction which protects the open space in the floodplain.

The Darby Creeks in Pickaway County are minimally protected by floodplain soil limitations. The great majority of soils within the 120-foot corridor are poorly drained and are unsuitable for home or septic system construction. None of the four townships in the county have adopted measures to protect the vegetated buffer.

The incorporated towns of West Jefferson and Plain City allow only public sewer rather than allowing onsite septic which, if improperly managed, can degrade water quality. In addition, both towns will soon consider including river protection measures in their new comprehensive plans.

## **State**

Many state laws and regulations exist in Ohio which can offer some form of protection for all rivers. These laws are described in the Darby Creek Plan and Environmental Assessment and include the Ohio Wildlife Act, the Ohio Endangered Wildlife Act, the Ohio Historic Preservation Act, the Ohio Environmental Protection Act, the Ohio Agricultural Pollution and Urban Sediment Abatement Control Act, the Ohio Natural Areas Act, and the Ohio Endangered Plant Law.

Several specific laws and regulations in Ohio pertain specifically to State designated Scenic Rivers. The Ohio Scenic Rivers Act enables the Director of the ODNR approval authority over public projects within the designated Scenic River corridor and outside of municipalities.

In addition, the Big and Little Darby Creek's state Scenic River designation automatically affords them a "State Resource Water" classification by the Ohio Environmental Protection Agency. The classification of "resource waters" is required under state law and encouraged by the federal Clean Water Act. The State Resource Water classification, described under the State of Ohio Water Quality Standards, requires that future discharges to the stream must have a quality equal to or greater than ambient water quality of the stream. State Resource Waters also includes waters of exceptional recreational or ecological significance; within a park system; wetlands; wildlife refuges, areas and preserves; and publicly owned lakes and reservoirs.

### **Federal**

Federal statutes provide substantial protection for the Darby Creek's water quality but less protection for resources associated with adjacent lands. The most significant federal statutes and programs with respect to river protection needs are summarized as follows:

- the federal Clean Water Act, in conjunction with the Ohio Clean Water Act and through the National Pollution Discharge Elimination System permit, serves to restrict new or increased point-source discharges which would degrade water quality in the Darby Creeks. The federal Act also protects wetland resources under the Section 404 permit program, which requires that impacts on aquatic resources be evaluated before a permit is issued. The U.S. Army Corps of Engineers exempts state designated Scenic Rivers from all nationwide and regional permits, thereby requiring case-by-case review for all fill activities which require Clean Water Act Section 401 water quality certification and Section 404 permit for fill.
- the National Flood Insurance Program (NFIP), which allows landowners to qualify for federally-subsidized flood insurance in municipalities which have restricted development in the 100-year floodplain. However, this program cannot provide full protection for the floodplain because its primary goal is to reduce property damage rather than to restrict development. In addition, in areas along the Darby Creeks where the floodplain is narrow or non-existent, floodplain development restrictions can do little to protect riparian resources.
- the National Environmental Policy Act (NEPA) helps facilitate informed decision-making about federally-assisted projects which have environmental impacts.
- the Nationwide Rivers Inventory (NRI) includes rivers which have been identified as being potentially eligible for National Wild and Scenic River Designation. Federal

agencies are required to take care to avoid or mitigate adverse effects on rivers identified in the NRI as part of their normal planning and environmental review process. The Big Darby Creek was included in this inventory because of its biodiversity, good water quality, and scenic resources.

### **Public and Private Conservation Lands**

Lands along the Darby Creeks are primarily in private ownership: 91% of the entire length of both creeks is privately owned while 09% is in public ownership. The actual mileage of protected and unprotected public and private lands are provided in Tables 1A and 1B. Protected lands include those which are public park lands and lands on which development is restricted by conservation easement or deed restriction. Presently, certain lands are quasi-protected by groups such as the Girl Scouts of America; however, this status could readily change. This discussion does not include lands protected under regulations mentioned above.

Most of the publicly owned lands along the Darby Creeks are found in the 3,100 acre Battelle-Darby Creek Metropolitan Park, owned by the Columbus and Franklin County Metropolitan Park District (Metro Parks). Plans are currently being developed for the future 1,500 acre Upper Darby Metro Park. Initially acquired by the City of Columbus to build an on-stream reservoir for flood control and water supply, the lands for the Upper Darby Metro Park have been committed strictly for conservation and recreation. Neither the on-stream reservoir nor the proposed upland reservoir were identified as a feasible water supply in the recently released "Water Beyond 2000" report.

The "Water Beyond 2000" report was prepared for the City of Columbus and consisted of a comprehensive water treatment and supply feasibility study to recommend a plan for the development of a dependable water supply for the communities served by the Columbus Division of Water through the year 2020. The Darby Creeks were evaluated for potential water supply in this study. It was determined, however, that the Darby Creek onstream alternative could result in significant negative environmental impacts and was not recommended for further study. It was also determined that the Darby Creek upground alternative would require relatively large land areas and therefor present negative environmental and socioeconomic impacts.

