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# Final Environmental Impact Statement

## Proposed Designation of Five California Rivers in the National Wild and Scenic Rivers System

U.S. Department of the Interior  
Heritage Conservation and  
Recreation Service

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Volume I  
Appendixes

APPENDIX A

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

HCRS Instruction 8010.1

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)(ii) 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)(ii) 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 (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. 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

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page 8-5

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 (ii)."

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.

APPENDIX B

NATIONAL WILD AND SCENIC RIVERS ACT

Wild and Scenic Rivers Act  
as amended  
(through P.L. 95-625, November 10, 1978)

An Act

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

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

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

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

SEC. 2. (a) The national wild and scenic rivers system shall comprise rivers (i) that are authorized for inclusion therein by Act of Congress, or (ii) that are designated as wild, scenic or recreational rivers by or pursuant to an act of the legislature of the State or States through which they flow, that are to be permanently administered as wild, scenic or recreational rivers by an agency or political subdivision of the State or States concerned.

that are found by the Secretary of the Interior, upon application of the Governor of the State or the Governors of the States concerned, or a person or persons thereunto duly appointed by him or them, to meet the criteria established in this Act and such criteria supplementary thereto as he may prescribe, and that are approved by him for inclusion in the system, including, upon application of the Governor of the State concerned, the Allagash Wilderness Waterway, Maine; that segment of the Wolf River, Wisconsin, which flows through Langlade County; and that segment of the New River in North Carolina extending from its confluence with Dog Creek downstream approximately 28.5 miles to the Virginia State line.

Upon receipt of an application under clause (iii) of this subsection, the Secretary shall notify the Federal Energy Regulatory Commission and publish such application in the Federal Register. 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. For purposes of the preceding sentence, amounts made available to any State or political subdivision under the Land and Water Conservation Act of 1965 or any other provision of law shall not be treated as an expense to the 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 (iii).

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

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

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

(3) Recreational river areas—Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.

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

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

Wild and Scenic Rivers Act.

16 U.S.C. 1271 et seq.

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

(3) FEATHER, CALIFORNIA.—The entire Middle Fork downstream from the confluence of its tributary streams one kilometer south of Beckwourth, California; to be administered by the Secretary of Agriculture.

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

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

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

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

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

(9) LOWER SAINT CROIX, MINNESOTA AND WISCONSIN.—The segment between the dam near Taylors Falls and its confluence with the Mississippi River: *Provided*, (i) That the upper twenty-seven miles of this river segment shall be administered by the Secretary of the Interior; and (ii) That the lower twenty-five miles shall be designated by the Secretary upon his approval of an application for such designation made by the Governors of the States of Minnesota and Wisconsin.

(10) CHATTOOGA, NORTH CAROLINA, SOUTH CAROLINA, GEORGIA.—The segment from 0.5 mile below Cashiers Lake in North Carolina to Tugaloo Reservoir, and the West Fork Chattooga River from its junction with Chattooga upstream 7.5 miles, as generally depicted on the boundary map entitled "Proposed Wild and Scenic Chattooga River and Corridor Boundary" dated August 1973; to be administered by the Secretary of Agriculture: *Provided*, That the Secretary of Agriculture shall take such action as is provided for under subsection (b) of this section within one year from the date of enactment of this paragraph (10): *Provided further*, That for the purposes of this river, there are authorized to be appropriated not more than \$3,200,000 for the acquisition of lands and interests in lands and not more than \$809,000 for development.

(11) Rapid River, Idaho.—The segment from the headwaters of the main stem to the national forest boundary and the segment of the West Fork from the wilderness boundary downstream to the confluence with the main stem, as a wild river.

(12) Snake, Idaho and Oregon.—The segment from Hells Canyon Dam downstream to Pittsburgh Landing, as a wild river; and the segment from Pittsburgh Landing downstream to an eastward extension of the north boundary of section 1, township 3 north, range 47 east, Willamette meridian, as a scenic river.

(13) FLATHEAD, MONTANA.—The North Fork from the Canadian border downstream to its confluence with the Middle Fork; the Middle Fork from its headwaters to its confluence to the South Fork; and the South Fork from its origin to the Hungry Horse Reservoir, as generally depicted on the map entitled "Proposed Flathead Wild and Scenic River Boundary Location" dated February 1978; to be administered by agencies of the Departments of the Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President. Action required to be taken under subsection (b) of this section shall be taken within one year from the date of enactment of this paragraph. For the purposes of this river, there are authorized to be appropriated not more than \$6,719,000 for the acquisition of lands and interests in lands. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.

(14) MISSOURI, MONTANA.—The segment from Fort Benton one hundred and forty-nine miles downstream to Robinson Bridge, as generally depicted on the boundary map entitled "Missouri Breaks Freeflowing River Proposal", dated October 1973, to be administered by the Secretary of the Interior. For the purposes of this Act, there are authorized to be appropriated not more than \$1,500,000 for the acquisition of lands and interests in lands. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.

(15) OBED, TENNESSEE.—The segment from the western edge of the Catosa Wildlife Management Area to the confluence with the Emory River; Clear Creek from the Morgan County line to the confluence with the Obed River; Daddys Creek from the Morgan County line to the confluence with the Obed River; and the Emory River from the confluence with the Obed River to the Nemo bridge as generally depicted and classified on the stream classification map dated December 1973. The Secretary of the Interior shall take such action, with the participation of the State of Tennessee as is provided for under subsection (b) within one year following the date of enactment of this paragraph. The development plan required by such subsection (b) shall include cooperative agreements between the State of Tennessee acting through the Wildlife Resources Agency and the Secretary of the Interior. Lands within the Wild and Scenic River boundaries that are currently part of the Catosa Wildlife Management Area shall continue to be owned and managed by the Tennessee Wildlife Resources Agency in such a way as to protect the wildlife resources and primitive character of the area, and without further development of roads, campsites, or associated recreational facilities unless deemed necessary by that agency for wildlife management practices. The Obed Wild and Scenic River shall be managed by the Secretary of the Interior. For the purposes of carrying out the provisions of this Act with respect to this river, there are authorized to be appropriated such sums as may be necessary, but not to exceed \$2,000,000 for the acquisition of lands or interests in lands and not to exceed \$400,000 for development. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.

(16) PERE MARQUETTE, MICHIGAN.—The segment downstream from the junction of the Middle and Little South Branches to its junction with United States Highway 31 as generally depicted on the boundary map entitled "Proposed Boundary Location, Pere Marquette Wild and Scenic River," to be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public, the Secretary shall take such action as is provided for under subsection (b) with respect to the segment referred to in this paragraph within one year from the date of enactment of this paragraph. Any development or management plan prepared pursuant to subsection (b) shall include (a) provisions for the dissemination of information to river users and (b) such regulations relating to the recreational and other uses of the river as may be necessary in order to protect the area comprising such river (including lands contiguous or adjacent thereto) from damage or destruction by reason of overuse and to protect its scenic, historic, esthetic and scientific values. Such regulations shall further contain procedures and means which shall be utilized in the enforcement of such development and management plan. For the purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated not more than \$8,125,000 for the acquisition of lands or interests in lands and \$402,000 for development.

(17) RIO GRANDE, TEXAS.—The segment on the United States side of the river from river mile 842.3 above Mariscal Canyon downstream to river mile 651.1 at the Terrell-Val Verde County line: to be administered by the Secretary of the Interior. The Secretary shall, within two years after the date of enactment of this paragraph, take such action with respect to the segment referred to in this paragraph as is provided for under subsection (b). The action required by such subsection (b) shall be undertaken by the Secretary, after consultation with the United States Commissioner, International Boundary and Water Commission, United States and Mexico, and appropriate officials of the State of Texas and its political subdivisions. The development plan required by subsection (b) shall be construed to be a general management plan only for the United States side of the river and such plan shall include, but not be limited to, the establishment of a detailed boundary which shall include an average of not more than 160 acres per mile. Nothing in this Act shall be construed to be in conflict with—

(A) the commitments or agreements of the United States made by or in pursuance of the treaty between the United States and Mexico regarding the utilization of the Colorado and Tijuana Rivers and of the Rio Grande, signed at Washington, February 1944 (59 Stat. 1219), or

(B) the treaty between the United States and Mexico regarding maintenance of the Rio Grande and Colorado River as the international boundary between the United States and Mexico, signed November 23, 1970.

For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated such sums as may be necessary, but not more than \$1,850,000 for the acquisition of lands and interests in lands and not more than \$1,800,000 for development.

(18) SKAGIT, WASHINGTON.—The segment from the pipeline crossing at Sedro-Woolley upstream to and including the mouth of Bacon Creek; the Cascade River from its mouth to the junction of its North and South Forks; the South Fork to the boundary of the Glacier Peak Wilderness Area; the Smattie River from its mouth to the boundary of the Glacier Peak Wilderness Area at Milk Creek; the Sauk River from its mouth to its junction with Elliott Creek; the North Fork

of the Sauk River from its junction with the South Fork of the Sauk to the boundary of the Glacier Peak Wilderness Area; as generally depicted on the boundary map entitled "Skagit River—River Area Boundary," all segments to be administered by the Secretary of Agriculture. Riprapping related to natural channels with natural rock along the shorelines of the Skagit segment to preserve and protect agricultural land shall not be considered inconsistent with the values for which such segment is designated. After consultation with affected Federal agencies, State and local government and the interested public, the Secretary shall take such action as is provided for under subsection (b) with respect to the segments referred to in this paragraph within one year from the date of enactment of this paragraph; as part of such action, the Secretary of Agriculture shall investigate that portion of the North Fork of the Cascade River from its confluence with the South Fork to the boundary of the North Cascades National Park and if such portion is found to qualify for inclusion, it shall be treated as a component of the Wild and Scenic Rivers System designated under this section upon publication by the Secretary of notification to that effect in the Federal Register. For the purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph there are authorized to be appropriated not more than \$11,734,000 for the acquisition of lands or interest in lands and not more than \$332,000 for development.

(19) UPPER DELAWARE RIVER, NEW YORK AND PENNSYLVANIA.—The segment of the Upper Delaware River from the confluence of the East and West branches below Hancock, New York, to the existing railroad bridge immediately downstream of Cherry Island in the vicinity of Sparrow Bush, New York, as depicted on the boundary map entitled "The Upper Delaware Scenic and Recreational River," dated April 1973; to be administered by the Secretary of the Interior. Subsection (b) of this section shall not apply, and the boundaries and classifications of the river shall be as specified on the map referred to in the preceding sentence, except to the extent that such boundaries or classifications are modified pursuant to section 705(c) of the National Parks and Recreation Act of 1978. Such boundaries and classifications shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph there are authorized to be appropriated such sums as may be necessary.

(20) DELAWARE, NEW YORK, PENNSYLVANIA AND NEW JERSEY.—The segment from the point where the river crosses the northern boundary of the Delaware Water Gap National Recreation Area to the point where the river crosses the southern boundary of such recreation area; to be administered by the Secretary of the Interior. For purposes of carrying out this Act with respect to the river designated by this paragraph, there are authorized to be appropriated such sums as may be necessary. Action required to be taken under subsection (b) of this section with respect to such segment shall be taken within one year from the date of enactment of this paragraph, except that, with respect to such segment, in lieu of the boundaries provided for in such subsection (b), the boundaries shall be the banks of the river. Any visitors facilities established for purposes of use and enjoyment of the river under the authority of the Act establishing the Delaware Water Gap National Recreation Area shall be compatible with the purposes of this Act and shall be located at an appropriate distance from the river.

(21) AMERICAN, CALIFORNIA.—The North Fork from a point 0.3 mile above Heath Springs downstream to a point approximately 1,000 feet upstream of the Colfax-Iowa Hill Bridge, including the Gold Run Addition Area, as generally depicted on the map entitled "Proposed Boundary Maps" contained in Appendix I of the document dated January 1978 and entitled "A Proposal: North Fork American Wild and Scenic River" published by the United States Forest Service, Department of Agriculture; to be designated as a wild river and to be administered by agencies of the Departments of Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President. Action required to be taken under subsection (b) shall be taken within one year after the date of the enactment of this paragraph; in applying such subsection (b) in the case of the Gold Run Addition Area, the acreage limitation specified therein shall not apply and in applying section 6(g)(3), January 1 of the calendar year preceding the calendar year in which this paragraph is enacted shall be substituted for January 1, 1967. For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated not more than \$550,000 for the acquisition of lands and interests in land and not more than \$765,000 for development.

(22) MISSOURI RIVER, NEBRASKA, SOUTH DAKOTA.—The segment from Gavins Point Dam, South Dakota, fifty-nine miles downstream to Ponca State Park, Nebraska, as generally depicted in the document entitled "Review Report for Water Resources Development, South Dakota, Nebraska, North Dakota, Montana" prepared by the Division Engineer, Missouri River Division, Corps of Engineers, dated August 1977 (hereinafter in this paragraph referred to as the "August 1977 Report"). Such segment shall be administered as a recreational river by the Secretary. The Secretary shall enter into a written cooperative agreement with the Secretary of the Army (acting through the Chief of Engineers) for construction and maintenance of bank stabilization work and appropriate recreational development. After public notice and consultation with the State and local governments, other interested organizations and associations, and the interested public, the Secretary shall take such action as is required pursuant to subsection (b) within one year from the date of enactment of this section. In administering such river, the Secretary shall, to the extent, and in a manner, consistent with this section—

(A) provide (i) for the construction by the United States of such recreation river features and streambank stabilization structures as the Secretary of the Army (acting through the Chief of Engineers) deems necessary and advisable in connection with the segment designated by this paragraph, and (ii) for the operation and maintenance of all streambank stabilization structures constructed in connection with such segment (including both structures constructed before the date of enactment of this paragraph and structures constructed after such date, and including both structures constructed under the authority of this section and structures constructed under the authority of any other Act); and

(B) permit access for such pumping and associated pipelines as may be necessary to assure an adequate supply of water for owners of land adjacent to such segment and for fish, wildlife, and recreational uses outside the river corridor established pursuant to this paragraph.

The streambank structures to be constructed and maintained under subparagraph (A) shall include, but not be limited to, structures at such sites as are specified with respect to such segment on pages 62 and 63 of the August 1977 Report, except that sites for such structures may be relocated to the extent deemed necessary by the Secretary of the Army (acting through the Chief of Engineers) by reason of physical changes in the river or river area. The Secretary of the Army (acting through the Chief of Engineers) shall condition the construction or maintenance of any streambank stabilization structure or of any recreational river feature at any site under subparagraph (A) (i) upon the availability to the United States of such land and interests in land in such ownership as he deems necessary to carry out such construction or maintenance and to protect and enhance the river in accordance with the purposes of this Act. Administration of the river segment designated by this paragraph shall be in coordination with, and pursuant to the advice of a Recreational River Advisory Group which may be established by the Secretary. Such Group may include in its membership, representatives of the affected States and political subdivisions thereof, affected Federal agencies, and such organized private groups as the Secretary deems desirable. Notwithstanding the authority to the contrary contained in subsection 6(a) of this Act, no land or interests in land may be acquired without the consent of the owner: *Provided*, That not to exceed 3 per centum of the acreage within the designated river boundaries may be acquired in less than fee title without the consent of the owner, in such instance of the Secretary's determination that activities are occurring, or threatening to occur thereon which constitute serious damage or threat to the integrity of the river corridor, in accordance with the values for which this river was designated. For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated not to exceed \$21,000,000, for acquisition of lands and interests in lands and for development.

(23) SAINT JOE, IDAHO.—The segment above the confluence of the North Fork of the Saint Joe River to Spruce Tree Campground, as a recreational river; the segment above Spruce Tree Campground to Saint Joe Lake, as a wild river, as generally depicted on the map entitled "Saint Joe River Corridor Map" on file with the Chief of the Forest Service and dated September 1978; to be administered by the Secretary of Agriculture. Notwithstanding any other provision of law, the classification of the Saint Joe River under this paragraph and the subsequent development plan for the river prepared by the Secretary of Agriculture shall at no time interfere with or restrict the maintenance, use, or access to existing or future roads within the adjacent lands nor interfere with or restrict present use of or future construction of bridges across that portion of the Saint Joe designated as a "recreational river" under this paragraph. Dredge or placer mining shall be prohibited within the banks or beds of the main stem of the Saint Joe and its tributary streams in their entirety above the confluence of the main stem with the North Fork of the river. Nothing in this Act shall be deemed to prohibit the removal of sand and gravel above the high water mark of the Saint Joe River and its tributaries within the river corridor by or under the authority of any public body or its agents for the purposes of construction or maintenance of roads. The Secretary shall take such action as is required under subsection (b) of this section within one year from the date of enactment of this paragraph. For the purposes of this river, there are authorized to be appropriated not more than \$1,000,000 for the acquisition of lands or interest in lands.

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

SEC. 4. (a) The Secretary of the Interior or, where national forest lands are involved, the Secretary of Agriculture or, in appropriate cases, the two Secretaries jointly shall study and submit to the President reports on the suitability or unsuitability for addition to the national wild and scenic rivers system of rivers which are designated herein or hereafter by the Congress as potential additions to such system. The President shall report to the Congress his recommendations

and proposals with respect to the designation of each such river or section thereof under this Act. Such studies shall be completed and such reports shall be made to the Congress with respect to all rivers named in subparagraphs 3(a) (1) through (27) of this Act no later than October 2, 1978. In conducting these studies the Secretary of the Interior and the Secretary of Agriculture shall give priority to those rivers (i) with respect to which there is the greatest likelihood of developments which, if undertaken, would render the rivers unsuitable for inclusion in the national wild and scenic rivers system, and (ii) which possess the greatest proportion of private lands within their areas. Every such study and plan shall be coordinated with any water resources planning

involving the same river which is being conducted pursuant to the Water Resources Planning Act (79 Stat. 244; 42 U.S.C. 1962 et seq.).

Each report, including maps and illustrations, shall show among other things the area included within the report; the characteristics which do or do not make the area a worthy addition to the system; the current status of land ownership and use in the area; the reasonably foreseeable potential uses of the land and water which would be enhanced, foreclosed, or curtailed if the area were included in the national wild and scenic rivers system; the Federal agency (which in the case of a river which is wholly or substantially within a national forest, shall be the Department of Agriculture) by which it is proposed the area should be added to the system, be administered; the extent to which it is proposed that such administration, including the costs thereof, be shared by State and local agencies; and the estimated cost to the United States of acquiring necessary lands and interests in land and of administering the area, should it be added to the system. Each such report shall be printed as a Senate or House document.

(b) Before submitting any such report to the President and the Congress, copies of the proposed report shall, unless it was prepared jointly by the Secretary of the Interior and the Secretary of Agriculture, be submitted by the Secretary of the Interior to the Secretary of Agriculture or by the Secretary of Agriculture to the Secretary of the Interior, as the case may be, and to the Secretary of the Army, the Chairman of the Federal Power Commission, the head of any other affected Federal department or agency and, unless the lands proposed to be included in the area are already owned by the United States or have already been authorized for acquisition by Act of Congress, the Governor of the State or States in which they are located or an officer designated by the Governor to receive the same. Any recommendations or comments on the proposal which the said officials furnish the Secretary or Secretaries who prepared the report within ninety days of the date on which the report is submitted to them, together with the Secretary's or Secretaries' comments thereon, shall be included with the transmittal to the President and the Congress.

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

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

(b) Allegheny, Pennsylvania: The segment from its mouth to the town of East Brady, Pennsylvania.

(2) Bruneau, Idaho: The entire main stem.

(3) Buffalo, Tennessee: The entire river.

(4) Chattooga, North Carolina, South Carolina, and Georgia: The entire river.

(5) Clarion, Pennsylvania: The segment between Ridgway and its confluence with the Allegheny River.

(6) Delaware, Pennsylvania and New York: The segment from Hancock, New York, to Matamoras, Pennsylvania.

(7) Flathead, Montana: The North Fork from the Canadian border downstream to its confluence with the Middle Fork; the Middle Fork from its headwaters to its confluence with the South Fork; and the South Fork from its origin to Hungry Horse Reservoir.

(8) Gasconade, Missouri: The entire river.

(9) Illinois, Oregon: The entire river.

(10) Little Beaver, Ohio: The segment of the North and Middle Forks of the Little Beaver River in Columbiana County from a point in the vicinity of Negly and Elkton, Ohio, downstream to a point in the vicinity of East Liverpool, Ohio.

(11) Little Miami, Ohio: That segment of the main stem of the river, exclusive of its tributaries, from a point at the Warren-Clermont County line at Loveland, Ohio, upstream to the sources of Little Miami including North Fork.

(12) Maumee, Ohio and Indiana: The main stem from Perrysburg, Ohio, to Fort Wayne, Indiana, exclusive of its tributaries in Ohio and inclusive of its tributaries in Indiana.

(13) Missouri, Montana: The segment between Fort Benton and Ryan Island.

(14) Moyle, Idaho: The segment from the Canadian border to its confluence with the Kootenai River.

(15) Obed, Tennessee: The entire river and its tributaries, Clear Creek and Daddys Creek.

(16) Penobscot, Maine: Its east and west branches.

(17) Pere Marquette, Michigan: The entire river.

(18) Pine Creek, Pennsylvania: The segment from Ansonia to Waterville.

(19) Priest, Idaho: The entire main stem.



(20) Rio Grande, Texas: The portion of the river between the west boundary of Hudspeth County and the east boundary of Terrell County on the United States side of the river: *Provided*, That before undertaking any study of this potential scenic river, the Secretary of the Interior shall determine, through the channels of appropriate executive agencies, that Mexico has no objection to its being included among the studies authorized by this Act.

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

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

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

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

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

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

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

(28) American, California: The North Fork from the Cedars to the Auburn Reservoir.

(29) Au Sable, Michigan: The segment downstream from Foot Dam to Oscoda and upstream from Loud Reservoir to its source, including its principal tributaries and excluding Mio and Barnfield Reservoirs.

(30) Big Thompson, Colorado: The segment from its source to the boundary of Rocky Mountain National Park.

(31) Cache la Poudre, Colorado: Both forks from their sources to their confluence, thence the Cache la Poudre to the eastern boundary of Roosevelt National Forest.

(32) Cahaba, Alabama: The segment from its junction with United States Highway 31 south of Birmingham downstream to its junction with United States Highway 60 west of Selma.

(33) Clark's Fork, Wyoming: The segment from the Clark's Fork Canyon to the Crandall Creek Bridge.

(34) Colorado, Colorado and Utah: The segment from its confluence with the Dolores River, Utah, upstream to a point 19.5 miles from the Utah-Colorado border in Colorado.

(35) Conejos, Colorado: The three forks from their sources to their confluence, thence the Conejos to its first junction with State Highway 17, excluding Platono Reservoir.

(36) Elk, Colorado: The segment from its source to Clark.

(37) Encampment, Colorado: The Main Fork and West Fork to their confluence, thence the Encampment to the Colorado-Wyoming border, including the tributaries and headwaters.

(38) Green, Colorado: The entire segment within the State of Colorado.

(39) Gunnison, Colorado: The segment from the upstream (southern) boundary of the Black Canyon of the Gunnison National Monument to its confluence with the North Fork.

(40) Illinois, Oklahoma: The segment from Tenkiller Ferry Reservoir upstream to the Arkansas-Oklahoma border, including the Flint and Barren Fork Creeks.

(41) John Day, Oregon: The main stem from Service Creek Bridge (at river mile 157) downstream to Tumwater Falls (at river mile 10).

(42) Kettle, Minnesota: The entire segment within the State of Minnesota.

(43) Los Pinos, Colorado: The segment from its source, including the tributaries and headwaters within the San Juan Primitive Area, to the northern boundary of the Granite Peak Ranch.

(44) Manistee, Michigan: The entire river from its source to Manistee Lake, including its principal tributaries and excluding Tippy and Hodenpyl Reservoirs.

(45) Nolichucky, Tennessee and North Carolina: The entire main stem.

(46) Owyhee, South Fork, Oregon: The main stem from the Oregon-Idaho border downstream to the Owyhee Reservoir.

(47) Piedra, Colorado: The Middle Fork and East Fork from their sources to their confluence, thence the Piedra to its junction with Colorado Highway 100.

(48) Shepaug, Connecticut: The entire river.

(49) Sipsey Fork, West Fork, Alabama: The segment, including its tributaries, from the impoundment formed by the Lewis M. Smith Dam upstream to its source in the William B. Bankhead National Forest.

(50) Snake, Wyoming: The segment from the southern boundaries of Teton National Park to the entrance to Palisades Reservoir.

(51) Sweetwater, Wyoming: The segment from Wilson Bar downstream to Spring Creek.

(52) Tuolumne, California: The main river from its source on Mount Dana and Mount Lyell in Yosemite National Park to Don Pedro Reservoir.

(53) Upper Mississippi, Minnesota: The segment from its source at the outlet of Itaska Lake to its junction with the northwestern boundary of the city of Anoka.

(54) Wisconsin, Wisconsin: The segment from Prairie du Sac to its confluence with the Mississippi River at Prairie du Chien.

(55) Yampa, Colorado: The segment within the boundaries of the Dinosaur National Monument.

(56) Dolores, Colorado: The segment of the main stem from Rico upstream to its source, including its headwaters; the West Dolores from its source, including its headwaters, downstream to its confluence with the main stem; and the segment from the west boundary, section 2, township 38 north, range 16 west, NMPM, below the proposed McPhee Dam, downstream to the Colorado-Utah border, excluding the segment from one mile above Highway 90 to the confluence of the San Miguel River.

(57) Snake, Washington, Oregon, and Idaho: The segment from an eastward extension of the north boundary of section 1, township 5 north, range 47 east, Willamette meridian, downstream to the town of Asotin, Washington.

(58) Housatonic, Connecticut: The segment from the Massachusetts-Connecticut boundary downstream to its confluence with the Shepaug River.

(59) KERN, CALIFORNIA.—The main stem of the North Fork from its source to Isabella Reservoir excluding its tributaries.

(60) LOXAHATCHEE, FLORIDA.—The entire river including its tributary, North Fork.

(61) Ogeechee, Georgia.—The entire river.

(62) SALT, ARIZONA.—The main stem from a point on the north side of the river intersected by the Fort Apache Indian Reservation boundary (north of Buck Mountain) downstream to Arizona State Highway 298.

(63) VERDE, ARIZONA.—The main stem from the Prescott National Forest boundary near Paulden to the vicinity of Table Mountain, approximately 14 miles above Horseshoe Reservoir, except for the segment not included in the national forest between Clarkdale and Camp Verde, North segment.

(64) SAN FRANCISCO, ARIZONA.—The main stem from confluence with the Gila upstream to the Arizona-New Mexico border, except for the segment between Clifton and the Apache National Forest.

(65) FISH CREEK, NEW YORK.—The entire East Branch.

(66) BLACK CREEK, MISSISSIPPI.—The segment from Big Creek Landing in Forrest County downstream to Old Alexander Bridge Landing in Stone County.

(67) ALLEGHENY, PENNSYLVANIA.—The main stem from Kinzua Dam downstream to East Brady.

(68) CACAPON, WEST VIRGINIA.—The entire river.

(69) ESCATAWPA, ALABAMA AND MISSISSIPPI.—The segment upstream from a point approximately one mile downstream from the confluence of the Escatawpa River and Jackson Creek to a point where the Escatawpa River is joined by the Yellowhouse Branch in Washington County, Alabama, near the town of Deer Park, Alabama; and the segment of Brushy Creek upstream from its confluence with the Escatawpa to its confluence with Scarborough Creek.

(70) MYAKKA, FLORIDA.—The segment south of the southern boundary of the Myakka River State Park.

(71) SOLDIER CREEK, ALABAMA.—The segment beginning at the point where Soldier Creek intersects the south line of section 21, township 7 south, range 6 east, downstream to a point on the south line of section 6, township 8 south, range 6 east, which point is 1,322 feet west of the south line of section 5, township 8 south, range 6 east in the county of Baldwin, State of Alabama.

(72) RED, KENTUCKY.—The segment from Highway numbered 746 (also known as Spradlin Bridge) in Wolf County, Kentucky, downstream to the point where the river descends below seven hundred feet above sea level (in its normal flow) which point is at the Menifee and Powell County line just downstream of the iron bridge where Kentucky Highway numbered 77 passes over the river.

(73) BLUESTONE, WEST VIRGINIA.—From its headwaters to its confluence with the New.

(74) GATLEY, WEST VIRGINIA.—Including the tributaries of the Meadow and the Cranberry, from the headwaters to its confluence with the New.

(75) GREENSBUR, WEST VIRGINIA.—From its headwaters to its confluence with the New.

(b)(1) The studies of rivers named in subparagraphs (29) through (55) of subsection (a) of this section shall be completed and reports thereon submitted by not later than October 2, 1979: *Provided*, That with respect to the rivers named in subparagraphs (35), (50), and (51), the Secretaries shall not commence any studies until (i) the State legislature has acted with respect to such rivers or (ii) one year from the date of enactment of this Act, whichever is earlier.

(2) The study of the river named in subparagraph (56) of subsection (a) of this section shall be completed and the report thereon submitted by not later than January 3, 1976.

(3) The studies of the rivers named in paragraphs (39) through (72) of subsection (a) shall be completed and reports submitted thereon not later than five full fiscal years after the date of the enactment of this paragraph. The study of rivers named in paragraphs (62) through (64) of subsection (a) shall be completed and the report thereon submitted by not later than April 1981.

(4) There are authorized to be appropriated for the purpose of conducting the studies of the rivers named in subparagraphs (29) through (58) such sums as may be necessary, but not more than \$4,060,000. There are authorized to be appropriated for the purpose of conducting the studies of the rivers named in subparagraphs (39) through (74) such sums as may be necessary.

(c) The study of any of said rivers shall be pursued in close cooperation with appropriate agencies of the affected State and its political subdivisions as possible, shall be carried on jointly with such



agencies if request for such joint study is made by the State, and shall include a determination of the degree to which the State or its political subdivisions might participate in the preservation and administration of the river should it be proposed for inclusion in the national wild and scenic rivers system.

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

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

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

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

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

(e) The head of any Federal department or agency having administrative jurisdiction over any lands or interests in land within the authorized boundaries of any federally administered component of the national wild and scenic rivers system designated in section 3 of this Act or hereafter designated for inclusion in the system by Act of Congress is authorized to transfer to the appropriate secretary jurisdiction over such lands for administration in accordance with the provisions of this Act. Lands acquired by or transferred to the Secretary of Agriculture for the purposes of this Act within or adjacent to a national forest shall upon such acquisition or transfer become national forest lands.

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

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

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

(3) The term "improved property", as used in this Act, means a detached, one-family dwelling (hereinafter referred to as "dwelling"), the construction of which was begun before January 1, 1967,

(except where a different date is specifically provided by law with respect to any particular river) together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the appropriate Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

Sec. 7. (a) The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), on or directly affecting any river which is designated in section 3 of this Act as a component of the national wild and scenic rivers system or which is hereafter designated for inclusion in that system, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area on the date of approval of this Act. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration, or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior or the Secretary of Agriculture, as the case may be, in writing of its intention so to do at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this Act and would affect the component and the values to be protected by it under this Act.

Any license heretofore or hereafter issued by the Federal Power Commission affecting the New River of North Carolina shall continue to be effective only for that portion of the river which is not included in the National Wild and Scenic Rivers System pursuant to section 2 of this Act and no project or undertaking so licensed shall be permitted to invade, inundate or otherwise adversely affect such river segment.

(b) The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act, as amended, on or directly affecting any river which is listed in section 3, subsection (a), of this Act, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river might be designated, as determined by the Secretary responsible for its study or approval—

(i) during the ten-year period following enactment of this Act or for a three complete fiscal year period following any Act of Congress designating any river for potential addition to the national wild and scenic rivers system, whichever is later, unless, prior to the expiration of the relevant period, the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, on the basis of study, determine that such river should not be included in the national wild and scenic rivers system and notify the Committees on Interior and Insular Affairs of the United States Congress, in writing, including a copy of the study upon which the determination was made, at least one hundred and eighty days while Congress is in session prior to publishing notice to that effect in the Federal Register:

Provided, That if any Act designating any river or rivers for potential addition to the national wild and scenic rivers system provides for a period for the study or studies which exceeds such three complete fiscal year period the period provided for in such Act shall be substituted for the three complete fiscal year period in the provisions of this clause (i); and (ii) during such additional period thereafter as, in the case of any river the report which is submitted to the President and the Congress, is

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

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

so and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this Act and would affect the component and the values to be protected by it under this Act.

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

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

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

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

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

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

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

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

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

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

Sec. 10. (a) Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its esthetic, scenic, historic, archeologic, and scientific features. Management plans for any such component may establish varying degrees of intensity for its protection and development, based on the special attributes of the area.

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

(c) Any component of the national wild and scenic rivers system that is administered by the Secretary of the Interior through the National Park Service shall become a part of the national park system, and any such component that is administered by the Secretary through the Fish and Wildlife Service shall become a part of the national wildlife refuge system. The lands involved shall be subject to the provisions of this Act and the Acts under which the national park system or national wildlife system, as the case may be, is administered, and in case of conflict between the provisions of these Acts, the more

restrictive provisions shall apply. The Secretary of the Interior, in his administration of any component of the national wild and scenic rivers system, may utilize such general statutory authorities relating to areas of the national park system and such general statutory authorities otherwise available to him for recreation and preservation purposes and for the conservation and management of natural resources as he deems appropriate to carry out the purposes of this Act.

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

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

Sec. 11. (a) The Secretary of the Interior shall encourage and assist the States to consider, in formulating and carrying out their comprehensive statewide outdoor recreation plans and proposals for financing assistance for State and local projects submitted pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), needs and opportunities for establishing State and local wild, scenic and recreational river areas. He shall also, in accordance with the authority contained in the Act of May 28, 1963 (77 Stat. 49), provide technical assistance and advice to, and cooperate with, States, political subdivisions, and private interests, including nonprofit organizations, with respect to establishing such wild, scenic and recreational river areas.

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

Sec. 12.

(a) The Secretary of the Interior, the Secretary of Agriculture, and the head of any other Federal department or agency having jurisdiction over any lands which include, border upon, or are adjacent to, any river included within the National Wild and Scenic Rivers System or under consideration for such inclusion, in accordance with section 2(a) (ii), 3(a), or 5(a), shall take such action respecting management policies, regulations, contracts, plans, affecting such lands, following the date of enactment of this sentence, as may be necessary to protect such rivers in accordance with the purposes of this Act. Such Secretary or other department or agency head shall, where appropriate, enter into written cooperative agreements with the appropriate State or local official for the planning, administration, and management of Federal lands which are within the boundaries of any rivers for which approval has been granted under section 2(a) (ii). Particular attention shall be given to scheduled timber harvesting, road construction, and similar activities which might be contrary to the purposes of this Act.

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

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

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

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

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

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

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

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

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

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

Sec. 14A. (a) Where appropriate in the discretion of the Secretary, he may lease federally owned land (or any interest therein) which is within the boundaries of any component of the National Wild and Scenic Rivers System and which has been acquired by the Secretary under this Act. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this Act.

(b) Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land immediately before its acquisition by the United States.

Sec. 15. As used in this Act, the term—

(a) "River" means a flowing body of water or estuary or a section,

portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes.

(b) "Free-flowing", as applied to any river or section of a river, means existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence, however, of low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the national wild and scenic rivers system shall not automatically bar its consideration for such inclusion: *Provided*, That this shall not be construed to authorize, intend, or encourage future construction of such structures within components of the national wild and scenic rivers system.

(c) "Scenic easement" means the right to control the use of land (including the air space above such land) within the authorized boundaries of a component of the wild and scenic rivers system, for the purpose of protecting the natural qualities of a designated wild, scenic or recreational river area, but such control shall not affect, without the owner's consent, any regular use exercised prior to the acquisition of the easement.

Sec. 16. There are hereby authorized to be appropriated, including such sums as have heretofore been appropriated, the following amounts for land acquisition for each of the rivers described in section 3(a) of this Act:

Clearwater, Middle Fork, Idaho, \$2,009,800;  
 Eleven Point, Missouri, \$10,407,000;  
 Feather, Middle Fork, California, \$4,933,700;  
 Rio Grande, New Mexico, \$253,000;  
 Rogue, Oregon, \$13,147,000;  
 St. Croix, Minnesota and Wisconsin, \$21,769,000;  
 Salmon, Middle Fork, Idaho, \$1,837,100; and  
 Wolf, Wisconsin, \$142,150.

APPENDIX C

CALIFORNIA WILD AND SCENIC RIVERS ACT

PUBLIC RESOURCES CODE

CHAPTER 1.4 CALIFORNIA WILD AND SCENIC  
RIVERS ACT (NEW)

Sec.

- 5093.50 Legislative declaration.
- 5093.51 Short title.
- 5093.52 Definitions.
- 5093.53 Classification of rivers.
- 5093.54 Components of system.
- 5093.55 Restrictions on construction of dams, reservoirs, other impoundments and diversion facilities.
- 5093.56 Prohibition against governmental cooperation in projects affecting system; exception, Eel River.
- 5093.57 Eel River; flood protection.
- 5093.58 Duties of secretary.
- 5093.59 Management plan; hearings;
- 5093.60 Administration of system.
- 5093.61 Local powers; water pollution.
- 5093.62 Fish and wildlife.
- 5093.63 Eminent domain.
- 5093.64 Severability.
- 5093.65 Kings River; construction of water impoundment facility; moratorium until January 1, 1979 (New).

Chapter 1.4 was added by Stats. 1972,  
c. 1259, p. 2510, Sec. 1.

5093.50 Legislative declaration

It is the policy of the State of California that certain rivers which possess extraordinary scenic, recreational, fishery or wildlife values, shall be preserved in their free-flowing state, together with their immediate environments, for the benefit and enjoyment of the people of the state. The Legislature declares that such use of these rivers is the highest and most beneficial use and is a reasonable and beneficial use of water within the meaning of Section 3 of Article XIV of the State Constitution. It is the purpose of this chapter to create a California Wild and Scenic Rivers System to be administered in accordance with the provisions of this chapter.

(Added by Stats. 1972, c. 1259, p. 2510, Sec. 1.)

5093.51 Short title

This chapter shall be known as the California Wild and Scenic Rivers Act. (Added by Stats. 1972, c. 1259, p. 2510, Sec. 1.)

## 5093.52 Definitions

As used in this chapter:

(a) "Secretary" means the Secretary of the Resources Agency.

(b) "Resources Agency" means the Secretary of the Resources Agency and such constituent units of the Resources Agency as the secretary deems necessary to accomplish the purposes of this chapter.

(c) "River" means the water, bed, and shoreline of rivers, streams, channels, lakes, bays, estuaries, marshes, wetlands and lagoons.

(d) "Free-flowing" means existing or flowing in a natural condition without artificial impoundment, diversion or other modification of the waterway. The presence of low dams, diversion works, and other minor structures shall not automatically bar any river's inclusion within the system; provided, however, that this subdivision shall not be construed to authorize or encourage future construction of such structures of any component of the system.

(e) "System" means the California Wild and Scenic Rivers System. (Added by Stats. 1972, c. 1259, p. 2510, Sec. 1.)

## 5093.53 Classification of rivers

Those rivers or segments of rivers designated for inclusion in the system shall be classified by the secretary as one of the following:

(a) Wild rivers, which are those rivers or segments of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted.

(b) Scenic rivers, which are those rivers or segments of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.

(c) Recreational rivers, which are those rivers or segments of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past. (Added by Stats. 1972, c. 1259, p. 2510, Sec. 1.)

## 5093.54 Components of system

The following rivers are designated as components of the system:

(a) Klamath River. The main stem from 100 yards below Iron Gate

Dam to the Pacific Ocean; the Scott River from the mouth of Shackelford Creek west of Fort Jones to the river mouth near Hamburg; the Salmon River from Cecilville Bridge to the river mouth near Somesbar; the North Fork of the Salmon River from the intersection of the river with the south boundary of the Marble Mountain Wilderness Area to the river mouth; Wooley Creek, from the western boundary of the Marble Mountain Wilderness Area to its confluence with the Salmon River.

(b) Trinity River. The main stem from 100 yards below Lewiston Dam to the river mouth at Weitchpec; the North Fork of the Trinity from the intersection of the river with the southern boundary of the Salmon-Trinity Primitive Area downstream to the river mouth at Helena; New River from the intersection of the river with the southern boundary of the Salmon-Trinity Primitive Area downstream to the river mouth near Burnt Ranch; South Fork of the Trinity from the junction of the river with State Highway 36 to the river mouth near Salyer.

(c) Smith River and all its tributaries, from the Oregon-California state boundary to the Pacific Ocean.

(d) Eel River. The main stem from 100 yards below Van Arsdale Dam to the Pacific Ocean; the South Fork of the Eel from the mouth of Section Four Creek near Branscomb to the river mouth below Weott; Middle Fork of the Eel from the intersection of the river with the southern boundary of the Middle Eel-Yolla Bolly Wilderness Area to the river mouth at Dos Rios; North Fork of the Eel from the Old Gilman Ranch downstream to the river mouth near Ramsey; Van Duzen River from Dinsmores Bridge downstream to the river mouth near Fortuna. It is the intent of the Legislature, with respect to the Eel River and its tributaries, that after an initial period of 12 years following the effective date of this chapter, the Department of Water Resources shall report to the Legislature as to the need for water supply and flood control projects on the Eel River and its tributaries, and the Legislature shall hold public hearings to determine whether legislation should be enacted to delete all or any segment of the river from the system.

(e) American River. The North Fork from its source to the Iowa Hill Bridge; the Lower American from Nimbus Dam to its junction with the Sacramento River.

(f) Other rivers which qualify for inclusion in the system may be recommended to the Legislature by the secretary.  
(Added by Stats. 1972, c. 1259, p. 2510, Sec. 1.)

5093.55 Restrictions on construction of dams, reservoirs, other  
impoundments and diversion of facilities

Except as provided in subdivision (d) of Section 5093.54, no dam, reservoir, or other water impoundment facility, other than temporary flood storage facilities permitted pursuant to Section 5093.57, shall be constructed on or directly affecting any river designated in Section 5093.54 after the effective date of this chapter; nor shall any water diversion facility be constructed on any such river unless and until the secretary determines that such facility is needed to supply domestic water to the residents of the county or counties through which the river flows, and unless and until the secretary determines that facility will not adversely affect its free-flowing condition or natural character. (Added by Stats. 1972, c. 1259, p. 2510, Sec. 1.)

5093.56 Prohibition against governmental cooperation in projects affecting system; exception, Eel River

Except for geologic, hydrologic, economic, or any other technical studies deemed necessary or desirable by the Department of Water Resources in order to determine the feasibility of alternate sites for dams on the Eel River and its tributaries, which studies are hereby authorized, no department or agency of the state shall assist or cooperate, whether by loan, grant, license, or otherwise, with any department or agency of the federal, state, or local government, in the planning or construction of any project that could have an adverse effect on the free-flowing, natural condition of the rivers included in the system. (Added by Stats. 1972, c. 1259, p. 2510, Sec. 1.)

5093.57 Eel River; flood protection

Nothing in this chapter shall be construed to prohibit any measures for flood protection, structural or nonstructural, necessary for the protection of lives and property along the Eel River as described in subdivision (d) of Section 5093.54, except for dams, reservoirs, or other water impoundment structures; provided, however, that such measures for flood protection may include facilities for temporary flood storage or flood storage basins on tributaries of the Eel River. (Added by Stats. 1972, c. 1259, p. 2510, Sec. 1.)

5093.58 Duties of secretary

The secretary shall do all of the following:

- (a) Determine which of the classes described in Section 5093.53 best fit each segment of the rivers included in the system.
  - (b) Prepare a management plan to administer the rivers and their adjacent land areas in accordance with such classification.
  - (c) Submit such management plan to the Legislature for its approval.
- (Added by Stats. 1972, c. 1259, p. 2510, Sec. 1.)



## 5093.59 Management plan; hearings

The secretary shall develop the management plan in close cooperation with the counties through which the rivers flow and their political subdivisions. Prior to adoption of any management plan, the secretary shall, after notice, hold a public hearing in each county through which the rivers flow and shall submit the plan to each county for its review as to the portion of the plan affecting the county.

(Added by Stats. 1972, c. 1259, p. 2510, Sec. 1.)

## 5093.60 Administration of system

The secretary shall be responsible for the administration of the system. Each component of the system shall be administered so as to protect and enhance the values for which it was included in the system, without unreasonably limiting lumbering, grazing, and other resource uses, where the extent and nature of such uses do not conflict with public use and enjoyment of these values.

(Added by Stats. 1972, c. 1259, p. 2510, Sec. 1.)

## 5093.61 Local powers; water pollution

All departments and agencies of the state and all local governmental agencies shall exercise their powers in a manner consistent with the provisions of this chapter. The Resources Agency shall cooperate with the appropriate water quality control agencies for the purpose of eliminating or diminishing the pollution of waters of the rivers included in the system.

(Added by Stats. 1972, c. 1259, p. 2510, Sec. 1.)

## 5093.62 Fish and wildlife

Nothing in this chapter shall affect the jurisdiction or responsibility of the state with regard to fish and wildlife. Hunting and fishing may be permitted on lands and waters administered as parts of the system under applicable state or federal laws and regulations.

(Added by Stats. 1972, c. 1259, p. 2510, Sec. 1.)

## 5093.63 Eminent domain

Nothing in this chapter shall be construed to permit or require the reservation, use, or taking of private property for scenic, fishery, wildlife, or recreation purposes, for inclusion in the system or for other public use, without just compensation.

## 5093.64 Severability

If any provision of this chapter or the application thereof to any

person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.  
(Added by Stats. 1972, c. 1259, p. 2510, Sec. 1.)

5093.65 Kings River; construction of water impoundment facility;  
moratorium until January 1, 1979

No construction of any dam, reservoir or other water impoundment facility shall be commenced prior to January 1, 1979, on the following portion of Kings River: The South (Main) Fork of the Kings River west of the western boundary of the Kings Canyon National Park (Cedar Grove area), and the Middle Fork of the Kings River west of the western boundary of the Kings Canyon National Park (Wilderness area), downstream to the entrance of their waters into Pine Flat Reservoir. It is not the intent of the Legislature by enactment of this section to designate any portion of the Kings River as a component of the system, and hydrologic, environmental, economic and engineering studies, surface and subsurface geologic exploration, and any other technical studies for the purpose of determining the feasibility of a multipurpose flood control, water conservation and hydroelectric project on such portion of Kings River may be undertaken by any local agency or private organization.  
(Added by Stats. 1973, c. 499, p. ---, Sec. 1.)

## APPENDIX D

### CLASSIFICATION OF ELIGIBLE RIVER SEGMENTS OF CALIFORNIA WILD AND SCENIC RIVERS SYSTEM

Classification of the below listed streams was accomplished in accordance with the federal guidelines for evaluating wild and scenic rivers (appendix J) and established after consulting numerous individuals, agencies and resource maps. Starting with the Preliminary Classifications published by the California Resources Agency in 1976, comments received as a result of that publication, and comments received on the recent draft environmental impact statement, considerable effort was made to resolve classification conflicts. Forest Service staff was contacted directly concerning stream segments within their administrative districts. The experience of California Department of Forestry and Department of Fish and Game field personnel was utilized. The following resource imagery was researched: USGS topographic maps, U. S. Forest Service maps, 1979 HCRS rivers inventory aerial videotapes from 500-700 feet altitude, and U. S. Forest Service optical bar photography (1979). Additionally, task force members field inspected many of the river segments.

The segment-by-segment classifications follow:

#### KLAMATH RIVER

|   |              |
|---|--------------|
| The Klamath River from the FERC Project 2082 downstream boundary in Section 17 T47N R5W as shown on Exhibit K-7 sheet 1 dated May 25, 1962, to the river mouth at the Pacific Ocean | Recreational |
|---|--------------|

#### SCOTT RIVER

|  |              |
|--|--------------|
| The Scott River from Shackleford Creek to McCarthy Creek | Recreational |
| From McCarthy Creek to Scott Bar                         | Scenic       |
| From Scott Bar to confluence with Klamath River          | Recreational |

#### SALMON RIVER

##### Main Stem

|   |              |
|---|--------------|
| The Salmon River from Forks of Salmon to Lewis Creek confluence | Recreational |
| From Lewis Creek confluence to Wooley Creek confluence          | Scenic       |



North Fork (Continued)

From North boundary Section 20 T34N R11W  
to mouth Recreational

South Fork

The South Fork Trinity River from Forest Glen  
to Hidden Valley Ranch Wild

From Hidden Valley Ranch to Naufus Creek  
confluence in Section 8 T1N R7E Scenic

From Naufus Creek confluence in Section 8  
T1N R7E to Johnson Creek confluence near the  
boundary of Sections 13 and 14 T2N R6E Wild

From Johnson Creek confluence near the  
boundary of Sections 13 and 14 T2N R6E to  
the boundary of Sections 25 and 36 T2N R6E Scenic

From boundary of Sections 25 and 36 T2N R6E to  
footbridge near mouth of Underwood Creek in  
Section 17 T4N R6E Humboldt Base and Meridian Recreational

From footbridge near mouth of Underwood Creek  
in Section 17 T4N R6E to Todd Ranch in  
Section 18 T5N R5E Wild

From Todd Ranch in Section 18 T5N R5E to  
confluence with Main Trinity Scenic

New River

New River from the Salmon Trinity Primitive  
Area boundary to the junction with the  
East Fork New River in Section 23 T7N R7E Wild

From Junction with the East Fork New River in  
Section 23 T7N R7E to 100 yards below  
Panther Creek Campground in Section 18 T6N R7E Recreational

From 100 yards below Panther Creek Campground  
in Section 18 T6N R7E to Dyer Creek confluence  
in Section 25 T26N R6E Scenic

From Dyer Creek confluence in Section 25 T26N  
R6E to confluence with Trinity River Wild

## SMITH RIVER

### Main Stem

Smith River from the confluence of the Middle and South Forks to its mouth at the Pacific Ocean                   Recreational

Rowdy Creek from the California-Oregon boundary to confluence with the Smith River                   Recreational

Mill Creek from the junction of the East Fork and West Branch to the confluence with Smith River                   Recreational

West Branch Mill Creek, from tributary confluence in northern portion of Section 17 T15N R1E as depicted on 1952 USGS 15' "Klamath" topographic map to junction with East Fork Mill Creek                   Recreational

East Fork Mill Creek from source in Section 36 T16N R1E as depicted on 1952 USGS 15' "Klamath" topographic map to junction with West Branch Mill Creek                   Recreational

Bummer Lake Creek from source in Section 36 T16N R1E as depicted on 1952 USGS 15' "Klamath" topographic map to confluence with East Fork Mill Creek                   Recreational

Dominie Creek from source in Section 7 T18N R1E as depicted on 1952 USGS 15' "Crescent City" topographic map to confluence with Rowdy Creek                   Recreational

Savoy Creek from source in Section 5 T17N R1E as depicted on 1952 USGS 15' "Crescent City" topographic map to confluence with Rowdy Creek                   Recreational

Little Mill Creek from source in Section 9 T17N R1E as depicted on 1952 USGS 15' "Crescent City" topographic map to confluence with Smith River                   Recreational

### Middle Fork

Middle Fork Smith River from its source about 3 miles south of Sanger Lake as depicted on 1956 USGS 15' "Preston Peak" topographic map to the middle of Section 7 T17N R5E                   Wild

Middle Fork (Continued)

|   |              |
|---|--------------|
| Middle Fork Smith River from middle of Section 7 T17N R5E to middle of Section 6 T17N R5E   | Scenic       |
| Middle Fork Smith River from middle of Section 6 T17N R5E to one half mile upstream from confluence with Knopki Creek   | Wild         |
| Middle Fork Smith River from one half mile upstream from confluence with Knopki Creek to confluence with South Fork Smith River   | Recreational |
| Myrtle Creek from its source in Section 9 T17N R1E as depicted on 1952 USGS 15' "Crescent City" topographic map to middle of Section 28 T17N R1E                                    | Scenic       |
| Myrtle Creek from middle of Section 28 T17N R1E to confluence with Middle Fork Smith River  | Wild         |
| Shelly Creek from its source in Section 1 T18N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to confluence with Patrick Creek  | Recreational |
| Kelly Creek from source in Section 32 T17N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to confluence with Middle Fork Smith River                                    | Wild         |
| Packsaddle Creek from source about 0.8 miles southwest of Broken Rib Mountain as depicted on 1956 USGS 15' "Preston Peak" topographic map to eastern boundary of Section 3 T17N R1E | Wild         |
| Packsaddle Creek from eastern boundary of Section 3 T17N R4E to northern boundary of Section 3 T17N R4E   | Scenic       |
| Packsaddle Creek from northern boundary of Section 3 T17N R4E to confluence with Middle Fork of Smith River   | Wild         |
| East Fork Patrick Creek from source in Section 10 T18N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to confluence with West Fork Patrick Creek                        | Wild         |



Middle Fork (Continued)

West Fork Patrick Creek from source in Section 18 T18N R3E as depicted on 1951 15' "Gasquet" topographic map to confluence with East Fork Patrick Creek Recreational

Griffin Creek from source about 0.2 miles southwest of Hazel View Summit as depicted on 1956 USGS 15' "Preston Peak" topographic map to confluence with Middle Fork Smith River Recreational

Knopki Creek from source about 0.4 mile west of Sanger Peak as depicted on 1956 USGS 15' "Preston Peak" topographic map to confluence with Middle Fork Smith River Recreational

Monkey Creek from its source in the northeast quadrant of Section 12 T18N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the northern boundary of Section 26 T18N R3E Wild

Monkey Creek from northern boundary of Section 26 T18N R3E to confluence with Middle Fork of Smith River Scenic

Hardscrabble Creek from source in the northeast quadrant of Section 2 T17N R1E as depicted on 1952 USGS 15' "Crescent City" topographic map to southern boundary of Section 2 T17N R1E Recreational

Hardscrabble Creek from southern boundary of Section 2 T17N R1E to confluence with Middle Fork of Smith River Wild

Patrick Creek from junction of East and West Forks of Patrick Creek to confluence with Middle Fork Smith River Recreational

North Fork

North Fork Smith River from California-Oregon boundary to confluence with an unnamed tributary in the northern quarter Section 5 T18N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map Wild

North Fork Smith River from confluence with unnamed tributary in northern quarter of Section 5 T18N R2E to the southern most intersection of eastern boundary Section 5 T18N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map Scenic

North Fork (Continued)

|   |              |
|---|--------------|
| North Fork Smith River from southern most intersection of eastern boundary Section 5 T18N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map to confluence with Stony Creek                         | Wild         |
| North Fork Smith River from confluence with Stony Creek to confluence with Middle Fork of Smith River   | Recreational |
| Diamond Creek from California-Oregon state boundary to confluence with High Plateau Creek   | Recreational |
| Diamond Creek from confluence with High Plateau Creek to confluence with North Fork Smith River   | Wild         |
| Bear Creek from source in Section 24 T18N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map to confluence with Diamond Creek   | Wild         |
| Still Creek from source in Section 11 T18N R1E as depicted on 1952 USGS 15' "Crescent City" topographic map to confluence with North Fork Smith River   | Wild         |
| North Fork Diamond Creek from California-Oregon state boundary to confluence with Diamond Creek   | Recreational |
| High Plateau Creek from its source in Section 26 T18N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map to northern boundary Section 23 T18N R2E   | Wild         |
| High Plateau Creek from northern boundary Section 23 T18N R2E to confluence with Diamond Creek  | Recreational |
| <u>Siskiyou Fork</u>  |              |
| Siskiyou Fork of Smith River from source about 0.7 miles southeast of Broken Rib Mountain as depicted on 1956 USGS 15' "Preston Peak" topographic map to confluence with South Siskiyou Fork of Smith River | Wild         |
| Siskiyou Fork of Smith River from confluence with South Siskiyou Fork of Smith River to confluence with Middle Fork of Smith River  | Recreational |

Siskiyou Fork (Continued)

South Siskiyou Fork of Smith River from source about 0.6 miles southwest of Buck Lake as depicted on 1956 USGS 15' "Preston Peak" topographic map to confluence with Siskiyou Fork of Smith River Wild

South Fork

South Fork Smith River from source about 0.5 miles southwest of Bear Mountain as depicted on 1956 USGS 15' "Preston Peak" topographic map to Blackhawk Bar Wild

South Fork Smith River from Blackhawk Bar to confluence with Middle Fork Smith River Recreational

Williams Creek from source in Section 31 T14N R4E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to confluence with Eight Mile Creek Wild

Eight Mile Creek from source in Section 29 T14N R4E as depicted on 1955 USGS 15' "Dillon Mtn." topographic map to confluence with South Fork Smith River Wild

Prescott Fork of Smith River from source about 0.5 miles southeast of Island Lake as depicted on 1955 USGS 15' "Dillon Mt." topographic map to confluence with South Fork Smith River Wild

Quartz Creek from its source in Section 31 T16N R4E as depicted on 1952 15' USGS "Ship Mountain" topographic map to confluence with South Fork Smith River Recreational

Jones Creek from its source in Section 36 T16N R3E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to middle of Section 5 T15N R3E Wild

Jones Creek from middle of Section 5 T15N R3E to confluence with South Fork of Smith River Recreational

Hurdygurdy Creek from its source about 0.4 miles southwest of Bear Basin Butte as depicted on 1956 USGS 15' "Preston Peak" topographic map to the confluence with the South Fork Smith River Recreational

South Fork (Continued)

|  |              |
|--|--------------|
| Gordon Creek from its source in Section 18 T16N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to the confluence with the South Fork Smith River   | Wild         |
| Coon Creek from the junction of the two source tributaries in the southwest quadrant of Section 31 T17N R3E as depicted on 1951 USGS 15' "Gasquet" topographic map to western boundary Section 14 T16N R2E | Recreational |
| Coon Creek from the western boundary Section 14 T16N R2E to confluence with South Fork Smith River   | Wild         |
| Craigs Creek from its source in Section 36 T17N R2E as depicted on 1951 USGS 15' "Gasquet" topographic map to confluence with South Fork Smith River   | Scenic       |
| Goose Creek from source in Section 13 T13N R2E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to confluence with South Fork Smith River  | Recreational |
| East Fork Goose Creek from source in Section 18 T13N R3E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to confluence with Goose Creek   | Recreational |
| Buck Creek from source at Cedar Camp Spring as depicted on 1952 USGS 15' "Ship Mountain" topographic map to confluence with South Fork Smith River   | Wild         |
| Muzzleloader Creek from source in Section 2 T15N R3E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to confluence with Jones Creek   | Wild         |
| Canthook Creek from source in Section 2 T15N R2E as depicted on 1952 USGS 15' "Ship Mountain" topographic map to confluence with South Fork Smith River  | Wild         |
| Rock Creek from its source in Section 36 T15N R1E as depicted on 1952 USGS 15' "Klamath" topographic map to confluence with South Fork of Smith River  | Recreational |

## EEL RIVER

### Main Stem

|  |              |
|--|--------------|
| Eel River from 100 yards below Van Arsdale Dam to confluence with Tomki Creek      | Recreational |
| From confluence with Tomki Creek to middle of Section 22 T19N R12W                 | Scenic       |
| From middle of Section 22 T19N R12W to boundary between Sections 7 and 8 T19N R12W | Recreational |
| From boundary between Sections 7 and 8 T19N R12W to confluence with Outlet Creek   | Wild         |
| From confluence with Outlet Creek to mouth at Pacific Ocean                        | Recreational |

### South Fork

|   |              |
|---|--------------|
| South Fork of Eel River from the mouth of Section Four Creek near Branscomb | Recreational |
| From Horseshoe Bend to middle of Section 29 T23N R16W                       | Wild         |
| From middle of Section 29 T23N R16W to confluence with main Eel near Weott  | Recreational |

### Middle Fork

|  |              |
|--|--------------|
| Middle Fork of the Eel River from the intersection of the river with the southern boundary of the Middle Eel-Yolla Bolly Wilderness Area to Eel River Ranger Station | Wild         |
| From Eel River Ranger Station to Williams Creek  | Recreational |
| From Williams Creek to southern boundary of the the northern quarter of Section 25 T22N R12W   | Scenic       |
| From southern boundary of the northern quarter of Section 25 T22N R12W to boundary between Sections 4 and 5 T21N R13W  | Wild         |
| From boundary between Sections 4 and 5 T21N R13W to confluence with main Eel at Dos Rios   | Recreational |

North Fork

North Fork of the Eel River from the  
Old Gilman Ranch to the middle of Section 8  
T24N R13W Wild

From the middle of Section 8 T24N R13W to  
boundary between Sections 12 and 13 T24N R14W Recreational

From the boundary between Sections 12 and 13  
T24N R14W to confluence with main Eel Wild

VAN DUZEN RIVER

The Van Duzen River from Dinsmore Bridge to  
the powerline crossing above Little Larribee  
Creek Scenic

From the powerline crossing above Little  
Larribee Creek to the confluence with Eel River Recreational

LOWER AMERICAN RIVER

The Lower American River from Nimbus Dam to  
its junction with the Sacramento River Recreational

## IMPACT OF RIVER CLASSIFICATION

The impact of the proposed action on activities such as timber production, water supply development, hydro-electric power development, flood control measures, mining, road construction, agriculture, recreation development, structural development and utilities along the rivers proposed for designation is directly dependent, to a degree, on the classification of the river segments. Generally, the "wild" classification allows for an absolute minimum of man-made intrusions to preserve the primitive setting, the "scenic" classification allows limited man-made intrusion so as to preserve the near natural setting and "recreation" classification allows a full range of resource use as long as the values qualifying the river for designation are protected. Specific criteria and management objectives for each classification are provided in the 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 (Appendix J). Also, the following summary provides a comparison of each classification category as it relates to impacts on resource use and development. Fishery, vegetation, scenic, wildlife, and historic/cultural resources will generally benefit from national designation and are not subject to adverse impact from classification actions. Activities allowed under the wild classification are likewise permissible under the scenic and recreation classifications. Activities allowed under scenic classifications are likewise allowed under the recreation classification.

### Wild Rivers

#### 1. Timber Production:

While the National Wild and Scenic Rivers Act does not specifically prohibit timber harvest under "wild" classifications, the Forest Service has indicated that cutting of trees will not be permitted except when needed in association with a primitive recreation experience (such as clearing for trails and protections of users) or to protect the environment (such as control of fire). Timber outside the boundary but within the visual corridors, will be managed and harvested in a manner to provide special emphasis to visual quality.

#### 2. Water Supply:

All water supply dams and major diversions are prohibited. Minor natural looking diversion facilities for providing water to livestock or for human use could be permitted if such facilities would not adversely



## Wild Rivers

2. Water Supply (continued): impact wild river values. Unobtrusive flow management and other water management devices could be permitted.
3. Hydroelectric Power: No development of hydroelectric power facilities would be permitted.
4. Flood Control: No flood control dams, levees or other works are allowed. Some minor rip rapping could be allowed if it would not violate the natural-like appearance and essentially primitive character of the river area.
5. Mining: New mining claims are prohibited within 1/4 mile of the river. Valid claims would not be abrogated. Subject to regulations that the Secretaries of Agriculture and Interior may prescribe to protect the values of rivers included in the national system, other existing mining activity would be allowed to continue. Existing mineral activity must be conducted in a manner that minimizes surface disturbance, sedimentation and pollution, and visual impairment. Reasonable access will be permitted.
6. Road Construction: No roads or other provisions for overland motorized travel would be permitted within a narrow incised river valley, or if the river valley is broad, within 1/4 mile of the riverbank. However, one or two inconspicuous roads leading to the river area, for the purpose of providing access to the river, may be permitted. Also, unobtrusive trail bridges could be allowed.
7. Agriculture: Agriculture use is restricted to a limited amount of domestic livestock grazing, pasture, and cropland devoted to hay production.

8. Recreation Development:

Major public-use areas, such as large campgrounds, interpretive centers or administrative headquarters are located outside the wild rivers area. Simple comfort and convenience facilities, such as fireplaces, shelters and toilets may be provided as necessary within the river area. These should harmonize with the surroundings.

9. Structure:

A few minor existing structures could be allowed assuming such structures are not incompatible with the essentially primitive and natural values of the viewshed. New structures would not be allowed except in rare instances to achieve management objectives. (i.e. structures and activities associated with fisheries enhancement programs would be allowed.)

10. Utilities:

New transmission lines, gas lines, water lines, etc. are discouraged. Where no reasonable alternative exists, additional or new facilities should be restricted to existing rights-of-way. Where new rights-of-way are indicated, the scenic, recreational, and fish and wildlife values must be evaluated in the selection of the site.

## Scenic Rivers

1. Timber Production: A wide range of sivicultural practices could be allowed provided that such practices are carried on in such a way that there is no substantial adverse effect on the river and its immediate environment. The river should be maintained in its near natural environment.
  
2. Water Supply: All water supply dams and major diversions, that would have a direct and adverse effect on the values for which the river area is included in the national system, are prohibited. Modest diversions would be allowed only if there would be no direct and adverse effect on river values.
  
3. Hydroelectric Power: No development of hydroelectric power facilities would be allowed unless such development would not have a direct and adverse effect on values qualifying the river for the national system.
  
4. Flood Control: Major flood control dams and levees would be prohibited if such structures would have a direct and adverse effect on river values. Modest channel straightening, rip-rapping and other such modifications could be allowed provided that such works would not have a direct and adverse effect on river values and not impair the near-natural character of the river area.
  
5. Mining: Subject to regulations that the Secretaries of Agriculture and the Interior may prescribe to protect the values of rivers included in the national system, new mining claims could be allowed and existing operations allowed to continue. However, mineral activity must be conducted in a manner that minimizes surface disturbance, sedimentation and pollution, and visual impairment.

## Scenic Rivers

6. Road Construction: Roads may occasionally bridge the river area and short stretches of conspicuous or longer stretches of inconspicuous and well-screened roads or screened railroads could be allowed. Consideration will be given to the type of use for which roads are constructed and the type of use that will occur in the river area.
7. Agriculture: A wider range of agricultural uses is permitted. Row crops are not considered as an intrusion of the "largely primitive" nature of scenic corridors as long as there is not a substantial adverse effect on the natural-like appearance of a river area.
8. Recreation Development: Larger scale public use facilities, such as moderate size campgrounds, public information centers, and administrative headquarters are allowed if such structures are screened from the river. Modest and unobtrusive marinas also can be allowed.
9. Structures: Small communities or any concentrations of habitations are limited to relatively short reaches of the river corridor. New structures that would have a direct and adverse effect on river values would not be allowed.
10. Utilities: This is the same as for wild river classifications.

## Recreational Rivers

1. Timber Production: Timber harvesting would be allowed. However, some restriction could apply to immediate river environments to preserve scenic and fish and wildlife values.
2. Water Supply: Major water supply dams and diversions are prohibited unless there would be no direct and adverse effect on the values for which the river area is included in the national system.
3. Hydroelectric Power: No development of hydroelectric power facilities is allowed unless there would be no direct and adverse effect on values qualifying the river for the national system.
4. Flood Control: Straightening, rip-rapping and other modification of the waterway could be allowed if there would not be a direct or adverse effect on river values. Existing flood control works would be maintained.
5. Mining: Subject to regulations that the Secretaries of Agriculture and the Interior may prescribe to protect values of rivers included in the national system, new mining claims are allowed and existing operations are allowed to continue. Mineral activity must be conducted in a manner that minimizes surface disturbance, sedimentation and pollution, and visual impairment.
6. Road Construction: Paralleling roads or railroads could be constructed on one or both river banks. There can be several bridge crossings and numerous river access points.

## Recreational Rivers

7. Agriculture: Lands may be developed for a full range of agricultural uses.
8. Recreation Development: Campgrounds and picnic areas may be established in close proximity to the river. However, recreational classification does not require extensive recreation development.
9. Structures: Small communities as well as dispersed or cluster residential developments are allowed. New structures are allowed for both habitation and for intensive recreation use.
10. Utilities: This is the same as for wild and scenic river classifications.

APPENDIX E

CALIFORNIA ADMINISTRATION OF THOSE RIVERS  
INCLUDED IN THE STATE'S REQUEST  
FOR NATIONAL WILD AND SCENIC RIVERS DESIGNATION

STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
1416 NINTH STREET  
SACRAMENTO, CA 95814  
DECEMBER, 1980



## TABLE OF CONTENTS

|  | <u>Page</u> |
|--|-------------|
| CHAPTER 1 - OVERVIEW   | 1           |
| Purpose of Report  | 1           |
| Executive Authority to Seek Federal Designation                              | 2           |
| Key Protections in California's Administration of<br>Wild and Scenic Rivers  | 5           |
| Key Protections  | 5           |
| General Environmental Protection   | 6           |
| Free-Flowing Condition   | 6           |
| Natural Character of the Streams   | 7           |
| Scenic Values  | 8           |
| Recreational Values  | 9           |
| Geologic Values  | 9           |
| Fish and Wildlife Resources  | 10          |
| Historic Values  | 11          |
| Cultural Resources   | 11          |
| Water Quality  | 12          |
| Coordination of State Efforts  | 12          |
| Local Land Use Controls  | 13          |
| Conclusion   | 13          |
| Citations  | 14          |
| CHAPTER 2 - GOALS AND PRINCIPLES   | 18          |
| Goals  | 18          |
| Principles   | 19          |
| CHAPTER 3 - SUMMARY DESCRIPTION OF NORTH COAST AND<br>LOWER AMERICAN RIVERS  | 21          |
| North Coast Rivers   | 21          |
| Segments Proposed for Designation  | 21          |
| Summary of Land Ownership and Agency<br>Jurisdiction                         | 22          |
| Summary of Resource Values   | 23          |
| Lower American River   | 25          |
| Segments Proposed for Designation  | 25          |
| Summary of Land Ownership and Agency Jurisdiction                            | 25          |
| Summary of Resource Values   | 26          |
| CHAPTER 4 - ADMINISTRATIVE ROLES OF LOCAL, STATE, AND<br>FEDERAL GOVERNMENTS | 28          |
| Overview   | 28          |
| Description of Local Government Role   | 28          |
| Private Ownership Along Rivers   | 28          |
| State Statutes and Programs Directly Affecting<br>Local Land Use Controls    | 30          |
| Private Land Management Within Each of the<br>Five North Coast Counties      | 36          |

|  | <u>Page</u>                                |
|--|--|
| Description of State Government Role   | 39   |
| Overall Authority and Responsibility   | 39   |
| State Agency Responsibilities  | 39   |
| Description of Federal Government Role   | 41   |
| Key Federal Agencies   | 41   |
| Federal Agency Responsibilities  | 41   |
| Local, State and Federal Cooperation in Future   |  |
| Management Planning  | 41   |
| Options for Local-State Cooperation in Future  |  |
| Management Planning on Non-Federal Lands   | 42   |
| Cooperative Agreements   | 43   |
| Other Aspects of State Administration  | 44   |
| Public Participation   | 44   |
| Budgetary Aspects  | 44   |
| <br>CHAPTER 5 - EXISTING LEGAL AUTHORITY FOR PERMANENT<br>ADMINISTRATION OF CALIFORNIA'S WILD<br>AND SCENIC RIVERS | <br><br><br><br><br><br><br><br><br><br>50 |
| Introduction   | 50   |
| Codification of California Laws  | 50   |
| Authorities Granted by the California Wild<br>and Scenic Rivers Act  | 50   |
| Designated Rivers  |  |
| Definitions  | 51   |
| Legal Effect   | 51   |
| Provisions Regarding Eel River   | 52   |
| Assembly Constitutional Amendment 90   | 53   |
| Major State Laws and Programs Reinforcing the<br>Wild and Scenic Rivers Act  | 53   |
| California Environmental Quality Act   | 53   |
| Administration of State-owned Lands  | 56   |
| California Forest Practice Act and Forest<br>Practice Rules  | 59   |
| Water Quality Regulations  | 65   |
| Water Rights Administration  | 68   |
| Department of Fish and Game  | 71   |
| California Coastal Act   | 77   |
| Warren-Alquist Energy Resources Conservation<br>and Development Act  | 79   |
| Powers of California Attorney General  | 79   |
| Other State Programs Related to Wild and Scenic<br>Rivers Protection   | 79   |
| Historical and Archaeological Protection   | 79   |
| Boating and Waterways Programs   | 81   |
| State Park System  | 84   |
| Wetlands Preservation  | 85   |
| Surface Mining and Reclamation Act   | 85   |
| Acquisition of Critical Areas  | 86   |
| Wilderness Preservation  | 86   |
| Licensing of Professional Foresters  | 87   |

|  | <u>Page</u> |
|--|-------------|
| General Coordinating Authority of the Secretary<br>for Resources | 88          |
| Composition of Resources Agency                                  | 88          |
| Authority of Secretary for Resources                             | 88          |
| State Statutes Affecting Local Agencies                          | 89          |
| Wild and Scenic Rivers Act                                       | 89          |
| State Planning Act   | 89          |
| Subdivision Map Act  | 90          |
| Timberland Preserves   | 90          |
| Surface Mining Reclamation Plans                                 | 91          |
| Land Conservation Act  | 91          |
| Open Space Subventions   | 92          |
| <br>EXHIBIT 1 - MAP OF STATE-OWNED LANDS                         |             |
| <br>EXHIBIT 2 - GOVERNOR BROWN'S LETTER REQUESTING DESIGNATION   |             |

Tables

|   |       |
|---|-------|
| 1 Nonfederal Land Ownership Along North Coast<br>Wild and Scenic Rivers       | 29    |
| 2 Land in Timberland Preserve Zones in North<br>Coast Counties, November 1979 | 31    |
| 3 Land Assessed Under Williamson Act in North<br>Coast Counties, FY 1979-80   | 34    |
| 4 Land Ownership in North Coast Counties                                      | 37    |
| 5-1 Summary of Authorities for Protecting Wild<br>and Scenic Rivers           | 46-49 |

## Chapter 1

## OVERVIEW

PURPOSE OF REPORT

This report has been prepared in support of Governor Edmund G. Brown's letter dated July 18, 1980 to the Secretary of the U. S. Department of the Interior, Cecil Andrus, requesting Federal designation of California's Wild and Scenic Rivers (see Exhibit 2). It describes the State's statutory authorities to administer the rivers, including adjacent non-Federal land areas, and substantiates California's ability to administer its Wild and Scenic Rivers System under Federal designation. Designation under the National System would not transfer from the State to the Federal Government management responsibility for the river areas and adjacent non-Federal lands.

The Heritage Conservation and Recreation Service has prepared a separate document, an environmental impact statement, on the Federal designation of the rivers.

In this OVERVIEW (Chapter 1), key protections in California's administration of the Wild and Scenic Rivers proposed for Federal designation are discussed. Chapter 2 presents the general goals and principles for State administration of the Wild and Scenic Rivers under Federal designation. In Chapter 3, key features of the rivers are briefly summarized. Chapter 4 describes California's administration of the rivers, emphasizing the respective roles of local, State, and Federal governments. Chapter 5 reviews the existing legal authority and the California Resources Agency's responsibility for State administration of the rivers. This Chapter demonstrates that the State's existing statutory authority and State resources programs are sufficient to achieve protection of wild and scenic rivers as required by the State and National Wild and Scenic Rivers Acts.

This application does not represent a new management plan for the rivers. The main point of this report is to show that existing California authorities are sufficient for the State to permanently administer the Wild and Scenic Rivers System as required by the National Wild and Scenic Rivers Act<sup>1</sup> and to protect the values of the rivers and their immediate environments. The National Act along with the California Wild and Scenic Rivers Act<sup>2</sup> identify many values to be protected in the Wild and Scenic Rivers Systems. These values include scenic, recreational, geologic, fish and wildlife, historic, cultural, and similar values as well as the water quality, free-flowing character, and natural condition of the rivers.<sup>3</sup> State statutes and State programs together with statutory requirements administered by local agencies work together to protect all these values.

This description of existing controls is intended merely to serve as a snapshot of the protections in place at this time. The detailed management plans for several rivers in the State Wild and Scenic Rivers System have been prepared and presented to the State Legislature but not yet approved. Additional plans will be prepared and presented to the State Legislature as required by the State Wild and Scenic Rivers Act. The State will also take further initiatives to improve the protections of the resources and to improve the overall management of the State-designated rivers. These initiatives will involve State actions, cooperation with local agencies as required by the State Act, and cooperation with Federal agencies and private landowners.

#### EXECUTIVE AUTHORITY TO SEEK FEDERAL DESIGNATION

The Governor of California has authority to seek Federal designation of rivers in the State Wild and Scenic Rivers System although the State Legislature has not yet approved detailed management plans for the State Rivers.

One of the responsibilities imposed on the Secretary of The Resources Agency by the California Wild and Scenic Rivers Act (P.R.C. Sections 5093.50-5093.65) is the preparation of plans for administration of the rivers and their adjacent land areas (P.R.C. Sec. 5093.58). The Resources Agency is responsible for coordinating the activities of State departments with responsibility for the State's natural resources. The Act also requires that management plans prepared by the Secretary of The Resources Agency be submitted to the State Legislature for approval (P.R.C. Sec. 5093.58(c)). To date, management plans for two of the rivers in the State System have been submitted to the State Legislature. Approval of these plans has not yet been obtained. Other management plans in compliance with the requirements of the State Wild and Scenic Rivers Act are in preparation.

The fact that legislative approval has not yet been obtained for management plans for the rivers in the State System does not, however, disqualify these rivers from eligibility for administrative designation as components of the National Wild and Scenic Rivers System. The National Wild and Scenic Rivers Act (Pub. L. 90-542, Oct. 2, 1968, 82 Stat. 906 as amended; 16 U.S.C.A. 1271-1287) sets forth the requirements for a State Governor to seek inclusion of State rivers in the National System by administrative designation.

The National Act provides in pertinent part (16 U.S.C. 1273(a)):

"The national Wild and Scenic Rivers System shall comprise rivers (i) that are authorized for inclusion therein by Act of Congress, or (ii) that are designated as wild, scenic, or recreational rivers by or pursuant to an act of the

legislature of the State or States through which they flow, that are to be permanently administered as wild, scenic, or recreational rivers by an agency or political subdivision of the State or States concerned, that are found by the Secretary of the Interior, upon application of the Governor of the State or the Governors of the States concerned ... to meet the criteria established in the National Act and such criteria supplementary thereto as he may prescribe ..."

Thus, there are two basic requirements for an application by a State Governor for administrative designation of State rivers as components of the National Wild and Scenic Rivers System:

1. The rivers must be "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;" and
2. The rivers "are to be permanently administered as wild, scenic, or recreational rivers by an agency or political subdivision of the State or States concerned."

Both of these requirements are met for the rivers for which Governor Brown has sought Federal designation. The rivers in question were made components of the California Wild and Scenic Rivers System by act of the California State Legislature in 1972 (Statutes of 1972, Chapter 1259, codified as Public Resources Code Section 5093.54). It is important to note that designation of the rivers as components of the State System was complete on the effective date of the legislation (January 1, 1974). The status of the rivers as components of the State Wild and Scenic Rivers System was in no way made dependent upon preparation or legislative approval of management plans for the rivers.

In fact, with the exception of the requirement that management plans be prepared and submitted to the Legislature for approval, all provisions of the California Wild and Scenic Rivers Act became effective without the need for further legislative action. These provisions include:

1. The duty of the Secretary for Resources to classify the rivers as wild, scenic, or recreational (P.R.C. Sections 5093.53, 5093.58);
2. The prohibition of dams and water impoundment facilities (P.R.C. Sec. 5093.55);
3. The prohibition of water diversion facilities except for local domestic use with the approval of the Secretary for Resources (P.R.C. Sec. 5093.55);

4. The prohibition of State assistance or cooperation in planning, financing, or constructing any project which could have an adverse effect on the free-flowing, natural condition of the rivers in the System (P.R.C. Sec. 5093.56);
5. The requirement that State and local governmental agencies exercise their powers in a manner consistent with the Wild and Scenic Rivers Act (P.R.C. Section 5093.61);
6. The requirement that the Secretary of The Resources Agency administer the rivers in the System so as to protect and enhance their scenic, recreational, fishery, and wildlife values (P.R.C. Sections 5093.50, 5093.60).