Of the total 139 miles of privately owned riverfront (each side of the creek considered separately) in unincorporated areas of the Big Darby Creek, 6.4 miles or 5% is protected. All of the publicly owned Big Darby Creek riverfront, 17.5 miles or 11% of the total mileage, is considered protected.

On Little Darby Creek, of the 41.4 miles of privately owned riverfront (again, each side considered separately) in unincorporated areas, 7.7 miles or 19% is protected. All of the Little Darby Creek's publicly owned riverfront, 0.3 miles or 1% of the total mileage, is considered protected.



The total length of privately protected lands for both Big and Little Darby Creeks including incorporated areas is 15 miles out of a total of 183, or 8% of all privately owned lands. The privately protected lands constitute 7% of the total mileage of private and public lands (201.5 miles). Public river frontage on both creeks totals 18.4 miles, or 9% of the total length (201.5 miles). Together, privately and publicly protected lands constitute 16% (33.5 miles of 201.5 miles) of the entire lengths of both creeks.

### **Physical Limitations to Development**

Physical limitations to additional or excessive development which could degrade the Darby Creek's outstanding resources include steep slopes, unsuitable soils, and barriers such as paralleling roads. These limitations effectively preserve portions of the Darby Creeks, particularly in the middle sections of Little and Big Darby Creeks and the lower section of Big Darby Creek.

Limiting development along the mid-section of Little Darby creek are steep slopes just west of West Jefferson. Steep slopes also limit development along small sections of the Big Darby Creek in southern Franklin County and Northern Pickaway County.

Soils unsuitable for development protect the creeks to some extent in each county. This is most evident in Pickaway County where a broad floodplain exists and few soils suitable for development are found within the 120' corridor adjacent to the Big Darby Creek.

### **Summary**

In summary, through the combined effect of current local, state, and federal laws, regulations, and programs, public and private protection of conservation land, and physical limitations to additional development, there is adequate long-term protection for the Darby Creeks' outstanding resource.

### **MANAGEMENT FRAMEWORK**

The management framework for the Darby Creeks consists of the commitment of many governmental agencies and nongovernmental groups to advocate and/or support education, research, land protection, and installation of best management practices. Collectively, these entities are called the Darby Creek Partners; they represent a dynamic composite of broad interests and have been instrumental in protecting the Darby Creeks. Their contributions to are briefly described below.

The City of Columbus in its Comprehensive Plan (draft) designated Brown Township as an Environmental Conservation District to prohibit urbanization. This plan recommends against

extending utilities, which are crucial to annexation, into the area. The Columbus Water beyond 2000 study has eliminated the concept of upground reservoirs in Brown Township from further study as mentioned above.

The Franklin County subdivision regulations state that a representative from the Ohio Scenic Rivers Program is part of the technical review team for proposed subdivisions along state designated Scenic Rivers. This association usually results in either a conservation easement or deed restriction placed on the riparian area of the subdivision.

The Mid-Ohio Regional Planning Commission (MORPC) initiated the aforementioned subdivision review in addition to drafting plans for two townships in Franklin County which include specific recommendations to protect the Darby Creeks. The protection mechanisms were described above in the section entitled "Laws, Regulations, and Implementation: Local."

The U.S. Environmental Protection Agency has provided considerable funding through Section 319 of the Clean Water Act for implementation of and education regarding best management practices (BMP's) to reduce non-point source pollution. This funding supports staff in the Franklin County Soil and Water Conservation District (SWCD) to assist in curtailing urban non-point source pollution issues in the Hellbranch subwatershed and assist with coordination of the same in the entire Darby Creek watershed. Similarly, staff was hired in the Union County SWCD to assist in curtailing agricultural non-point source pollution in the Buck Run subwatershed. In addition, Section 319 monies have been merged with other water quality programs employed in the watershed such as the United States Department of Agriculture (USDA) Hydrological Unit initiative to address agricultural non-point source pollution.

The USDA has classified the Darby Creek watershed as a USDA Hydrological Unit Area in a report prepared by the U.S. Soil Conservation Service (SCS) and U.S. Forest Service. This classification recognizes the unique ecological diversity in the watershed and enables staff to focus their resources on the Darby Creek water quality to "preserve, maintain and enhance the aquatic and riparian ecosystem." Consequently, SCS staff in each county work in conjunction with the county Soil and Water Conservation District to encourage landowners farming along the Darby Creek to adopt BMP's such as conservation tillage and controlling animal waste and sedimentation. In addition, the USDA Agricultural Stabilization Conservation Service (ASCS) provides direct cost share assistance to farmers along the creeks to install BMP's; to date \$610,000 has been committed to cost sharing in the watershed.

The National Park Service (NPS) has demonstrated its support for protection of the Big and Little Darby Creeks by providing technical assistance to the Darby Creek protection effort. Assistance has been provided in the form of an on-site visit, written recommendations for a revised application, co-hosting with the ODNR a public meeting regarding the Darby Creek designation in July of 1992, and preparing this report.

The U.S. Fish and Wildlife Service plans to allocate funds to work in the Darby Creek

ecosystem to stabilize candidate endangered species and to assist in recovery work for listed endangered species.

The Ohio Cooperative Extension Service (OCES) is an educational agency which promotes awareness about the Darby Creeks ecosystem via organizing canoe trips, farm tours, and other educational meetings with the support of USDA Hydrologic Unit Area funding. In addition, OCES has created and supports Operation Future Association, a group of farmers which promotes protecting Darby Creek while maintaining or improving agricultural income for farm operators in the watershed.

The Ohio Farm Bureau Federation has assisted the SCS, ODNR, and The Nature Conservancy in developing voluntary programs to protect the Darby Creeks Ecosystem. The Farmers National Company represents the interests of absentee landowners and tenant farmers in the watershed to the Darby Creek Partners.

The Top-of-Ohio Resource Conservation District provides coordination for interagency meetings and updates to the public regarding Darby Creek Partner activities.

The Ohio State University's Departments of City and Regional Planning and Landscape Architecture developed in association with ODNR and other agencies a program to identify agricultural and urban sources of non-point source pollution using the Geographic Information System and computer modelling. OSU is working closely with U.S. SCS and the local SWCD's to enter into the model changes in management techniques and filings of farm conservation plans. The results of this research and database analysis will be used as a tool to encourage further adoption of river protection mechanisms by land owners and local communities as well as monitor the progress of the overall protection effort.

Formal periodic biological monitoring of fish, molluscs, and/or other macroinvertebrates are conducted by the Ohio Environmental Protection Agency (OEPA), the Ohio Department of Natural Resources, and the City of Columbus. Data bases such as the Index of Biotic Integrity and the Index of Community Integrity are actively maintained by the OEPA. These data bases are used to assess biological community health and any changes which may occur in the community. Section 319 monies partially support these activities with the expectation that implementation of BMP's will be reflected in improved water quality and a healthy biological community.

The City of Columbus Division of Water is monitoring water quality in conjunction with the U.S. Geological Survey.

The ODNR oversees several programs which ranks the preservation of the Darby Creeks as a priority or has delegated specific funds for the Darby Creeks. Section 319 monies assist in funding specific non-point source education activities and projects. The ODNR contributions include the Division of Natural Areas and Preserves Scenic Rivers Program, which prepared the Darby Creek application for National Wild and Scenic River designation. The Scenic

Rivers program provides half the time of the Central Ohio Scenic River Coordinator and assistance to Division of Forestry in developing educational materials. The Scenic Rivers Program encourages tree planting through its Scenic Rivers Forest Preserve Program. Clean Water Act Section 319 funds provide salary for a Darby Creek Education Coordinator who functions under the direction of the Division of Natural Areas and Preserves and the Division of Soil and Water Conservation.

The Division of Soil and Water Conservation partially funds and supports staff hired in Union County and Franklin County SWCD's to help reduce non-point source pollution as described above. In addition, this Division provides overall direction to developing initiatives involving farmers in reducing non-point source pollution in the Darby Watershed.

The Division of Forestry, in cooperation with SCS and The Nature Conservancy, secured federal funding to hire a Forester who will promote tree planting in the watershed.

The Nature Conservancy (TNC) assisted in creating and partially funding maintenance of the Geographic Information System for the Darby Creek watershed non-point source pollution data base mentioned above. The Nature Conservancy hired a full time Darby Creek Coordinator to create new protection initiatives with other partners and assist in the purchase of priority land parcels.

## **PROSPECTS FOR CONTINUED PROTECTION**

There is a strong likelihood that the protection measures outlined in this report will not only continue but will be expanded. Given the broad commitment in achieving this goal, as demonstrated by the grassroots efforts of local citizen's action groups, the federal funds granted, and staff resources allocated, the momentum should continue to propel protection activities forward. Indeed, much has already been accomplished by these groups as indicated by land protected via easement or ownership, zoning ordinances enacted, and mechanisms to reduce non-point source pollution installed.

## **CONCLUSION**

In conclusion, we find the nominated segments of the Darby Creeks to be appropriate for inclusion in the National Wild and Scenic River System under section 2(a)(ii) of the Wild and Scenic Rivers Act. Adequate long-term protection has been afforded to its outstanding river-related resources through local land use controls affecting the river corridor, through the preservation of conservation lands by governmental and private entities, and through physical constraints to additional development. The decision that adequate long-term protection exists

for the outstanding biological resources is based on the assumption that the currently effective river protection zoning will remain intact and that more protection will be implemented.

An adequate and appropriate management framework has been established through the activities of the Darby Creek Partnership which represents the various governments and interest groups and their responsibilities in protecting and managing the river.

Finally, continuity of river protection in general is likely because of the commitment demonstrated by the activities, funding, letters, and resolutions from Darby Creek landowners; local, regional, state, and national agencies; and non-governmental local, state, and national environmental and historical organizations.