Permanent administration of the rivers, the second requirement of the National Act for Federal designation of the rivers, will be accomplished pursuant to existing State statutory authority. Laws currently on the books in California mandate and authorize a wide spectrum of programs whose express purpose and practical result is the protection of scenic, recreational, fish and wildlife, geologic, historic, cultural, and similar values. Several of these programs are directly related to protection of the natural free-flowing character of the State's Wild and Scenic Rivers, their water quality, and the scenery along their shores. Other programs provide additional protection to the unique qualities of the rivers. Foremost among these protections are those furnished by the State Wild and Scenic Rivers Act itself, and by the California Environmental Quality Act (P.R.C. Sections 21000-21176). These and other legal protections for the State rivers are fully discussed in Chapter 5 of this report.

The management plans which have been prepared or are in preparation for submission to the State Legislature according to the requirements of State law are themselves based entirely on existing statutory authority. Although the plans contain recommendations for additional legislation and for certain changes in procedures by State, local, and Federal agencies with jurisdiction along the State's Wild and Scenic Rivers, legislative approval of a management plan by itself would not give those recommendations for changes in the law the force of law. As now, in order to change any existing State statutory authority, local ordinance, or Federal law, the State Legislature, the appropriate local legislative body or Congress would have to take the appropriate action.

The statutory protections and programs currently in place meet the standard of permanence required for Federal designation. The State laws were enacted years ago and contain no termination dates.

KEY PROTECTIONS IN CALIFORNIA'S  
ADMINISTRATION OF WILD AND SCENIC RIVERS

Key Protections

The key protections to the values of the Wild and Scenic Rivers are provided primarily by the California Wild and Scenic Rivers Act itself. The State Act provides a legislative declaration that the rivers possess extraordinary scenic, recreational, fishery, or wildlife values and that the rivers should be preserved in their free-flowing state together with their immediate environments for the benefit and enjoyment of the people of the State.<sup>4</sup> The State Act protects the free-flowing condition by prohibiting State-assisted dams or water impoundment facilities on any of the rivers designated in the Act.<sup>5</sup> State agencies are barred from assisting or cooperating in the planning, financing, or constructing of any project which would have an adverse effect on the free-flowing or natural condition of the rivers in the State System.<sup>6</sup> A special provision dealing with the Eel River allows for technical studies deemed necessary or desirable by the State Department of Water Resource in order to determine the feasibility of alternate sites for dams on the Eel River.<sup>7</sup> This allowance for studies, however, does not weaken the existing general prohibition of constructing State-assisted dams on any of the rivers, including the Eel.

The free-flowing condition is further protected by the interpretation of the State Attorney General declaring that the projects prohibited by the State Act may include off-stream activities that may have an adverse effect on the free-flowing, natural condition of the rivers.<sup>8</sup>

Diversions from the rivers are limited to uses for domestic water supply where the diversion does not impair the free-flowing or natural condition of the river.<sup>9</sup> When a request for a diversion on a Wild and Scenic River is received by the State Water Resources Control Board, the Board notifies The Resources Agency. The Agency then requests the Department of Fish and Game to review the plans and inspect the site. Only after the Secretary for Resources finds that the diversion will not have an adverse effect on the free-flowing or natural condition does the State Water Resources Control Board grant the water right.

The greatest protection to the river values is provided by the section in the State Act which requires all State and local governmental agencies to exercise their powers in a manner consistent with the State Wild and Scenic Rivers Act.<sup>10</sup> This one section ties the requirements of the State Act to all the other existing authorities of State and local agencies. Wherever these other authorities touch the values in the Wild and Scenic Rivers System, these authorities must be administered



in a manner consistent with the State Wild and Scenic Rivers Act. Given the comprehensive nature of California's regulation of its natural resources and protection of its environment, this one section brings about a comprehensive system of protection based on many independent but mutually reinforcing authorities.

### General Environmental Protection

The California Environmental Quality Act (CEQA) provides a second broad system of protection for the resources.<sup>11</sup> CEQA applies to both public and private activities which need some kind of discretionary approval from a State or local governmental agency if the activity may have a substantial adverse effect on the environment.<sup>12</sup> Where CEQA applies, the governmental agency must examine the proposed activity to determine whether the project would cause a substantial adverse change in the environment.<sup>13</sup> Any impairment of the values identified in the State Wild and Scenic Rivers Act would be a significant effect on the environment. Where any such impairment would occur, the responsible agency would be required to prepare an environmental impact report analyzing the effects in detail, proposing alternatives or mitigation measures that could avoid the damage, and informing the public generally and the decision-makers in the agency of the options available for avoiding the damage.<sup>14</sup> Before the agency can approve the project, it must make a finding on the feasibility of avoiding or reducing each identified significant effect.<sup>15</sup> These findings must be supported by substantial evidence in the record.<sup>16</sup> CEQA creates a substantive duty not to approve a project as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effects on the environment.<sup>17</sup>

This process provides for detailed governmental review of all public and private activities adversely affecting the rivers where the activities involve governmental participation, funding, or permits. CEQA constitutes an express statutory duty to protect the environment where feasible and is implemented through a detailed findings requirement; therefore, the protections of CEQA as a direct environmental mandate affecting all State and local government involvement in private and public projects go beyond the protections provided by the National Environmental Policy Act.

### Free-Flowing Condition

The free-flowing condition of the rivers is protected by a number of laws. Leading the list is the California Wild and Scenic Rivers Act itself with the prohibition on State-assisted dams and other impoundments described earlier. Additional authority is provided by the State ownership of the beds of nearly all the streams involved.<sup>18</sup> Title to the beds of all navigable bodies of water passed to the State in 1850 when

California was admitted to the Union. Control of the State-owned sovereign lands is now administered by the State Lands Commission. The Commission is required by the State Wild and Scenic Rivers Act to exercise its authorities in a manner consistent with the State Act.<sup>19</sup> Independently, it is required to review the State-owned sovereign lands and identify and protect those lands, including river beds, which possess unusually high environmental values.<sup>20</sup> The Wild and Scenic Rivers have already been identified by statute as possessing these high environmental values.<sup>21</sup>

Additional protection for the free-flowing condition is provided by the requirement for anybody who wishes to disturb the bed of a stream to obtain a streambed alteration agreement from the Department of Fish and Game.<sup>22</sup> These streambed alteration agreements are required whether the streambed is owned by the State or by private parties. Accordingly, although the State may not have title to the streambeds of all the tributaries of the Smith River, those tributaries are protected by the requirement for streambed alteration agreements. The Department of Fish and Game, upon advise of the Attorney General's Office, has determined that streambed alteration agreements which would allow any disruption of the natural character of the streambed are simply not permitted as a result of the State Wild and Scenic Rivers Act.<sup>23</sup>

Further protection is provided by the restriction on diversions in the Wild and Scenic Rivers.<sup>24</sup> As described earlier, these diversions are limited to domestic water supplies where the Secretary for Resources finds that the diversion will not have an adverse effect on the free-flowing condition or natural character of the stream. Further authority to protect this condition is provided by the California Water Rights Law. This law requires any person to obtain a permit from the State Water Resources Control Board before diverting any waters from a stream.<sup>25</sup> The Board has broad authority to impose conditions on the issuance of permits in order to protect the public interest.<sup>26</sup> This protection of the public interest is further reinforced by the mandates for environmental protection in CEQA and the declaration in the State Wild and Scenic Rivers Act that the free-flowing condition of the rivers represents the highest and best use of the water as water rights are controlled under the California Constitution.<sup>27</sup>

#### Natural Character of the Streams

The natural character of the rivers in the State System are protected by all the authorities described above as protecting the free-flowing condition. In addition to those authorities, the State Lands Commission is prohibited from allowing the disturbance of spawning gravels in streams identified by the Department of Fish and Game as being essential to anadromous fisheries.<sup>28</sup> The spawning gravels are located in the beds of navigable rivers and are protected by full authority of the State as sovereign landowner.<sup>29</sup>

The natural character is further protected through the streambed alteration agreements administered by the Department of Fish and Game.<sup>30</sup> In close cases, the Department has consulted with the Secretary for Resources to determine whether a particular use could impair the natural character of the stream.<sup>31</sup> As a result of this consultation, agreements were refused for the construction of a wing dam on the Klamath River which would divert the flow of the river from one part of the streambed to another.

The natural character is also protected by the authorities protecting the scenic values in the area.

### Scenic Values

Scenic values in the riverbed itself are fully protected as a result of State ownership.<sup>32</sup> On the banks and in the areas extending away from the rivers, scenic values are protected by many other laws. In forested areas which include most of the areas through which the rivers flow, scenic values are protected by the U.S. Forest Service in National Forests or by the California Forest Practice Act<sup>33</sup> on non-Federal, forested lands. The Forest Practice Act identifies watershed, fisheries, wildlife, recreation, aesthetics, and range and forage as some of the values to be served by the State Act.<sup>34</sup> Under the State Act, the Board of Forestry has adopted a streamside protection zone requirement.<sup>35</sup> This rule applies to areas extending 200 feet away from the line of the first permanent vegetation along the bank of the stream.<sup>36</sup> Logging within this 200 foot buffer zone is limited in order to protect the aesthetics of the stream, to reduce the possibility of erosion, and to help maintain the water temperature in the stream for the benefit of the fisheries.

The streamside protection zone rule is reinforced by the requirement for special logging methods designed to protect the environmental values in Special Treatment Areas.<sup>37</sup> These Special Treatment Areas include areas legally designated as Wild and Scenic Rivers, scenic highways, historical and archaeological sites, ecological reserves, key habitats for endangered species, parks and areas within 200 feet of scenic highways.<sup>38</sup> This rule provides for the protection of river values through the Forest Practice Act.

Additional protection of the values is provided by the requirement that logging under the Forest Practice Act can be carried out only pursuant to a Timber Harvesting Plan reviewed by the Department and that only a professional Forester meeting State licensing requirements can prepare such a plan.<sup>39</sup> In order to be licensed, a Forester must pass an examination requiring detailed professional knowledge<sup>40</sup> and knowledge of the Forest Practice Act and its implementing rules.

### Recreational Values

The recreational values in the Wild and Scenic Rivers System are protected by a wide variety of laws. These include all the laws that protect the free-flowing condition, natural character, and scenic values of the streams. The Coastal Act protects the recreational values in those areas within the Coastal Zone.<sup>41</sup> Access to the water is routinely required as a condition on a coastal permit. Further, the protections as described in this Chapter for other values, including scenic, water quality, free-flowing condition and natural character, geologic, historic, fish and wildlife and cultural, all link to create an aesthetic environment intrinsic to the overall recreational value of designated river areas.

The recreational values of the streams are also protected by the right of public navigation on any stream which will float pleasure craft. This right is clearly established in California Law by a number of court decisions.<sup>42</sup> Public use is further encouraged through the programs of the Department of Boating and Waterways involving the construction of boat launching ramps and loans to local agencies for marinas.<sup>43</sup> The Department also prepares boating trail plans as elements of the California Recreational Trails System.<sup>44</sup> The Department also provides river flow information for recreational use and has identified hazards in streams.<sup>45</sup>

Recreational access is further provided by the authority to CALTRANS to expend highway funds for providing public access to streams at highway bridges.<sup>46</sup> Recreational values are further protected by local authorities through the Subdivision Map Act.<sup>47</sup> This Act requires that where a subdivision will front a navigable body of water the subdivider must offer to dedicate reasonable public access through the subdivision to the water and provide access along the water's edge.<sup>48</sup>

Further protection has been provided by the extensive acquisition of parks along the rivers of the State System.

### Geologic Values

Protection of geologic values is provided mostly through protection of spawning gravels in the riverbeds,<sup>49</sup> soils on the surrounding lands, caves, bluffs, and similar sites.

Erosion control is one of the principal concerns of the Forest Practice Act<sup>50</sup> and the rules adopted for administering this Act. Each Timber Harvesting Plan must identify erosion control measures.<sup>51</sup> These measures are reviewed by the interdisciplinary review team used by the Department of Forestry to evaluate the plans. The Department's field inspectors monitor the plan with inspections before,<sup>52</sup> during,<sup>53</sup> and after<sup>54</sup> the logging operation. Enforcement action is taken on violations of the plan.

Further protection is provided by the stocking requirements in the Forest Practice Act. The logged area must be stocked within five years after the logging operation has been completed.<sup>55</sup> Stocking reduces erosion and re-establishes the forest growth with improvements in scenery and wildlife habitat. Compliance with stocking requirements is insured by mandatory Department of Forestry inspection and Departmental enforcement procedures.<sup>56</sup>

California water quality laws reinforce the erosion control features of the Forest Practice Act. The Forest Practice Act contains criminal sanctions for violation of the Act and the rules.<sup>57</sup> The clean-up and abatement powers of the State Water Resources Control Board also provide serious deterrents to violations of the Forest practices rules. Where loggers have pushed dirt and debris into stream channels, the Regional Water Quality Control Board for the area affected has been able to issue clean-up and abatement orders.<sup>58</sup> Logging companies bear the costs of repairing the damage they cause. The programs for protecting water quality and improving forest practices working together provide protection for the natural soils in the areas adjacent to the Wild and Scenic Rivers.

The water quality program applies to all areas along the streams, not just to forested areas. While the water quality program has done an excellent job of controlling point sources of water pollution, pollution from widespread erosion remains a problem. This problem is especially serious in the watersheds of the North Coast rivers due to their unstable and highly erodible soils. The water quality program is addressing the problem through the 208 Planning Process to find ways that the erosion can be reduced through better logging methods, better road construction, and improved local land use controls such as grading ordinances.

#### Fish and Wildlife Resources

Protection for fish and wildlife resources is provided through the streambed alteration agreements of the Department of Fish and Game<sup>59</sup> and the protections for the spawning gravels required by law for the State Lands Commission.<sup>60</sup> Further protection is provided by the authority to acquire ecological reserves to protect unique habitat and preserve endangered species.<sup>61</sup>

Additional protection for fish and wildlife is provided through the Forest Practice Act. As mentioned above, stocking requirements provide for the regeneration of habitat. In addition, the rules contain protections for snags and raptor nests.<sup>62</sup> Snags provide essential habitat for many forest species. The raptor nest protections prohibit the felling of any snags with visible nest sites of eagles, hawks, owls, waterfowl, or any rare or endangered species.

### Historic Values

Historic values are routinely protected through the California Environmental Quality Act (CEQA).<sup>63</sup> As described earlier, CEQA applies to all State and local discretionary permits. CEQA requires a search for feasible ways to protect historic sites and artifacts. The Forest Practice Rules adopted under the Forest Practice Act also require consideration of historic and archaeological sites in the preparation of Timber Harvesting Plans.<sup>64</sup> As required by CEQA, the Timber Harvesting Plan must reflect a feasibility analysis of ways to protect the historic and archaeological site.<sup>65</sup> The Department of Forestry has required protections of identified historic and archaeological sites in plans they have approved. They have also taken an enforcement action against a logging operator who ignored the requirements in the plan for protection of an identified site.

Historic resources have also been protected through park acquisition.<sup>66</sup> This acquisition program has been reinforced by Governor Brown's Executive Authority B-64-80 requiring State Agencies to identify historic sites and buildings within their jurisdiction and then to work with the State Historic Preservation Officer to develop a way of protecting the site or structure.<sup>67</sup>

Protection for historic resources is also provided through the local planning and zoning process administered by the cities and counties in the area.<sup>68</sup> Planning, zoning, and permit activities go through the CEQA process in terms of identifying historic resources, looking for ways to protect the resources, and making detailed findings on the feasibility of that protection.

### Cultural Resources

Cultural resources have been protected in ways similar to historic resources although recognition of the cultural values of groups other than the dominant culture in our society has emerged only lately. CEQA requires an examination of whether a project would interfere with existing cultural practices or cultural values of any particular group.<sup>69</sup> Further, the California Native American Historical, Cultural and Sacred Sites Preservation Act prohibits public and private agencies using public property from interfering with the free expression of Native American religion or causing severe or irreparable damage to any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property.<sup>70</sup> This Act further created a Native American Heritage Commission and requires each State and local agency to cooperate with the Commission. The Commission has a job of preparing an inventory of sacred places on public property. This inventory will then be useful through CEQA.

## Water Quality

Water quality in the Wild and Scenic Rivers and throughout the State is protected through the comprehensive program administered by the State Water Resources Control Board. This program works both through the State Porter-Cologne Water Quality Control Act<sup>71</sup> and through the delegation from the U.S. Environmental Protection Agency to the Board for administration of the National Pollution Discharge Elimination System (NPDES). This program has made great strides in cleaning up point discharges into the waters of the State. The Board is now working with other agencies in the 208 Planning Process to control nonpoint discharges into the waters. This has included a detailed planning program with the Board of Forestry in evaluating current logging practices and developing improvements in logging practices to reduce erosion. This program is working on many other fronts to reduce threats to water quality.

Other protections to water quality are provided through the Forest Practice Act, streambed alteration agreements, local land use controls such as grading ordinances, and the CEQA process that applies to all State and local discretionary permits.

## Coordination of State Efforts

In protecting the values in the Wild and Scenic Rivers System, the efforts of the State agencies are coordinated by the Secretary of the Resources Agency. The Resources Agency is responsible for coordinating all programs of the grouping of departments, boards, and commissions in State Government which exercise authority over the natural resources of the State.<sup>72</sup> These same State departments, boards, and commissions control activities affecting Wild and Scenic Rivers. The elements of the Agency include the State Air Resources Board, the California Energy Commission, the State Water Resources Control Board and each regional water quality control board, the State Lands Commission, the Division of State Lands, the California Coastal Commission, and the Department of Conservation, the Department of Fish and Game, the Department of Forestry, the Department of Boating and Waterways, the Department of Parks and Recreation, and the Department of Water Resources. Specific organizational and administration responsibilities are discussed in Chapter 4.

The authorities of the Secretary for Resources provide great assistance to the Secretary's responsibility for administering the Wild and Scenic Rivers System. The authorities of the Secretary over the elements of The Resources Agency include general supervision over the elements of the Agency<sup>73</sup> and assisting the Governor in establishing major policy and programs affecting the units of the Agency.<sup>74</sup> The Secretary exercises the authority vested in the Governor with respect to the functions of each element of the Agency such as resolving conflicts between the elements of the Agency and coordinating

the activities of the elements of the Agency with activities of other State, local, and Federal entities.<sup>75</sup> Further, the Secretary has review and approval power over proposed budgets of all elements of the Agency.<sup>76</sup>

As a result of these authorities, the Secretary has been able to coordinate activities within The Resources Agency and to provide mutual support between programs of the Agency. As a result, the effort of Agency activities is more than just the sum of the individual programs. The different programs assist each other in protecting the values in the Wild and Scenic Rivers System. Further, through the budgetary process, the Secretary has ensured that each element of the Agency has had the funding necessary to carry out its responsibilities.

#### Local Land Use Controls

All the values identified in the State and National Wild and Scenic Rivers Acts are served in one manner or another by local land use controls administered by the cities or counties. Under the California Constitution local government is given residual police power for handling land use matters where there is no State statute providing otherwise.<sup>77</sup> The State Planning and Zoning Law spells out the ways in which the cities and counties are to administer their responsibilities.<sup>78</sup> They are to adopt a General Plan which is the basic land use charter for their jurisdiction.<sup>79</sup> Their zoning<sup>80</sup> and subdivisions<sup>81</sup> must conform to the General Plan. In the past, enforcement actions have been taken by the State against counties either to require adoption of a General Plan in the first place or to require revisions in an inadequate General Plan that did not meet the requirements of the Planning and Zoning Law. Local agencies are also subject to the requirements in the California Wild and Scenic Rivers Act that they administer their authorities in a manner consistent with the State Wild and Scenic Rivers Act.<sup>82</sup>

#### Conclusion

Through these many authorities clearly established in California Law, the extraordinary values identified in the California and National Wild and Scenic Rivers Acts are being protected. This protection currently meets the standards of the National Wild and Scenic Rivers Act to allow designation under the National System. California will continue to seek improvement in its laws and in the protections provided to these values. Detailed management plans will continue to be developed as required by the California Law for each designated river. These improvements, however, will proceed from the already high level of comprehensive protection achieved through existing law.



## CITATIONS

1. Pub. L. 90-542, Oct. 2, 1968, 82 Stat. 906 as amended; 16 U.S.C.A. 1271-1287.
2. California Public Resources Code (P.R.C.) Sections 5093.50-5093.65.
3. 16 U.S.C.A. 1271; P.R.C. Sections 5093.50, 5093.52(d).
4. P.R.C. Sec. 5093.50.
5. P.R.C. Sec. 5093.55.
6. P.R.C. Sec. 5093.56.
7. Ibid.
8. 60 Ops. Cal. Atty. Gen. 4 (Jan. 19, 1977).
9. P.R.C. Sec. 5093.55.
10. P.R.C. Sec. 5093.61.
11. P.R.C. Sections 21000-21176.
12. P.R.C. Sec. 21080.
13. Title 14, Cal. Admin. Code Sec. 15080.
14. P.R.C. Sec. 21100.
15. P.R.C. Sec. 21081.
16. Title 14, Cal. Admin. Code Sec. 15088.
17. P.R.C. Sections 21002, 21002.1(b).
18. P.R.C. Sec. 6301; Churchill Co. v. Kingsbury (1918), 178 Cal. 554, 174 P. 329.
19. P.R.C. Sec. 5093.61.
20. P.R.C. Sec. 6370.
21. P.R.C. Sec. 5093.50.
22. Fish and Game Code (F. & G. Code) Sections 1601, 1603.
23. 60 Ops. Cal. Atty. Gen. 4 (Jan. 19, 1977).
24. P.R.C. Sec. 5093.55.

25. Water Code Sections 174, 1253.
26. Water Code Sections 1253, 1255, 1257.
27. P.R.C. Sec. 5093.50.
28. P.R.C. Sec. 6378.
29. P.R.C. Sec. 6301.
30. P.R.C. Sections 1601, 1603.
31. Memo from Norman Hill, Assistant Secretary for Resources to E. C. Fullerton, Director of Fish and Game, Dec. 6, 1978.
32. P.R.C. Sec. 6301.
33. P.R.C. Sections 4511-4628.
34. P.R.C. Sec. 4512.
35. Title 14, Cal. Admin. Code Sections 916-916.11.
36. Ibid, Sec. 912.24.1.
37. Ibid, Sec. 913.7.
38. Ibid, Sec. 912.22.
39. P.R.C. Sec. 4581.
40. P.R.C. Sections 766, 768, 769.
41. P.R.C. Sections 30000-30900.
42. Hitchings v. Del Rio Woods Recreation and Parks District (1976) 55 Cal. App. 3d 560; People v. Mack (1971) 19 Cal. App. 3d 1044.
43. Harbors & Navigation Code Sec. 72.5.
44. Harbors & Navigation Code Sec. 68.2.
45. Harbors & Navigation Code Sections 650, 656.4.
46. Streets and Highways Code Sections 84.5, 991, 1809.
47. Government Code Sections 66410-66499.37.
48. Gov. Code Sections 66478.1-66478.14.
49. P.R.C. Sec. 6378.

50. P.R.C. Sec. 4512(b).
51. P.R.C. Sec. 4582(e).
52. P.R.C. Sec. 4582.7.
53. P.R.C. Sec. 4586.
54. P.R.C. Sec. 4588.
55. P.R.C. Sec. 4587.
56. P.R.C. Sec. 4588.
57. P.R.C. Sec. 4601.
58. Water Code Sec. 13304.
59. Fish & Game Code Sections 1601-1603.
60. P.R.C. Sec. 6378.
61. Fish & Game Code Sections 1580-1584.
62. Title 14 Cal. Admin. Code Sec. 917.1.
63. P.R.C. Sec. 21001(c); Foundation for San Francisco's Cultural Heritage v. City and County of San Francisco (1980) 106 Cal. App. 3d 943.
64. 14 Cal. Admin. Code Sec. 913.7.
65. Ibid, Sec. 898.
66. E.g. Sutter's Fort State Historic Park, Sacramento, California.
67. Executive Order B-64-80, March 6, 1980.
68. Gov. Code Sections 65303, 65860.
69. State EIR Guidelines, 14 Cal. Admin. Code, Division 6, Chapter 3, Appendix G, Item (j).
70. P.R.C. Sections 5097.1-5097.5.
71. Water Code Sections 13000 et seq.
72. Gov. Code Sec. 12805.
73. Gov. Code Sec. 12850.
74. Gov. Code Sec. 12850.2.

75. Gov. Code Sec. 12850.4.
76. Gov. Code Sec. 12850.6.
77. California Constitution Article XI, Sec. 7.
78. Gov. Code Sections 65000 et seq.
79. Gov. Code Sections 65300, 65302, 65400; City of Santa Ana v. City of Garden Grove (1979) 100 Cal. App. 3d 521, 532.
80. Gov. Code Sec. 65860.
81. Gov. Code Sec. 66473.5.
82. P.R.C. Sec. 5093.61.

## Chapter 2

### GOALS AND PRINCIPLES

This Chapter sets forth overall goals and principles for State administration of California's Wild and Scenic Rivers. The goals are oriented toward meeting the policies and administrative requirements of the California Wild and Scenic Rivers Act. The principles represent guidelines that the State will continue to follow in administering its responsibilities concerning the rivers. These State goals and principles also meet the protection requirements of the National Wild and Scenic Rivers System.

#### GOALS

1. To implement the policy of the National Wild and Scenic Rivers Act that certain rivers and their immediate environments "possess outstanding remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations".
2. To implement the policy of the State Wild and Scenic Rivers Act that "certain rivers which possess extraordinary scenic, recreational, fishery or wildlife values, shall be preserved in their free-flowing state, together with their immediate environments, for the benefit and enjoyment of the people of the State".
3. To administer each component of the Wild and Scenic Rivers System in accordance with the requirement of the National Wild and Scenic Rivers Act "to protect and enhance the values which caused it to be included in said System without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration, primary emphasis shall be given to protecting its aesthetic, scenic, historic, archeologic, and scientific features".
4. To administer each component of the System in accordance with the State's Wild and Scenic Rivers Act's requirement "to protect and enhance the values for which it was included in the System, without unreasonably limiting lumbering, grazing, and other resource uses where the extent and nature of such uses do not conflict with public use and enjoyment of these values".

PRINCIPLES

1. The State will continue to guide governmental agencies in administering existing programs and authorities for the rivers and on adjacent non-Federal lands to:
  - a. Protect the free-flowing condition and natural character of the river;
  - b. Protect water quality and reduce flooding by controlling pollution, erosion and sedimentation;
  - c. Protect and where possible enhance the scenic character of the river environment;
  - d. Protect and where possible enhance fish and wildlife habitats, especially improvement of the anadromous and resident fisheries;
  - e. Ensure appropriate recreational opportunities consistent with maintenance of riverine resources;
  - f. Provide for land uses consistent with wild and scenic river values;
  - g. Protect archaeological, historical, cultural, and scientific resources; and
  - h. Provide for natural resources use and development consistent with sound management practices and wild and scenic river values.
2. The State and local governments will continue to administer each wild, scenic, and recreational segment on non-Federal lands so as to preserve the free-flowing, natural character of the rivers and the characteristics leading to their designation. Such management is to be consistent with the State and National Wild and Scenic Rivers Acts and their policies.
3. The State will emphasize non-acquisition means to provide protection of the resource values. The State will not acquire lands or easements except under existing authority as a part of ongoing programs as those programs may support protections of the values of the Wild and Scenic Rivers. Any funds for acquisition under those programs will need to be approved by the State Legislature. No new acquisition authority is conferred upon the State or Federal government under Federal designation.
4. The State will continue to rely on local government management to the greatest extent possible to preserve wild and scenic river values. The State will encourage and assist, through existing mechanisms, local governments to

take into account wild and scenic river values in their ongoing planning and management programs. The State will seek to assure successful river protection through formal cooperative agreements with local governments.

5. The State will seek an improved partnership approach with Federal and local agencies in the administration of the Wild and Scenic Rivers. Administration of land and water resources on Federal lands will be more closely coordinated, also, through formal cooperative agreements.
6. Recognizing the significant role which private landowners have in the ultimate success of river protection programs in Northern California, the State will seek improved communication and coordination with private landowners to achieve the purposes of the State and National Acts.
7. The State will administer its current authorities for regulating adjacent land areas for the specific protection purposes and related geographic areas as defined in existing State laws.
8. The State will establish a more efficient and effective State administrative structure for further coordinating the programs of State agencies whose programs affect Wild and Scenic Rivers.
9. The State will assess periodically the management protection practices exercised for the Wild and Scenic Rivers and make recommendations on needed changes in practices or regulations affecting the quality of river values.
10. The Secretary for Resources will continue to develop detailed management plans for the rivers in close cooperation with Federal agencies, affected persons, industries, and with the counties through which the rivers flow (and their political subdivisions). These management plans will be submitted to the State Legislature for approval.

## Chapter 3

SUMMARY DESCRIPTION OF  
NORTH COAST AND LOWER AMERICAN RIVERS

This section provides a brief summary description of the North Coast and Lower American rivers in order to establish a context for the remainder of this report. For further details on the existing environment of the rivers, the reader is referred to the environmental impact statement prepared by the Heritage Conservation and Recreation Service for Federal designation.

Numerous State and local management programs are currently in place for protection of each of the North Coast rivers and the Lower American River. Where available, information on existing State agency management programs related to river protections is presented in Chapter 5 to this report.

NORTH COAST RIVERSSegments Proposed for Designation

North Coast rivers proposed for inclusion into the National Wild and Scenic Rivers System include certain tributaries of the Klamath, Trinity, Smith and Eel Rivers which are already designated as components of the State Wild and Scenic Rivers System. The specific segments proposed for designation are as follows:

Klamath River. The main stem from 100 yards below Iron Gate Dam to the Pacific Ocean; the Scott River from the mouth of Shackelford Creek west of Fort Jones to the river mouth near Hamburg; the Salmon River from Cecilville Bridge to the river mouth near Somesbar; the North Fork of the Salmon River from the intersection of the river with the south boundary of the Marble Mountain Wilderness Area to the river mouth; Wooley Creek, from the western boundary of the Marble Mountain Wilderness Area to its confluence with the Salmon River.

Trinity River. The main stem from 100 yards below Lewiston Dam to the river mouth at Weitchpec; the North Fork of the Trinity from the intersection of the river with the southern boundary of the Salmon-Trinity Primitive Area downstream to the river mouth at Helena; New River from the intersection of the river with the southern boundary of the Salmon Trinity Primitive Area downstream to the river mouth near Burnt Ranch; south fork of the Trinity from the junction of the river with State Highway 36 to the river mouth near Salyer.

Smith River. All its tributaries from the Oregon-California state boundary to the Pacific Ocean.



Eel River. The main stem from 100 yards below Van Arsdale Dam to the Pacific Ocean; the South Fork of the Eel from the mouth of Section Four Creek near Branscomb to the river mouth below Weott; Middle Fork of the Eel from the intersection of the river with the southern boundary of the Middle Eel-Yolla Bolly Wilderness Area to the river mouth at Dos Rios; North Fork of the Eel from the Old Gilman Ranch downstream to the river mouth near Ramsey; Van Duzen River from Dinsmores Bridge downstream to the river mouth near Fortuna.

Various segments of each of the four river systems have been preliminarily classified as wild, scenic, or recreational depending on the current level of access and the relative degree of development. A map of this preliminary classification is presented in the environmental impact statement.

#### Summary of Land Ownership and Agency Jurisdiction

Federal. Various Federal, State, and local agencies have land use and resource management responsibilities for the lands in the north coastal area of California. The two major Federal land management agencies are the U.S. Forest Service (USFS) and the Bureau of Land Management (BLM). Depending on the river, these agencies own and manage from very little to nearly all of the lands located within the Wild and Scenic River watersheds.

The USFS is responsible for the protection, management, and administration of the National Forest System, which in the North Coast region, includes the Six Rivers, Klamath, Mendocino, and Shasta-Trinity National Forests. More than 99 percent of the Salmon River watershed and 60 percent of the Scott River watershed are contained within the Klamath National Forest. The Six Rivers National Forest encompasses 75 percent of the Smith River watershed area and 16 percent of the Van Duzen watershed. The USFS also owns substantial tracts of land in the watersheds of the Eel and Klamath Rivers.

The BLM is responsible for management of national resource lands, which are public domain lands not reserved for national forests, parks, wildlife protection areas, or Indian reservations. The four North Coast rivers with completed waterway management plans (Van Duzen, Salmon, Scott, and Smith) contain little BLM land within their watersheds. Thus, the USFS has been, up to the present time, the primary Federal agency included in the State's waterway management planning. BLM will become increasingly active in North Coast waterway management planning as detailed management plans are developed for the Eel, Klamath, and Trinity Rivers.

State. The California Department of Parks and Recreation is responsible for managing all the units of the State Park System, including recreation and historic sites, State seashores, State

reserves, State wilderness areas, natural preserves, and cultural preserves. The Department of Parks and Recreation manages several parks in the North Coast region in the immediate vicinity of the rivers proposed for designation. Proceeding from north to south, these are: Jedediah Smith Redwood State Park, Del Norte Coast Redwoods State Park, Prairie Creek Redwoods State Park, Grizzly Creek Redwoods State Park, Humboldt Redwoods State Park, Benbow Lake State Recreation Area, Richardson Grove State Park, Reynolds Wayside Campground, Smithe Redwoods State Reserve, Standish-Hickey State Recreation Area, and Admiral William Standley State Recreation Area.

Local. The five counties through which the designated rivers and tributaries flow are responsible for the planning and regulation of the use of privately-owned lands. Private landholdings are extensive in some areas while essentially nonexistent in others. For example, 72 percent of the Eel River drainage area is privately-owned, whereas less than 1 percent of the Salmon River watershed is not owned by the Federal government.

#### Summary of Resource Values

In general, the resource values which make the North Coast rivers unique include the following: exceptional clarity and high quality of water, riverine recreational opportunities of Statewide significance, and scenic virgin and second-growth redwood groves. Summaries of resource values of the North Coast rivers are presented below.

Water Quality. Water quality of the North Coast rivers is generally good, and sufficient to protect beneficial uses. The main water quality problems found in the rivers are turbidity and sedimentation caused by logging, road construction, road maintenance, and/or mining. Excessive turbidity and sedimentation can degrade the fish habitats and discourage full recreational use and aesthetic enjoyment of the rivers. The State's 208 planning process, and other State programs to address the water quality problems in the North Coast rivers, are discussed in Chapter 4.

Fisheries. The North Coast rivers support outstanding "coldwater" fisheries. Anadromous salmonids, primarily king salmon, silver salmon, and steelhead trout, make up most of the fishery. Other significant commercial and sport fish anadromous species include cutthroat trout, American shad, and striped bass; resident trout; several species of sunfish; and several saltwater species. Numerous other species make up a nongame fish population that provides forage for larger fish and riparian wildlife.

Flora and Fauna. The North Coast drainages are famous for their stands of coastal redwoods. Other important conifers include Douglas-fir, white fir, sugar pine, western white pine, incense cedar, Port Orford cedar, red fir, and Ponderosa pine. Due to the wide range of soil and climatic conditions, nonconiferous species are also numerous, including Pacific yew, madrone, tan oak, bay, and canyon live oak.

Altered timber stands and the river environment create a wide variety of wildlife habitat near the North Coast rivers. The riparian zone and the timbered slopes and draws provide cover for the larger wildlife species. Smaller wildlife species can be found in the brushlands and open areas.

Northwestern California has a large deer population, bear, and a few scattered herds of elk. Introduced wild turkeys have become established in several areas and are spreading rapidly. Ruffed and blue grouse, mountain, and valley quail are locally common and band-tailed pigeons are seasonally abundant. Wildlife populations are primarily forest types adapted to the rugged fir-hardwood-brush complex typical of the drainages.

Recreation. All the North Coast streams are attractive to recreationists. The high flows of spring and early summer attract swimmers, inner tubers, and whitewater boaters. Angling peaks during the fall season's anadromous fish runs, although fishing activity occurs nearly year-round. Other North Coast attractions include camping, rafting, gold panning, birdwatching and nature study, rockhounding, scuba diving, and speedboat racing.

#### Resource Utilization.

Forestry. Forest lands comprise more than 90 percent of the land of the North Coast drainage, making timber production the predominant land use. Most of the commercial timberland is under Federal ownership and managed by the USFS, while approximately 45 percent is under private ownership.

The North Coast counties contain 45 percent of California's timber resources, an estimated 150 billion board-feet. The timber resources consist primarily of Douglas-fir, redwood, and pine. In 1977, approximately 2.6 billion board-feet of timber were produced on the North Coast, of California's total 4.75 billion board-feet.

Agriculture. Most of the agricultural land along the North Coast rivers is devoted to hay and forage crops, with large land areas close to the coastal strand devoted to grazing of cattle and sheep. Grazing is usually associated with timber management.

Mining. Mining had an important role in the early economic development of the North Coast drainages. The Trinity, Smith, and Klamath River systems have yielded gold, and the Trinity and Klamath continue to do so. All these systems, as well as the Eel, produce sand and gravel. All have significant chromite deposits, some of which are being mined. Other commercially significant mineral deposits in the region include silver, mercury, and other precious metals on the Trinity; nickel, cobalt, silver, mercury, copper, platinum, and clay on the Smith; clay, limestone, manganese, copper, coal and jade on the Eel; and mercury and asbestos on the Klamath.

Water Resources Development. The largest existing water resources project on the North Coast rivers is the Trinity Division of the Federal Central Valley Project, from which 1.245 million acre-feet per year are diverted to the Central Valley. The only other major diversion on the five rivers is from the Eel River at Van Arsdale Dam, where almost 0.15 million acre-feet per year are diverted to the East Fork Russian River for hydroelectric power generation. Existing water development and water rights, past water resources development plans, future water development plans under State water rights filings, and existing and planned flood control projects are reviewed in detail in the environmental impact statement for the five North Coast rivers.

Future State-assisted water impoundments on the North Coast rivers are prohibited by the State Wild and Scenic Rivers Act.

#### LOWER AMERICAN RIVER

##### Segments Proposed for Designation

The lower stretch of the American River, from Nimbus Dam to its confluence with the Sacramento River, is the segment designated for inclusion into the National Wild and Scenic Rivers System. The Secretary for Resources has classified this portion of the river as recreational, primarily due to the encroachment of urban structures and activities on proximate lands.

##### Summary of Land Ownership and Agency Jurisdiction

Almost all of the land adjacent to the river is within the jurisdiction of the County or the City of Sacramento. State landholdings within the designated area are minimal (limited to the Cal Expo site) and no lands are Federally owned.

The County and City of Sacramento have each adopted an American River Parkway Plan to protect and enhance for public use a continuous open space greenbelt extending from the Sierras to the Sacramento River. These plans have the objective of preserving the scenic, recreational, and fish and wildlife values along and adjacent to the Lower American River.

## Summary of Resource Values

The Lower American River represents a regional recreation opportunity for the Sacramento metropolitan area. Summaries of the resource values of the Lower American River, extracted from the environmental impact statement are presented below.

Water Quality. Water quality in the Lower American River is good to excellent, with no temperature or turbidity problems, although existing discharges of treated wastewater may degrade the river slightly. Over the next few years, this treated wastewater will be rerouted to the Sacramento River.

Fisheries. The anadromous fishery of the Lower American River includes salmon, steelhead, striped bass, and American shad. A limited warmwater fishery for largemouth black bass, various sunfish, and catfish, together with a few trout and striped bass, supports a summer fishery. The Lower American River is fishable year-round. Human uses of the River make fishing conditions less than perfect, but during the fall and winter good fishing is possible.