The Darby Creek protection effort provides an excellent example of collaboration among grassroots groups, local governments, agencies and non-governmental organizations to achieve the needed protection of the Darby Creeks. This process, and the results of the process in terms of river protection, fully meets all requirements of section 2(a)(ii) of the Wild and Scenic Rivers Act. It is therefore appropriate for the federal government to add to the protection of this valued resource by designating it as a component of the National Wild and Scenic River System.

## **SUPPORT FOR DESIGNATION**

For a river surrounded predominantly by privately owned lands and where protection and management of the river corridor are to be achieved through a partnership among public and private interests rather than through federal ownership, broad-based support for wild and scenic river designation is essential.

The Darby Creeks' application has strong, across-the-board support demonstrated by letters and resolutions from community residents, non-profit organizations, municipalities, legislators, and agencies. The following section describes this demonstrated support.

### **Local Government Support**

The initiative to protect the Darby Creeks arose from a local and regional grassroots effort which resulted in State Scenic River Designation in 1984. Many of the same individuals and groups have promoted protection of the creeks since then by supporting local river protection ordinances and seeking national wild and scenic designation. Specifically, resolutions supporting national designation were sent to ODNR representing the large majority of local units of government including Township Trustees, County Commissioners, and Village Mayors and Administrators.

## **State Government Support**

**Agency Support.** The Ohio Department of Natural Resources (ODNR) has invested considerable time and resources to prepare the Darby Creek Plan and application for inclusion in the National Wild and Scenic Rivers System. The ODNR designated the Big and Little Darby Creeks as part of the Ohio Scenic River System in 1984; these are the same segments included in their application for national wild and scenic river designation. The ODNR supports the Scenic Rivers staff which includes one member, the Central Ohio Scenic River Coordinator, who allocates half of her full-time position to the Darby Creeks. As mentioned in the Management Framework section, the Darby Partnership includes not only ODNR's Division of Natural Areas and Preserves, which houses the Scenic Rivers Program, but also the Division of Soil and Water Conservation. The ODNR's Division of Wildlife recognizes the importance of protecting the Darby Creeks and allocates staff activities accordingly.

**Governor's Support.** Ohio's application for national wild and scenic river designation for the three segments of Darby Creeks was initially submitted on October 1, 1990 by Governor Richard Celeste. On January 24, 1992 newly-elected Governor George Voinovich reaffirmed the state's support for the national designation.

## **Private Organization Support**

Many private organizations have submitted formal resolutions supporting national wild and scenic river designation. These include American Fisheries Society, American Rivers, the Columbus Audubon Society, the Darby Creek Association, the League of Ohio Sportsmen, the Madison County Farm Bureau, the National Water Well Association, the Ohio Environmental Council, Rivers Unlimited, the Seal of Ohio Girl Scouts, the Southwest Franklin County Historical Society, among others.

# **ENVIRONMENTAL ASSESSMENT**

## **INTRODUCTION**

The National Environmental Policy Act (NEPA) of 1970 requires federal agencies to review their proposed actions to determine whether the actions could cause significant environmental impacts. The required review will address compliance issues, analyze alternatives and assess the possible impacts of the proposed action, and prescribe mitigation measures, if necessary.

This Environmental Assessment evaluates the likely impacts of federal Wild and Scenic designation under section 2(a)(ii) of the Wild and Scenic Rivers Act on the Big and Little Darby Creek and its environs. Included in the assessment is an analysis of the potential impacts of the proposed designation and other viable alternatives on natural resources, cultural resources, and the local economy.

## **NEED FOR THE PROPOSAL**

The Big and Little Darby Creeks are free-flowing streams, possess outstanding biological resources, and receive adequate protection through the management framework described in the accompanying document. The Governor of the State of Ohio and representatives of local governments seek the additional protection benefits associated with national wild and scenic river designation. Consequently, the state has requested the Secretary of the Interior to evaluate the state's application for designation and to include these creeks in the National Wild and Scenic River System.

## **ALTERNATIVES EVALUATED**

Two primary alternatives -- No Federal Action (Alternative A) and Wild and Scenic Designation (Alternative B) -- were evaluated. State and local actions which currently protect the river are part of existing conditions and their impacts, therefore, are not evaluated in this assessment.

Alternatives that would involve a strong federal management presence were not evaluated as these would not be in keeping with either the expressed intent of the Governor of Ohio or the requirements of Section 2(a)(ii) of the Wild and Scenic Rivers Act. Similarly, alternatives that would involve a management scheme other than that proposed in the Big and Little Darby Creek Plan were not considered because, as referenced above, many of the actions described in the plan have already been taken. A description of the two alternatives considered in this assessment follows.

### **Alternative A: No Federal Action**

Under this alternative, no action would be taken by the Secretary of the Interior to designate the Big and Little Darby Creeks as a component of the National Wild and Scenic Rivers System. It is assumed that the river would continue to be a state-designated Scenic River, and that all current state and local water pollution and land use regulations which protect the creeks and their adjacent lands would also continue to be in effect.

### **Alternative B: Federal Designation**

Under this alternative, all three proposed segments of the Big and Little Darby Creeks would be designated as a state-administered component of the National Wild and Scenic Rivers System under section 2(a)(ii) of the Wild and Scenic Rivers Act. The Federal Energy Regulation Commission (FERC) would be prohibited from licensing any hydropower dam or appurtenant facilities within any of the designated segments. In addition, other federally sponsored, licensed, or funded water resource projects that would result in an adverse impact to one or more of the outstanding resources described earlier in this report would be precluded.

## **ENVIRONMENTAL IMPACTS OF THE ALTERNATIVES**

This section includes an evaluation of the impacts of the two alternatives on natural, recreational, cultural, and socioeconomic resources. However, under both alternatives, existing protection mechanisms would persist. These mechanisms are described in the Suitability section located on p. 15.

## **IMPACTS OF ALTERNATIVES ON NATURAL RESOURCES**

### **Fish, Wildlife, and Vegetation**

**Alternative A** would provide no protection from federally-assisted water resource projects having a direct and adverse effect on the Darby Creek's outstanding biological resources, nor would protection exist from the negative impacts of FERC-licensed hydropower facilities. To date there has been no expressed interest in the development of hydropower facilities on any of the segments proposed for designation.

Fish, wildlife, and vegetation, including the state-listed threatened and endangered species, described in the section on eligibility in this report, would not be protected from the potential negative impacts of federally-assisted projects, their population size and structure may degrade irreparably under this alternative. These species depend on good water quality and physical habitat to persist and could suffer adverse impacts from channelization, streambank armoring, or impoundments. Federally-listed species would receive protection from federally-assisted projects under the Endangered Species Act.



**Alternative B** would mandate protection from federally-assisted water resource projects for the outstanding biological resources described above. In addition, the Darby Creek's biological resources would be less susceptible to adverse impacts associated with federal or federally assisted non-water resources projects. While the Act's Section 7 prohibitions do not apply to non-water resource projects, the status of the three segments as components of the National Wild and Scenic Rivers System would serve to increase the scrutiny all federal agencies would give to their actions which could impair the river's resources. Thus the fish, wildlife, and vegetation resources of the river and its adjacent lands would be less likely to suffer adverse impacts from projects such as interstate utility lines, federally-funded road construction, etc., under this alternative.

### **Water Quality, Hydrology, and Free-flowing Character**

**Alternative A** Water quality criteria for discharges into the Darby Creeks is already the most stringent possible, i.e., discharge quality must be equal to or greater than the ambient stream as a result of the Darby Creek's classification as a State Resource Water. Adverse impacts to water quality in the Darby Creeks could result from federally-permitted dredge and fill projects. Lastly, even though the National Park Service would review all Section 404 of the Clean Water Act permit applications for dredge and fill activity due to their status as state designated scenic rivers, the Darby Creek's free-flowing character would not be guaranteed protection from a variety of federal or federally assisted projects such as channelization, dams, and other structures.

**Alternative B** Water quality criteria for discharges into the Darby Creeks would not change under the national designation alternative due to the existing stringent criteria mentioned above. Through review of NEPA documents, increased scrutiny of impacts on water quality caused by federal or federally assisted non-water resources projects would also occur under this alternative.

### **Scenic Resources**

**Alternative A** would provide no protection from the negative impacts on the Darby Creek's scenic values associated with federally-assisted water resources projects. Federally-assisted projects such as streambank armoring would, due to the creeks' State Scenic River Status and their presence on the Nationwide Rivers Inventory, be scrutinized to ensure that scenic values were maintained but negative impacts would not necessarily be prevented. Thus, there is the potential for long-term degradation of the Darby Creek's scenery from streambank development activities under this alternative.

Impacts associated with inappropriate creek front development would be minimal in some areas due to existing local corridor protection ordinances. The likelihood that these ordinances would endure into the future is not, however, assured.

**Alternative B** would require that all federally-sponsored water resources projects be reviewed to ensure that no adverse impacts on the creek's scenic values would result. Non-water resource projects receiving federal assistance would also receive increased scrutiny for impacts on scenic values during NEPA reviews under this alternative. Because national designation would increase public awareness about the importance of protecting the creeks, the likelihood that local corridor ordinances would retain their viability would be significantly enhanced relative to alternative A, thus providing added protection to scenic qualities associated with the creek front.

## **IMPACTS OF ALTERNATIVES ON RECREATIONAL RESOURCES**

**Alternative A** would provide no protection for recreational opportunities dependent on the existing free-flowing nature of the water which might be impacted by federally-assisted water resource projects. New dams for water supply could be built, eliminating the Darby Creek's as one of the few remaining rivers in the region on which to experience recreation on a free-flowing stream. However, the "Water Beyond 2000" report prepared for the City of Columbus states in their findings that the Big Darby Creek Onstream (reservoir) alternative is not recommended for further study.