Flora and Fauna. The Lower American River is lined with lush riparian growth that includes walnut, oak, cottonwood, and sycamore trees. The riparian hardwood strip along the Lower American River supports a wildlife community similar to the North Coast, with differences associated with high use by the public and many years of influence by civilization. Because the riparian vegetation is carefully protected, birdlife, including raptors and wading birds, is uniformly dispersed along the river section. Small mammals and a few deer exist in the less developed area; snakes and lizards thrive in the brushlands, dredger cobbles and along the river banks.

Recreation. Recreation along the Lower American River has increased dramatically during the past 15 years. Now the River and its parkway attract people from an area extending at least to the San Francisco Bay region for rafting, canoeing, kayaking, swimming, snorkeling, bicycling, horseback riding, hiking, picnicking, fishing, and limited camping. Facilities which accommodate these activities have been developed within the River corridor. Some of these facilities include trails, roads, parking lots, signs, comfort stations, benches, interpretive centers, picnic tables, barbecues, turfing areas, boat launch facilities, regulated campsites, and equestrian staging areas.

## Resource Utilization.

Mining. Placer gold deposits on the Lower American River near Nimbus Dam have been extensively mined by dredging, leaving large areas of nearly barren tailings. Now, gold panners extract tiny gold flakes from the river and its alluvial deposits.

Water Resources Development. Flows in the Lower American River are controlled much of the year by releases from Folsom Reservoir, a 1 million acre-foot reservoir in the foothills east of Sacramento. A few miles downstream of Folsom Dam is Nimbus Dam which regulates Folsom Dam power releases. Existing projects, proposed water development plans, and flood control projects on the Lower American River are reviewed in detail in the environmental impact statement.

## Chapter 4

### ADMINISTRATIVE ROLES OF LOCAL, STATE AND FEDERAL GOVERNMENTS

#### OVERVIEW

California intends to rely upon existing authorities and responsibilities of local and State agencies to administer the Wild and Scenic Rivers System. Under this strategy, local governments will continue to have the primary responsibility for management of private lands to achieve wild and scenic river objectives. The State will continue to be responsible for overall administration of wild and scenic rivers planning and coordination, administration of protections for State-owned lands, regulation of public and private activities, and periodic review of land use policies of ongoing programs in furtherance of wild and scenic river objectives.

In this Chapter, the respective roles of the local, State, and Federal governments in wild and scenic rivers administration under Federal designation are more specifically addressed; proposed intergovernmental cooperation mechanisms are discussed; and other aspects of State administration (public participation and budgetary aspects) are reviewed.

#### DESCRIPTION OF LOCAL GOVERNMENT ROLE

This section describes local government administration of lands along the wild and scenic rivers. The discussion is limited to the North Coast rivers, since local administration of lands along the Lower American River is governed by the American River Parkway Plans which have already been adopted by Sacramento County and the City of Sacramento.

#### Private Ownership Along Rivers

Table 1 summarizes non-federal land ownership along the North Coast rivers. Overall, non-federal ownership along the rivers is only 23 percent. (Lands in private ownership are slightly less than 23 percent because this figure includes lands in State ownership, for which no separate estimates are available.) Private ownership is extensive for the Eel system (82.7 percent), and is relatively small for the remaining rivers (Klamath system - 14.8 percent; Trinity system - 8.5 percent; and Smith system - 17.0 percent).

The wild and scenic rivers flow through five North Coast counties; Siskiyou, Trinity, Del Norte, Humboldt, and Mendocino. As may be seen from the federal land ownership map included in the EIS, private land ownership along the rivers is quite limited in both Siskiyou and Trinity Counties, and is more extensive in Del Norte, Humboldt, and Mendocino Counties. The local wild and scenic rivers administrative role is therefore the greatest for the latter three counties.

Table 1. Non-federal Land Ownership Along  
North Coast Wild and Scenic Rivers

| <u>River</u>   | <u>Length<br/>(in miles)</u> | <u>Private,<br/>State and<br/>Local River<br/>Miles</u> | <u>Percent<br/>Private,<br/>State,<br/>Local</u> | <u>County</u>                   |
|--|------------------------------|---|--|---------------------------------|
| <u>Klamath System</u>  |                              |   |  |                                 |
| Klamath (main)   | 190                          | 37  | 19.7   | Siskiyou, Humboldt<br>Del Norte |
| Scott  | 24                           | 5   | 20.8   | Siskiyou                        |
| Salmon (main)  | 20                           |   |  | Siskiyou                        |
| South Fork Salmon  | 18                           |   |  | Siskiyou                        |
| North Fork Salmon  | 26                           |   |  | Siskiyou                        |
| Wooley Creek   | 8                            |   |  | Siskiyou                        |
| Subtotal   | <u>286</u>                   | <u>42</u>   | <u>14.8</u>                                      |                                 |
| <u>Trinity System</u>  |                              |   |  |                                 |
| Trinity (main)   | 111                          | 17  | 15.3   | Trinity, Humboldt               |
| North Fork Trinity   | 15                           |   |  | Trinity                         |
| South Fork Trinity   | 56                           |   |  | Trinity                         |
| New River  | 21                           |   |  | Trinity                         |
| Subtotal   | <u>203</u>                   | <u>17</u>   | <u>8.5</u>                                       |                                 |
| <u>Smith System</u>  |                              |   |  |                                 |
| Smith (main)   | 16                           | 16.5  | 100.0  | Del Norte County                |
| North Fork Smith   | 13                           |   |  | Del Norte County                |
| Middle Fork Smith  | 32                           |   |  | Del Norte County                |
| South Fork Smith   | 38                           |   |  | Del Norte County                |
| Other Tributaries<br>With Potentially<br>High Fishery Values | 241                          | 44  | 16.9   | Del Norte County                |
| Other Tributaries  | 2,760                        | 466   | 17.0   |                                 |
| Subtotal   | <u>3,100</u>                 | <u>526.5</u>  | <u>17.0</u>                                      |                                 |
| <u>Eel System</u>  |                              |   |  |                                 |
| Eel (main)   | 157                          | 151.5   | 90.5   | Trinity, Humboldt,<br>Mendocino |
| South Fork Eel   | 101                          | 101   | 100.0  | Humboldt, Mendocino             |
| Middle Fork Eel  | 54                           | 21.5  | 39.8   | Trinity, Mendocino              |
| North Fork Eel   | 34                           | 4.5   | 13.2   | Trinity, Mendocino              |
| Van Duzen  | 48                           | 47.5  | 99.0   | Humboldt                        |
| Subtotal   | <u>394</u>                   | <u>326</u>  | <u>82.7</u>                                      |                                 |
| Total  | 3,983                        | 911.5   | 22.9   |                                 |



## State Statutes and Programs Directly Affecting Local Land Use Controls

A number of State statutes directly affect local land use controls along the rivers. These statutes include the State Wild and Scenic Rivers Act, the Timber Forest Taxation Reform Act, the Forest Practice Act, the Williamson Act, the Coastal Act, State planning laws, and the California Environmental Quality Act. These statutes are the primary means by which California can assure that existing local land use controls are sufficient to protect wild and scenic rivers values. The general provisions of the statutes are described in Chapter 5. The means by which these statutes allow local government protection of wild and scenic rivers are reviewed below.

California Wild and Scenic Rivers Act. The California Wild and Scenic Rivers Act requires that "all departments of the State and all local governmental agencies shall exercise their powers in a manner consistent with the provisions of this chapter" (Pub. Res. Code Section 5093.61).

The State Act thus places a specific obligation on local governments to preserve and protect wild and scenic rivers values. The State Act also requires cooperation between the State and local governments.

Forest Taxation Reform Act and Forest Practice Act. The Forest Taxation Reform Act (Gov. Code Sections 51100-51154) allows Timberland Preserve Zones (TPZs) to be established by cities and counties. Private timberlands which had been previously assessed as timberland or which met certain productivity standards were automatically included in TPZs in 1976 unless the owners objected at that time. Table 2 shows that a large majority of the private timberland in the five North Coast counties is currently within TPZs, and thus protected by the mechanisms discussed below.

TPZs are zones established by cities and counties pursuant to the Act within which uses are enforceably restricted to timber production and compatible uses. Government Code Section 51100(h) defines "compatible use" as any use which does not significantly detract from the use of the property for, or inhibit, growing and harvesting timber, and shall include, but not be limited to, the following:

- (1) Management for watershed;
- (2) Management for fish and wildlife habitat or hunting and fishing;
- (3) A use integrally related to the growing, harvesting, and processing of forest products, including but not limited to roads, log landings, and log storage areas;

Table 2. Land in Timberland Preserve Zones in  
North Coast Counties, November 1979

| <u>County</u> | <u>Land in<br/>TPZs<br/>(000 acres)</u> | <u>Total Private<br/>Forestland<br/>(000 acres)</u> | <u>Percent<br/>of Private<br/>Forestland<br/>in TPZs</u> |
|---------------|---|---|--|
| Del Norte     | 147.1                                   | 164   | 89.7   |
| Humboldt      | 1,066.9                                 | 1,268   | 84.1   |
| Mendocino     | 892.3                                   | 1,096   | 81.4   |
| Siskiyou      | 603.5                                   | 711   | 84.9   |
| Trinity       | 281.6                                   | 414   | 68.0   |

SOURCE: California Forest Protective Association. Original data compiled by U.S. Forest Service

- (4) The erection, construction, alteration, or maintenance of gas, electric, water, or communication transmission facilities; or
- (5) Grazing.

Cities and counties are allowed to identify additional compatible uses in their zoning ordinances (Gov. Code Section 51115). Cities and counties are also authorized to bring legal action to prohibit an unpermitted use (Gov. Code Section 51116). The lands involved are declared to be enforceably restricted within the meaning of the California Constitution, and the cities and counties are required to enforce and administer the restriction in a manner as to accomplish the purposes of the act (Gov. Code Section 51118).

The lands are assessed as bare land valued according to its capability for growing timber rather than on the basis of the market value of comparable, unrestricted lands (see Rev. & Tax. Code Section 431 et seq.). The market value of similar but unrestricted lands reflects the value for subdivisions or speculation on other developments. These values are much higher than the value of lands enforceably restricted to timber production. The lower rate of taxation provides a strong incentive for rivers to retain their property in timberland use.

To reduce the pressure to cut the timber prematurely, the standing timber is not taxed. A 6 percent yield tax is assessed when the timber is cut (see Rev. & Tax. Code Sections 38101 et seq.).

It is difficult to take land out of TPZs. If an application is received for an immediate rezoning of a TPZ, a Timberland Conversion Permit (TCP) must be obtained; the contents of a permit application, as established by the Forest Practice Act, are described in Chapter 5. The TCP for an immediate rezoning must be approved by a four-fifths vote of the local governing body, and then by the California Department of Forestry (CDF) (Gov. Code Section 51133). In order to approve the rezoning, CDF must make the following findings (Pub. Res. Code Section 4621.2):

- the conversion is in the public interest;
- the conversion would not adversely affect TPZs within 1 mile;
- soils, slopes, and watershed are suitable for the proposed use;
- there is no proximate non-TPZ land suitable for the proposed use.

The above requirements for immediate rezoning apply to all parcels larger than three acres. Very few requests for immediate rezoning of TPZs have been made, probably due to the

strictness of these requirements. California Department of Forestry data indicate that, statewide, as of October 1979 immediate rezonings had been requested for only 7,282 acres of TPZs; of these rezonings only 1,511 acres were approved.

A landowner may also remove land from TPZ classification by applying to the local government for an initial approval of the reclassification and waiting 10 years for the reclassification to take effect. In this case, only a simple majority of the local governing body need approve the reclassification and no TCP is necessary (Gov. Code Sections 51120 and 51121).

TPZs are perhaps the most important locally-administered land use control which assists in achieving protection of wild and scenic rivers.

Williamson Act. The Williamson Act (Gov. Code Sections 51200-51295) offers tax incentives for owners of agricultural land and open space to keep this land in its current uses. Under the Act, an owner of qualified agricultural or open space land may enter into a contract with a local government whereby the land is taxed at lower rates than under its highest and best use; in return, the landowner agrees not to develop the land for 10 years. Participation in Williamson Act contracts is voluntary. Contracts may be cancelled by local governments based on findings that the cancellation is consistent with purposes of the Williamson Act and is in the public interest. If a contract is cancelled, the landowner must pay a cancellation fee equal to 50 percent of the assessed valuation of the property. The city, county, or another landowner under Williamson Act contract (Gov. Code Section 51251) or the Attorney General on request by the Secretary for Resources (Gov. Code Section 16147) may bring legal action to enforce a Williamson Act contract.

Fiscal year 1979-1980 data on land assessed under the Williamson Act in the North Coast counties are presented in Table 3. Williamson Act lands are substantial in Mendocino County, totalling 1.16 million acres. Siskiyou and Humboldt Counties also have significant amounts of land under the William Act (363,000 acres and 188,000 acres, respectively), and Trinity County has 20,156 acres under contract. Del Norte County is a nonparticipating county.

Coastal Act. The California Coastal Act (Pub. Res. Code Sections 30000-30900) requires local governments to prepare local coastal plans for portions of the coastal zone within their jurisdiction. Along the wild and scenic rivers in the North Coast counties, portions of the Smith and Klamath drainages (Del Norte County) and Eel River drainage (Humboldt County) are within the coastal zone. Local coastal plans, together with implementation devices such as zoning ordinances, are currently being prepared by the coastal counties and are

Table 3. Land Assessed Under Williamson Act  
in North Coast Counties, FY 1979-1980

| <u>County</u> | <u>Urban<br/>Prime<br/>Land</u> | <u>Other<br/>Prime<br/>Land</u> | <u>Nonprime<br/>Land</u> | <u>Total Acreage<br/>Under Contract</u> |
|---------------|---------------------------------|---------------------------------|--------------------------|---|
| Mendocino     | 0                               | 20,465                          | 1,134,786                | 1,155,251                               |
| Humboldt      | 0                               | 163                             | 187,966                  | 188,129                                 |
| Mendocino     | 0                               | 20,465                          | 1,134,786                | 1,155,251                               |
| Siskiyou      | 0                               | 49,168                          | 314,197                  | 363,365                                 |
| Trinity       | 0                               | 832                             | 19,324                   | 20,156                                  |

SOURCE: California Department of Conservation

subject to approval by the Regional and State Coastal Commissions. Each plan must be consistent with policies in the Coastal Act related to public access, recreation, protection of the marine environment and land resources, and industrial, commercial, and residential development. The Coastal Act is discussed in greater detail in Chapter 5.

State Planning and Subdivision Laws; California Environmental Quality Act. Much of the privately owned land in the North Coast counties is either in TPZs, under Williamson Act contract, or within the coastal zone. All privately owned lands are subject to land use controls enabled by State planning and subdivision laws. In addition, all development projects requiring government agency approval are subject to the California Environmental Quality Act (Pub. Res. Code Sections 21000-21176).

Under the State Planning Act (Gov. Code Section 65000 et seq.), local agencies must adopt general plans to guide land use decisions; each plan must contain a number of elements. The land use, conservation, and open space elements are the most important of these in terms of wild and scenic rivers protection.

Under the Subdivision Map Act (Gov. Code Section 66410 et seq.), subdivisions must be consistent with adopted general plans. Wild and scenic rivers are protected from incompatible subdivision activity by the requirement that a local government must deny approval of a subdivision map if it finds that the subdivision is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. (Government Code Section 66474.) The Act also prevents local governments from approving a subdivision along a public waterway, river, or stream which does not provide an easement for public access.

The California Environmental Quality Act (Pub. Res. Code Sections 21000-21176) requires both State and local agencies to prepare a detailed Environmental Impact Report (EIR) on any project which a public agency proposes to carry out or approve, if there is the possibility that the project may have a significant effect on the environment. EIRs prepared on local development projects must be circulated to affected agencies and the public for comment. Written findings must be made by a local government on each significant effect identified in the EIR. These findings must be one of the following: changes have been made to the project to mitigate or avoid the significant environmental effect; such changes are the responsibility of another agency which has or can adopt such changes; or specific economic, social, or other considerations make adoption of mitigation measures infeasible.

The Planning Act, Subdivision Map Act, and CEQA are discussed in greater detail in Chapter 5.

## Private Land Management Within Each of the Five North Coast Counties

Overview. Table 4 compares the land ownership in each of the five North Coast counties. As may be seen from this table, over two-thirds of the land in each of the five counties is either government-owned, in TPZs, or under Williamson Act contract.

Siskiyou and Trinity Counties. Siskiyou and Trinity Counties have 37.1 percent and 27.6 percent of their land in private ownership, respectively. The two counties contain portions of the Klamath system and Trinity system drainages. Very few river miles of the wild and scenic rivers are in private ownership in these counties.

Both counties have large acreages in TPZs. Siskiyou County also has 9 percent of its land under Williamson Act contract. In Siskiyou County, scattered parcels of Williamson Act lands are located along and within the watershed of the Scott River, and along the Klamath River before its confluence with the Scott. In Trinity County, scattered parcels of Williamson Act lands are located in the Trinity River watershed in the west part of the county. For each county, only about 13 percent of the land is not government-owned or protected by Williamson Act contracts or TPZs.

In Siskiyou County, the land use element of the general plan was adopted in 1967, and the conservation and open space elements were adopted in 1972. The general plan is currently being updated for particular subareas in the county, and a revised zoning ordinance is currently being prepared. In Trinity County, a new land use element was adopted in 1978, and the conservation and open space elements were adopted in 1973. Trinity County's zoning ordinance is currently being revised.

Del Norte County. Del Norte County has the least percentage of its land in private ownership of any of the five North Coast counties, 26 percent. The county contains the entire Smith River drainage and a portion of the Klamath River (main stem) drainage.

Almost all of the privately-owned land in Del Norte County is within TPZs, leaving only 3.6 percent of the county's acreage not government-owned or not in TPZs. Also, parts of the Smith River (main stem) and Klamath River drainages are located within the coastal zone, and are afforded additional protection under the California Coastal Act and local coastal planning.

The land use, conservation, and open space elements of the Del Norte County general plan were adopted in 1976. A local coastal plan is currently under preparation.

Table 4. Land Ownership in North Coast Counties

| <u>Ownership</u>             | <u>County</u>    |                |                      |                   |                  |                |                  |                |                  |                |
|------------------------------|------------------|----------------|----------------------|-------------------|------------------|----------------|------------------|----------------|------------------|----------------|
|                              | <u>Del Norte</u> |                | <u>Mendocino</u>     |                   | <u>Siskiyou</u>  |                | <u>Trinity</u>   |                | <u>Humboldt</u>  |                |
|                              | <u>000 Acres</u> | <u>Percent</u> | <u>000 Acres</u>     | <u>Percent</u>    | <u>000 Acres</u> | <u>Percent</u> | <u>000 Acres</u> | <u>Percent</u> | <u>000 Acres</u> | <u>Percent</u> |
| <u>Government</u>            |                  |                |                      |                   |                  |                |                  |                |                  |                |
| -Federal                     | 451.7            | 70.4           | 310.5                | 13.8              | 2,516.4          | 62.3           | 1,465.6          | 71.8           | 436.1            | 19.1           |
| -State                       | 18.3             | 2.9            | 73.8                 | 3.3               | 8.0              | 0.2            | 4.7              | 0.2            | 59.0             | 2.6            |
| -Local                       | 1.8              | 0.3            | 8.3                  | 0.4               | 17.2             | 0.4            | 7.3              | 0.4            | 10.2             | 0.4            |
| -Subtotal                    | 471.9            | 73.5           | 392.6                | 17.5              | 2,541.6          | 62.9           | 1,477.6          | 72.4           | 505.3            | 22.1           |
| <u>Private</u>               |                  |                |                      |                   |                  |                |                  |                |                  |                |
| -TPZs <sup>a</sup>           | 147.1            | 22.9           | 892.3 <sup>c</sup>   | 39.8 <sup>c</sup> | 603.5            | 14.9           | 281.6            | 13.8           | 1,066.9          | 46.7           |
| -Williamson Act <sup>b</sup> | --               | --             | 1,155.3 <sup>c</sup> | 51.5 <sup>c</sup> | 363.4            | 9.0            | 20.2             | 1.0            | 188.1            | 8.2            |
| -Other                       | 22.9             | 3.6            | 696.6 <sup>c</sup>   | 31.0 <sup>c</sup> | 531.2            | 13.1           | 262.8            | 12.9           | 526.4            | 23.0           |
| -Subtotal                    | 170.0            | 26.4           | 1,851.9 <sup>c</sup> | 82.5 <sup>c</sup> | 1,498.1          | 37.1           | 564.6            | 27.6           | 1,781.4          | 77.9           |
| Total                        | 641.9            | 100.0          | 2,244.5              | 100.0             | 4,039.7          | 100.0          | 2,042.2          | 100.0          | 2,286.7          | 100.0          |

Note: Subtotals and totals may not add due to rounding.

General Source: County Supervisors Association of California. California County Fact Book 1977-1978.

a Source: Table 2.

b Source: Table 3.

c A significant amount of land under nonrenewable Williamson Act contract is also in TPZs. Exact acreage is not available. Maximum "other" private acreage calculated by subtracting Williamson Act acreage from total private acreage.



Humboldt County. Most (78 percent) of the land in Humboldt County is in private ownership. The county contains portions of the Eel, Klamath, and Trinity systems; privately-owned land is most prevalent along the Eel system and its tributaries.

Almost half (47 percent) the land in the county is in TPZs, and an additional 8 percent is under Williamson Act contract. Only 23 percent of the county's land is not government-owned or protected by Williamson Act contract or TPZs. Williamson Act lands are found in the Van Duzen River watershed north of Bridgeville, in the Eel River drainage in the southeastern part of the county, and in the South Fork Eel River drainage. Also, part of the main stem Eel River drainage is located within the coastal zone, and is thus afforded additional protection.

Humboldt County adopted its land use element in 1967 and its conservation and open space elements in 1974. The general plan is currently undergoing revision and consolidation. Also, the Humboldt County local coastal plan is currently under preparation.

Mendocino County. Most of the land in Mendocino County (82 percent) is in private ownership. The county contains portions of the Eel system drainage, most of which is privately owned.

About 40 percent of the land in Mendocino County is under Williamson Act contract, and over half (51 percent) is in TPZs. The Williamson Act lands include a significant amount of forestland which is also in TPZs. This forestland is scheduled for conversion to TPZ status within the next 10 years. This problem is not encountered to a significant extent in the other North Coast counties (State Board of Equalization, pers. comm.). Because of this overlap, it is not possible to estimate the percentage of land in Mendocino County which is not government-owned and not protected by Williamson Act contracts or TPZs; this figure must be less than 31 percent, which is obtained by subtracting Williamson Act lands from total lands under private ownership. Lands under Williamson Act contract in Mendocino County include most of the west bank and drainage of the South Fork Eel River, scattered parcels along the Middle Fork Eel River, and most of the eastern bank and drainage of the main stem Eel River.

Mendocino County's land use element was adopted in 1967, and its conservation and open space elements were adopted in 1974. The county general plan is currently undergoing revision under court order following action by the State Attorney General to require the county to adopt a general plan conforming to the State Planning Act. The revision is due to be completed by May 1981. A local coastal plan is currently being prepared for the county, but the coastal zone does not include land draining to the Eel River system.

DESCRIPTION OF STATE GOVERNMENT ROLEOverall Authority and Responsibility

Overall authority and responsibility for State administration of Wild and Scenic Rivers under Federal designation will be retained by the State. The Secretary for Resources is charged under the State Wild and Scenic Rivers Act to administer the System. The Secretary's administrative authority is established in the State Wild and Scenic Rivers Act (Pub. Res. Code Section 5093.60).

State Agency Responsibilities

The broad activities to be achieved under State administration of the Wild and Scenic Rivers are administration of planning and coordination, administration of State-owned lands, regulation of public and private activities, and periodic review of land-use policies of ongoing programs in furtherance of wild and scenic river objectives. State agency responsibilities for each of these activities are summarized in this section.

Administration of Planning and Coordination. The Resources Agency will have lead planning and coordination responsibilities under Federal designation. This authority has been conferred on the Secretary for Resources by the State Wild and Scenic Rivers Act. By means of annual interagency agreements, the Resources Agency has delegated to the Department of Fish and Game the lead responsibility of planning for and completing detailed management plans for each designated river. The Department of Fish and Game has also been assigned the responsibility for general coordination with other state and local entities where wild and scenic rivers are involved. The State coordination role has three important elements: familiarizing the participating units of State government (both within and outside The Resources Agency) and local governments with wild and scenic river objectives, monitoring and review of projects for consistency with wild and scenic river objectives, and mediating interagency disagreements.

To improve overall coordination of all local and State river protection activities, the Secretary for Resources will create an interagency coordinating committee for Wild and Scenic Rivers, with representation by management from all key affected departments. An Assistant Secretary to the Secretary for Resources will head the coordinating committee and will have the lead staff responsibility to coordinate the State's Wild and Scenic Rivers Program. The coordinating committee will provide input from participating State agencies on decisions affecting wild and scenic rivers.

Administration of State-Owned Lands. Four main agencies are involved in the administration of State-owned lands in the watersheds of the Wild and Scenic Rivers: the Department of Forestry, the Department of Parks and Recreation, the Department of Fish and Game, and the State Lands Commission. Under the State Wild and Scenic Rivers Act (Section 5093.56 of the Public Resources Code), these agencies are currently prohibited from assisting or cooperating in any project which could have an adverse effect on the free-flowing, natural condition of the rivers included in the System. This prohibition against State governmental cooperation in projects adversely affecting the System, as well as land management activities to preserve river values, will continue under Federal designation.

Regulation of Public and Private Activities. Numerous State agencies regulate public or private activities which could affect wild and scenic river values. The State regulatory agencies most directly involved in wild and scenic rivers activities are the Department of Forestry, the Department of Fish and Game, the State Water Resources Control Board (and regional boards), and the California Coastal Commission (and regional commissions). The specific responsibilities of these and several other regulatory agencies are described in detail in Chapter 5 of this report.

Under the State Wild and Scenic Rivers Act, the regulatory agencies are currently prohibited from assisting or cooperating in projects which could have an adverse effect on the free-flowing, natural condition of the rivers included in the System. This prohibition against governmental cooperation in projects adversely affecting the System, as well as the specific regulatory programs of each agency to preserve river values, will continue under the Federal designation.

Review of Land-Use Policies. Land-use policies are reviewed by several means including budget approvals, CEQA projects review, acquisition plans such as those for State parks and forests, and land exchanges. These and other mechanisms provide The Resources Agency the opportunity to periodically review its land-use policies to ensure that the Agency's constituent units are in compliance with and are adhering to the objectives of the Wild and Scenic Rivers Program.

Federal administrative designation also does not confer any additional condemnation or acquisition authority on local, State, or Federal government; nevertheless, several State agencies already have authority to acquire lands in furtherance of ongoing programs which support wild and scenic river objectives. The most important of these are the Department of Parks and Recreation, the Department of Forestry, the Department of Fish and Game, and the University of California. Clear public need must be demonstrated and strict criteria adhered to, including approval of the State Legislature, to expend State funds for acquisition purposes.

DESCRIPTION OF FEDERAL GOVERNMENT ROLEKey Federal Agencies

Several Federal agencies have land management or regulatory authority for the rivers. The most important of these are the U. S. Forest Service (USFS) and the Bureau of Land Management (BLM), which have land and resource management responsibilities, and the Bureau of Indian Affairs (BIA), which acts as a trustee for the Indian lands along the river. Other involved agencies are the U. S. Army Corps of Engineers, which has regulatory (Sections 10 and 404 permit) and water resources project responsibilities; the Water and Power Resources Service, which has water resources project responsibilities; and the U. S. Fish and Wildlife Service (USFWS), which consults with Federal agencies on fish and wildlife aspects of permit decisions.

Federal Agency Responsibilities

Federal designation of the rivers would place several requirements on Federal agencies. The most important of these is that Federal assistance to construction or approval of water resources projects on designated river segments would be prohibited. Also, new mining claims on Federal land within one-quarter mile of the designated components of the rivers designated as "wild" would be prohibited. Also, Federal management plans would be required to recognize wild and scenic rivers status. Except for the prohibitions on water resources projects and new mining claims (on Federal land in wild river components) as just stated, it should be noted that Federal designation of the rivers under Section 2(a)(ii) does not confer any additional authority on Federal agencies. Federal designation also does not authorize any funds for Federal land acquisition.

LOCAL, STATE AND FEDERAL COOPERATION  
IN FUTURE MANAGEMENT PLANNING

Detailed management planning will continue for the Wild and Scenic Rivers. This section advances options for continued local-State cooperation in future management planning for non-Federal lands, and discusses the intergovernmental cooperative agreements to achieve coordination of local, State, and Federal activities.

The cooperative mechanisms presented here are designed to supplement the State's ongoing waterways management planning program which will continue to its completion regardless of Federal designation. All plans for System administration will be reviewed by the Secretary for Resources for acceptability under the State and National Wild and Scenic Rivers Acts. Acceptable plans will be submitted to the State Legislature for approval.

## Options for Local-State Cooperation in Future Management Planning on Non-Federal Lands

Under Federal designation of the Wild and Scenic Rivers, California will continue its waterway management planning process, continue to assume management responsibilities for State-owned lands, and continue to exercise its regulatory power for public and private activities to preserve wild and scenic river values. Local participation in management planning can be structured in a variety of ways. Three principal options are described below. Each recognizes that local governments will continue to have the primary responsibility for management of private lands to preserve wild and scenic river values. The option to be exercised (under the State-local cooperative agreement) by each local government will depend on its resources, technical expertise, and willingness to assume management planning responsibilities.

Option 1: Local Government Preparation of Detailed Management Plans for State Approval. Under this option, a local government would prepare for privately-owned lands a detailed management plan (if no State Waterway Management Plan exists) or amendments to the existing Waterway Management Plan. The locally-initiated plan or amendments would be adopted by the local government, and presented to The Resources Agency for a determination of compatibility with the State and National Wild and Scenic Rivers Acts. Upon a favorable determination, The Resources Agency would present the plan to the State Legislature for approval. The feasibility of this option is exemplified by the American River Parkway Plans adopted by the City and County of Sacramento.

(During scoping meetings on the environmental impact statement for Federal designation, some local governments indicated that the rivers can be sufficiently protected using existing local management programs. After Federal designation, the Resources Agency intends to request that local governments which are conducting such management programs submit appropriate documentation of these existing programs, if the local government so desires, to determine if they constitute an adequate, detailed management plan for privately-owned lands. For those river segments for which the Resources Agency determines that adequate controls are currently in place, no further detailed State management planning for privately-owned lands is envisioned.)

Option 2: State Assistance to Primarily Local Planning. All local governments may not have all of the resources to prepare a detailed management plan for privately-owned lands along the Wild and Scenic Rivers. In those cases, the State would consider requests to provide technical assistance to the local governments to prepare for privately-owned lands a detailed management plan (if no State Waterway Plan exists) or amendments to the existing Waterway Management Plan. As with Option 1, the

local plan or amendments would be adopted by the local government and presented to The Resources Agency for a determination of compatibility with the State and National Wild and Scenic Rivers Acts. Upon a favorable determination, The Resources Agency would present it to the State Legislature for approval.

Option 3: Local Assistance to Primarily State Planning. At the request of a local government, the local government could limit its involvement to assisting The Resources Agency in preparing the private land element of a detailed management plan. The completed plan would be reviewed by The Resources Agency for compatibility with the State and National Wild and Scenic Rivers Acts. Upon a favorable determination, The Resources Agency would present the plan to the State Legislature for approval.

Under the Local-State Cooperative Agreement, a local government may undertake or assist in management planning under any of the above options on a schedule consistent with that for State preparation of State Waterway Management Plans. In the event local government does not exercise one of the options above, the State will continue its responsibility, as required by the State Wild and Scenic Rivers Act, to complete development of State Waterway Management Plans for the rivers.

#### COOPERATIVE AGREEMENTS

State-Local Cooperative Agreements. Following Federal designation of the rivers, Local-State cooperative agreements will be sought. These agreements will include the following areas:

- Option for conducting detailed management planning for privately-owned land
- Specific objectives for System protection by local and private interests
- Schedule for completion of management plans
- Monitoring of management plan implementation
- Consultation procedures to assure compatibility of administration on State-owned and privately-owned lands
- procedures for exchange of data and information

State-Federal Cooperative Agreements. Following Federal designation of the rivers, State-Federal cooperative agreements will be sought with the USFS, the BLM, and the BIA at a minimum, and perhaps with other involved Federal agencies as well, in order to promote coordinated State-Federal

administration of land and water resources affecting the rivers. The State-Federal cooperative agreements will cover the following areas:

- Consultation procedures to ensure compatibility of administration on Federal and non-Federal lands
- Potential formation of cooperative planning teams or advisory groups
- Review of new projects, plans, and regulatory programs
- Resolution of potential differences in interpretations of the requirements of the National and State Wild and Scenic Rivers Acts
- Procedures for exchange of data and information

Local agencies will be invited to review and comment on the drafts of State-Federal cooperative agreements before they are signed.

#### OTHER ASPECTS OF STATE ADMINISTRATION

##### Public Participation

Public input on the proposed Federal designation has been sought through the series of scoping meetings held in August 1980 on the environmental impact statement for the proposed designation. Major public issues and concerns raised in these scoping meetings will be addressed in the draft environmental impact statement.

Once the rivers are designated by the Federal government, State and local agencies with wild and scenic rivers responsibilities will seek public and local agency input through their established public involvement and review processes. In addition, The Resources Agency will seek to identify additional means for obtaining public and local agency input, making maximum use of the existing opportunities for public participation in the State's waterway management planning process.

##### Budgetary Aspects

In the past several years, the State has allocated considerable funds to the Waterways Management Planning Program. For fiscal year 1980-81, \$350,469 is allocated to the Department of Fish and Game for waterways management planning.

Planned activities include:

- continuation of plan preparation for the South Fork Eel River, and initiation of plan preparation for the Klamath River, and
- initiation of preliminary data collection for the Trinity River

Also included within the State fiscal year 1980-1981 budget are a large number of State agency projects and programs directly related to protection of the Wild and Scenic Rivers.



Table 5-1. Summary of Authorities for Protecting Wild and Scenic Rivers

| <u>Authority</u>                         | <u>Citation</u>                                | <u>Resource Protected</u>   | <u>Area Protected</u>  |
|--|--|---|--|
| California Wild & Scenic Rivers Act      | Public Resources Code (PRC) Section 5093.50 ff | Rivers  | Rivers & immediate environments  |
| California Environmental Quality Act     | PRC 21000-21176                                | All   | Entire watershed   |
| Acquisition & management of State-owned: |  |   |  |
| State Forests                            | PRC 4631-4658                                  | Forest, soil, watershed, wildlife, range, forage, fisheries, aesthetics                         | State-owned forests  |
| State Parks                              | PRC 5001-5096.139                              | All   | Limits of state park   |
| Spawning gravels                         | PRC 6378                                       | Fisheries   | State-owned spawning areas in streams  |
| Ecological Reserves                      | Fish & Game Code Sections 1580-1584            | Vegetation, wildlife, aesthetics, scientific information, habitat                               | Area acquired  |
| School lands & beds of navigable waters  | PRC 6301, 6370-6378                            | Scenic, historic, natural, aesthetic, & other environmental                                     | State-owned lands including navigable stream beds to ordinary high water mark  |
| Forest Practice Act                      |  |   |  |
| Generally                                | PRC 4511-4628                                  | Timber, forest resources, watershed, fisheries, wildlife, recreation, aesthetics range & forage | Area of logging operations including stream crossings  |
| Stream & lake protection rules           | 14 Cal. Admin. Code Sections 916-916.11        | Stream & lake beds & banks. Fisheries, soils, wildlife, aesthetics, recreation                  | Stream & lake beds & banks. Band of vegetation along the waterway from line of first permanent vegetation to 200' onshore of this line |
| Snag & raptor nest protection            | 14 Cal. Admin. Code Section 917.1              | Wildlife, aesthetics  | Area of logging activities   |

| <u>Authority</u>                      | <u>Citation</u>  | <u>Resource Protected</u>                               | <u>Area Protected</u>   |
|---------------------------------------|--|---|---|
| Erosion control                       | PRC 4562.5 & 4562.7<br>14 Cal. Admin. Code<br>Sections 915-915.9   | Soil, water, forests                                    | Area of logging activities  |
| Stacking requirements                 | PRC 4561-4561.6<br>14 Cal. Admin. Code<br>Section 913.11   | Forest, wildlife, soil, water, aesthetics               | Logged area   |
| Timberline conversion                 | PRC 4621-4628  | Soil, watershed   | Logged area   |
| Water Quality Control Act             | Water Code<br>Section 13,000 ff  | Water   | Entire watershed  |
| Water Rights Administration           | Water Code<br>Section 1200 ff  | Water, fish & wildlife, free-flowing character of river | Stream  |
| Public Trust Doctrine                 | <u>Marks v. Whitney</u> ,<br>6 Cal. 3d 25<br><u>People v. Calif. Fish Co.</u> ,<br><u>Fish Co.</u> , 166 Cal 576 | Navigation, fisheries, environment generally            | Waters to ordinary water mark   |
| Fish & Game Code                      |  |   |   |
| Stream bed alteration agreements      | Fish & Game Code<br>Sections 1601 & 1603   | Stream bed, water quality, fisheries, aesthetics        | Stream beds   |
| Suction dredge permits                | Fish & Game Code<br>Section 5653   | Fisheries, water quality                                | Stream & lake beds  |
| Comments on water rights applications | Water Code<br>Sections 1243, 1243.5  | Fisheries   | Streams & lakes   |
| California Coastal Act                | PRC 30000-30900  | All environmental resources                             | Coastal zone, generally from 3 miles at sea to 1000 yards on shore from mean high tide line |
| Coastal planning                      | PRC 30200 ff   |   | In special areas, to the first major ridgeline parallel to the sea                          |
| Permits in coastal zone               | PRC 30600 ff   | All environmental resources                             | Area between the sea & 300' on shore or the first major coastal highway                     |

| <u>Authority</u>                                     | <u>Citation</u>  | <u>Resource Protected</u>  | <u>Area Protected</u>                         |
|--|--|--|---|
| Energy Resources Conservation & Development Act      |  |  |   |
| Generally  | PRC 25000-25986  | All environmental resources  | Power plant site & area of related facilities |
| Power plant siting                                   | PRC 25500-25542  | All environmental resources  | Power plant site & area of related facilities |
| Attorney General Authority for Environmental Actions | Government Code Section 12607                          | Land, air, water, minerals, vegetation, wildlife, silence, historic or aesthetic sites, etc. | Entire State                                  |
| Native American Historical, Cultural, & Sacred Sites | PRC 5097.9   | Historic, archaeological & sacred sites  | Publicly-owned lands                          |
| Archaeological, Paleontological, & Historic Sites    | PRC 5097.1-5097.5                                      | Archaeological, paleontological, & historic sites  | State-owned lands                             |
| Executive Order on Historic Sites                    | Executive Order B-64-80                                | Historic sites   | State-owned lands                             |
| Recreational & Boating Trails Act                    | Harbors & Navigation Code Section 68.2                 | Recreational use   | Rivers  |
| River Flow Information                               | Harbors & Navigation Code Sections 650, 656.4          | Recreational use   | Rivers  |
| Wetlands Preservation Act                            | PRC 5810-5818  | Water quality, fish, wildlife, recreation  | Rivers & wetlands                             |
| Resources Agency Wetlands Policy                     | Memorandum from Secretary for Resources Sept. 19, 1977 | Water quality, fish, wildlife, recreation  | Rivers & wetlands                             |
| Surface Mining & Reclamation Act                     | PRC 2710-2793  | Minerals, recreation, forage, wildlife, watershed, aesthetics                                | Areas subject to mining                       |
| Licensing of Professional Foresters                  | PRC 750-783  | Forests, soils, water quality, wildlife, recreation, aesthetics                              | Areas subject to logging                      |
| Coordinating Authority of Secretary for Resources    | Government Code Sections 12850-12854                   | Land, air, water, forests, fish, wildlife, recreation, waterways, energy supplies            | Entire watershed of rivers                    |

| <u>Authority</u>  | <u>Citation</u>  | <u>Resource Protected</u>  | <u>Area Protected</u>                 |
|---|--|--|---------------------------------------|
| Composition of Resources Agency   | Government Code<br>Sections 12800, 12805<br>PRC 30300, 31100 | Land, air, water, forests,<br>fish, wildlife, recreation,<br>waterways, energy supplies          | Entire watershed of<br>rivers         |
| Planning & Zoning Law   | Government Code<br>Section 65000 ff                          | Land use, traffic, housing,<br>conservation, natural<br>resources, open space, seismic<br>safety | All areas subject to<br>local control |
| General Plans   | Government Code<br>Section 65300.5 ff                        | "  | "                                     |
| Zoning regulations  | Government Code<br>Section 65800 ff                          | "  | "                                     |
| Subdivision Map Act   | Government Code<br>Sections 66410-<br>66499.37               | "  | "                                     |
| Disapproval of subdivison<br>required where environ-<br>mental damage is likely | Government Code<br>Section 66474                             | Fish, wildlife, & environment<br>generally   | "                                     |
| Access to waterways   | Government Code<br>Sections 66478.1-<br>66478.14             | Recreation   | Banks of waterways                    |
| Timberland Preserves  | Government Code<br>Sections 51100-51155                      | Forests, watershed, fish &<br>wildlife   | Privately-owned<br>forest lands       |

## Chapter 5

### EXISTING LEGAL AUTHORITY FOR PERMANENT ADMINISTRATION OF CALIFORNIA'S WILD AND SCENIC RIVERS

#### INTRODUCTION

This chapter details the principal existing statutes, regulations and other authorities which provide the legal framework for permanent administration of the rivers as wild, scenic, or recreational by the State of California. It also describes regulatory and other programs currently underway which illustrate the ability of the State to protect the rivers' unique environmental values.