**Alternative B** would provide the strongest possible protection for the Darby Creek's canoeing and fishing resources. The direct positive impact of designation results in preventing the construction of onstream dams. A less direct positive impacts is the increased protection of scenic and natural values as a result of NEPA reviews. Together these benefits of national designation would serve to maintain the creek's regional recreational values.

## **IMPACTS OF ALTERNATIVES ON CULTURAL RESOURCES**

### **Archaeological and Historic Resources**

**Alternative A** would fail to protect archaeological resources and historic resources which are not listed on the National Register of Historic Places from the adverse impacts of federally-assisted water resources projects. The potential impacts of any federal action involving listed structures such as the Streng Road bridge in Union County on Big Darby Creek must be considered under Section 106 of the Historic Preservation Act regardless of whether the river is designated.

**Alternative B** would serve to increase the protection afforded to non-listed historic structures and sites as well as listed historic and archeological sites threatened by non-water resource projects through the increased NEPA scrutiny of all federal actions.

## **IMPACTS OF ALTERNATIVES ON SOCIOECONOMIC VALUES**

### **Water Supply**

**Alternative A** could have a negative impact on Darby Creeks by the gradual degradation of water quality from federally-assisted projects which contribute non-point source pollution.

**Alternative B** would prohibit the construction of a new federally-funded or permitted water supply reservoir if it would create an adverse impact on the creek's free-flowing character or other outstanding resources. Increases in the regional population could create a need for an additional water supply. In this case, the national wild and scenic river designation would result in additional scrutiny of proposed withdrawals which could have a direct and adverse impact on the outstanding resources in the designated segments.

### **Hydropower**

**Alternative A** would allow the development of hydropower projects on the Darby Creeks although such developments are highly unlikely because of the gradual slope from source to mouth. The Federal Energy Regulation Commission would set environmental conditions for any hydropower projects.

**Alternative B** would have a negative impact on the development of hydropower because designation would prohibit the FERC from licensing any new facilities such as dams, water conduits, reservoirs, powerhouses, or transmission lines within the designated segments. In addition, designation would preclude hydropower developments upstream or downstream from the designated segments if the project would adversely affect the segment's outstanding resources. However, the terrain of the Darby Creeks renders hydropower projects virtually infeasible.

### **Property Values**

**Alternative A** would have either positive or negative impacts on property values depending on local land use regulations.

**Alternative B** would have either no impact or a slight positive impact on property values. Limited studies and anecdotal evidence from other national wild and scenic rivers have indicated slight increases in property value. The most comprehensive study compared changes in property value along the national wild and scenic river designated Upper Delaware River in New York to property value trends outside the designated corridor. That study found a rise in land values following designation. Studies elsewhere have found either a positive or no effect.

## **Local Economy**

**Alternative A** would have no impact on the local economy unless the river's free-flowing condition were to be altered by the creation of a reservoir. In this case, a minor increase in income in the food and reservoir-related sport service sectors could result due to the increase in recreational spending. However, as stated above, the Big Darby Creek Onstream reservoir alternative is not recommended for further consideration as a water supply for the City of Columbus.

**Alternative B** could have a modest positive impact on the local economy if area promotional materials included the national designation as one of the local amenities. If area governments choose not to promote the river's designated status, no notable impact on the local economy would result.

## **Cost to Local, State, and Federal Governments**

**Alternative A** would have little or no impact on costs to local, state, or federal governments. Possible in costs associated with monitoring of local land use ordinances may occur due to the adoption of new corridor protection ordinances.

**Alternative B** would have impacts on costs to the local, state, and federal governments similar to those under alternative A. Section 2(a)(ii) of the Wild and Scenic Rivers Act states that state-administered components of the system must be administered "at no cost to the federal government." Thus, no increased federal expenditures are anticipated. Should a slight increase in property values occur resulting from protection afforded to a national wild and scenic river, a proportional increase in property tax revenues may also be expected.

## **EVALUATION OF ALTERNATIVES**

**Alternative A** could cause gradual, long-term negative impacts on the river's biological and scenic values resulting from federally-assisted projects.

**Alternative B** would assist in reducing the gradual degradation of the Darby Creek's natural and cultural resources. Increased attention to the creeks by local, state, and federal governments may lead to the creeks' enhancement and better protection. This alternative would have a major positive impact on the preservation of the Darby Creeks' free-flowing character and their associated biological uniqueness.

Because **Alternative B** provides potentially significant benefits to outstanding natural features with no known significant socioeconomic effects, **Alternative B is the preferred alternative.**

## **CONCLUSIONS AND RECOMMENDATIONS**

### **DESIGNATION**

Based on the aforementioned findings that the nominated segments of the Darby Creeks are eligible and meet the protection requirements for designation as components of the National Wild and Scenic Rivers System under Section 2(a)(ii) of the Wild and Scenic Rivers Act, and that designation would create no significant adverse environmental impacts on the project area, the National Park Service recommends that the Secretary of the Interior designate the nominated segments.

### **CLASSIFICATION**

The National Park Service recommends the following segment classifications for the three segments of the Big and Little Darby Creeks of which the total proposed 85.9 miles for designation is comprised:

**Upper Darby Creek** Recreational. From the Champaign-Union County line (River Mile 71.8) downstream to the Conrail railroad trestle (RM 39.7), which is 0.9 mile upstream of US 40. (32.1 miles)

**Lower Darby Creek** Scenic. From the confluence with Little Darby Creek (RM 34.1) near Georgesville to the Scioto River. (34.1 miles)

**Little Darby Creek** Scenic. From Lafayette-Plain City Road Bridge (RM 20.5) to 0.8 mile upstream from the confluence with Big Darby Creek (RM 0.8). (19.7 miles)

### **RIVER MANAGEMENT**

In accordance with both Section 2(a)(ii) designation requirements and the stated wishes of the State of Ohio and the communities along the river, the National Park Service (NPS) recommends that the designated segments continue to be administered by the local governments and the State of Ohio as described in the plan and directed by the Darby Creek Scenic River Advisory Council and the Darby Creek Partnership. Further, the concept of a Memorandum of Agreement among the partnership members describing their responsibilities and commitments to the Darby Creeks should be considered. Such an MOA can be effectively used as a guidance document with periodic review and modifications as protection objectives are achieved. Continued protection of the outstanding resources identified earlier in this report should be the standard for evaluating proposed actions.

The NPS recommends that local and state groups give primary emphasis to ensuring that a vegetated corridor is protected along the Darby Creeks with immediate attention given to areas currently experiencing development pressures. This includes spot development which, cumulatively, degrades the integrity of the existing corridor. Consideration should also be given to protecting the rural nature of the Darby Creek area. To this end, the NPS supports adoption in Franklin County of the Flood Plain River Protection District and the Darby Creek Overlay District written by the Mid-Ohio Regional Planning Commission. By protecting the vegetated corridor and the rural landscape paralleling the creek, the aesthetic values, which are identified as an important resource in the eligibility section of this report, are also protected.

We encourage the development and implementation of a riparian lands protection policy along the creeks by all public land managing entities.

The NPS recommends that a state agency consistency statement be developed for protection of the Darby Creeks on all state-owned lands and that a provision for protection be incorporated in all state-sponsored activities along the creeks.

We endorse the concept of including a 120' protected natural corridor requirement for all Ohio Environmental Protection Agency permits issued for stormwater and erosion control during construction for lots five acres and larger.

We encourage state and local communities and agencies to take advantage of the elevated status given to national wild and scenic rivers when projects are evaluated for matching funds to purchase property through the Land and Water Conservation Fund. This elevated status can often leverage grant monies provided to attractive project proposals for a variety of concerns.

The NPS suggests that a more comprehensive approach be taken toward protection of the Darby Creek and its watershed by focusing not only on its unique biodiversity but also on its scenic, historical and cultural amenities. In addition, we encourage the development of the concept of "address" as the Darby Creek watershed and the development of an identity within that watershed by those who live and/or work there. Inevitably, this identity would strengthen individual and collective commitment to protecting the creeks. Such "ownership" of a place has been effective in many areas of the country including the Chesapeake Bay, the Yampa River in Colorado, and the American River in California.

In order to protect the creeks in their entirety from federally-assisted projects which may have a negative impact, the NPS recommends that the two segments of the Darby Creeks not included in this proposal be first included in the state scenic river designation and, secondly, included in the national wild and scenic designation. We have reviewed the segments which are not being considered for National Wild and Scenic River designation and found them to be eligible. This determination is based on the fact that these segments are components of the same remarkable biological community as the other segments. In addition, the Little

Darby segment is presently completely free-flowing and the Big Darby segment, while not completely free-flowing due to the presence of a 10' low dam, is considered free-flowing under National Wild and Scenic River eligibility criteria.

These two segments are described as:

**Big Darby Creek** From the Conrail railroad trestle (RM 39.7) downstream to the confluence with Little Darby Creek (RM 34.1). (5.6 miles)

**Little Darby Creek** From the confluence with Big Darby Creek to 0.8 miles upstream. (0.8 miles)

Two low dams, 10' and 2.5' in height, exist on Big Darby Creek at RM 37.35 and at RM 38.95, respectively. They are located in Prairie Township, Franklin County, on the section of the creek which is not under consideration for designation. However, these dams are considered existing low dams and would not bar its consideration for designation.

Since the NPS staff has found these segments to be eligible and suitable for national wild and scenic river designation, once the state has obtained designation for these segments, a submittal for national designation could follow by simply providing a letter of request to the Secretary of Interior with the supporting documentation of state designation.

Lastly, in accordance with the provisions of Section 2(a)(ii) of the Wild and Scenic Rivers Act, federal involvement in the administration of the designated segments should be limited to consultation by the National Park Service and other federal agencies regarding permissible activities under Section 7 of the Wild and Scenic Rivers Act. Federal activities that are not directly related to the river's status as a wild and scenic river and that do not cause an adverse impact on the aforementioned outstanding resources will not be affected by this designation. For example, designation does not preclude the Soil Conservation Service from providing technical assistance nor the Fish and Wildlife Service from pursuing endangered species recovery planning or funding fisheries restoration projects.