Table 5-1 is a summary of the State's authorities for protecting the wild and scenic rivers. For each authority the statutory basis is cited and the resource and geographic area protected are indicated. The discussion in this Chapter generally follows the sequence of authorities shown in Table 5-1.

#### Codification of California Laws

Statutes enacted by the California Legislature are organized into codes. The codes with the most direct application to administration of the State's wild and scenic rivers are the Fish and Game Code (F. & G. Code); Public Resources Code (Pub. Res. Code); the Water Code; and the Government Code (Gov. Code).

Each code is organized into divisions, chapters, articles, and sections. Statutes are cited in the following pages by code name and section number only (e.g., Water Code Section 275).

The regulations adopted by California administrative agencies are published in the California Administrative Code. References to the California Administrative Code are by title and section number (e.g., 14 Cal. Admin. Code Section 917).

#### AUTHORITIES GRANTED BY THE CALIFORNIA WILD AND SCENIC RIVERS ACT

##### Designated Rivers

All the rivers proposed by Governor Brown for inclusion in the National Wild and Scenic Rivers System were designated by the State Legislature as components of the California Wild and Scenic Rivers System in 1972 when it adopted the California Wild and Scenic Rivers Act (Pub. Res. Code Sections 5093.50-5093.65, enacted Stats. 1972, Ch. 1259). Like the National Wild and Scenic Rivers Act, the State Act recognizes that certain rivers possess extraordinary scenic, recreational, fishery, or wildlife values and should be preserved in their free-flowing state, together with

their immediate environments, for the benefit and enjoyment of the people of the State (Pub. Res. Code Section 5093.50).

The rivers designated for inclusion in the California Wild and Scenic Rivers System include all or parts of the Smith, Klamath, Scott, Salmon, Trinity, Eel, Van Duzen, and the North Fork and Lower American Rivers (Pub. Res. Code Section 5093.54).

In addition, the Secretary for Resources may recommend to the Legislature other rivers which qualify for inclusion in the State System (Pub. Res. Code Section 5093.54).

#### Definitions

As used in the California Wild and Scenic Rivers Act, the term "Resources Agency" means the Secretary for Resources and the constituent units of the Resources Agency which the Secretary deems necessary to accomplish the purposes of the Act.

The term "river" is defined to include the "water, bed, and shoreline of rivers, streams, channels, lakes, bays, estuaries, marshes, wetlands, and lagoons." "Free-flowing" means "existing or flowing in a natural condition without artificial impoundment, diversion, or other modification of the water" (Pub. Res. Code Section 5093.52(b)-(d)).

#### Legal Effect

Inclusion of a river in the California Wild and Scenic Rivers System has the following legal effects which attach immediately without the need for further legislative action:

- (1) No dam or water impoundment facility may be constructed on any of the rivers designated in the Act (Pub. Res. Code Section 5093.55).
- (2) No water diversion facility may be constructed on any of the rivers without the approval of the Secretary for Resources who must first determine that the facility is needed to augment local domestic water supplies and that the facility would not affect the river's free-flowing condition or natural character (Pub. Res. Code Section 5093.55).

The State Water Resources Control Board has interpreted this to mean that applications for the construction of water diversion facilities for nondomestic use on any component of the State Wild and Scenic Rivers System must be summarily denied.

- (3) No department or agency of the State shall assist or cooperate in the planning, financing, or construction of any project which could have an adverse effect on the

free-flowing, natural condition of the rivers in the system (Pub. Res. Code Section 5093.56).

- (a) Except for studies of alternative sites for dams on the Eel River, no State department shall participate in studies of any project that could have an adverse effect on the free-flowing natural condition of the rivers in the system (Pub. Res. Code Section 5093.56).
- (b) Projects prohibited by the Act include off-stream activities other than water impoundments that may have an adverse effect on the free-flowing, natural condition of the rivers (60 Ops. Cal. Atty. Gen. 20 (1977)).
- (4) All State and local governmental agencies are required to exercise their powers in a manner consistent with the Wild and Scenic Rivers Act (Pub. Res. Code Section 5093.61).
- (5) Use of the waters in the rivers in their free-flowing state is declared to be the highest and most beneficial use of the waters, and a reasonable and beneficial use of the waters under the California Constitution (Pub. Res. Code Section 5093.50).
- (6) The Secretary for Resources is made responsible for the administration of the system. He is granted authority to determine whether activities will adversely affect the free-flowing condition or natural character of the rivers (Pub. Res. Code Section 5093.55).

#### Provisions Regarding Eel River

Public Resources Code Section 5093.54(d) relates specifically to the Eel River. It provides in part:

"It is the intent of the Legislature, with respect to the Eel River and its tributaries, that after an initial period of 12 years following the effective date of this chapter, the Department of Water Resources shall report to the Legislature as to the need for water supply and flood control projects on the Eel River and its tributaries, and the Legislature shall hold public hearings to determine whether legislation should be enacted to delete all or any segment of the river from the system."

It should be noted that there is no legislative intent to consider changes in the status of the Eel unless the Department of Water Resources so recommends in the required report and until public hearings are held to review all sides of the issue. Clearly, there is no provision in the State Act for automatic termination of the status of the Eel River as a Wild and Scenic River. In

fact, as with the other rivers in the State System, a vote of the Legislature would be necessary to divest the Eel of its status as a component of the State System. Assembly Constitutional Amendment 90, discussed below, under a majority vote of the people or a two-thirds vote of the State Legislature would be required to change the protected status of any river in the System including the Eel. Because of the availability of water supplies in the Sacramento Valley, together with active conservation and reclamation programs, the Department of Water Resources will not be seeking water from the Eel River in the foreseeable future.

#### Assembly Constitutional Amendment 90

The most recent demonstration of the commitment of the California Legislature to protect the free-flowing natural condition of the rivers in the State Wild and Scenic Rivers System is Assembly Constitutional Amendment 90 ("Proposition 8") which was adopted by the Legislature (Stats. 1980, Res. Ch. 49), and passed by the people of the State as a referendum measure on the November 4, 1980 ballot. The protections of Proposition 8 are contingent upon the continued effectiveness of Senate Bill 200, also passed by the State Legislature during the 1979-1980 Regular Session. If Senate Bill 200 withstands a referendum challenge at an upcoming election, the provisions of Proposition 8 will become part of the State Constitution. Under Proposition 8, the protection accorded the free-flowing status of the State's wild and scenic rivers will be elevated from a statutory protection to a constitutional protection requiring a vote of the people or a 2/3 vote of the State Legislature to reduce that protection. If Proposition 8 does not ultimately take effect, the protections now afforded California's wild and scenic rivers by the State Act would not be reduced or affected in any way. A vote of the State Legislature would still be required, as now, to remove any of the designated rivers from the California Wild and Scenic Rivers System.

#### MAJOR STATE LAWS AND PROGRAMS REINFORCING THE WILD AND SCENIC RIVERS ACT

##### California Environmental Quality Act

The California Environmental Quality Act (CEQA) (Pub. Res. Code Sections 21000-21176) is substantially similar to the National Environmental Policy Act of 1970 (42 USC 4371, et seq.). CEQA requires State and local agencies to prepare a detailed environmental impact report (EIR) on any project which a public agency proposes to carry out or approve, if there is a possibility that the project may have a significant effect on the environment.

CEQA and the State EIR Guidelines (Title 14 Cal. Admin. Code Section 15000, et seq.; hereafter "State EIR Guidelines") require that an "initial study" be prepared for a project unless it is exempt as a matter of law (CEQA Section 21080(b)), or



categorically exempt (State EIR Guidelines Sections 15100-15127). The initial study is prepared to determine if there is any possibility that a proposed project may have a significant adverse impact on the environment (State EIR Guidelines Sections 15080-15082). If no significant effect is found, a "negative declaration" is prepared (State EIR Guidelines Section 15083). If a significant effect is found, an EIR must be prepared. The initial study and the EIR or negative declaration are prepared by the "lead agency" which is the public agency with the greatest responsibility in undertaking or approving the project (State EIR Guidelines Sections 15064). Other public agencies which will undertake, fund or approve the project are "responsible agencies." They must participate in the environmental review process, and they must consider the lead agency's EIR or negative declaration before approving the project.

The EIR must include, among other things, an analysis of the environmental impacts of the project, a consideration of measures to mitigate or avoid those impacts, and a consideration of alternatives to the project, including the no project alternative (Pub. Res. Code Sections 21100, 21100.1, 21150). The purpose of an EIR is to provide public agencies and the general public with detailed information about the effect of a proposed project on the environment, to list ways to minimize the adverse effects, and to indicate alternatives to the project (Pub. Res. Code Section 21061; State EIR Guidelines Section 15011.5). The EIR serves not only to protect the environment, but also to demonstrate to the public that it is being protected (County of Inyo v. Yorty (1973) 32 Cal.App.3d 795, 108 Cal.Rptr. 377). This case refers to the EIR process as "the heart of CEQA."

CEQA requires more than preparation of environmental impact reports. It also is a substantive law requiring that public agencies prevent environmental damage. Section 21000(g) declares that all agencies of state government shall regulate the activities of private individuals so that major consideration is given to preventing environmental damage. Section 21002 declares that it is the policy of the State that public agencies should not approve projects as proposed if there are feasible alternatives or mitigation measures which will substantially lessen the significant environmental effects. Section 21081 requires public agencies to mitigate or avoid significant effects, unless it finds that specific economic, social or other conditions make such mitigation measures or alternatives infeasible. Section 21081 requires that, where an EIR has been prepared, written findings must be made for each significant effect identified in the EIR. These findings must be one of the following:

"(a) Changes or alterations have been required in, or incorporated into, such project which mitigate or avoid the significant environmental effects thereof as identified in the completed environmental impact report.

"(b) Such changes or alterations are within the responsibility and jurisdiction of another public agency and such changes have been adopted by such other agency, or can and should be adopted by such other agency.

"(c) Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report."

Findings required by Section 21081 must be based upon substantial evidence - a record which establishes the basis for the administrative action (see Whitman v. Board of Supervisors, (1979) 88 Cal.App.3d 397, 151 Cal.Rptr. 866 and cases cited therein).

The courts have held that CEQA imposes an affirmative duty on State and local agencies to protect the environment. Natural Resources Defense Council v. Arcata National Corp. (1976) 59 Cal.App.3d 959, 131 Cal.Rptr. 172, holds that CEQA applies to timber harvest plans approved under the Z'berg-Nejedly Forest Practice Act (Pub. Res. Code Sections 4511-4628; see discussion below) and that both acts must be construed together. The court found that environmental protection was one of the purposes of the Forest Practice Act, and that it must be administered in a manner consistent with the requirements of CEQA.\* Golden Gate Bridge District v. Muzzi (1978) 83 Cal.App. 3d 707, 148 Cal.Rptr. 197, holds that a public agency's powers extend to environmental mitigation where an authorized activity is to be carried out. The case held that the bridge district's powers to condemn property for a ferryboat system implicitly included the power to condemn and restore wetlands outside the project "take line," where such wetlands were a mitigation measure for the project. In Plaggmier v. City of San Jose (1980) 101 Cal.App. 3d 842, the court stated:

"CEQA effectively imposes on every 'public agency' a duty to disapprove a project if it will have significant effects on the environment as proposed, unless and until the agency has considered feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects (Section 21002). The agency's decision to prepare an EIR invokes the duty. (See Sections 21002.1, 21061.) The adoption of a negative declaration operates to dispense with the duty, because it is a decision that the

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\*Regulation of timber harvesting has been certified under CEQA Section 21080.5. This section exempts certain State regulatory programs from the requirement of preparing initial studies and negative declarations or EIRs. (See State EIR Guidelines Section 15190, et seq.) To be certified the State program must meet the strict requirements of Section 21080.5 including the requirement that a project must be disapproved as proposed if there are feasible alternatives or mitigation available.

proposed project will not affect the environment at all.  
(See Section 21064)" 101 Cal.App.3d at 853.

CEQA will play a major role in the protection of California's wild, scenic, and recreational rivers. CEQA applies to all public agencies, State and local. It will afford protection both through its procedural requirements (EIR or negative declaration) and its substantive requirements (duty to protect the environment).

#### Administration of State-Owned Lands

##### State Ownership of Lands in Wild Rivers Watersheds

The State of California owns many parcels and areas of lands within the watersheds of elements of the State Wild and Scenic Rivers System. The Wild and Scenic Rivers Act requires the agencies administering these lands to exercise their proprietary powers over the lands in a manner consistent with the Act (Pub. Res. Code Section 5093.61).

The State-owned lands in these areas include the following:

- (1) State parks (see Exhibit 1; see also discussion of State park system below);
- (2) Spawning gravels in streams;
- (3) Sovereign lands conveyed by the United States to the State of California on admission of the State to the Union. These include (Pub. Res. Code Section 6301):
  - (a) School lands involving Sections 16 and 36 in most townships;
  - (b) Tidelands, submerged lands, and swamp and overflow lands;
  - (c) Beds of navigable waters. These include the streambeds of the rivers in the State Wild and Scenic Rivers System up to the normal highwater mark on the stream bank to the extent that such rivers were used or susceptible to use for commerce or navigation in their natural state (see discussion below under "Public Trust Doctrine -- State Ownership of Tidelands and Beds of Navigable Waters"). This ownership does not apply to the non-navigable tributaries of the Smith River.

#### Public Trust Doctrine

State Ownership of Tidelands and Beds of Navigable Waters. When the State of California entered the Union in September, 1850, it took title to the beds of all tidal waters and the beds of inland navigable rivers, and streams and lakes by operation of the equal footing doctrine (see Pollard's Lessee v. Hagan (1845) 3 How. 212). Sovereign title thus applies to those waters which, at the

time of the State's admission to the Union, were capable of use for trade and navigation in their natural condition (Utah v. United States (1971) 403 U.S. 9, 29 L. Ed. 2d 279, 91 S. Ct. 1775).

The State's title to the beds of waters subject to tidal action (or which were subject to tidal action in 1850) extends to the high tide line. Title to the beds of inland navigable rivers and lakes extends to the ordinary high water mark.<sup>1/</sup>

Application of Public Trust Doctrine to Beds of Navigable Waters.

The public trust doctrine, which has been established through a series of State and federal cases, governs how the State administers the beds of its navigable waters. The principal tenet of the doctrine is that the State holds title to the beds of all tidelands and navigable waters in trust for the people of the State. The public trust doctrine limits the Legislature's power to convey away the State's interest free of trust limitations or take any action inconsistent with the trust. The State must administer these lands consistently with the basic trust purposes of navigation, commerce, fisheries and environmental protection.<sup>2/</sup> These trust purposes are public rights of use.

<sup>1/</sup> See Packer v. Bird (1886) 71 Cal. 134, 135 P. 873, affirmed, 137 U.S. 661 (1897); Churchill Co. v. Kingsbury (1918) 178 Cal. 554, 174 P. 329; Colberg, Inc. v. State of California ex rel Department of Public Works (1967) 67 Cal.2d 408, 62 Cal.Rptr. 401, 432 P.2d 3. The question of the extent of public ownership between the high water mark and the low water mark is currently before the California Supreme Court--State of California, v. Fogerty, No. SF 24035; State of California, v. Lyon, No. SF 23981. The cases involve the question whether the State surrendered its title with the enactment in 1872 of California Civil Code Section 830. This statute purports to define the waterward boundaries of private property bordering inland navigable waters at the low water mark.

California takes the position that this statute cannot be construed to divest the State of its sovereign title between the high and low water marks because such a construction would violate the trust under which the State received and owns these lands. In the alternative, the State argues that even if Section 830 did convey title to the land between the high and low water marks, this land is burdened with a public trust easement. (See discussion below.)

<sup>2/</sup> Navigation, commerce and fisheries are the basic trust purposes consistently recognized by State cases. See, e.g., People v. California Fish Co. (1913) 166 Cal. 476, 138 P. 74; Forestier v. Johnson (1912) 164 Cal. 24, 127 P. 74; Colberg, supra, at note 1.

The California Supreme Court has held that, in administering its sovereign lands, the State may recognize broader purposes of the public trust. In Marks v. Whitney (1971) 6 Cal.3d 251, 491 P.2d 374 the court stated:

"The public uses to which tidelands are subject are sufficiently flexible to encompass changing public needs. In administering the trust the state is not burdened with an outmoded classification favoring one mode of utilization over another. (Colberg, Inc. v. State, 67 Cal.2d 408, 421-422, 62 Cal.Rptr. 401, 432 P.2d 3.) There is a growing public recognition that one of the most important public uses of the tidelands--a use encompassed within the tidelands trust--is the preservation of those lands in their natural state, so that they may serve as ecological units for scientific study, as open space, and as environments which provide food and habitat for birds and marine life, and which favorably affect the scenery and climate of the area. It is not necessary to here define precisely all the public uses which encumber tidelands." 6 Cal.3d at 259.

The public trust doctrine applies equally to the beds of inland navigable waters (Colberg, supra, 67 Cal.2d at 408).

While the full extent of sovereign title to the beds of the Smith, Klamath, Trinity and Eel Rivers has not been definitively established by formal adjudication, it is probable that substantial portions of these rivers would meet the navigability test for sovereign title. These rivers flow through rugged terrain and, until the advent of highways and railroads, they provided a principal means of moving people, livestock, equipment and logs from place to place.

The State Lands Commission has exclusive jurisdiction over tidelands and the beds of navigable waters (Pub. Res. Code Section 6301). The Legislature has delegated to the Commission the responsibility of administering these lands consistent with and in furtherance of the public trust. The Commission is required to manage these lands and their resources in the best interests of the people of the State. Since the Commission holds title to the beds of the State's navigable waters in trust for all the people of the State, the Commission has taken the position that it cannot sell such lands (See, e.g., California Permit Handbook, P. 201.)

The Commission may lease or regulate the State's tidelands and beds of navigable waters (Pub. Res. Code Section 6501, et seq.) However, any such lease or regulation must be consistent with the State's trust responsibilities and in furtherance of a trust purpose. Anyone proposing to use State-owned lands must obtain a land use lease from the Commission. Leases have been issued for uses such as bridges, utility rights of way, piers, and marinas. Substantial amounts of the sovereign lands in San Francisco Bay and elsewhere have been leased to the Department of Fish and Game

as wildlife refuges. The maximum term of a public agency lease is 66 years.

Designation of rivers as wild and scenic is consistent with the State's public trust responsibilities. The State Lands Commission can exercise the trust, authorizing uses of the sovereign lands which are consistent with designation of a river as wild, scenic or recreational. These uses are consistent with the trust purposes as set forth in Marks v. Whitney, supra.

Public Trust Limitations on Private Right Holders. In those instances where the State has conveyed its title to sovereign lands to private parties (as with tidelands grants in the 19th Century), the courts have held that the private party received only bare legal title to the ground. The land remains subject to the public trust servitude in favor of public uses, and to the State's exercise of its public trust powers. (Marks v. Whitney (1971) 6 Cal.3d 251, 491 P-2d 374; People v. California Fish Co. (1913) 166 Cal. 576, 138 P. 79). In Marks v. Whitney, a quiet title action, the California Supreme Court declared that a public trust easement existed on tidelands owned by the plaintiff with the result that he was not allowed to fill a portion of the land and build a marina. The public servitude was held to encompass a requirement that the tidelands be maintained in their natural state for ecological study, open-space or aesthetic purposes.

Thus, if any formerly sovereign lands have been transferred into private ownership, such lands remain subject to the State's exercise of its public trust responsibilities.

#### California Forest Practice Act and Forest Practice Rules

##### Generally

The Z'berg-Nejedly Forest Practice Act of 1973 (Pub. Res. Code Sections 4511-4628) establishes a state policy for forest management, provides for the division of the state into forest districts by the Board of Forestry, directs the adoption and review of forest practice rules and regulations by the State Board of Forestry, provides for the licensing of persons engaged in timber operations, requires timber harvesting plans for the conduct of timber operations, provides for penalties and enforcement, and directs the adoption of regulations for the conversion of timberland to other uses. The Act is implemented by detailed Forest Practice Rules (14 Cal. Admin. Code Sections 895-1112) which are tailored to meet the unique conditions in each of the State's three forest districts.

Statewide, 72 people are engaged in administration of the forest practice program. In the North Coast (Region I) there are 6 employees in Santa Rosa, 8 in Ukiah, 2 in Fort Bragg, 2 in Garberville, 2 in Fortuna, 7 in Eureka and 3 in Crescent City.

Region II (Sierra-Cascades and Coast Range) has offices in Weaverville (2 employees), and Yreka (3 employees).

### Forest Districts

The State is divided into three forest districts: the Coast Forest District; the Northern Forest District; and the Southern Forest District. All the rivers proposed for inclusion in the National Wild and Scenic Rivers System are in either the Coast or the Northern Forest Districts or touch parts of both.

### Forest Management Policies

The State Legislature has found that the forest resources and timberlands of the state furnish high-quality timber, recreational opportunities, and aesthetic enjoyment while providing watershed protection and maintaining fisheries and wildlife (Pub. Res. Code Section 4512[b]). The policy of the state is to encourage prudent and responsible forest resource management calculated to serve the public's need for timber and other forest products, while giving consideration to the public's need for watershed protection, fisheries and wildlife, and recreational opportunities in this and future generations (Pub. Res. Code Section 4512[c]). In carrying out this policy, the Legislature intends that the regulation and use of timberlands be directed toward the following goals:

1) restoration, enhancement, and maintenance of timberland productivity and 2) maximum sustained production of high quality timber products, "giving consideration to values relating to recreation, watershed, wildlife, range and forage, fisheries, and aesthetic enjoyment" (Pub. Res. Code Section 4513[b]).

### 200-Foot Streamside Protection Zones

The Forest Practice Act and Rules require special protection in streamside protection zones which extend 200 feet into the forest from the first line of permanent vegetation on the banks of all rivers in the State Wild and Scenic Rivers System (14 Cal. Admin. Code Sections 895.1).

Within the 200-foot zones, a silvicultural method must be selected which is compatible with the objectives of the State Wild and Scenic Rivers Act (14 Cal Admin. Code Sections 895.1, 913.7). Lands within the 200-foot zones along the State's wild and scenic rivers receive additional protection from the Forest Practice Rules relating to stream and lake protection (14 Cal. Admin Code Sections 916-916.11; 936-936.11) and from the Department of Forestry's in-house guidelines for evaluation of timber harvesting plans for lands contiguous to wild and scenic rivers.

The stream and lake protection rules require that:

- (1) Slash, debris and other logging materials be kept above the stream and lake transition line.

- (2) At least 50 percent of the shade-producing canopy must be left within the stream protection zone.
- (3) Riparian vegetation must be protected from damage.
- (4) Areas with high erosion potential must be promptly reseeded.
- (5) Discharge of logging debris into the stream or lake is prohibited.

### Timber Harvesting Plans

A person proposing to undertake a timber harvesting operation on non-Federal land in California must obtain a license (Pub. Res. Code Section 4571) and submit a timber harvesting plan prepared by a registered professional forester for review by the Director of Forestry (see Pub. Res. Code Section 4581).

The Department uses an interdisciplinary review team to review timber harvesting plans. The teams include foresters, fish and game biologists, water quality experts, geologists where erosion may be a problem, and where appropriate, historians or archeologists.

Because most geologic problems in timber harvesting, such as landslide hazards, occur in the Coast Range, geologists from the Department of Conservation's Division of Mines and Geology are stationed in Eureka and Santa Rosa to perform on-site review of timber harvesting plans in the North Coast area.

The timber harvesting plan must be preceded by a feasibility analysis which takes into account (14 Cal. Admin. Code Section 898):

- Timberland productivity
- Soil and water quality
- Wildlife and fisheries
- Range and forage
- Recreation and aesthetic enjoyment

Contents of Plans. A timber harvest plan must contain the names and addresses of the timber owner and operator; a description of the land where the work will be done; a description of proposed silvicultural methods; an outline of erosion control methods for all operations near streams; dates of beginning and ending harvesting; and other information as required by Board of Forestry regulation (Pub. Res Code Section 4582).

Review of Plans. The Director of Forestry must review all timber harvesting plans to determine whether they comply with the Forest Practice Act and the Forest Practice Rules (Pub. Res. Code Section 4582.7). If the Director disapproves a plan, he or she must return it with reasons and advise the person submitting the plan of the right to a hearing (Pub. Res. Code Section 4582.7). Timber harvesting cannot commence if a plan is disapproved.



In 1979, the Director reviewed a total of 1,991 timber harvesting plans including 141 in Del Norte County; 441 in Humboldt County; 285 in Mendocino County, 136 in Siskiyou County and 78 in Trinity County. Of these, 900 plans were found in conformance with the Forest Practice Act and Rules, while 1,028 (49%) required some additional mitigation measures or further information before being found in conformance. During 1979, seven timber harvesting plans submitted to the Director were disapproved. The major reasons for denial were silvicultural methods, informational content of the plan, and pending public acquisition.

#### Additional Reporting Requirements

Additional reporting requirements in connection with the timber harvesting plan are the filing of a completion report, which certifies that all work except stocking has been completed (Pub. Res. Code Section 4585) and a stocking report detailing the stocking of the timberland within 5 years of the completion of timber operations (Pub. Res. Code Section 4587). Provisions are made in the Forest Practice Act for amendments to the timber harvesting plan (Pub. Res. Code Section 4591) and for emergency timber operations (Pub. Res. Code Section 4592) for which emergency notices can be filed and timber operations started immediately. Emergency timber operations could include the removal of timber damaged by fire or infected by insects or disease.

#### Enforcement

A registered professional forester is subject to discipline for making a material misstatement in a timber harvest plan or subsequent report (Pub. Res. Code Section 4583.5). Willful violations of the rules pertaining to submission of timber harvest plans may subject the violator to criminal penalties (Pub. Res. Code Section 4601).

In 1978, 86 misdemeanor cases were initiated by the Department of Forestry following issuance of 767 notices of violation to timber operators. Stream and lake protection were involved in 38 cases presented to local district attorneys. Erosion control was involved in 18 cases and hazard reduction in 17. Twenty-one cases were prepared where operations were underway without a timber harvesting plans. Several cases involved a combination of violations, so the breakdown of cases equals more than the 86 cases filed. In 1979, 68 misdemeanor cases were initiated. A breakdown by type of violation is not available.

Inspections. The Department of Forestry must inspect the timber harvest area (Pub. Res. Code Section 4604):

- Within 10 days from the date of filing the timber harvest plan unless the Department determines inspection is unnecessary;
- During commencement of timber operations;
- When timber operations are well underway;

- Following completion of timber operations; and
- Other times as necessary to enforce the Forest Practice Act.

In 1979, the Department of Forestry made a total of 1,733 preharvest inspections, and 7,518 regular forest practice inspections to determine compliance with the Act and District Rules.

Injunctions. The Department of Forestry may bring an action to enjoin the violation of any provision of the Forest Practice Act or Forest Practice Rules (Pub. Res. Code Section 4605). If the court finds that immediate and irreparable harm is threatened to soil or water by virtue of erosion, pollution or contamination, it may order the defendant or the Department to take immediate corrective action. Costs of action by the Department give rise to a lien on the defendant's land (Pub. Res. Code Section 4685). In the past five years, the following injunctive actions were brought in the North Coast Counties:

| <u>Year</u> | <u>County</u>  |
|-------------|--|
| 1975        | Humboldt County - 4 plans involved<br>Del Norte County - 1 plan involved |
| 1977        | Humboldt County - 1 plan involved  |
| 1978        | Mendocino County - 7 plans involved                                      |

Corrective Action Orders. In other cases where violations of the Act or Rules are occurring, the Department serves the violator with written notice indicating the corrective action to be taken (Pub. Res. Code Section 4608). The notice must set a date for compliance and state that the Department may take corrective action and charge the violator if corrective action is not taken. Costs of corrective action are a lien on the land (Pub. Res. Code Section 4608). In addition, willful violation of a corrective action order is a separate misdemeanor for each day of violation (Pub. Res. Code Section 4601). Department personnel may enter lands to take corrective action without liability for trespass (Pub. Res. Code Section 4611).

In 1979, the Department issued six Notices of Intent to Take Corrective Action if the timber operator or landowner failed to do so. These notices included violations of slash disposal, erosion control, streamside cleanup and stabilization and reforestation requirements.

#### Erosion Control

Both the Coast Forest District and the Northern Forest District have rules designed to control erosion caused by logging operations (see 14 Cal. Admin. Code Sections 915-915.9 [Coast Forest District]; 935-935.6 [Northern Forest District]).

These rules require that logging roads, tractor roads, landings, skid trails, firebreaks, and falling layouts shall be located and constructed to hold excavation and soil movement to a minimum, to protect water quality, and minimize erosion (14 Cal. Admin. Code Sections 915, 935). The rules include specifications for the construction of logging roads, provision for road drainage and requirements for road stabilization.

In the Coast District, timber harvesting between November 15 and April 1 under excessively wet ground conditions is prohibited unless extra precautions are taken to prevent erosion (14 Cal. Admin. Code Section 915.7). A similar rule applies in the Northern Forest District (14 Cal. Admin Code Section 935.6).

#### Raptor Protection/Snag Retention

Both the Northern and the Coast Forest District Rules recognize that wildlife is an important and necessary component of the forest resource and that snags are vital as habitat for many wildlife species. They also recognize that sustaining beneficial wildlife populations is essential to a healthy forest and is in the public interest. Therefore, snag retention and raptor (bird of prey) protection apply in both forest districts (14 Cal. Admin. Code Sections 917.1, 937.1). Basically, the rules prohibit the felling of snags except in certain carefully described circumstances and prohibit the felling of any snags with visible nest sites of eagles, hawks, owls, waterfowl, or any rare or endangered species.

#### Restrictions on Stream Crossings

The Forest Practice Rules for both the Coast District and the Northern District require that stream crossings be kept to a minimum to minimize erosion and keep sediment out of the streams (14 Cal. Admin. Code Sections 916.2, 936.2).

#### Restocking

Restocking of cutover areas must be completed within five years after completion of the timber harvesting operation (Pub. Res. Code Section 4587). If mandatory inspection by the Department of Forestry reveals that stocking has not been satisfactorily completed, the Director may issue a corrective action order which carries criminal penalties for willful violation (see discussion above).

#### Timberland Conversion Permits

Where a person does not plan to put his land back into forest production after the timber harvesting operation, he is required to obtain a timberland conversion permit. This permit is subject to all the requirements of a timber harvesting plan except the restocking requirements. The permit is also subject to the general requirement in CEQA for reducing or eliminating avoidable

environmental damage (Pub. Res. Code Sections 4621-4628; 14 Cal. Admin. Code Sections 1100-1112). If the land proposed for conversion is in a Timberland Preserve Zone or in the Coastal Zone (see discussion below) additional restrictions apply (see Pub. Res. Code Section 4621.2; 14 Cal. Admin. Code Section 1103.7).

In 1979 one timberland conversion permit was issued in each of the following North Coast counties: Del Norte (18 acres for mobile home park); Humboldt (78 acres for annexation to Arcata); Siskiyou (55 acres for TPZ rezoning annexation to Dunsmuir) Trinity (100 acres for conversion to grazing).

### Water Quality Regulation

#### State Water Resources Control Board

The principal statutory authority on water quality in California is the Porter-Cologne Water Quality Control Act of 1969 (Water Code Sections 13000-13998). The State Water Resources Control Board (SWRCB) and the nine regional water quality control boards are the State agencies with primary responsibility for coordination and control of water quality (Water Code Section 13001). The SWRCB is the State water pollution control agency for all purposes stated in the Federal Water Pollution Control Act (33 U.S.C. 1251-1376) and is authorized to exercise any powers delegated to the State by the Federal Act (Water Code Section 13160).

The SWRCB:

- Formulates and adopts State policy for water quality control (Water Code Section 13140);
- Determines State needs for water quality research and recommends projects to be conducted (Water Code Section 13161);
- Administers a statewide program for research in the technical phases of water quality control (Water Code Section 13162); and
- Formulates general procedures for the adoption of water quality control plans by regional water quality control boards (Water Code Section 13164).

Nondegradation Policy. By Resolution No. 68-16, the State Water Resources Control Board has adopted the following policy:

"Whenever the existing quality of water is better than the quality established in policies as of the date on which such policies become effective, such existing high quality will be maintained until it has been demonstrated to the State that any change will be consistent with maximum benefit to the people of the State, will not unreasonably affect present and

anticipated beneficial use of such water and will not result in water quality less than that prescribed in the policies.

"Any activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes the discharge to existing high quality waters will be required to meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained."

This policy, commonly referred to as the "nondegradation policy", recognizes that in many cases the quality of California waters is higher than that required by adopted standards. The resolution expresses the intention of the Board to maintain that existing high quality to the greatest possible extent.

Actions to Prevent Waste. Water Code Section 275 requires the Department of Water Resources and the State Water Resources Control Board to take all appropriate proceedings before executive, legislative, or judicial agencies to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water in this State.

#### Regional Water Quality Control Boards

There are nine regional quality control boards within the State of California (Water Code Section 13200). The North Coast Region includes the North Coast rivers: the Smith, Klamath, Scott, Salmon, Trinity, Eel, and Van Duzen. The Lower American River lies within the Central Valley region.

Regional Water Quality Control Plans. In 1975, the State and Regional Boards completed the first phase water quality control planning in California with the adoption of water quality control plans (basin plans) for the 16 hydrologic basins in the State. These plans contain many types of controls but emphasize control of point sources to meet the 1977 goals of the Federal Water Pollution Control Act. The Klamath River Basin Plan 1A covers the Klamath River and its tributaries; the Trinity River; and the Smith River. The North Coastal Basin Plan 1B includes the Eel River and the Van Duzen River. The Lower American River is covered by the Central Valley Basin Plan. These plans specify water quality objectives and implementation plans including monitoring procedures. The plans prohibit:

1. Stream degradation from logging, road construction, and other activities;
2. Turbidity increases greater than 20 percent above naturally occurring background levels;

3. Sediment deposition or suspended sediment loads and discharges which adversely affect fish or other beneficial uses;
4. Any violation of State or federal forest practice rules.

Section 208 Planning. Since 1975, the State Water Resources Control Board has embarked on a program to update the basin plans and comply with the combined planning requirements of Section 208 and Section 303(e) of the Federal Water Pollution Control Act. Seven agencies have been designated to prepare Section 208 plans for the State's urban areas. For the nondesignated areas of the State - including the North Coast Counties - the State and Regional Boards are responsible for Section 208 planning. Section 208 planning for the North Coast Counties is handled by the North Coast Regional Board.

Work on the Section 208 plan for the North Coast rivers has emphasized best management practices for logging to minimize sheet erosion and other non-point discharges into the rivers.

All of the Section 208 plans are considered broader in scope than the basin plans because they require implementation actions by agencies in addition to the State and Regional Boards. Basin plans will be considered as water quality regulatory elements of the more comprehensive 208 plans. Review of the basin/208 plans is currently underway by the State and Regional boards to determine whether implementation of the plans will enable the State to meet the 1983 goals of the Federal Water Pollution Control Act.

Waste Discharge Requirements/NPDES Permits. The regional water quality control boards are also responsible for administering the waste discharge requirement provisions of the Porter-Cologne Water Quality Act (Water Code Sections 13260-13270). The waste discharge requirements specify conditions to be met by specific dischargers, such as effluent limitations and time schedules for compliance (Water Code Section 13263). Waste discharge requirements for discharges to navigable waters also serve as NPDES (National Pollutant Discharge Elimination System) permits required by the Federal Water Pollution Control Act (see 33 U.S.C. 1342; Water Code Sections 13370-13389). These have a specified expiration date and must be reissued at least every five years (Water Code Section 13378). Other discharges, such as facilities disposing waste water to land and solid waste disposal sites, receive waste discharge requirements, as defined in the Porter-Cologne Act. The regional water quality control boards issue approximately 1,000 requirement orders and federal NPDES permits per year for waste discharges throughout the State. The Act also establishes a self-monitoring system whereby waste dischargers are required to submit periodic reports on the quality and effects of discharges (Water Code Sections 13267-13268).

Enforcement. Enforcement authority of the regional boards with respect to waste discharge requirements includes the power to:

- Subpoena witnesses;
- Inspect waste discharge facilities (Water Code Section 13267);
- Compel submission of a compliance timetable (Water Code Section 13300);
- Issue cease and desist orders (Water Code Sections 13301-13303);
- Issue cleanup and abatement orders (Water Code Sections 13304(a), 13305); and
- Conduct cleanup and abatement and charge the responsible person for costs (Water Code Sections 13304(b), 13305).

Failure to comply with permit conditions can result in civil and criminal action, with fines up to \$25,000 per day (Water Code Section 13387). Enforcement is vigorously pursued. Approximately 80 cease and desist orders are issued each year, of which approximately 30 are referred to the Attorney General for prosecution. In fiscal year 1979-1980, \$208,436 in fines were collected. This money was added to the SWRCB Cleanup and Abatement Fund.

Pollution or nuisance conditions constituting an emergency threat to the public health are subject to summary judicial abatement (Water Code Section 13340).

#### Salmon River Water Quality Monitoring

The State Department of Water Resources has been monitoring the water quality of the Salmon River since 1958 from a monitoring station located near Somes Bar. Currently, the water is tested in June and October for minerals, every other month for temperature, dissolved oxygen, pH, turbidity, and other factors. When an anomaly is found, the cause is sought and a recommendation is made, usually informally, to the appropriate agency for correction.

#### Water Rights Administration

##### Water Rights Permits

Any person wishing to appropriate or divert water in California must obtain a water rights permit from the State Water Resources Control Board (SWRCB) (Water Code Section 1260). Each application must set forth the source of water; the nature and amount of the proposed use; the location and description of the proposed headworks, ditches, canals, and other works, the place of diversion; the place of extended use and the times when construction will begin and end and the water will actually be applied to the proposed use (Water Code Section 1260). After extensive notice requirements are met (see Water Code Sections 1300, 1301, 1310-1317, 1321, 1330), the SWRCB must allow 40 or 60 days for

filing of protests (Water Code Sections 1302, 1303). Protests may be filed by any person (Water Code Section 1330) and may be based on grounds:

- (1) Of interference with a prior vested right (23 Cal. Admin. Code Section 719(b)), or
- (2) That the appropriation will not best conserve the public interest, would have an adverse environmental impact, or would be contrary to law (23 Cal. Admin. Code Section 719 (e)).