## **LIST OF DOCUMENTS, PERSONS, AND AGENCIES CONSULTED**

The following documents and individuals were consulted for the preparation of this report:

### **DOCUMENTS**

Big and Little Darby Creek Plan and Environmental Assessment. 1992. Ohio Department of Natural Resources.

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United States Department of Transportation

## **APPENDIX A**

**Heritage Conservation and Recreation Service**

**Procedures and Criteria for Designation State-Administered Rivers**

September 16, 1980

## Natural Programs

## Procedures and Criteria for Designating State-Administered Rivers

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- A. Purpose. This Instruction prescribes the policy and procedures to be followed by a State and the Heritage Conservation and Recreation Service in order to include a river area in the National Wild and Scenic Rivers System as a State-administered component.
- B. Applicability. This Instruction applies to HCRS, Servicewide, and to all applicant States.
- C. Reference Paragraph. This policy and procedure is adopted in order to implement Section 2(a) (11) of Public Law 90-542, as amended, the Wild and Scenic Rivers Act.
- D. Policy. It is the policy of the Service to encourage all States with State Wild and Scenic Rivers Systems to apply to the Secretary of the Interior to add eligible components of their Systems to the National System. Furthermore, it is the policy of HCRS to encourage States without river protection programs to adopt such programs.
- E. Background. Section 2(a) (11) of the Act states that the National System may comprise rivers ". . . that are designated as wild, scenic or recreational rivers by or pursuant to an act of the legislature of the State or States through which they flow, that are to be permanently administered as wild, scenic or recreational rivers by an agency or political subdivision of the State or States concerned, that are found by the Secretary of the Interior, upon application of the Governor of the State or the Governors of the States concerned, or a person or persons thereunto duly appointed by him or them, to meet the criteria established in this Act and such criteria supplementary thereto as he may prescribe, and that are approved by him for inclusion in the system . . ."

"Each river designated under clause (11) shall be administered by the State or political subdivision thereof without expense to the United States other than for administration and management of federally owned lands. For purposes of the preceding sentence, amounts made available to any State or political subdivision under the Land and Water Conservation Fund Act of 1965 or any other provision of law shall not be treated as an expense to the

OPR: W330

CANCELLATION: HCRS Manual Part 800.3 is hereby cancelled.

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United States. Nothing in this subsection shall be construed to provide for the transfer to, or administration by a State or local authority of any federally owned lands which are within the boundaries of any river included within the system under clause (11)."

Supplemental criteria were approved by the Secretaries of the Interior and Agriculture and are set forth in "Guidelines for Evaluating Wild, Scenic and Recreational River Areas Proposed for Inclusion in the National Wild and Scenic Rivers System under Section 2, Public Law 90-542, (as amended)."

F. Requirements. Based on the Act and the "Guidelines," the following requirements for designating a State-administered component of the National System would apply in most instances:

1. The values which cause the river to be qualified for the National System must be assured of permanent protection and management by or pursuant to State statute. As a means to this end, the State must adopt a program of action which will provide permanent protection for the natural and cultural qualities of the river and adjoining lands.
2. Protective devices for the river corridor may include, but shall not be limited to, fee acquisition, scenic easements or other than fee acquisition, zoning, limitations on building permits and other regulations. The intent is to provide for regulation of the use of private lands immediately abutting or affecting the river so as to preclude changes in use which would substantially alter the character of the river corridor. The State must prohibit undue adverse impacts on the river resources by its own agencies and programs and through its permitting and licensing requirements. If local zoning will be a major tool, it must either be in place or expressions of local intent must be included in the application.

G. Procedures. The following procedures for designating a State-administered component of the National System will apply in most instances:

1. The Governor must forward a letter to the Secretary requesting that the river be added to the National System and documenting the actions taken to comply with requirements 1 and 2 above. The application shall indicate the extent of public involvement in the decision to protect the river. The application should include sufficient environmental data to permit the Secretary to assess the environmental impact of adding the river to the National System.

2. The Secretary's determination as to whether Requirements 1 and 2 above have been adequately met would be based on:
  - a. An evaluation of the program of action prepared by the State and a field reconnaissance of the manner in which the State is implementing its program, or
  - b. If a Federal study has been completed, the extent to which the conceptual plan, as contained in that report, is being implemented.
3. The Secretary must determine that the river possesses outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values and that it qualifies for inclusion in the National System.
4. The Secretary must submit the proposal to the Secretaries of Agriculture and Army, the Chairman of the Federal Energy Regulatory Commission and the administrators of other affected Federal agencies for review and comment as required in Section 4(c) of the act.
5. Finally, if the State's request is approved by the Secretary, the river would be added to the National System by publishing notice in the Federal Register.



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Director