After protests have been filed, the SWRCB conducts a noticed hearing (Water Code Section 1341). All interested parties and persons who filed protests may participate (23 Cal. Admin. Code Section 733).

#### Limits on Permit Issuance

In deciding whether to grant a water appropriation permit, the SWRCB must consider factors related to beneficial use and the public interest.

The SWRCB must consider the relative benefit to be derived from all beneficial uses of the water including preservation and enhancement of fish, wildlife, and recreational uses (Water Code Section 1257). Specific authority is provided for the protection of spawning gravels. The SWRCB has authority to impose permit terms and conditions to protect the public interest (Water Code Section 1253) and, pursuant to the California Environmental Quality Act (Pub. Res. Code Sections 21000-21178), discussed above, the environment. The Board must also consider any water quality plans which have been established (Water Code Section 1258). Water Code Section 1242.5 permits the Board to approve appropriation by storage of water to be released for the purpose of protecting or enhancing water quality.

The Board must reject an application if it determines that the proposed appropriation does not best conserve the public interest (Water Code Section 1255). Review of Board decisions on water rights applications is available by Writ of Mandate in Superior Court (Water Code Section 1360). The Board exercises continuing jurisdiction over all water diversions in the State.

#### Limits on Appropriations from Wild and Scenic Rivers

In addition to the protective rules applicable to all water appropriations in California, the Wild and Scenic Rivers Act imposes additional restrictions on appropriations from the rivers in the State System or which would directly affect those rivers. Under the Act:

- (1) Preservation of the rivers in their free-flowing state is declared to be the highest and most beneficial use of



the waters (Pub. Res. Code Section 5093.50). This must be considered by the Board when it acts on a water rights application (Water Code Section 1257; Pub. Res. Code Section 5093.61)

- (2) Diversions from the rivers in the State Wild and Scenic Rivers System are limited to diversions confined to the counties through which the rivers flow, and then only if the Secretary of the Resources Agency determines that the facility will not affect the free-flowing condition or natural character of the river (Pub. Res. Code Section 5093.55). The SWRCB has interpreted this statute to mean that applications for nondomestic uses on the designated segments of the State Wild and Scenic Rivers must be summarily denied.
- (3) The Board may suspend processing of applications to appropriate water from any part of a river in the system until the Secretary for Resources has determined local need for water for domestic use, and the impact of the proposed diversion on the river. A negative determination by the Secretary is cause for denial of the application (23 Cal. Admin. Code Seciton 717).
- (4) All diversions for any purpose by water impoundment on, or directly affecting, the designated segments of the rivers are absolutely prohibited (Pub. Res. Code Section 5093.58). This means that construction of water impoundments is prohibited on undesignated reaches and tributaries of the rivers in the State System if the impoundment would directly affect a designated segment.

There are approximately 600 outstanding water appropriations permits in the North Coast Counties. Of these, 196 are on segments of the State's wild and scenic rivers. The majority of these (191) were issued before the enactment of the California Wild and Scenic Rivers Act in 1972, and will continue in effect as long as they are used. However, for the most part they are small appropriations for sawmill operation, irrigation, and domestic use. Five water appropriations permits have been issued on wild and scenic river segments since enactment of the State Act. Two applications to appropriate from the designated segments have been denied.

#### Enforcement

Violations of water appropriation laws can take three principal forms: illegal diversions, violation of permit and license terms, and waste or unreasonable use. Enforcement can take the form of an investigation, a division finding followed by a hearing, and finally, reference to the Attorney General for prosecution. No enforcement actions have been necessary on the State's wild and scenic rivers since enactment of the State Act in 1972.

Department of Fish and GameDepartmental Organization

Region 1 office (Redding) has responsibility for the Smith, Klamath, Scott, Salmon, Trinity, and the portion of the Eel in Humboldt County. Region 1 has 160 employees. A branch office is located in Eureka. Approximately 70 personnel are assigned to the Del Norte, Humboldt, Siskiyou, Trinity County areas encompassing the North Coast Wild and Scenic Rivers area.

Region 2 office (Rancho Cordova) has responsibility for the Lower American River. It has 164 employees.

Region 3 office (Yountville) has responsibility for the Mendocino County portion of the Eel River. It has 130 positions.

Public Trust Interest in Fish

California law recognizes a right of fishing as an incident of the public right of navigation (see discussion below). Several early cases also recognize public ownership of all fish in navigable or non-navigable waters of the State (People v. Truckee Lumber Co. (1897) 116 Cal. 397, 48 P. 374; Ex Parte Maier (1894) 103 Cal. 475; 37 P. 402). This public interest has also been expressed as a trust relationship (In Re Parra (1914) 24 Cal. App. 339, 141 P. 393).

In this sense, California follows the holding of Geer v. Connecticut (1895) 167 U.S. 517, which states that public authority over fish and wildlife is a trust authority to preserve the subject of the trust for enjoyment of the people of the State (See In Re Parra, 24 Cal. App. 3d at 342-3; see also In Re Phoedovius (1918) 177 Cal. 238, 170 P. 412. This trust relationship exists independently of the public trust in sovereign lands (see discussion above).

Conservation of Wildlife Resources

It is State policy to maintain sufficient populations of all species of wildlife and their habitats to (F. & G. Code Sections 1800, 1801):

- (1) Provide for the beneficial use and enjoyment of wildlife by all citizens of the State.
- (2) Perpetuate all species of wildlife for their intrinsic and ecological values, as well as their direct benefits to man.
- (3) Provide for esthetic, educational, and nonappropriative uses of the various wildlife species.
- (4) Provide diversified recreational uses of wildlife.

- (5) Provide for economic contributions to the citizens of the State.

#### Native Species Conservation and Enhancement

It is State policy to maintain sufficient populations of all species of wildlife and native plants and the habitat necessary to insure their continued existence at optimum levels to insure that they will (F. & G. Sections 1750-1756):

- (1) Provide for the beneficial use and enjoyment by all citizens of the State;
- (2) Be perpetuated for their intrinsic and ecological values, as well as their direct benefits to man; and
- (3) Provide for esthetic, educational, and nonappropriative uses.

The Legislature has declared that it is in the public interest that these resources be maintained, regardless of their economic value.

#### Native Plant Protection

The Department of Fish and Game in cooperation with federal, State, and local agencies, educational institutions, civic and public interest organizations, and private organizations and individuals is required to make a periodic inventory of threatened native plants.

The Department must prepare biennial reports with recommendations for addition or deletion of endangered and rare species and actions necessary to preserve, protect, and enhance conditions for such endangered and rare species, including the habitat critical to their continued survival.

All State departments and agencies are required to use their authority to carry out programs to conserve endangered or rare native plants, in consultation with the Department of Fish and Game (F. & G. Code Sections 1900-1913).

#### Relationship to Federal Permits through the U. S. Fish and Wildlife Coordination Act

The Department of Fish and Game provides comments on federal projects and private projects needing federal permits. These comments are relayed through the U. S. Fish and Wildlife Service and then affect the federal projects through the U. S. Fish and Wildlife Coordination Act.

### Rare or Endangered Species

The Department of Fish and Game has responsibility for inventorying, studying, and recommending to the Fish and Game Commission those plants or animals that should be classified as rare or endangered (F. & G. Code Section 2051), pursuant to the California Species Preservation Act (F. & G. Code Sections 900-903). The Department also enforces laws regarding taking or possession of any of these plants or animals (F. & G. Code Section 2014), and cooperates with other agencies in the protection of rare and endangered plant and animal species.

### Water Appropriations

The State Water Resources Control Board must notify the Department of Fish and Game of all applications to appropriate water. The Department must recommend the amounts of water required for preservation of fish and wildlife resources, and the Board must take such amounts into account when determining the amount of water available for appropriations (Water Code Sections 1243, 1243.5). Furthermore, Water Code Section 1257 requires the Board to consider the preservation and enhancement of fish and wildlife in acting upon any application to appropriate water.

The Department of Fish and Game reviews all appropriation applications and protests those which do not contain adequate protection for fish and wildlife resources. The Department may negotiate with the applicant and may develop terms of dismissal for the protests.

In addition, the Department reviews all water rights applications on designated wild and scenic rivers, or on their tributaries, when the proposed diversion could have a detrimental effect on the river.

### Pollution Control

The Department of Fish and Game enforces statutes (Fish and Game Code Sections 5650, 5651) prohibiting the discharge into water of any substance harmful to fish, plant or bird life, as well as sawdust, shavings, and certain other substances. Persons unlawfully polluting, contaminating, or obstructing waters to the detriment of fish life can be made to pay cleanup costs, in addition to other penalties (Fish and Game Code Section 12015; see also Fish and Game Code Section 5655 (recovery of costs for oil spill abatement)). The Department of Fish and Game reports conditions of continuing and chronic pollution to the appropriate regional water quality control board, and cooperates with the board to correct the condition.

### Stream Alteration Agreements

Fish and Game Code Sections 1601- 1606 provide that any governmental agency or any person proposing to change the bed of a

stream or divert or obstruct the natural flow must enter into a Stream or Lake Alteration Agreement with the Department of Fish and Game. These agreements generally apply to any work undertaken within the mean high-water mark of a body of water containing fish and wildlife resources or where the sponsor of the project will use materials extracted from the streambed.

The Attorney General has held that the Department of Fish and Game is prohibited from entering into such agreements for State wild and scenic rivers in cases where such agreements would alter the natural condition of the river. (60 Ops. Cal. Atty. Gen. 4 (1977)).

#### Protection of Fish Spawning Areas

The Department of Fish and Game is authorized to manage, control, and protect certain fish spawning areas that occur on State-owned lands on designated rivers (Fish and Game Code Sections 1505). These areas include portions of the following rivers: Sacramento; Feather; Yuba; Lower American; Mokelumne; Stanislaus; Tuolumne; Merced; Trinity; Eel; Smith; Salmon; Battle Creek; Cosumnes; Van Duzen; Mad; Mottole; Noyo; Big; Gualala; and Garcia.

Regulations for the protection of fish spawning in the State's Wild and Scenic Rivers are primarily for the protection of salmon and steelhead. These regulations, set forth at Title 14, California Administrative Code, Sections 1.05 - 25.50 include the following provisions:

Fish possession limits (Sections 1.51, 17.60);

Gear restrictions (Sections 2.20, 17.61, 20.60);

Areas and times of year when fishing is prohibited on the American (Sections 17.50, 17.55); Eel (Section 22.80); Klamath (Section 23.50); Salmon (Section 24.80); Scott (Section 24.90); Smith (Section 25.04); Trinity (Sections 25.30, 25.40) and Van Duzen (Section 25.45) Rivers and Wooley Creek (Section 25.50).

#### Fish Hatcheries

There are four fish hatcheries on North Coast rivers:

- (1) Iron Gate Hatchery is located on the Upper Klamath River to mitigate losses to natural spawning areas inundated by reservoirs.
- (2) Trinity River Hatchery near Lewiston is located on the Trinity River and was constructed to mitigate losses to inundated spawning areas.
- (3) Mad River Hatchery near Blue Lake is operated to produce salmon and steelhead for planting in all North Coast Streams.

- (4) Rowdy Creek Hatchery, located at the town of Smith River, is operated by the local Kiwanis Club for stocking fish in Smith River.

### Commercial Fishing

No commercial fishing is permitted on the North Coast rivers or the Lower American River. Commercial fishing is permitted only in ocean waters. It is regulated by the Department of Fish and Game pursuant to regulations promulgated by the Pacific Fisheries Management Council.

### Acquisition and Improvement of Land and Water Areas

The Department of Fish and Game is authorized to expend such funds as may be necessary for the improvement of lakes and streams for fish (F. & G. Code Section 1501). The Department also has the authority to acquire or sell lands for purposes of fish or wildlife management (F. & G. Code Sections 1500, 1580-1584). The Wildlife Conservation Board has broad powers to investigate streams and lakes which are or can be made suitable for fishing (F. & G. Code Section 1345). The Board is authorized to purchase and acquire lands and water rights when necessary to carry out its purposes, which include maximum revival of wildlife (F. & G. Code Sections 1347, 1348). Several State Wildlife Areas are located along or in the Wild and Scenic Rivers drainages. These include the Indian Tom and Sheepy Ridge areas in the upper Klamath basin, the Eel River area at the mouth of the Eel River, and the Lake Earl-Talawa area near the mouth of the Smith River.

### Coastal Programs

The Department of Fish and Game, under contract, is supplying information about fish, wildlife, and important habitat areas to local agencies and regional and State coastal commissions, and comments on the various plans as they are developed to ensure that adequate and proper safeguards are built into the Local Coastal Programs to protect fish and wildlife. For future discussion of Local Coastal Programs, see the discussion of the California Coastal Act, below.

### Suction Dredge Regulation

The Department of Fish and Game can deny suction dredge permits, if it determines that such activity will adversely affect fish and wildlife resources (F. & G. Code Section 5653; 14 Cal. Admin. Code Section 2051). The Department administers this program through five regional offices. Failure to comply with the statute is a misdemeanor. Permits for suction dredges with an intake diameter of 8 inches or less (6 inches on most Wild and Scenic Rivers) are blanket permits, valid in all open waters. Therefore, no data are available on numbers of permits on North Coast rivers. Suction dredge activities (almost exclusively for gold mining) occur

primarily on the Scott, Salmon, Smith, and mainstem Trinity rivers. There have been few instances of violations of the law or noticeable damage done to the rivers. Wooley Creek, the Lower American River, and a portion of the Trinity River are completely closed to suction dredge activities. The Scott River, the Salmon River and the upper reaches of the Klamath River are open to suction dredging between June 1 and September 14 of each year.

The Smith, Van Duzen, main stem Eel, and portions of the Trinity River are open to suction dredge activities between June 1 and October 15. The remaining segments of the Eel, Trinity and Klamath Rivers are open to suction dredge activities (pursuant to permit) all year round.

#### Subdivision Map Review

Local governments are required to deny tentative or final maps for developments which require subdivisions of land, if the finding is made that their design is likely to cause substantial environmental damage or substantial injury to fish or wildlife in their habitats, or that the proposed subdivision is not consistent with the general plan and specific plan elements (Government Code Section 66458). The Department of Fish and Game annually reviews and comments on subdivision maps. Modifications in the proposals may be made to provide increased protection for fish and wildlife based on the Department's comments. At least one major proposed subdivision along the Klamath River has been halted based in part on adverse comments by the Department of Fish and Game regarding potential fish and wildlife impact.

#### Litter Control

It is unlawful to deposit, to permit to pass into, or to place where it can pass into the waters of the State, or to abandon, dispose of, or throw away, within 150 feet of the high-water mark of the waters of the State, any cans, bottles, garbage, motor vehicle or parts thereof, rubbish, or the viscera or carcass of any dead mammal or bird (Fish and Game Code Section 5652). This program is enforced by all State law enforcement officers.

#### Enforcement

Twenty-five wardens, lieutenants, and captains share responsibility for portions of the State Wild and Scenic Rivers. Routine patrols are carried out on these rivers. Most enforcement actions for river protection are carried out in regard to streambed alteration agreements (F. & G. Code Sections 1600-1606), pollution (F. & G. Code Section 5650), and suction dredge activities (F. & G. Code Section 5653). A significant portion of enforcement activities concerns education and prevention of damage.

Wardens wrote a total of 230 citations in 1978 on Wild and Scenic Rivers in Del Norte, Humboldt and Trinity Counties. Of this

total, 12 were associated with streambed alteration permits, 9 were litter, 2 for suction dredge operations (out of season), and 3 for log jam barriers. Most of the remainder were for various kinds of angling regulations infractions.

### Fish and Game Commission

The California Fish and Game Commission formulates policies which govern the operation of the Department of Fish and Game. Other responsibilities of the commission include:

- Prescribing terms and conditions for issuance of permits and licenses;
- Determining seasons, methods, and areas for hunting and fishing;
- Regulating commercial fishing.

It is the policy of the Fish and Game Commission that water quantity and quality be maintained within the State to support the maximum numbers of fish and wildlife.

The Commission also informs the State Water Resources Control Board and the Department of Water Resources of water pollution problems adversely affecting fish and wildlife.

The Commission supports programs to upgrade or maintain the quality of State waters.

### California Coastal Act

#### Generally

The California Coastal Act (Pub. Res. Code Sections 30000-30900) imposes many land-use and development controls in the designated coastal zone. Use controls will apply from the mouth upstream to the limit of tidal action on the Smith, Klamath and Eel Rivers. The coastal zone averages 1000 feet inland from the mean high tide line of the sea and seaward to the State's outer limit of jurisdiction. In significant coastal estuarine, habitat, and recreational areas, it extends inland to the first major ridgeline paralleling the sea or five miles from the mean high tide line of the sea, whichever is less (Pub. Res. Code Section 30103(a)). The purposes of the Act include insuring that the coastal zone is developed in an orderly manner and protecting, maintaining, and where feasible, enhancing and restoring, the overall quality of the coastal zone environment and its natural and manmade resources (Pub. Res. Code Section 30001.5).

The Coastal Act establishes a State Coastal Commission and six regional coastal commissions (Pub. Res. Code Sections 30300-30318). The Coastal Commission has primary responsibility for implementing the Coastal Act and is designated as the State coastal zone planning and management agency for all purposes of



the Federal Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) The Commission and the regional commissions assist local governments in exercising the planning and regulatory powers conferred by the Coastal Act.

#### Local Coastal Programs

At the heart of the Coastal Act is the requirement that each local government lying in whole or in part within the coastal zone must prepare a local coastal program for that portion of the coastal zone within its jurisdiction (Pub. Res. Code Section 30500). Each local coastal program must contain a specific public access component to assure that maximum public access to the coast and public recreation areas is provided. The local coastal program consists of a land use plan, zoning ordinances, zoning district maps, and other implementing actions where necessary (see Pub. Res. Code Sections 30512-30513).

#### Standards for Local Programs

The Coastal Act provides fairly detailed standards by which the adequacy of local coastal programs and the permissibility of proposed developments in the coastal zone are to be determined. These standards cover the elements of public access, recreation, protection of the marine environment and land resources, and industrial, commercial, and residential development (Pub. Res. Code Sections 30200-30261). A local coastal program cannot be certified if it provides for a lesser degree of environmental protection than that provided by the plans and policies of any State regulatory agency, provided those plans and policies are formally adopted by that agency, are used in the regulatory program of the agency, and are legally enforceable (Pub. Res. Code Section 30522).

#### Coastal Development Permits

Any person wishing to undertake any development in the coastal zone, other than a facility subject to the powerplant siting rules of the State Energy Commission (see below), must obtain a coastal development permit (Pub. Res. Code Section 30600(a)). After certification of its local coastal program, a local government issues coastal development permits for the portions of the coastal zone within its jurisdiction (Pub. Res. Code Section 30600(d)). A permit may be issued if the proposed development is in conformity with the certified local coastal program (Pub. Res. Code Section 30604(b)). Terms and conditions may be imposed in the permit to insure conformity with the Coastal Act (Pub. Res. Code Section 3067). Appeals to the regional or State commission are authorized in certain cases including action on permit applications for development on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff (Pub. Res. Code Section 30603).

Failure to Obtain Certification of Local Program; Consequences

- (1) Prohibit the affected local government from issuing any permit for development within the coastal zone; or
- (2) Require that a permit from the Coastal Commission be obtained for any development within the coastal zone under the jurisdiction of the affected local government.

Warren-Alquist Energy Resources  
Conservation and Development Act

Under this Act (Pub. Res. Code Section 25000-25986) the California Energy Commission has exclusive control over thermal power plant siting in California (Pub. Res. Code Sections 25000-25542). The Act includes many mandates to protect environmental quality in connection with the siting and conservation of power plants. The combination of these mandates plus the interaction with the Coastal Act, the California Environmental Quality Act, and the requirement that all State agencies carry out their activities in conformance with the Wild and Scenic Rivers Act will provide detailed protections of the values identified in the Wild and Scenic Rivers Act if a power plant is proposed along any of the elements of the System.

Powers of California Attorney General

The California Attorney General has independent authority to take legal action to stop or prevent degradation of California's environment. This is an independent authority that can be used in the unusual situation where other existing authorities do not provide adequate protection (Gov. Code Section 12607).

OTHER STATE PROGRAMS  
RELATED TO WILD LAND SCENIC  
RIVERS PROTECTION

Historical and Archaeological  
Protection

Archaeological Resources

Publicly-Owned Lands. Archaeological resources on publicly-owned lands are protected by the Native American Historical, Cultural and Sacred Sites Law (Pub. Res. Code Section 5097.9 - 5097.97). Public agencies and private parties using public property are prohibited from causing severe or irreparable damage to any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property.

The law establishes a Native American Heritage Commission which is charged with preparing an inventory of Native American sacred

places located on public lands (Pub. Res. Code 5097.96). If the Native American Heritage Commission discovers that action by a public agency will damage a Native American sacred place and the agency refuses to undertake mitigation measures suggested by the Commission, the Commission may ask the Attorney General to take appropriate legal action (Pub. Res. Code Section 5097.97).

In addition, before any major public works project is begun on State land, the State agency proposing to construct the project must submit plans to the Department of Parks and Recreation. The Department may then conduct an archaeological site survey on the affected land in order to determine whether it contains any historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological sites, or other related features (Pub. Res. Code Sections 5097.1-5097.2). Such other State agency and the Department of Parks and Recreation are authorized to undertake necessary measures to preserve or record the features of archaeological, paleontological, and historical value (Pub. Res. Code Section 5097.3).

Privately-Owned Lands. On private lands, the protection of archeological sites comes through the California Environmental Quality Act (Pub. Res. Code Sections 21000-21176; see Society for California Archaeology v. County of Butte (1977) 65 Cal. App. 3d 832, 135 Cal. Rptr. 679).

#### Historical Artifacts and Sites

Publicly-Owned Lands. Historical artifacts and sites under the jurisdiction of State agencies are protected by Executive Order B-64-80 signed by Governor Brown on March 6, 1980, requiring State agencies to work with the State Historic Preservation Officer to identify sites and facilities under their jurisdiction which would qualify for inclusion on the Federal Register of Historic Places. Disruption of these sites is prohibited until after consultation with the State Historic Preservation Officer and compliance with the California Environmental Quality Act (Pub. Res. Code Sections 21000-21176).

Privately-Owned Lands. Historic artifacts and sites located on private land are protected by the California Environmental Quality Act and the duty it imposes to prevent avoidable damage including damage to historic artifacts unless the agency giving approval to the proposed project finds, on the basis of substantial evidence, that there is no feasible way to avoid the damage (see Pub. Res. Code Section 21081).

#### State Office of Historic Preservation

The State Office of Historic Preservation was established in 1966 under the National Historic Preservation Act (16 U.S.C. 470-470n) to identify, protect, and preserve California's cultural, historical, and archeological resources. It performs this function by:

- (1) Conducting a statewide survey of resources;
- (2) Coordinating nominations to the National Register of Historic Places;
- (3) Providing financial assistance for planning, acquisition, rehabilitation, and restoration; and
- (4) Assessing environmental impacts.

In conjunction with community members, the State Office of Historic Preservation surveys communities to identify and document architectural, archeological, historical, and cultural features. Local surveys result in documented resource inventories. Information on archeological resources is collected in a separate Archeological Sites Survey.

The State Office of Historic Preservation also coordinates nomination of historic resources to the National Register of Historic Places and assists with the applications for designation of California Registered Historic Landmarks and Points of Historical Interest.

The Office reviews applications for grants under the National Historic Preservation Act. These matching grants are available for planning, acquisition, rehabilitation, and restoration of properties listed on the National Register of Historic Places. About 25 projects per year in California receive grants.

In addition, the Office assesses the cultural impact of proposed federally-assisted and State projects under the National Historic Preservation Act and the California Environmental Quality Act. The Office also works with the federal Advisory Council on Historical Preservation to resolve problems or conflicts involving federally assisted or sponsored projects. It has promulgated a Model Cultural Resources Management Ordinance for California Cities and Counties.

### Boating and Waterways Programs

#### Public Right to Navigate

California law recognizes a public right of recreational navigation on the waters of the State, regardless of whether the underlying bed is in public or private ownership. The right is a constitutional right established by Article X, Section 4 of the California Constitution.

The public right of navigation includes boating, bathing, fishing, hunting and recreation (Bohn v. Albertson (1951) 107 Cal. App. 2d 738, 238 P. 2d 1040, 97 Cal. Rptr. 448). The right of navigation exists on all rivers and waterways which are capable of carrying pleasure craft (People v. Mack (1971) 19 Cal. App. 3d 1040, 97 Cal. Rptr. 448).

The People v. Mack case held the Fall River subject to the right of public navigation, where the court found its depth to be as little as 2.7 feet, and where the boaters had to portage some obstacles. To be subject to the right of navigation, a stream need not be navigable all year; furthermore, the flow need not be a natural flow (Hitchings v. Del Rio Woods Park and Recreation District (1976) 55 Cal. App. 3d 560, 126 Cal. Rptr. 830; People v. Sweetser (1977) 72 Cal. App. 3d 278, 140 Cal. Rptr. 82).

The right of public navigation is subject to a reasonable exercise of the police power (Hitchings, supra). However, because the right is a constitutional right, no local agency may adopt an ordinance which bans recreational navigation on a river capable of carrying pleasure craft (People v. County of El Dorado (1969) 96 Cal. App. 3d 403, 157 Cal. Rptr. 815).

Harbors and Navigation Code Section 660 limits local regulation of recreational navigation to reasonable speed zones, time-of-day restrictions, special use areas, and sanitation and pollution control measures. Section 660 preempts any other local regulation of the use of watercraft on the State's waterways (People v. County of El Dorado, supra).

#### Department of Boating and Waterways

Public recreational use of the rivers in the California Wild and Scenic Rivers System is promoted by a number of programs administered by the California Department of Boating and Waterways.

Waterways Planning Program. Pursuant to authority conferred by Harbors and Navigations Code Sections 50.8, 68, and 68.2, Public Resources Code Sections 5070-5077.5, and the mandate for boating safety education programs of the Federal Boat Safety Act of 1971 (46 U.S.C. 1451-1489; see especially 46 U.S.C. 1474-1475), the Department of Boating and Waterways has instituted its Waterways Planning Program.

The program includes:

- (1) Research and comprehensive studies into various aspects of boating, river-running recreation, and the navigability of various water bodies.
- (2) Analysis of water-recreation related problems and proposals designed to minimize or eliminate the problems.
- (3) Development of waterway use plans and river management reports for recreational boating on California waters.
- (4) Planning and implementation of the Boating Trails Program (see discussion below).

the River Hazard Identification Program and the River Flow Information Program, administered by the Department of Boating and Information Program, administered by the State Lands Commission and the

## 3. Trinity River

Weaverville Joss House State Historic Park

## 4. Van Duzen River

Grizzly Creek Redwoods State Park

## 5. Lower American River

Cal Expo-Bushy Lake Area

Additional State parks in the North Coast area include:

Del Norte Coast Redwoods State Park

Prairie Creek Redwoods State Park

Dry Lagoon State Park

Patrick's Point State Park

Trinidad State Beach

Little River State Beach

Azalea State Reserve

Fort Humboldt State Historical Park

For further information, see the map in Exhibit 1.

#### Projected Acquisitions in the North Coast Area

In the North Coast area, the Department is working on two 1980-81 budgeted acquisitions: the Lake Earl and Lake Talawa Project and the Humboldt Lagoons project.

#### Wetlands Preservation

##### California Wetlands Preservation Act

The California Wetlands Preservation Act, (Pub. Res. Code Sections 5810-5818) declares that preservation of wetlands is an important State policy and provides authority for acquisition of less than fee interests in wetlands by the Department of Fish and Game and the Department of Parks and Recreation.

##### Resources Agency Wetlands Policy

This policy directs the departments, boards, commissions within the Resources Agency to use their permit authorities to restrict uses of wetlands areas to those activities which are directly water-related and dependent on the water adjacent to wetlands (Memorandum from Secretary for Resources to units of the Resources Agency, July 31, 1978).

##### Surface Mining and Reclamation Act

This Act (Pub. Res. Code Sections 2710-2793) provides for the control of surface mining activities and for reclamation of areas

affected by surface mining activities when mining is completed. The act provides additional authority for control of extraction of sand and gravel from river channels and areas adjacent to rivers. The basic standards for implementing the Act are adopted by the State Mining and Geology Board. Permits for individual activities are handled by the city or county involved. Pursuant to the Act, each county is required to integrate a surface mining reclamation policy permit system into its general plan (Pub. Res. Code Section 2762). The policy must provide measures to be employed by local governments in regulating grading, backfilling, revegetation, and soil compaction, as well as provide for soil erosion control, water quality and watershed control, waste disposal, and flood control (Pub. Res. Code Section 2756).

#### Acquisition of Critical Areas

For many years State departments have been acquiring areas of high environmental values along the rivers of the system under a number of different programs. These include:

- (1) Acquisition for the State Park System under the State Park Bond Act of 1974 (Pub. Res. Code Sections 5096.71 et seq.) under the State, Urban, and Coastal Park Bond Act of 1976, and also using funds from the Land and Water Conservation Fund.
- (2) The Department of Fish and Game and the Wildlife Conservation Board have acquired areas for wildlife refuges and ecological reserves also using the 1974 Park Bond Act and funds from the California Environmental License Plate program (Fish and Game Code Section 1580-1584).

#### Wilderness Preservation

##### California Wilderness Preservation Act

The California Wilderness Preservation Act (Public Resources Code Sections 5093.30-5093.40) was enacted in 1974 (Stats. 1974, ch. 1196). In adopting the law, the Legislature declared (Pub. Res. Code Section 5093.31):

"In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas on state-owned lands within California, leaving no areas designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the State of California to secure for present and future generations the benefits of an enduring resource of wilderness."

The California Wilderness Preservation System, established by the Act, is composed of State-owned areas designated by the Legislature as wilderness areas, and units of the State park system classified as State wilderness by the Parks and Recreation Commission.

Wilderness areas are undeveloped areas without permanent improvements or human habitation that provide outstanding opportunities for solitude or primitive and unconfined recreation (Pub. Res. Code Section 5093.33). Such areas must contain at least 5,000 acres of land either by themselves or in combination with other contiguous areas that possess wilderness characteristics. They may contain features of ecological, geological, scenic, educational, scientific, or historical value (Pub. Res. Code Section 5093.33).

There are currently eight components of the State Wilderness Preservation System, including approximately 80 acres in Siskiyou County within the Marble Mountain Wilderness and under the jurisdiction of the State Lands Commission (Public Resources Code Section 5093.34). The staff work for designation of four more segments of the State Park System as wilderness will be completed by the winter of 1980-81. One of the segments to be proposed is in Siskiyone Wilderness State Park in Northern Mendocino County. The other three are in Southern California.

#### Management Policies

The Secretary for Resources has adopted guidelines for management of wilderness areas and the various State agencies with jurisdiction over the areas are required to adopt management regulations consistent with the Secretary's guidelines. They must include provisions to protect endangered or rare native plant and animal species (Pub. Res. Code Section 5093.33(b)). Wilderness areas are limited to recreational, scenic, scientific, educational, conservation, and historic uses (Public Resources Code Section 5093.36(a)). No permanent roads or motorized vehicles are permitted, although measures may be taken to deal with emergencies (Pub. Res. Code Section 3093.36(b)).

#### Licensing of Professional Foresters

In a further effort to protect the forest resources of the State, including those adjoining the State's wild and scenic rivers, the State requires examination and certification of professional foresters. Only a registered forester can prepare a timber harvesting plan for logging activities on other than federal land (Pub. Res. Code Sections 750-783).



GENERAL COORDINATING AUTHORITY OF  
THE SECRETARY FOR RESOURCES

Composition of Resources Agency

The Resources Agency is a grouping of the departments, boards and commissions in State government which exercise authority over the natural resources of the State. These are the departments, boards and commissions which control activities affecting wild and scenic rivers. The elements of the agency are (Gov. Code Section 12805):

1. State Air Resources Board
2. State Energy Resources Conservation and Development Commission
3. State Water Resources Control Board and each California Regional Water Quality Control Board
4. The State Lands Commission
5. The Division of State Lands
6. California Coastal Commission
7. Department of Conservation
8. Department of Fish and Game
9. Department of Forestry
10. Department of Boating and Waterways
11. Department of Parks and Recreation
12. Department of Water Resources

Authority of Secretary for Resources

The authority conferred by statute on the Secretary of the Resources Agency assists him greatly in carrying out his responsibility for administering the California Wild and Scenic Rivers System. The authorities of the Secretary over the elements of the Resources Agency include the following:

1. The power of general supervision over the elements of the Agency (Gov. Code Section 12850).
2. Assisting the Governor in establishing major policy and programs affecting the units of the Agency (Gov. Code Section 12850.2).

3. Serving as the principal communications link for transmission of policy problems and decisions between the Governor and the elements of the Agency (Gov. Code Section 12850.2).
4. Exercising the authority vested in the Governor in respect to the functions of each element of the Agency including:
  - a. Adjudication of conflicts between or among the elements of the Agency, and
  - b. Representing the Governor in coordinating the activities of the elements of the Agency with those of other agencies Federal, State or local (Gov. Code Section 12850.4).
5. Review and approval of proposed budgets of all elements of the Agency (Gov. Code Section 12850.6).

#### STATE STATUTES AFFECTING LOCAL AGENCIES

##### Wild and Scenic Rivers Act

Local agencies are required to exercise their powers in a manner consistent with the California Wild and Scenic Rivers Act (Pub. Res. Code Section 5093.61).

##### State Planning Act

The basic responsibility for controlling land use in California has been delegated to cities and counties except where State statute provides otherwise (California Constitution Article XI, Section 7). The Planning Act (Gov. Code Section 65000, et seq.) provides basic direction to local agencies exercising this residual police power authority. Under the Planning Act, local agencies must carry out many functions including the following:

1. Adopt general plans which are the basic charters governing land use in the city or county. The general plan is required to contain a number of elements including:
  - a. A land use element providing for the general distribution and location and extent of the uses of land including open space, agricultural natural resources, recreation and enjoyment of scenic beauty (Gov. Code Section 65302(a)).
  - b. A conservation element for the conservation, development and utilization of natural resources including water, forests, soils, rivers, harbors, fisheries, wildlife, and minerals (Gov. Code Section 65302(d)).
  - c. An open space element for the protection and preservation of natural resources (Gov. Code Section 65302(e), 65560-65570).

Local agencies are required to adopt zoning ordinances in order to implement their general plans and exercise their basic police powers over the lands within their jurisdiction (Gov. Code Sections 65800 et seq.). The local zoning ordinances must be consistent with the general plan of the city or county (Gov. Code Section 65860).

The zoning must also be consistent with the State Wild and Scenic Rivers Act (Pub. Res. Code Section 5093.61).

#### Subdivision Map Act

The control of subdivision lands and development of the subdivided lands is controlled by the Subdivision Map Act (Gov. Code Section 66410 et seq.). Subdivisions must be consistent with the adopted general plan (Gov. Code Section 66473.5).

Wild and scenic rivers are protected from incompatible subdivision activity by the requirement that a city or county deny approval of a subdivision map if the county finds that the subdivision is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat (Gov. Code Section 66474).

Public access to wild or scenic rivers is assured by the requirement that no local agency approve a subdivision to be fronted on a public waterway, river or stream which does not provide for a dedication of a public easement along a portion of the bank of the river or stream bordering or lying within the proposed subdivision. The public easement must be reasonably defined to achieve public use of the waterway consistent with public safety (Gov. Code Section 66478.5).

#### Timberland Preserves

Private timberlands along wild and scenic rivers and elsewhere are protected by timberland preserve zones (TPZ's) established by cities and counties pursuant to the Forest Taxation Reform Act of 1976 (Gov. Code Sections 51100-51154).

Private timberlands were automatically included in the timberland preserve zone in 1976 unless the owners objected at that time and requested that the land not be included (Gov. Code Sections 51110 et seq.).

The Act restricts uses in TPZ's to timber production and compatible uses, including recreational and educational uses. Conditional use permits may be granted for certain other uses, provided they do not significantly detract from timber production. These other uses include timberland and wood processing, mineral exploration, and construction ancillary to such uses.

Timberlands within a TPZ are assessed as bare land valued according to its capability for growing timber rather than on the basis

of the market value of comparable, unrestricted lands (see Rev. & Tax Code Sections 431-437). The market value of similar but unrestricted lands reflects the value for subdivisions or speculation on other developments. These values are much higher than the value of lands restricted to timber production by timberland preserve zoning. To reduce the pressure to cut the timber prematurely, the standing timber is not taxed. A yield tax is assessed when the timber is cut (see Rev. & Tax Code Sections 38101 et seq.).

The Act makes it difficult to take land out of timberland preserve zones. Under normal procedures, a reclassification takes effect only ten years after the reclassification is initially approved by the agency by a majority vote. Immediate rezoning of TPZ lands can be accomplished only by a four-fifths vote of the board of supervisors or city council. Detailed findings are required to accompany the vote (Gov. Code Section 51134). Where land is immediately rezoned, the landowner must pay a tax recoupment fee designed to pay back the difference between normal property taxes that he would have paid and the lower amount of tax which he did pay as a result of his land being a TPZ.

#### Surface Mining Reclamation Plans

The Surface Mining Reclamation Act (Pub. Res. Code Sections 2710-2793) requires local agencies to adopt plans to govern surface mining within their jurisdictions. This Act will help protect the channels, flood plains, and other areas adjacent to wild and scenic rivers. As a condition of every surface mining operation, the city or county must require a detailed reclamation plan to restore the area after the operation has been finished.

#### Land Conservation Act

The California Land Conservation Act of 1965 (Williamson Act) (Gov. Code Section 51200-51295) offers tax incentives to landowners to keep prime agricultural land in agricultural use and to preserve other open space from development. It works in tandem with Sections 423 and 423.5 of the Revenue and Taxation Code which prohibit the State Board of Equalization from using comparable sales data in valuing open space lands subject to enforceable restrictions and require that such lands be assessed on the basis of income produced.

Under the Act, an owner of qualified agricultural or open space land may enter into a contract with local government whereby the land is taxed at lower rates in exchange for recording a development restriction on the land for a minimum of 10 years. Participation in Williamson Act contracts is voluntary for both local government and landowner. After 10 years, contracts are automatically renewed annually. The landowner may cancel a contract only with local government approval based on findings that cancellation is consistent with the purposes of the Williamson Act and is in the public interest. If cancellation is approved, the landowner must pay a cancellation fee of 50 percent of the assessed valuation of the land.

## Open Space Subventions

In 1971, the State Legislature approved the Open Space Subvention Program (Gov. Code Sections 16140-16154) to assist local governments which lose property tax revenues when open space lands are assessed under Section 423 or 423.5 of the Revenue and Taxation Code. As noted above, these sections limit property taxes on open space land which is subject to enforceable development restrictions. Open space lands include agricultural lands, forest lands, and lands such as wildlife habitats, wetlands, salt ponds, scenic highway corridors, submerged lands, and recreational areas. As of October 31, 1978, 48 of the 58 counties within the State and 20 cities were participating in the Williamson Act and Open Space Subvention Program, with a total of about 16.1 million acres of land under enforceable restrictions.

Applications by local governments for subvention payments are submitted to the Secretary for Resources who reviews eligibility and certifies the entitlement amount to the State Controller for payment.

Exhibit 1

STATE-OWNED LANDS IN WATERSHEDS OF  
WILD AND SCENIC RIVERS

## Overview

The State-owned lands within wild and scenic rivers watersheds can be categorized as 1) State parks, 2) State forests, 3) spawning gravels in rivers and streams, and 4) sovereign lands conveyed by the United States to the State of California on admission to the Union. Figure B-1 is a map of the State parks and the one State forest (the 160-acre Ellen Pickett State Forest) on the North Coast drainages. (State lands in the watershed of the Lower American River are limited to the Cal Expo fairgrounds and exhibition site.)

Not shown on Figure B-1 are spawning gravels on rivers and streams and sovereign lands. Salmon and steelhead spawning gravels owned by the State Lands Commission and leased to the Department of Fish and Game are located in several particular segments of the Klamath, Smith and Eel Rivers. Sovereign lands administered by the State Lands Commission consist of 1) beds of navigable rivers and 2) school lands. The State has ownership of all river beds for rivers that were navigable in the mid-19th century and possesses recreational and navigational easements for the river beds of additional rivers that have become navigable since 1850. Virtually all the segments of the wild and scenic rivers proposed for Federal designation are considered navigable. Ownership of school lands, the second category of sovereign lands, is complex and discussed in the section below.

### Ownership of School Lands

School lands under the jurisdiction of the State Lands Commission as of May 1978 are tabulated in Table B-1; this list is intended as a guide only, and may not contain listings for all parcels in which the State Lands Commission has an interest. The list pertains to school lands in the five North Coast counties; no school lands are present in Sacramento County.

The State Lands Commission has provided the following description of administration of the Federal lands:

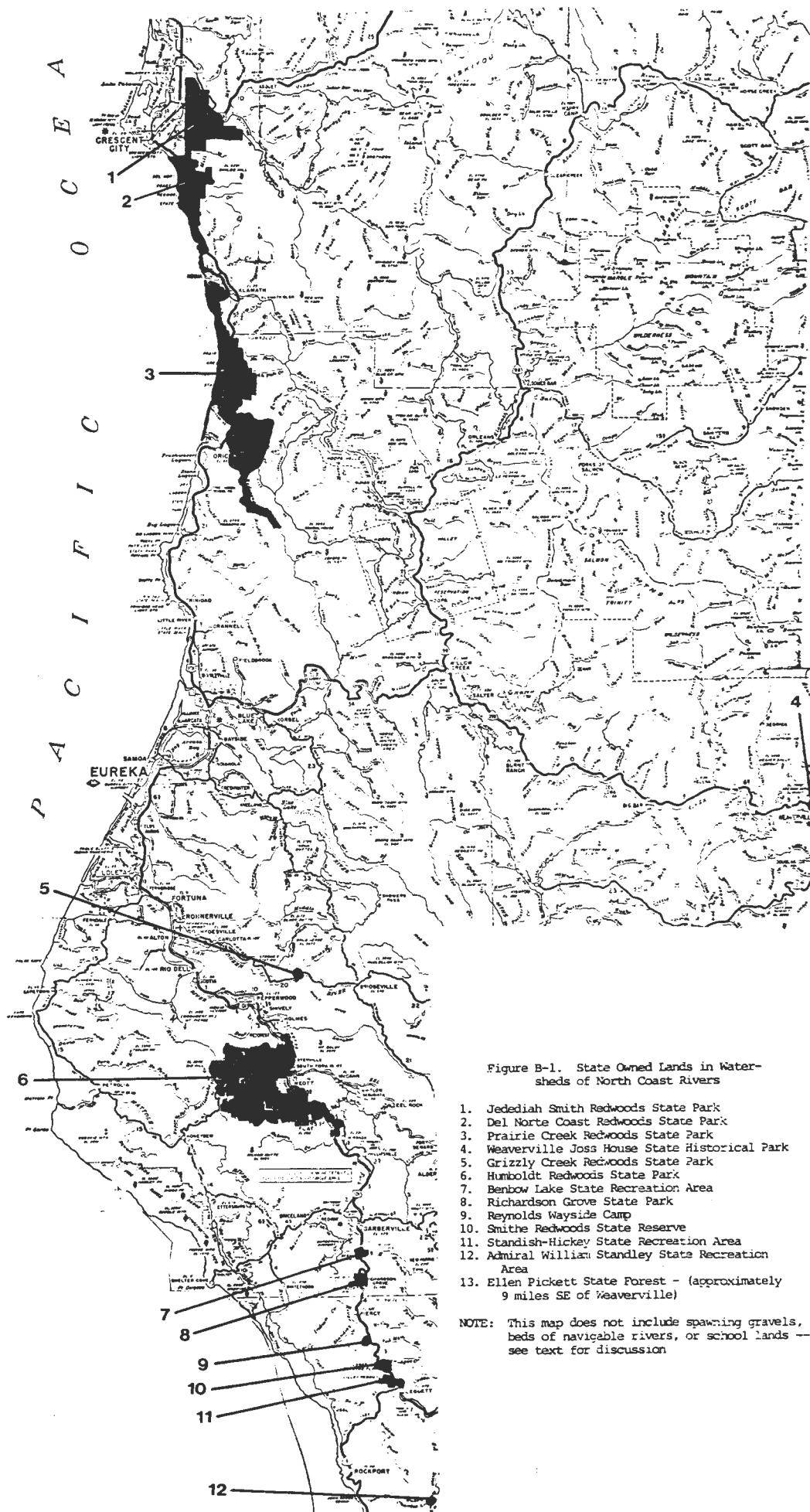


Figure B-1. State Owned Lands in Watersheds of North Coast Rivers

1. Jedediah Smith Redwoods State Park
2. Del Norte Coast Redwoods State Park
3. Prairie Creek Redwoods State Park
4. Weaverville Joss House State Historical Park
5. Grizzly Creek Redwoods State Park
6. Humboldt Redwoods State Park
7. Benbow Lake State Recreation Area
8. Richardson Grove State Park
9. Reynolds Wayside Camp
10. Smithe Redwoods State Reserve
11. Standish-Hickey State Recreation Area
12. Admiral William Standley State Recreation Area
13. Ellen Pickett State Forest - (approximately 9 miles SE of Weaverville)

NOTE: This map does not include spawning gravels, beds of navigable rivers, or school lands — see text for discussion



In 1853 the Federal Government granted to the State of California the 16th and 36th section of each township for purposes of support of public schools. In those cases where these sections were mineral in character, not complete, or already claimed or granted, the State was permitted to select other lands "in lieu" of the prescribed sections. Title to the "school sections" passed to the State upon approval of the plat of survey of the township by the Government Land Office (now Bureau of Land Management) and the land was thereupon available for disposition by the State. Some areas of the State have not yet been fully surveyed (generally remote desert and mountain areas) and therefore contain land which will become subject to the school land grant at the time of future survey. Some "in lieu" lands have not been selected. However, the majority of the lands acquired under this grant were disposed of over the past 120 years. The remaining parcels owned in fee by the State of California, listed by county in the following report, are generally in remote or desert areas, or are "encumbered" in some manner so as to make disposition impossible or not in the best interest of the State. The encumbrances are generally of two types: statutory (State) as in the case of lands encumbered by State or local agencies, and Land Commission policy as in the case of lands within national forests, monuments, and parks. The following list briefly describes the various encumbrance categories utilized in the report:

1. COUNTY AGENCY: Lands reserved at the request of county agencies. (Statutory - Public Resources Code).
2. EXCHANGE 41: Lands offered to the federal government in a specific exchange for other lands. (Commission Policy).
3. FISH AND GAME: Lands reserved at the request of the State Department of Fish and Game. (Statutory - Public Resources Code).
4. HIGHWAYS, DIVISION OF: Lands reserved at the request of the State Department of Transportation. (Statutory - Public Resources Code and Streets and Highways Code).
5. MILITARY LEASE: Lands leased to the United States within the exterior boundaries of military enclaves. (Commission Policy).
6. MINERAL LEASE: Lands embraced in a mineral lease issued by the State Lands Commission. (Commission Policy).
7. MINERAL POTENTIAL: Lands determined by State Lands Division staff to have potential value for mineral leasing. (Commission Policy).
8. OFFERED EXCHANGE BASE: Lands owned "in place" by the State of California offered to the federal government in exchange for other public lands. (Commission Policy).
9. OTHER FEDERAL ENCUMBRANCE: Lands reserved because of possible interest by the federal government. (Commission Policy).
10. PARKS AND RECREATION, DEPARTMENT OF: Lands reserved at the request of the State Department of Parks and Recreation. (Statutory - Public Resources Code).
11. PENDING PURCHASE APPLICATION: Lands embraced in a purchase application by a state or other public entity. (Statutory - Public Resources Code).
12. PROSPECTING PERMIT: Lands embraced in a prospecting permit issued by the State Lands Commission. (Commission Policy).
13. RIGHT OF WAY RESERVED: Lands embraced in a right of way across State school land; usually for railroad, canal or similar purposes. The right of way terminates when the land is no longer utilized for the purpose intended. (Commission Policy).
14. SUSPENDED PLAT: Lands embraced in a township for which approval of the plat of survey has been suspended by the Bureau of Land Management. (Statutory - U.S. Code).
15. TITLE OR LEGAL PROBLEMS: Lands requiring clarification of some title or legal problem identified by State Lands Division staff. (Commission Policy).
16. UNDEDUDED: Lands embraced in leases to the U.S. during World War II used as impact areas for explosives and not clear of "duds." (Commission Policy).
17. UNENCUMBERED: Lands on which there are neither statutory nor Commission restrictions.
18. WATER RESOURCES, DEPARTMENT OF: Lands reserved at the request of State Department of Water Resources. (Statutory - Public Resources Code).
19. WITHIN NATIONAL FOREST: Lands lying within a national forest where title passed to the State prior to creation of the national forest. (Commission Policy).
20. WITHIN NATIONAL MONUMENT: Lands lying within a national monument where title passed to the State prior to the creation of the national monument. (Commission Policy).
21. WITHIN NATIONAL PARK: Lands lying within a national park where title passed to the State prior to creation of the national park. (Commission Policy). "

Table B-1. School Lands in the North Coast Counties  
 Under the Jurisdiction of the State Lands  
 Commission as of 5/4/78.

COUNTY OF DEL NORTE

| ENCUMBRANCE       | B/M | TWP  | RGE | SEC | SUBDIVISION | ACRES  |
|-------------------|-----|------|-----|-----|-------------|--------|
| PENDING           |     |      |     |     |             |        |
| 016-001           | H   | 16 N | 1 E | 36  | NE4         | 160.00 |
| ENCUMBRANCE TOTAL |     |      |     |     |             | 160.00 |
| COUNTY TOTAL      |     |      |     |     |             | 160.00 |

COUNTY OF HUMBOLDT

| ENCUMBRANCE       | B/M | TWP | RGE | SEC | SUBDIVISION    | ACRES  |
|-------------------|-----|-----|-----|-----|----------------|--------|
| UNENCUMBERED      |     |     |     |     |                |        |
| 003-002           | H   | 3 N | 4 E | 27  | SW4NE4         | 40.00  |
| 003-003           | H   | 3 N | 4 E | 35  | NW4SW4         | 40.00  |
| 009-001           | H   | 9 N | 3 E | 28  | NE4NW4         | 40.00  |
| 040-003           | H   | 5 S | 5 E | 14  | NW4SW4, SE4SW4 | 80.00  |
| 040-004           | H   | 5 S | 5 E | 25  | NW4            | 160.00 |
| 041-001           | H   | 1 S | 1 W | 27  | SE4SE4         | 40.00  |
| ENCUMBRANCE TOTAL |     |     |     |     |                | 400.00 |

TITLE OR LEGAL PROBLEMS

|                   |   |     |     |    |                      |        |
|-------------------|---|-----|-----|----|----------------------|--------|
| 038-001           | H | 3 S | 2 E | 19 | LOT 3, N2NE4, SE4NE4 | 160.29 |
| 038-002           | H | 3 S | 2 E | 29 | N2NE4                | 80.00  |
| 038-003           | H | 3 S | 2 E | 30 | NE4NW4               | 40.00  |
| ENCUMBRANCE TOTAL |   |     |     |    |                      | 280.29 |
| COUNTY TOTAL      |   |     |     |    |                      | 680.29 |

COUNTY OF MENDOCINO

| ENCUMBRANCE       | B/M | TWP  | RGE  | SEC | SUBDIVISION                        | ACRES   |
|-------------------|-----|------|------|-----|------------------------------------|---------|
| UNENCUMBERED      |     |      |      |     |                                    |         |
| 040-001           | H   | 5 S  | 3 E  | 30  | SE4SW4                             | 40.00   |
| 040-002           | H   | 5 S  | 3 E  | 31  | LOTS 1, 2                          | 81.20   |
| 103-002           | M   | 11 N | 14 W | 17  | SW4SE4                             | 40.00   |
| 105-017           | M   | 13 N | 15 W | 29  | SW4SW4                             | 40.00   |
| 105-013           | M   | 13 N | 15 W | 30  | LOTS 6, 7, 13, 14, 15, 16, 17 & 18 | 277.71  |
| 105-014           | M   | 13 N | 15 W | 31  | LOTS 9, 10, 11 & NW4NE4            | 160.00  |
| 105-015           | M   | 13 N | 16 W | 25  | SE4                                | 160.00  |
| 111-004           | M   | 19 N | 13 W | 16  | W2NW4, N2NE4, W2SE4, SW4           | 400.00  |
| 112-002           | M   | 20 N | 13 W | 36  | ALL                                | 640.00  |
| 113-001           | M   | 21 N | 11 W | 16  | ALL                                | 640.00  |
| 114-001           | M   | 22 N | 13 W | 16  | ALL                                | 640.00  |
| 115-003           | M   | 23 N | 15 W | 26  | NE4SE4                             | 40.00   |
| 117-005           | M   | 25 N | 12 W | 36  | SW4, PTN S2NW4                     | 199.00  |
| ENCUMBRANCE TOTAL |     |      |      |     |                                    | 3357.91 |
| COUNTY TOTAL      |     |      |      |     |                                    | 3357.91 |

COUNTY OF TRINITY

| ENCUMBRANCE            | B/M | TWP  | RGE  | SEC | SUBDIVISION                 | ACRES  |
|------------------------|-----|------|------|-----|-----------------------------|--------|
| UNENCUMBERED           |     |      |      |     |                             |        |
| 040-005                | H   | 5 S  | 7 E  | 36  | LOT 4                       | 39.80  |
| 123-001                | M   | 31 N | 10 W | 14  | E2NW4                       | 80.00  |
| 125-002                | M   | 33 N | 8 W  | 32  | S2N2                        | 160.00 |
| 125-004                | M   | 33 N | 9 W  | 8   | E2NW4, W2NE4, SE4NE4, N2SE4 | 280.00 |
| 126-002                | M   | 34 N | 11 W | 16  | NE4, N2SE4, SW4SE4          | 280.00 |
| 129-003                | M   | 37 N | 12 W | 16  | NW4SW4                      | 40.00  |
| 129-004                | M   | 37 N | 12 W | 36  | NW4NW4                      | 40.00  |
| ENCUMBRANCE TOTAL      |     |      |      |     |                             | 919.80 |
| WITHIN NATIONAL FOREST |     |      |      |     |                             |        |
| 128-004                | M   | 36 N | 10 W | 36  | E2SE4SW4                    | 20.00  |
| ENCUMBRANCE TOTAL      |     |      |      |     |                             | 20.00  |
| RIGHT OF WAY RESERVED  |     |      |      |     |                             |        |
| 125-003                | M   | 33 N | 9 W  | 36  | PTN NE4NE4                  | 2.51   |
| ENCUMBRANCE TOTAL      |     |      |      |     |                             | 2.51   |
| COUNTY TOTAL           |     |      |      |     |                             | 942.31 |

COUNTY OF SISKIYOU

| ENCUMBRANCE             | B/M | TWP  | RGE  | SEC | SUBDIVISION                | ACRES   |
|-------------------------|-----|------|------|-----|----------------------------|---------|
| UNENCUMBERED            |     |      |      |     |                            |         |
| 135-001                 | M   | 43 N | 7 W  | 16  | S2NW4, N2SW4, NW4SE4       | 200.00  |
| 136-001                 | M   | 44 N | 4 W  | 16  | SW4NE4, NW4SE4             | 80.00   |
| 136-002                 | M   | 44 N | 4 W  | 36  | ALL                        | 640.00  |
| 136-003                 | M   | 44 N | 7 W  | 16  | W2NW4                      | 80.00   |
| 136-004                 | M   | 44 N | 7 W  | 35  | NW4NE4, SW4                | 200.00  |
| 137-002                 | M   | 45 N | 7 W  | 21  | LOTS 25,26,39&40           | 11.12   |
| 138-003                 | M   | 46 N | 7 W  | 36  | SE4NE4                     | 40.00   |
| 139-001                 | M   | 47 N | 8 W  | 36  | W2NW4, W2E2, N2SW4, SE4SW4 | 360.00  |
| 140-001                 | M   | 48 N | 2 W  | 36  | SW4SW4                     | 40.00   |
| ENCUMBRANCE TOTAL       |     |      |      |     |                            | 1651.12 |
| MINERAL POTENTIAL       |     |      |      |     |                            |         |
| 138-001                 | M   | 46 N | 7 W  | 36  | SW4SW4SE4                  | 10.00   |
| ENCUMBRANCE TOTAL       |     |      |      |     |                            | 10.00   |
| TITLE OR LEGAL PROBLEMS |     |      |      |     |                            |         |
| 010-001                 | H   | 10 N | 8 E  | 16  | LOT 1                      | 33.63   |
| ENCUMBRANCE TOTAL       |     |      |      |     |                            | 33.63   |
| WITHIN NATIONAL FOREST  |     |      |      |     |                            |         |
| 131-001                 | M   | 39 N | 11 W | 36  | W2NW4, NE4NW4              | 120.00  |
| 132-001                 | M   | 40 N | 10 W | 15  | NE4SE4                     | 40.00   |
| 133-001                 | M   | 41 N | 12 W | 16  | E2NW4                      | 80.00   |
| ENCUMBRANCE TOTAL       |     |      |      |     |                            | 240.00  |
| COUNTY TOTAL            |     |      |      |     |                            | 1934.75 |



# State of California

GOVERNOR'S OFFICE  
SACRAMENTO 95814

EDMUND G. BROWN JR.  
GOVERNOR

E X H I B I T . 2

916/445-2843

July 18, 1980

The Honorable Cecil D. Andrus  
Secretary of the Interior  
Interior Building, Room 6151  
Washington, D. C. 20240

Dear Secretary Andrus:

Some of the nation's most striking rivers still flow freely through the rugged mountains of Northern California to the sea. These productive rivers and their watersheds are the base of Northern California's economy. They are a stirring symbol of the force and beauty of the natural world as well.

The Legislature of the State of California has designated certain rivers as components of the California Wild and Scenic Rivers System (Public Resources Code Sections 5093.50-5093.64). I also believe that these designated rivers should remain undeveloped; therefore, in accordance with Section 2(a)(ii) of the Wild and Scenic Rivers Act, Public Law 90-542 (16 U.S.C., 1271 et seq.), I do hereby request on behalf of the State of California that the following rivers be designated National Wild and Scenic Rivers:

(a) Klamath River. The main stem from 100 yards below Iron Gate Dam to the Pacific Ocean; the Scott River from the mouth of Shackelford Creek west of Fort Jones to the river mouth near Hamburg; the Salmon River from Cecilville Bridge to the river mouth near Somesbar; the North Fork of the Salmon River from the intersection of the river with the south boundary of the Marble Mountain Wilderness Area to the river mouth; Wooley Creek, from the western boundary of the Marble Mountain Wilderness Area to its confluence with the Salmon River.

(b) Trinity River. The main stem from 100 yards below Lewiston Dam to the river mouth at Weitchpec; the North Fork of the Trinity from the intersection

of the river with the southern boundary of the Salmon-Trinity Primitive Area downstream to the river mouth at Helena; New River from the intersection of the river with the Southern Boundary of the Salmon Trinity Primitive Area downstream to the river mouth near Burnt Ranch; South Fork of the Trinity from the junction of the river with State Highway 36 to the river mouth near Salver.

(c) Smith River. All its tributaries from the Oregon-California state boundary to the Pacific Ocean.

(d) Eel River. The main stem from 100 yards below Van Arsdale Dam to the Pacific Ocean; the South Fork of the Eel from the mouth of Section Four Creek near Branscomb to the river mouth below Weott; Middle Fork of the Eel from the intersection of the river with the southern boundary of the Middle Eel-Yolla Bolly Wilderness Area to the river mouth at Dos Rios; North Fork of the Eel from the Old Gilman Ranch downstream to the river mouth near Ramsey; Van Duzen River from Dinsmores Bridge downstream to the river mouth near Fortuna.

(e) American River. The Lower American from Nimbus Dam to its junction with the Sacramento River.

These rivers will be administered permanently as wild, scenic, or recreational rivers by the Resources Agency, or one of its constituent departments, without expense to the United States other than for the administration and management of federally-owned lands. A partial list of the State's statutory authority for permanently administering the rivers is attached as Appendix A.

We believe that each of these rivers meets the criteria established in federal statute for inclusion in the National Wild and Scenic Rivers System.

Therefore, I respectfully request that you consider and approve California's application to include the named rivers into the National System.

Sincerely,

  
EDMUND G. BROWN JR.  
Governor

APPENDIX A

Partial list of state laws conferring authority for permanent administration of the rivers proposed for inclusion in the National Wild and Scenic Rivers System.

1. The California Wild and Scenic Rivers Act (California Public Resources Code Sections 5093.50-5093.65);
2. The California Environmental Quality Act (CEQA) California Public Resources Code Sections 21000-21175);
3. The Forest Practice Act of 1973 (California Public Resources Code Sections 4511-4628);
4. Forest Practice Rules governing streamside protection zone requirements (14 California Administrative Code Sections 916.-916.11; 936-936.11; 956-956.2);
5. California Fish and Game Code provisions relating to streambed alterations (California Fish and Game Code Sections 1601-1606);
6. State law governing water quality control (California Water Code Sections 13000-13998);
7. The Klamath River Basin Plan IA and the North Coastal Basin Plan IB, prepared by the California North Coast Regional Water Quality Control Board in compliance with the Federal Water Pollution Control Act and approved by the State Water Resources Control Board;
8. Statutory permit requirements governing the diversion and appropriation of water (see California Water Code Sections 1200-1801; in particular, see Sections 1255-1257);
9. The California Coastal Act (California Public Resources Code Sections 30000-30900); and
10. Statutes governing protection of state-owned lands of environmental value (California Public Resources Code Sections 6370-6378).

APPENDIX F

SPECIFIC OBJECTIVES FOR INLAND SURFACE AND GROUNDWATERS,  
BAYS, AND ESTUARIES OF BASIN 1-A

| Hydrographic Subunit   | Specific Conductance (micromhos @ 77° F.) | Dissolved Oxygen (mg/l) |     | Hydrogen Ion (pH) |     | Hardness (mg/l) | Boron (mg/l) |                 |     |
|--|---|-------------------------|-----|-------------------|-----|-----------------|--------------|-----------------|-----|
|  | 90th Percentile                           | Med <sup>1/</sup>       | Min | Med               | Max | Min             | Med          | 90th Percentile | Med |
| <u>Lost River</u>  |   |                         |     |                   |     |                 |              |                 |     |
| Clear Lake Reservoir & Upper Lost River                                  | 300                                       | 200                     | 5.0 | 8.0               | 9.0 | 7.0             | 60           | 0.5             | 0.1 |
| Lower Lost River   | 1000                                      | 700                     | 5.0 | -                 | 9.0 | 7.0             | -            | 0.5             | 0.1 |
| Other Streams  | 250                                       | 150                     | 7.0 | 8.0               | 8.4 | 7.0             | 50           | 0.2             | 0.1 |
| Tule Lake  | 1300                                      | 900                     | 5.0 | -                 | 9.0 | 7.0             | 400          | -               | -   |
| Lower Klamath Lake   | 1150                                      | 850                     | 5.0 | -                 | 9.0 | 7.0             | 400          | -               | -   |
| Groundwaters   | 1100                                      | 500                     | -   | -                 | 8.5 | 7.0             | 250          | 0.3             | 0.2 |
| <u>Butte Valley</u>  |   |                         |     |                   |     |                 |              |                 |     |
| Streams  | 150                                       | 100                     | 7.0 | 9.0               | 8.5 | 7.0             | 30           | 0.1             | 0.0 |
| Meiss Lake   | 2000                                      | 1300                    | 7.0 | 8.0               | 9.0 | 7.5             | 100          | 0.3             | 0.1 |
| Groundwaters   | 800                                       | 400                     | -   | -                 | 8.5 | 6.5             | 120          | 0.2             | 0.1 |
| <u>Shasta Valley</u>   |   |                         |     |                   |     |                 |              |                 |     |
| Shasta River   | 800                                       | 600                     | 7.0 | 9.0               | 8.5 | 7.0             | 220          | 1.0             | 0.5 |
| Other Streams  | 700                                       | 400                     | 7.0 | 9.0               | 8.5 | 7.0             | 200          | 0.5             | 0.1 |
| Lake Shastina  | 300                                       | 250                     | 6.0 | 9.0               | 8.5 | 7.0             | 120          | 0.4             | 0.2 |
| Groundwaters   | 800                                       | 500                     | -   | -                 | 8.5 | 7.0             | 180          | 1.0             | 0.3 |
| <u>Scott Valley</u>  |   |                         |     |                   |     |                 |              |                 |     |
| Scott River  | 350                                       | 250                     | 7.0 | 9.0               | 8.5 | 7.0             | 100          | 0.4             | 0.1 |
| Other Streams  | 400                                       | 275                     | 7.0 | 9.0               | 8.5 | 7.0             | 120          | 0.2             | 0.1 |
| Groundwaters   | 500                                       | 250                     | -   | -                 | 8.0 | 7.0             | 120          | 0.1             | 0.1 |
| <u>Salmon River</u>  |   |                         |     |                   |     |                 |              |                 |     |
| All Streams  | 150                                       | 125                     | 9.0 | 10.0              | 8.5 | 7.0             | 60           | 0.1             | 0.0 |
| <u>Upper Klamath River</u>   |   |                         |     |                   |     |                 |              |                 |     |
| Klamath River above Iron Gate Dam including Iron Gate & Copco Reservoirs | 425                                       | 275                     | 7.0 | 10.0              | 8.5 | 7.0             | 60           | 0.3             | 0.2 |
| Klamath River below Iron Gate Dam  | 350                                       | 275                     | 8.0 | 10.0              | 8.5 | 7.0             | 80           | 0.5             | 0.2 |
| Other Streams  | 300                                       | 150                     | 7.0 | 9.0               | 8.5 | 7.0             | 60           | 0.1             | 0.0 |
| Groundwaters   | 750                                       | 600                     | -   | -                 | 8.5 | 7.5             | 200          | 0.3             | 0.1 |
| <u>Applegate River</u>   |   |                         |     |                   |     |                 |              |                 |     |
| All Streams  | 250                                       | 175                     | 7.0 | 9.0               | 8.5 | 7.0             | 60           | -               | -   |

<sup>1/</sup> Median values represent the 50 percentile values of the monthly means for a calendar year.

(From: Water Quality Control Plan Report, Klamath River Basin (1A), by the California Regional Water Quality Control Board, North Coast Region)



APPENDIX F (Continued)  
 SPECIFIC OBJECTIVES FOR INLAND SURFACE AND GROUNDWATERS,  
 BAYS, AND ESTUARIES OF BASIN 1-A

| Hydrographic Subunit              | Specific Conductance (micromhos @ 77° F.) |      | Dissolved Oxygen (mg/l) |      | Hydrogen Ion (pH) |     | Hardness (mg/l) | Boron (mg/l) |                 |
|-----------------------------------|---|------|-------------------------|------|-------------------|-----|-----------------|--------------|-----------------|
|                                   | 90th Percentile                           | Med  | Min                     | Med  | Max               | Min |                 | Med          | 90th Percentile |
|                                   | <u>Upper Trinity River</u>                |      |                         |      |                   |     |                 |              |                 |
| Trinity River                     | 200                                       | 175  | 7.0                     | 10.0 | 8.5               | 7.0 | 80              | 0.1          | 0.0             |
| Other Streams                     | 200                                       | 150  | 7.0                     | 10.0 | 8.5               | 7.0 | 60              | 0.0          | 0.0             |
| Lake Engle and Lewiston Reservoir | 200                                       | 150  | 7.0                     | 10.0 | 8.5               | 7.0 | 60              | 0.0          | 0.0             |
| <u>Hayfork Creek</u>              |   |      |                         |      |                   |     |                 |              |                 |
| Hayfork Creek                     | 400                                       | 275  | 7.0                     | 9.0  | 8.5               | 7.0 | 150             | 0.2          | 0.1             |
| Other Streams                     | 300                                       | 250  | 7.0                     | 9.0  | 8.5               | 7.0 | 125             | 0.0          | 0.0             |
| Ewing Reservoir                   | 250                                       | 200  | 7.0                     | 9.0  | 8.0               | 6.5 | 150             | 0.1          | 0.0             |
| Groundwaters                      | 350                                       | 225  | -                       | -    | 8.5               | 7.0 | 100             | 0.2          | 0.1             |
| <u>S. F. Trinity River</u>        |   |      |                         |      |                   |     |                 |              |                 |
| S. F. Trinity River               | 275                                       | 200  | 7.0                     | 10.0 | 8.5               | 7.0 | 100             | 0.2          | 0.0             |
| Other Streams                     | 250                                       | 175  | 7.0                     | 9.0  | 8.5               | 7.0 | 100             | 0.0          | 0.0             |
| <u>Lower Trinity River</u>        |   |      |                         |      |                   |     |                 |              |                 |
| Trinity River                     | 275                                       | 200  | 8.0                     | 10.0 | 8.5               | 7.0 | 100             | 0.2          | 0.0             |
| Other Streams                     | 250                                       | 200  | 9.0                     | 10.0 | 8.5               | 7.0 | 100             | 0.1          | 0.0             |
| Groundwaters                      | 200                                       | 150  | -                       | -    | 8.5               | 7.0 | 75              | 0.1          | 0.1             |
| <u>Lower Klamath River</u>        |   |      |                         |      |                   |     |                 |              |                 |
| Klamath River                     | 300*                                      | 200* | 8.0                     | 10.0 | 8.5               | 7.0 | 75*             | 0.5*         | 0.2*            |
| Other Streams                     | 200*                                      | 125* | 8.0                     | 10.0 | 8.5               | 6.5 | 25*             | 0.1*         | 0.0*            |
| Groundwater                       | 300                                       | 225  | -                       | -    | 8.5               | 6.5 | 100             | 0.1          | 0.0             |
| <u>Illinois River</u>             |   |      |                         |      |                   |     |                 |              |                 |
| All Streams                       | 200                                       | 125  | 8.0                     | 10.0 | 8.5               | 7.0 | 75              | 0.1          | 0.0             |
| <u>Winchuck River</u>             |   |      |                         |      |                   |     |                 |              |                 |
| All Streams                       | 200*                                      | 125* | 8.0                     | 10.0 | 8.5               | 7.0 | 50              | 0.0          | 0.0             |
| <u>Smith River</u>                |   |      |                         |      |                   |     |                 |              |                 |
| Smith River-Main Forks            | 200                                       | 125  | 8.0                     | 11.0 | 8.5               | 7.0 | 60              | 0.1          | 0.1             |
| Other Streams                     | 150*                                      | 125* | 7.0                     | 10.0 | 8.5               | 7.0 | 60              | 0.1          | 0.0             |
| <u>Smith River Plain</u>          |   |      |                         |      |                   |     |                 |              |                 |
| Smith River                       | 200*                                      | 150* | 8.0                     | 11.0 | 8.5               | 7.0 | 60*             | 0.1*         | 0.0*            |
| Other Streams                     | 150*                                      | 125* | 7.0                     | 10.0 | 8.5               | 6.5 | 60*             | 0.1*         | 0.0*            |
| Lakes Earl & Talawa               | -   | -    | 7.0                     | 9.0  | 8.5               | 6.5 | -               | -            | -               |
| Groundwaters                      | 350                                       | 100  | -                       | -    | 8.5               | 6.5 | 75              | 1.0          | 0.0             |
| Crescent City Harbor              | -   | -    |                         |      |                   |     |                 |              |                 |

\*Does not apply to estuarine areas.

APPENDIX G

Specific Water Quality Objectives for the North Coastal Basin

| Unit                                    | Specific Conductance (micromhos) |     | Total Dissolved Solids (mg/l) |     | Dissolved Oxygen (mg/l) |              |              | pH           |              |
|---|----------------------------------|-----|-------------------------------|-----|-------------------------|--------------|--------------|--------------|--------------|
|   | 90% Values                       | Med | 90% Values                    | Med | Min                     | 90% Values   | Med          | Min          | Max          |
| Redwood Creek                           | 220                              | 125 | 115                           | 75  | 7.0                     | 7.5          | 10.0         | 6.5          | 8.5          |
| Mad River                               | 300                              | 150 | 160                           | 90  | 7.0                     | 7.5          | 10.0         | 6.5          | 8.5          |
| Eureka Plain (Humboldt Bay)             | ---                              | --- | ---                           | --- | 6.0                     | 6.2          | 7.0          | <sup>1</sup> | 8.5          |
| Eel River                               | 375                              | 225 | 275                           | 140 | 7.0                     | 7.5          | 10.0         | 6.5          | 8.5          |
| Van Duzen River                         | 375                              | 175 | 200                           | 100 | 7.0                     | 7.5          | 10.0         | 6.5          | 8.5          |
| South Fork Eel River                    | 350                              | 200 | 200                           | 120 | 7.0                     | 7.5          | 10.0         | 6.5          | 8.5          |
| Middle Fork Eel River                   | 450                              | 200 | 230                           | 130 | 7.0                     | 7.5          | 10.0         | 6.5          | 8.5          |
| Outlet Creek                            | 400                              | 200 | 230                           | 125 | 7.0                     | 7.5          | 10.0         | 6.5          | 8.5          |
| Bear River                              | 390                              | 255 | 240                           | 150 | 7.0                     | 7.5          | 10.0         | 6.5          | 8.5          |
| Mattole River                           | 300                              | 170 | 170                           | 105 | 7.0                     | 7.5          | 10.0         | 6.5          | 8.5          |
| Ten Mile River                          | ---                              | --- | ---                           | --- | 7.0                     | 7.5          | 10.0         | 6.5          | 8.5          |
| Noyo River                              | 185                              | 150 | 120                           | 105 | 7.0                     | 7.5          | 10.0         | 6.5          | 8.5          |
| Jug Handle Creek and Albion River       | ---                              | --- | ---                           | --- | 7.0                     | 7.5          | 10.0         | 6.5          | 8.5          |
| Big River                               | 300                              | 195 | 190                           | 130 | 7.0                     | 7.5          | 10.0         | 6.5          | 8.5          |
| Navarro River                           | 285                              | 250 | 170                           | 150 | 7.0                     | 7.5          | 10.0         | 6.5          | 8.5          |
| Garcia River                            | ---                              | --- | ---                           | --- | 7.0                     | 7.5          | 10.0         | 6.5          | 8.5          |
| Gualala River                           | ---                              | --- | ---                           | --- | 7.0                     | 7.5          | 10.0         | 6.5          | 8.5          |
| Russian River (upstream) <sup>2</sup>   | 320                              | 250 | 170                           | 150 | 7.0                     | 7.5          | 10.0         | 6.5          | 8.5          |
| Russian River (downstream) <sup>3</sup> | 375                              | 285 | 200                           | 170 | 7.0                     | 7.5          | 10.0         | 6.5          | 8.5          |
| Laguna de Santa Rosa                    | ---                              | --- | ---                           | --- | 7.0                     | 7.5          | 10.0         | 6.5          | 8.5          |
| Bodega Bay                              | ---                              | --- | ---                           | --- | 6.0                     | 6.2          | 7.0          | <sup>1</sup> | 8.5          |
| Coastal Waters <sup>4</sup>             | ---                              | --- | ---                           | --- | <sup>5</sup>            | <sup>5</sup> | <sup>5</sup> | <sup>6</sup> | <sup>6</sup> |

<sup>1</sup>pH shall not be depressed below natural background levels.

<sup>2</sup>Russian River (upstream) refers to the mainstem river upstream of its confluence with Laguna de Santa Rosa.

<sup>3</sup>Russian River (downstream) refers to the mainstem river downstream of its confluence with Laguna de Santa Rosa.

<sup>4</sup>The State's Ocean Plan applies to all North Coastal Basin coastal waters.

<sup>5</sup>Dissolved oxygen concentrations shall not at any time be depressed more than 10 percent from that which occurs naturally.

<sup>6</sup>pH shall not be changed at any time more than 0.2 units from that which occurs naturally.

<sup>7</sup>Median values are the 50 percentile values of the monthly means for a calendar year.

(From: Water Quality Control Plan Report, North Coastal Basin (1B),  
by the California Regional Water Quality Control Board, North  
Coast Region)

## APPENDIX H

### A PARTIAL CHECK LIST OF FISHES FOUND IN THE CALIFORNIA WILD & SCENIC RIVERS

#### Game Fish

king salmon - Oncorhynchus tshawytscha  
silver salmon - Oncorhynchus kisutch  
pink salmon - Oncorhynchus gorbuscha  
chum salmon - Oncorhynchus keta  
white sturgeon - Acipenser transmontanus  
green sturgeon - Acipenser medirostris  
striped bass - Roccus saxatilis  
American shad - Alosa sapidissima  
steelhead rainbow trout - Salmo gairdneri gairdneri  
kokanee - Oncorhynchus nerka nerka  
rainbow trout - Salmo gairdneri  
brown trout - Salmo trutta  
coast cutthroat trout - Salmo clarksii  
Eastern brook trout - Salvelinus fontinalis  
largemouth bass - Micropterus salmoides  
smallmouth bass - Micropterus dolomieu  
green sunfish - Lepomis cyanellus  
bluegill - Lepomis macrochirus  
redeer sunfish - Lepomis microlophus  
white crappie - Pomoxis annularis  
Sacramento perch - Archoplites interruptus  
channel catfish - Ictalurus catus  
white catfish - Ictalurus catus  
brown bullhead - Ictalurus catus  
black bullhead - Ictalurus catus

#### Nongame Fish (Fresh Water)

Sacramento western sucker - Castostomus occidentalis  
Humboldt sucker - Catostomus occidentalis  
carp - Cyprinus carpio  
goldfish - Carassius auratus  
Sacramento blackfish - Orthodon microlepidotus  
hardhead - Mylopharodon conocephalus  
Sacramento hitch - Lavinia exilicauda  
Sacramento squawfish - Pytocheilus grandis  
splittail - Pogonichthys macrolepidotus  
mosquitofish - Gambusia affinis  
tule perch - Hysterocarpus traskii  
riffle sculpin - Cottus qulosus  
prickly sculpin - Cottus asper  
aleutian sculpin - Cottus aleuticus  
Pacific lamprey - Entosphenus tridentatus  
river lamprey - Lampetra ayresi  
threadfin shad - Dorosoma petenense  
golden shiner - Notemigonus crysoleucas  
fathead minnow - Pimephales promelas

Nongame Fish (Continued)

thicktail chub - Gila crassicauda  
Western roach - Hesperoleucas symmetricus  
Sacramento tui chub - Siphateles bicolor sp  
speckled dace - Rhinichthys osculus sp  
three-spined stickleback - Gasterosteus aculeatus

Estuarine Fish

Pacific herring - Clupea harengus  
Pacific sardine - Sardinops caerulea  
Northern anchovy - Engraulis mordax  
surf smelt - Hypomesus pretiosus  
eulachon - Thaleichthys pacificus  
Pacific tomcod - Microgadus proximus  
bay pipefish - Syngnathus leptorhynchus  
redtail surfperch - Anphisticus rhodoterus  
shiner surfperch - Cymatogaster aggregata  
pile surfperch - Rhacochilus vacca  
kelp greenling - Hexagrammos decagrammus  
cabezon - Scorpaenichthys marmoratus  
staghorn sculpin - Leptocottus armatus  
saddleback gunnel - Pholis ornata  
topsmelt - Atherinops affinis  
speckled sanddab - Citharichthys stigmaeus  
starry flounder - Platichthys stellatus

APPENDIX I

U. S. HOUSE OF REPRESENTATIVES COMMITTEE  
ON PUBLIC WORKS RESOLUTION, APRIL 11, 1974

COMMITTEE ON PUBLIC WORKS  
U.S. HOUSE OF REPRESENTATIVES  
WASHINGTON, D.C. 20515

RESOLUTION

Resolved by the Committee on Public Works of the House of Representatives, United States, that the Board of Engineers for Rivers and Harbors is hereby requested to review the report of the Chief of Engineers on the Eel River, California, published in House Document Number 234, Eighty-ninth Congress, First Session, and other pertinent reports, with a view to determining whether any modifications of the recommendations contained therein are advisable at the present time, with particular reference to the physical, environmental, social, and economic structure and needs of the Eel River Basin and adjacent urban areas, and the future well-being of the people of the area including the development, management, conservation and environmental enhancement of the water, land, and related resources of the basin. Such review shall include, but not be limited to, a basin watershed conservancy program; water quality protection and enhancement; fish and wildlife preservation and enhancement, including spawning areas and hatcheries; streamflow augmentation and interbasin transfers and diversions; characteristics of sediment influx and transportation; flood control, channel stabilization and protective works, including emphasis on nonstructural measures; streambank and shoreline erosion control; protection of unique areas of natural beauty and historical and scientific interest; forest and mineral production; grazing and cropland improvement; watershed protection and management; outdoor recreation; and domestic, municipal, agricultural and industrial water supply. Such review shall be coordinated with interested Federal agencies, the State of California, and local governmental agencies.

Adopted April 11, 1974

Attest:

*John A. Blatnik*  
John A. Blatnik, M. C.  
Chairman

U. S. GOVERNMENT PRINTING OFFICE 32-50814

## APPENDIX J

### 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

#### PURPOSE

The following criteria supplement those listed in Section 2 of the Wild and Scenic Rivers Act, which states that rivers included in the National Wild and Scenic Rivers System shall be free-flowing streams which possess outstandingly remarkable scenic, recreational, geological, fish and wildlife, historic, cultural and other similar values.

These guidelines are intended to define minimum criteria for the classification and management of free-flowing river areas proposed for inclusion in the national system by the Secretary of the Interior or the Secretary of Agriculture, and for State rivers included in the system by the Secretary of the Interior.

In reading these guidelines and in applying them to real situations of land and water it is important to bear one important qualification in mind. There is no way for these statements of criteria to be written so as to mechanically or automatically indicate which rivers are eligible and what class they must be. It is important to understand each criterion; but it is perhaps even more important to understand their collective intent. The investigator has to exercise his judgment, not only on the specific criteria as they apply to a particular river, but on the river as a whole, and on their relative weights. For this reason, these guidelines are not absolutes. There may be extenuating circumstances which would lead the appropriate Secretary to recommend, or approve pursuant to Section 2(a)(ii), a river area for inclusion in the system because it is exceptional in character and outstandingly remarkable even though it does not meet each of the criteria set forth in these guidelines. However, exceptions to these criteria should be recognized only in rare instances and for compelling reasons.

The three classes of river areas described in Section 2(b) of the Wild and Scenic Rivers Act are as follows:

- "(1) Wild river areas--Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with

watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America.

- "(2) Scenic river areas--Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.
- "(3) Recreational river areas--Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past."

#### GENERAL CHARACTERISTICS

The Wild and Scenic Rivers Act, Section 10(a), states that, "Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its esthetic, scenic, historic, archeologic, and scientific features. Management plans for any such component may establish varying degrees of intensity for its protection and development, based on the special attributes of the area."

In order to qualify for inclusion in the national system, a State free-flowing river area must be designated as a wild, scenic, or recreational river by act of the State legislature, with land areas wholly and permanently administered in a manner consistent with the designation by any agency or political subdivision of the State at no cost to the Federal Government, and be approved by the Secretary of the Interior as meeting the criteria established by the Wild and Scenic Rivers Act and the guidelines contained herein. A river or related lands owned by an Indian tribe cannot be added to the national system without the consent of the appropriate governing body.

In evaluating a river for possible inclusion in the system or for determining its classification, the river and its immediate land area should be considered as a unit, with primary emphasis upon the quality of the experience and overall impressions of the recreationist using the river or the adjacent riverbank. Although a free-flowing river or river unit frequently will have more than one classified area,

each wild, scenic, or recreational area must be long enough to provide a meaningful experience. The number of different classified areas within a unit should be kept to a minimum.

Any activity, use, or development which is acceptable for a wild river is also acceptable for scenic and recreational river areas, and that which is acceptable for a scenic river is acceptable for a recreation river area. Activity and development limitations discussed below should not necessarily be interpreted as the desired level to which development or management activity should be planned. Hunting and fishing will be permitted, subject to appropriate State and Federal laws.

o The Wild and Scenic Rivers Act provides that rivers must be in a free-flowing natural condition, i.e., a flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams creeks, runs, kills, rills, and small lakes which are without impoundment, diversion, straightening, rip-rapping or other modification of the waterway. However, low dams, diversion works, and other minor structures will not automatically preclude the river unit from being included in the National Wild and Scenic Rivers System, providing such structures do not unreasonably diminish the free-flowing nature of the stream and the scenic, scientific, geological, historical, cultural, recreational, and fish and wildlife values present in the area.

o The river or river unit must be long enough to provide a meaningful experience. Generally, any unit included in the system should be at least 25 miles long. However, a shorter river or segment that possesses outstanding qualifications may be included in the system.

o There should be sufficient volume of water during normal years to permit, during the recreation season, full enjoyment of water-related outdoor recreation activities generally associated with comparable rivers. In the event the existing supply of water is inadequate, it would be necessary to show that additional water can be provided reasonably and economically without unreasonably diminishing the scenic, recreational, and fish and wildlife values of the area.

o The river and its environment should be outstandingly remarkable and, although they may reflect substantial evidence of man's activity, should be generally pleasing to the eye.

o The river should be of high quality water or susceptible of restoration to that condition. A concept of nondegradation whereby existing high water quality will be maintained to the maximum extent feasible will be followed in all river areas included in the national system.



All rivers included in the national system should meet the "Aesthetics--General Criteria" as defined by the National Technical Advisory Committee on Water Quality in the Federal Water Pollution Control Administration's Water Quality Criteria, April 1, 1968. Water quality should meet the criteria for fish, other aquatic life, and wildlife, as defined in that document, so as to support the propagation of those forms of life which normally would be adapted to the habitat of the stream. Where no standards exist or where existing standards will not meet the objectives of these criteria, standards should be developed or raised to achieve those objectives. Wild river areas can be included in the national system only if they also meet the minimum criteria for primary contact recreation, except as these criteria might be exceeded by natural background conditions. Scenic or recreation river areas which qualify for inclusion in the system in all respects except for water quality may be added to the system provided adequate and reasonable assurance is given by the appropriate Federal or State authority that the water quality can and will be upgraded to the prescribed level for the desired types of recreation, and support aquatic life which normally would be adapted to the habitat of the stream at the prescribed level of water quality. At such time as water quality fully meets the criteria, it may be desirable to change the classification of a river.

o New public utility transmission lines, gas lines, water lines, etc., in river areas being considered for inclusion in the national system are discouraged. However, where no reasonable alternative exists, additional or new facilities should be restricted to existing rights-of-way. Where new rights-of-way are indicated, the scenic, recreational, and fish and wildlife values must be evaluated in the selection of the site in accordance with the general guidelines described in the Report of the Working Committee on Utilities prepared for the President's Council on Recreation and Natural Beauty, December 1968.

o Mineral activity subject to regulations under the Act must be conducted in a manner that minimizes surface disturbance, sedimentation and pollution, and visual impairment. Specific controls will be developed as a part of each management plan.

#### CRITERIA FOR RIVER DESIGNATION

The following criteria for classification, designation, and administration of river areas are prescribed by the Act. These criteria are not absolutes, nor can they readily be defined quantitatively. In a given river, a departure from these standards might be more than compensated by other qualities. However, if several "exceptions" are necessary in

order for a river to be classified as wild, it probably should be classified as scenic. If several "exceptions" are necessary in order for a river to be classified as scenic, it probably should be classified as recreational.

### Wild River Areas

The Wild and Scenic Rivers Act states that "these represent vestiges of primitive America," and they possess these attributes:

1. "Free of impoundments"
2. "Generally inaccessible except by trail"
3. "Watersheds or shorelines essentially primitive"
4. "Waters unpolluted"

#### o Classification criteria.

Despite some obvious similarities, the "wildness" associated with a wild river area is not synonymous with the "wildness" involved in wilderness classification under the Wilderness Act of 1964. One major distinction, in contrast to wilderness, is that a wild river area also may contain recreation facilities for the convenience of the user in keeping with the primitive setting.

1. An "impoundment" is a slack water pool formed by any man-made structure. Except in rare instances in which esthetic and recreational characteristics are of such outstanding quality as to counterbalance the disruptive nature of an impoundment, such features will not be allowed on wild river areas. Future construction of such structures that would have a direct and adverse effect on the values for which that river area was included in the national system, as determined by the Secretary charged with the administration of the area, would not be permitted. In the case of rivers added to the national system pursuant to Sec.2(a)(ii), such construction could result in a determination by the Secretary of the Interior to reclassify or withdraw the affected river area from the system.

2. "Generally inaccessible" means there are no roads or other provisions for overland motorized travel within a narrow, incised river valley, or if the river valley is broad, within 1/4 mile of the riverbank. The presence, however, of one or two inconspicuous roads leading to the river area will not necessarily bar wild river classification.

3. "Essentially primitive" means the shorelines are free of habitation and other substantial evidence of man's intrusion. This would include such things as diversions, straightening, rip-rapping, and other modifications of the waterway. These would not be permitted except in instances where such

developments would not have a direct and adverse effect on the values for which that river area was included in the national system as determined by the Secretary charged with the administration of the area. In the case of rivers added to the national system pursuant to Section 2(a)(ii), such construction could result in a determination by the Secretary of the Interior to reclassify or withdraw the affected river area from the system. With respect to watersheds, "essentially primitive" means that the portion of the watershed within the boundaries has a natural-like appearance. As with shorelines, developments within the boundaries should emphasize a natural-like appearance so that the entire river area remains a vestige of primitive America. For the purposes of this Act, a limited amount of domestic livestock grazing and pasture land and cropland devoted to the production of hay may be considered "essentially primitive." One or two inconspicuous dwellings need not necessarily bar wild river classification.

4. "Unpolluted" means the water quality of the river at least meets the minimum criteria for primary contact recreation, except where exceeded by natural background conditions, and esthetics as interpreted in the Federal Water Pollution Control Administration's Water Quality Criteria, April 1, 1968. In addition, the water presently must be capable of supporting the propagation of aquatic life, including fish, which normally would be adapted to the habitat of the stream. Where no standards exist or where existing standards will not meet the objectives of these criteria, standards should be developed or raised to achieve those objectives.

o Management objectives.

The administration of a wild river area shall give primary emphasis to protecting the values which make it outstandingly remarkable while providing river-related outdoor recreation opportunities in a primitive setting.

To achieve these objectives in wild river areas, it will be necessary to:

1. Restrict or prohibit motorized land travel, except where such uses are not in conflict with the purposes of the Act.
2. Acquire and remove detracting habitations and other non-harmonious improvements.
3. Locate major public-use areas, such as large campgrounds, interpretive centers or administrative headquarters, outside the wild river area. Simple comfort and convenience facilities, such as fireplaces, shelters, and toilets, may be provided for recreation users as necessary to provide an

enjoyable experience, protect popular sites, and meet the management objectives. Such facilities will be of a design and location which harmonize with the surroundings.

4. Prohibit improvements or new structures unless they are clearly in keeping with the overall objectives of the wild river area classification and management. The design for any permitted construction must be in conformance with the approved management plan for that area. Additional habitations or substantial additions to existing habitations will not be permitted.

5. Implement management practices which might include construction of minor structures for such purposes as improvement of fish and game habitat; grazing; protection from fire, insects, or disease; rehabilitation or stabilization of damaged resources, provided the area will remain natural appearing and the practices or structures will harmonize with the environment. Such things as trail bridges, an occasional fence, natural-appearing water diversions, ditches, flow measurement or other water management devices, and similar facilities may be permitted if they are unobtrusive and do not have a significant direct and adverse effect on the natural character of the area.

#### Scenic River Areas

The Wild and Scenic Rivers Act states that scenic rivers:

1. Are "free of impoundments"
2. Are "accessible in places by road"
3. Have "shoreslines or watersheds still largely primitive and shoreslines largely undeveloped"

o Classification criteria.

1. An "impoundment" is a slack water pool formed by any man-made structure. Except in rare instances in which esthetic and recreational characteristics are of such outstanding quality as to counterbalance the disruptive nature of an impoundment, such features will not be allowed on scenic river areas. Future construction of such structures that would have a direct and adverse effect on the values for which that river area was included in the national system as determined by the Secretary charged with the administration of the area, would not be permitted. In the case of rivers added to the national system pursuant to Section 2(a)(ii), such construction could result in a determination by the Secretary of the Interior to reclassify or withdraw the affected river area from the system.

2. "Accessible in places by road" means that roads may occasionally bridge the river area. Scenic river areas will not include long stretches of conspicuous and well-traveled

roads closely paralleling the riverbank. The presence, however, of short stretches of conspicuous or longer stretches of inconspicuous and well-screened roads or screened railroads will not necessarily preclude scenic river designation. In addition to the physical and scenic relationship of the free-flowing river area to roads, consideration should be given to the type of use for which such roads were constructed and the type of use which would occur within the proposed scenic river area.

3. "Largely primitive" means that the shorelines and the immediate river environment still present an overall natural character, but that in places, land may be developed for agricultural purposes. A modest amount of diversion, straightening, rip-rapping, and other modification of the waterway would not preclude a river from being considered for classification as a scenic river. Future construction of such structures would not be permitted except in instances where such developments would not have a direct and adverse effect on the values for which that river area was included in the national system as determined by the Secretary charged with the administration of the area.

In the case of rivers added to the national system pursuant to Section 2(a)(ii), such construction could result in a determination by the Secretary of the Interior to reclassify or withdraw the affected river area from the system. "Largely primitive" with respect to watersheds means that the portion of the watershed within the boundaries of the scenic river area should be scenic, with a minimum of easily discernible development. Row crops would be considered as meeting the test of "largely primitive," as would timber harvest and other resource use, providing such activity is accomplished without a substantially adverse effect on the natural-like appearance of the river or its immediate environment.

4. "Largely undeveloped" means that small communities or any concentration of habitations must be limited to relatively short reaches of the total area under consideration for designation as a scenic river area.

o Management objectives.

A scenic river area should be managed so as to maintain and provide outdoor recreation opportunities in a near natural setting. The basic distinctions between a "wild" and a "scenic" river area are degree of development, type of land use, and road accessibility. In general, a wide range of agricultural, water management, silvicultural and other practices could be compatible with the primary objectives of a scenic river area, providing such practices are carried on in such a way that there is no substantial adverse effect on the

river and its immediate environment.

The same considerations enumerated for wild river areas should be considered, except that motorized vehicle use may in some cases be appropriate and that development of larger scale public-use facilities within the river area, such as moderate size campgrounds, public information center, and administrative headquarters, would be compatible if such structures were screened from the river.

Modest facilities, such as unobtrusive marinas, also would be possible if such structures were consistent with the management plans for that area.

### Recreational River Areas

The Wild and Scenic Rivers Act states that recreational rivers:

1. Are "readily accessible by road or railroad"
2. "May have some development along their shoreline"
3. May have "undergone some impoundment or diversion in the past"

o Classification criteria.

1. "Readily accessible" means the likelihood of paralleling roads or railroads on one or both banks of the river, with the possibility of several bridge crossings and numerous river access points.

2. "Some development along their shorelines" means that lands may be developed for the full range of agricultural uses and could include small communities as well as dispersed or cluster residential developments.

3. "Undergone some impoundment or diversion in the past" means that there may be water resources developments and diversions having an environmental impact greater than that described for wild and scenic river areas. However, the degree of such development should not be to the extent that the water has the characteristics of an impoundment for any significant distance.

Future construction of impoundments, diversions, straightening, rip-rapping, and other modification of the waterway or adjacent lands would not be permitted except in instances where such developments would not have a direct and adverse effect on the values for which that river area was included in the national system as determined by the Secretary charged with the administration of the area. In the case of rivers added to the national system pursuant to Section 2(a)(ii), such construction could result in a

determination by the Secretary of the Interior to reclassify or withdraw the affected river area from the system.

o Management objectives.

Management of recreational river areas should be designed to protect and enhance existing recreational values. The primary objectives will be to provide opportunities for engaging in recreation activities dependent on or enhanced by the largely free-flowing nature of the river.

Campgrounds and picnic areas may be established in close proximity to the river, although recreational river classification does not require extensive recreational developments. Recreational facilities may still be kept to a minimum, with visitor services provided outside the river area.

Adopted:

APPENDIX K

ATLANTIC RICHFIELD COMPANY LETTER

Atlantic Richfield Company 555 Seventeenth Street  
Denver, Colorado 80217  
Telephone 303 575 7577

AUG 28 1980



J. R. Mitchell  
Public Lands Coordinator

August 20, 1980

Regional Director  
Pacific Southwest Regional Office  
Heritage Conservation and Recreation Service  
U. S. Department of Interior  
450 Golden Gate Avenue  
San Francisco, California 94102

RE: Designation of Five California Rivers  
Inclusion in the National Wild and  
Scenic River System

Dear Sir:

Atlantic Richfield Company appreciates the opportunity to provide the Heritage Conservation and Recreation Service with our comments on the proposal to include five California Rivers in the National Wild and Scenic River System. Anaconda Copper Company, a subsidiary of Atlantic Richfield, endeavored to research the rivers involved. Due to the time constraints placed upon those who wished to provide comments, we were only able to conduct a cursory evaluation of the rivers.

Attached is a map (Map I) which indicates the rivers and tributaries involved in the proposal; the location of mining districts or areas of mineral potential can be found on map II which has been published by Minerals Exploration Coalition, 1980. In addition to the maps, the following is a summary of mining activity along each of the rivers:

Klamath River

1. Hornbrook gold placer near Hornbrook.
2. Paradise gold placer district, believed to be located on Shasta River near confluence of Shasta and Klamath Rivers.
3. Gottville placer and possibly lode gold district near Gottville.
4. Oak Bar Placer gold district.
5. Hamburg placer gold district near confluence of Scott and Klamath Rivers.
6. Happy Camp gold placer district at Happy Camp.



7. Clear Creek gold placer district at Clear Creek.
8. Cottage Grove gold placer district at Cottage Grove.
9. Dillon Creek gold placer district (a few miles downstream from Cottage Grove).
10. Orleans gold placer district at town of Orleans.
11. Weitchpec gold placer district at confluence of Trinity and Klamath Rivers.
12. Oro Fino gold placer district at intersection of Scott River and Shackelford Creek.
13. Scott Bar gold placer district.
14. Cecilville gold placer district at Cecilville.
15. Knownothing gold placer district.
16. Forks of Salmon gold placer district near confluence of Salmon and North Fork of Salmon Rivers.
17. Somesbar gold placer district near Somesbar.

Smith River

1. Low Divide district (iron, chrome; Alta copper mine).
2. Black Rock claims (nickel); within part of the Low Divide district; includes at least one tributary of the Smith River and is near North Fork of Smith River.
3. Rattlesnake Divide nickel mining area along western margin of South Fork of Smith River.
4. Monumental gold mine along Shelley Creek (tributary of Middle Fork of Smith River).

Trinity River - below Lewistown Dam, the Trinity passes through the following areas:

1. Lewiston gold district.
2. Douglas City gold placer district.
3. Junction City gold placer district.
4. Swedes Point gold placer district (near Manzanita Creek).
5. New River placer gold district, at confluence of Trinity River and New China Creek.
6. China Flat gold, silver, lead district.
7. Hoopa gold, copper district.
8. Helena gold placer district, including Last Chance gold mine (on North Fork of Trinity River).

Regional Director  
August 20, 1980  
Page 3

Eel River

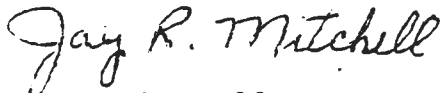
1. No mining activity seen along this river except for Blockburg gold, silver district from Blockburg along several tributaries of the Eel.

The American River from Nimbus Dam to its junction with the Sacramento River flows directly through the City of Sacramento. According to the Wild and Scenic Rivers Act (P.L. 90-542), it is must first be determined whether or not the river is "outstandingly remarkable". We find it difficult to perceive that this portion of the river could possess unusual or distinctive characteristics which would warrant its inclusion in the National Wild and Scenic River System.

Due to the mining activities that have occurred or are presently taking place along the Klamath, Smith, and Trinity Rivers, and possibly the Eel River, it could be assumed that various public access routes exist to the rivers.

We hope you will take into consideration mining activities and mineral potential before designating these rivers as wild and scenic. Again, we appreciate this opportunity to comment and request that you contact us if further information is required.

Sincerely,



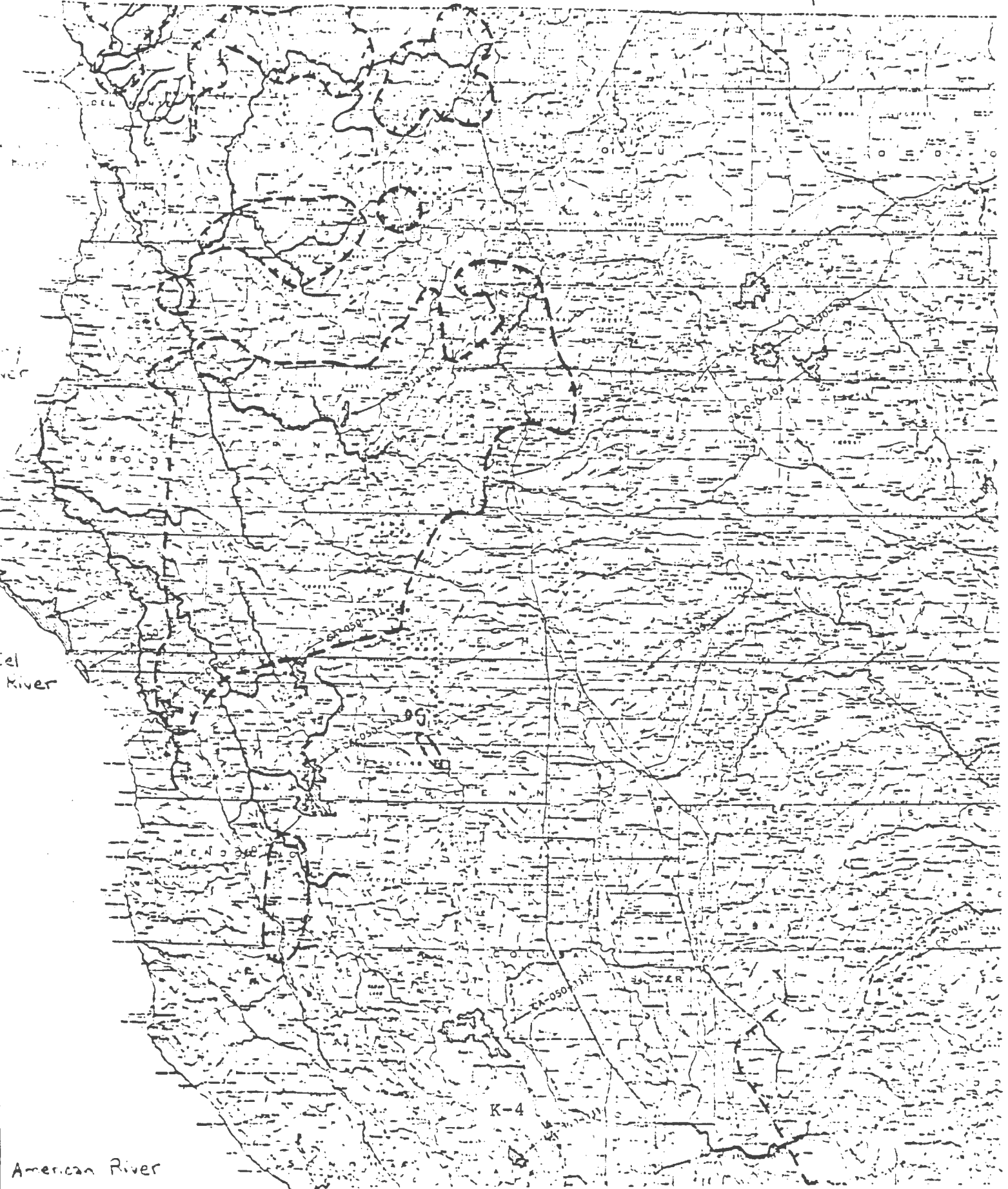
J. R. Mitchell

JRM/CMM/bbf  
Attachments

Intent to prepare EIS  
5 California Rivers

○ mining district, or area  
of mineral potential

Smith River



el River


American River

K-4


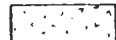
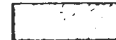





# CALIFORNIA

## PUBLIC AND OTHER LANDS CLOSED OR SEVERELY RESTRICTED TO MINERAL ENTRY

|   |    |                   |
|---|----|-------------------|
|  | W  | WILDERNESS        |
|   | WR | WILDLIFE REFUGE   |
|   | M  | MILITARY          |
|   | NM | NATIONAL MONUMENT |
|   | NP | NATIONAL PARK     |

### RARE II LANDS

|   |   |
|---|---|
|    | ADMINISTRATION ENDORSED<br>INSTANT WILDERNESS   |
|    | RARE II LANDS, ADMINISTRATION<br>ENDORSED FURTHER PLANNING<br>(MANAGED AS WILDERNESS)                                 |
|  | BLM WILDERNESS INVENTORY AREAS<br>IDENTIFIED FOR INTENSIVE INVENTORY<br>SUBJECT TO INTERIM MANAGEMENT<br>RESTRICTIONS |
|  | MAJOR MINE OR MINERAL DISTRICT  |
|  | U.S.G.S. IDENTIFIED HIGH<br>MINERAL POTENTIAL   |
|  | U.S.G.S. IDENTIFIED MODERATE<br>MINERAL POTENTIAL   |

Published by:

Minerals Exploration Coalition, 1980

# Memorandum

TO : Regional Director, Heritage Conservation and Recreation Service, Pacific Southwest Region, San Francisco, California 94102 DATE: DEC 02 1980

FROM : **ACTING** Area Manager, Sacramento, California (SESO)

SUBJECT: Endangered Species Act Section 7 Consultation - Proposal to Designate Five California State Wild and Scenic Rivers Under the National Wild and Scenic Rivers Act

This memorandum responds to your request of September 5, 1980, for formal consultation pursuant to Section 7(a) of the Endangered Species Act of 1973, as amended. At issue is the proposed designation of five California Wild and Scenic Rivers under the National Wild and Scenic Rivers Act and the possible effects on endangered species. This Biological Opinion is issued according to the Endangered Species Act of 1973, as amended, and refers only to actions affecting endangered species and not to the overall environmental acceptability of the proposed action. The "Draft Environmental Impact Statement (DEIS) on the proposed Designation of Five California Rivers in the National Wild and Scenic Rivers System", and information in our files provided the basis for this consultation.

## SUMMARY AND BIOLOGICAL OPINION

This Biological Opinion analyzes the eight Alternatives presented in the DEIS. It was determined that this action may affect the endangered McDonald's rock-cress, the threatened valley elderberry longhorn beetle, the endangered bald eagle and the endangered American peregrine falcon.

We have concluded that any Alternative chosen as the preferred Alternative by the Heritage Conservation and Recreation Service (HCERS) is not likely to jeopardize the continued existence of these four federally listed species. We have further determined that Alternatives B through H may promote the conservation of these species. However, Alternatives B and E provide the greatest benefit and are essentially equal in that benefit. Alternatives D, F, G and H are less desirable but their relative benefits cannot be assessed. Finally, Alternative C provides the least benefit (other than Alternative A, the No Action Alternative).

#### DESCRIPTION OF THE PROPOSED ACTION

On July 18, 1980, California Governor Brown requested the Secretary of the Interior to designate portions of the Klamath River, Trinity River, Smith River, Eel River, and American River, as Wild and Scenic Rivers pursuant to Section 2(a)(ii) of the National Wild and Scenic Rivers Act. The HCRS prepared a DEIS dated September 20, 1980, on this proposed designation. We have reviewed the DEIS and found that four federally listed species that may be affected by this action occur within the subject river watersheds. These are the endangered McDonald's rock-cress (Arabis mcdonaldiana), the threatened valley elderberry longhorn beetle (Desmocerous californicus dimorphus), the endangered bald eagle (Haliaeetus leucocephalus), and the endangered American peregrine falcon (Falco peregrinus anatum).

#### Alternatives

The State has proposed designation of the Klamath River from 100 yards below Iron Gate Dam to the Pacific Ocean, the main stem of the Trinity River from 100 yards below Lewiston Dam to the river mouth, the North Fork Trinity River and New River from the Salmon-Trinity Primitive Area to the respective river mouths, the South Fork Trinity River from its intersection with Highway 36 to its mouth, the Smith River and all its tributaries from the California-Oregon border to the ocean, the main stem of the Eel River from 100 yards below Van Arsdale Dam to the ocean, the South Fork Eel River from Section Four Creek to its mouth, the Middle Fork Eel River from the Middle Eel-Yolla Bolla Wilderness Area to its mouth, the North Fork Eel River from Old Gilman Ranch to its mouth, the Van Duzen River from the Dinsmore Bridge to its mouth, and the American river from Nimbus Dam to its confluence with the Sacramento River. The DEIS analyzes eight alternatives.

| Alternative   | Designation   |
|---------------|---|
| Alternative A | No Action   |
| Alternative B | State Proposal<br>(as described above)  |
| Alternative C | State Proposal less the middle<br>Fork Eel River Designation  |
| Alternative D | State Proposal less the lower<br>American River Designation   |
| Alternative E | State Proposal with reduced<br>Smith River Designation  |
| Alternative F | State Proposal with the<br>Smith River Designation<br>reduced to the main<br>stem, Middle Fork, North<br>Fork, South Fork, Siskiyou<br>Fork and South Siskiyou Fork |
| Alternative G | State Proposal less river<br>segments within National<br>Forest Boundaries  |
| Alternative H | State Proposal less river<br>segments within Indian land<br>boundaries  |

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Specific aspects of national designation of these five northern California rivers that may affect endangered species include:

- Prohibition of construction, assistance or licensing of water projects that may adversely affect the designated rivers.
- Withdrawal of all public lands within the boundaries.
- Prohibition of new mining claims within  $\frac{1}{4}$  mile of the designated rivers.
- Protection of designated rivers for their wild and scenic values by Federal land managing agencies.



SPECIES ACCOUNTS

McDonald's Rock-cress

Arabis mcdonaldiana (Brassicaceae) or McDonald's rock-cress was determined to be an endangered species on September 28, 1978. Populations of the species are primarily in the Red Mountain area, Mendocino County (43 FR 44810-44811). Recently, numerous stands of what has tentatively been identified by Dr. Reed C. Rollins, expert on the Brassicaceae and the genus, as A. mcdonaldiana have been located in Del Norte County, California and Josephine County, Oregon. A few individual populations of the rock-cress are located adjacent to the Smith River and its tributaries in Del Norte County and are within the influence of the river.

Valley Elderberry Longhorn Beetle

The valley elderberry longhorn beetle (Desmocerous californicus dimorphus) is an extremely rare beetle endemic to the Sacramento and San Joaquin river valleys. It occurs only in riparian environments in association with its host plant, the elderberry (Sambucus glauca). The beetle is absolutely dependent on the elderberry plant for survival and reproduction. Eggs are deposited in the bark of the plant and emerging larvae bore into the stems and roots, feeding on the pith material. When the larvae are ready to pupate, they move up from the roots through the pith, open an emergence hole in the bark, then return to the pith to complete pupation. The adults emerge in the spring of the year at about the same time the elderberry blooms. The adult flight period is from March until May. The life cycle apparently takes two years to complete.

Much of the required habitat for the beetle has been destroyed by the construction of flood control levees, by stream channelization, and by development of riverfront property for industrial and urban uses. Although the elderberry is still widespread, only remnant populations of the beetle are found in a few natural woodlands along rivers and streams of the lower Sacramento Valley. On August 8, 1980, our Service officially listed the valley elderberry longhorn as a threatened species and designated two areas of Critical Habitat along the lower American River in Sacramento. One is the Johnson Industrial Park near the junction of State Highway 160 and the American River, and the other is Goethe Park.

### Bald Eagle

The bald eagle once nested and wintered throughout much of California near the coast, rivers, lakes and wetlands. The species has suffered population declines and a reduction in its range primarily due to habitat loss, shooting, trapping, electrocution and environmental pollution. Bald eagles are sensitive to human disturbances such as recreational activities, homesites, campgrounds, and mining and timber harvesting near their roosting, foraging, and nesting areas (Stalmaster 1976, Thelander 1973). Many of the approximately 50 bald eagle nesting territories in California are currently subject to adverse human-related impacts.

Bald eagles nest and winter in the rivers proposed for designation except the lower American River. There are two known nesting territories on the South Fork Trinity River and one on the Klamath River. Several other areas are suspected to have nesting activity. Wintering eagles on the North Coast rivers are usually scattered. Concentrations do occur when salmon carcasses are available.

### American Peregrine Falcon

The American peregrine falcon historically nested throughout California except in desert regions. A rapid decline in peregrine populations occurred throughout North America beginning in the late 1940's due to the widespread use of chlorinated hydrocarbon pesticides (Hickey and Anderson 1969). The peregrine now is extirpated throughout most of its North American range. By 1969, the California peregrine population was estimated to be less than 10 breeding pairs (Herman, Kirven and Risebrough 1970). The number of known pairs has increased in recent years due to better survey coverage and increased reproduction.

There are now 42 peregrine pairs known in California. This peregrine breeding population is of national significance since this density is unmatched anywhere in the lower 48 states. Seventeen of the pairs are found within the river basins of the Klamath, Trinity, Salmon, Van Duzen and Eel Rivers. Three of the pairs are within the  $\frac{1}{4}$  mile protection afforded by National Wild and Scenic Rivers System Classification. These nesting sites can be adversely affected by human-related disturbances such as timber harvest, mining, recreational activities, and theft of young.

## ANALYSIS OF IMPACTS

Designation of these wild and scenic rivers may beneficially affect endangered species by providing additional protection beyond that guaranteed by the Endangered Species Act of 1973, as amended. Such action is supported by Section 2(c) of the Endangered Species Act which states "...all Federal departments and agencies shall seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of this Act."

Alternative A - Under the no action alternative, the existing condition is unchanged. Hence the federally listed species would continue to be protected pursuant to existing laws. However, The Endangered Species Act does not prohibit all mining, timber, water project construction or other activities. To begin with, the Endangered Species Act applies only to Federal actions. State and private actions would be allowed to proceed in compliance with applicable State and local laws. The Endangered Species Act would prevent Federal actions only when they would jeopardize the continued existence of the species. Thus, Federal actions that impact individuals or habitat of the species, but not adversely impact the species as a whole, could be permitted.

Alternative B - The State proposal may benefit endangered and threatened species by protecting unsurveyed habitat, and by providing a greater chance for the expansion of endangered and threatened species into presently unoccupied habitat. Additionally, it may benefit the bald eagle by improving the fishery resource.

Alternative C - This alternative would be less beneficial because it would not provide as much protection for the Round Valley and the Middle Fork Eel River. The Alternative could allow for the construction of Dos Rios Reservoir in Round Valley. If Dos Rios Reservoir is built, it will inundate many acres of essential peregrine falcon foraging habitat, and would possibly inundate one or two falcon nesting locations. Dos Rios Reservoir would completely cover the candidate plant species, the Milo Baker lupine (Lupinus milo-bakeri). If this project were repropose, our Service would recommend that this plant be designated an endangered or threatened species. Designation of the Middle Fork Eel River would provide additional legislative protection for this important area.

Alternative D - The lower American River includes Critical Habitat for the valley elderberry longhorn beetle. Designation of the lower American River may be a benefit to this threatened species by providing additional Federal protection to the limited habitat for this species. Alternative D would not provide this additional protection and impacts to the American River would be similar to Alternative A.

Alternative E - We believe this Alternative provides protection to endangered and threatened species similar to Alternative B. No endangered species or their habitats are known in those drainages which have been excluded from this Alternative. Only a small reduction in fishery values relative to Alternative B is expected.

Alternative F - This Alternative provides a reduced benefit to endangered species. It has deleted Diamond Creek which has populations of McDonald's rock-cress in its drainage. Although current protection on Federal lands under the ESA should protect this species, Federal designation may protect presently unknown populations. Fishery values are projected to remain the same or only slightly increased with little added benefit to the bald eagle.

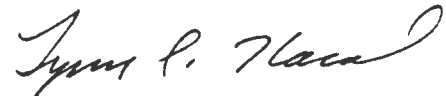
Alternative G - The U.S. Forest Service protects federally listed species on their lands. However, Federal designation may protect habitats not known to be utilized by listed species and would prevent federally supported water projects which might preempt Forest Service protections. Therefore, this alternative would be of lesser benefit than Alternative B or E.

Alternative H - Much the same argument as in Alternative G is valid here. Also Indian lands have not been aggressively surveyed for listed species. Therefore, presently unknown habitats may not be protected under Alternative H.

BIOLOGICAL OPINION

Based on our review of the above information and information in our files, it is our Biological Opinion that any Alternative chosen from the DEIS (A through H) by the Heritage Conservation and Recreation Service is not likely to jeopardize the continued existence of any of the four federally listed species or adversely modify any Critical Habitat. However, Alternatives B through H may promote the conservation of these endangered and threatened species. In our analysis we have determined varying degrees of benefit from the Alternatives. Alternatives B or E would provide the maximum benefit to federally listed species. Alternatives D, F, G and H are less desirable than Alternatives B or E, but the relative differences between these cannot be assessed. Alternative C is the least desirable of the designation alternatives.

This concludes formal consultation on this project. If the proposal is significantly modified in a manner not discussed above or if new information becomes available on listed species or impacts to listed species, reinitiation of formal consultation with this Service should be considered. We would appreciate notification of your final decision on this project.





# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Division of Ecological Services  
2800 Cottage Way, Room E-2727  
Sacramento, California 95825

December 3, 1980

### Memorandum

To : Regional Director, Heritage Conservation and Recreation  
Service, San Francisco, California  
ATTN: California Rivers Project Team

From : Field Supervisor, Division of Ecological Services,  
Fish and Wildlife Service, Sacramento, California

Subject: Smith River Tributaries Designation

On November 25, 1980, Messrs. Morat and Taylor of my staff met with Messrs. Goldsmith and Huddleston (HCRS), Messrs. Farley and Treanor (California Department of Fish and Game), and Messrs. Gibbons and Barnes (U.S. Forest Service) to discuss Federal Wild and Scenic eligibility of certain tributaries in the Smith River system. As a result of that meeting and the additional information made available by California Department of Fish and Game and U.S. Forest Service, my staff recommends that five of the Smith River tributaries included in the draft Environmental Impact Statement be deleted from consideration.

The five tributaries include Peacock Creek on the Lower Smith River, Little Jones Creek on the Middle Fork Smith River and Deer, Blackhawk and Harrington Creeks on the South Fork Smith River. We understand Deer, Harrington and Little Jones Creeks do not possess existing or reasonable potential fishery values to justify their inclusion. Blackhawk and Peacock Creeks possess some potential fishery values; however, the values could not be realized without unreasonable restoration expenditures and efforts.

Available data and information presented at the meeting did not indicate any other streams that require deletion due to their lack of potentially high or very high quality anadromous fish habitat.

*J. J. Carson*  
for James J. McKeivitt

cc: Reg. Dir., FWS, Portland, OR  
Dir., CDFG, Sacramento, CA  
AM-S, Sacramento, CA