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REPORT OF REVIEW OF ALLAGASH ACCESS POINTS NOVEMBER 2002

OVERVIEW

This report summarizes Department of Conservation and National Park Service observations and the Department's planned actions as a result of recent retreats with the Allagash Advisory Council. The retreats were aimed at developing consensus recommendations on access to the Allagash Wilderness Waterway, a state-administered "wild" river under the federal Wild and Scenic Rivers Act (WSRA). The retreats grew out of a February 2002 Memorandum of Agreement (MOA) between the Department and the National Park Service in which the Department agreed to review its 1999 Allagash Wilderness Waterway plan to consider the intent of WSRA. The retreats also resulted from the Department's desire to attempt to resolve access issues by consensus with the underlying notion that the Department would continue its plan, as approved in the MOA, to provide hand-carry canoe access to Churchill Lake near John's Bridge.

During the Summer and Fall of 2002, the Department hosted three facilitated retreats of the Allagash Advisory Council (Council). At the Department's request, the National Park Service participated in these retreats to ensure that the federal 'wild' river designation received adequate consideration--a goal of the Memorandum of Agreement.

The Council undertook a broad review of access on the Waterway. The Council did extensive "brainstorming" to develop and draft overall values associated with the Waterway, such as preserving traditional recreational activities, historic values, and wilderness canoe experiences. The Council then developed a list of 35+ specific access points and related elements and reviewed them based on how well they met, or did not meet, the values. Rather than looking at each access site in isolation, the Council divided the Waterway into five segments and reviewed individual access points in relation to its broader geographic area: 1) Allagash Lake and Stream; 2) Chamberlain and Telos Lakes; 3) Eagle and Churchill Lakes; 4) Churchill Dam to Long Lake Dam; and 5) Long Lake Dam to West Twin Brook.

The review was not an easy process. There were, and continue to be, strongly held differences of opinion on what it means to be a state-administered "wild" river under the federal Wild and Scenic Rivers Act. The limited time available for the retreats and the notion that access at John's Bridge would be part of the package also contributed to the challenge. Despite the differences of opinion, Council members gained insight into the views held by others about the values associated with the Allagash, both in past and present terms. After much discussion and thoughtful deliberation, the Council unanimously agreed on the greater majority of elements. It must also be noted that some members of the

council may believe that their agreement on specific elements was based on a goal of reaching an overall access "package". Because the Council was not able to arrive at a consensus on all elements, some members' support of specific elements may not be as strong as it was during the retreats. Nonetheless, the Department has decided to build on the consensus that was reached, and will use the Council's work as a basis for further action.

TABLE 1. CONSENSUS ELEMENTS

Achieving consensus on the majority of access elements reflects the Council's hard work to balance the varied interests. Specific elements upon which consensus was reached are summarized in Table 1 by segment. In general, consensual elements reflect the values developed by the Council:

- Access from tributary streams and foot paths originating outside the Waterway's state-owned Restricted Zone that do not go through campsites, are consistent with traditional access and will continue;
- At least one vehicle access point will be changed to a foot path in recognition of the wilderness-type experience associated with the Waterway;
- Several campsites will become water access only;
- A parking area, and a road to a parking area, now visible from the watercourse, will be moved to reduce its visual impact;
- Vegetation will be planted in several locations to make buildings and parking areas less visible from the Watercourse.

TABLE 2. SPECIFIC ACCESS ELEMENTS RECEIVING SUPPORT

Table 2 describes elements discussed by the Council that had support, but no consensus was achieved. As shown in the "comments/action" field, many of these elements were deemed to require further study before any final proposal could be developed. The Table reflects the status of the elements as of the last retreat, and the Department believes that the proper place to begin its review of the elements is where the Council left off and there was the greatest agreement among members.

Segment 1. Little Allagash Falls and Lower Allagash Stream Bridge

The Council unanimously agreed that the Island Campsite on Allagash Lake should be accessible only by water, and that with landowner agreement any new private roads approaching the lake and stream should be blocked a quarter mile from the lake or stream to more closely reflect the wilderness character of that area. There was broad support among the Council members to have the Department review and report back in one year, on the issues of people walking to the campsite on lower Allagash Stream, at Little Allagash Falls and inappropriate use on the bridge across the stream. The Department will pursue these elements as part of its further actions.

Segment 3. John's Bridge

Though consensus was not reached on this issue, access near John's Bridge along with several important concepts had at least majority support from the Council. First, to eliminate the potential for campsite occupancy conflicts with through trippers during the summer season, it was proposed that access should only be during the early Spring (from ice-out through the last day in May) and during Fall (October 1 to ice-in). Second, concerned that increased fishing pressure could cause a decline in native Brook Trout population and size, it was agreed that development of access should be accompanied by a request to the Department of Inland Fisheries and Wildlife to closely monitor Brook Trout populations in Eagle Lake on an ongoing basis. Third, to eliminate the unsafe practice of unauthorized access at the bridge, there was broad support for blocking access at the bridge. Finally, opening access conditioned on the Department monitoring the impacts of access at this point and reporting back to the Council after four years, also received broad support. The Department has incorporated these concepts into its plan for access near John's Bridge and will include them in its LURC permit application. Department staff visited the site after the retreat and based on their observations, the proposed trail will consist of a 770' primitive trail with minimal clearing and parking outside the Restricted Zone. Consistent with LURC regulations, use of dollies is intended.

Segment 4. Bissonnette Bridge

The Council achieved consensus on many of the elements related to Bissonnette Bridge. Recognizing the importance of reducing visual impacts to enhance the remote experience, the Council agreed that a shuttle service for dunnage only around Chase Rapids should stop at least 400' from the water; that dunnage should be dropped at that point; the service should be for downriver travel only; and the Department should recover its cost to provide the shuttle service. The remaining questions are whether the shuttle should include people and canoes as well as dunnage, and whether canoe put-in access should be allowed (via the trail) at the bridge. The Department will consider this issue as part of its continued review of the 1999 Management Plan.

Segment 5. Henderson Brook Bridge

There was broad support to move the current, direct vehicle access to the river from Henderson Brook Bridge to a nearby river bogon both for safety and aesthetic reasons. While this area may seem ripe to develop a longer trail that would minimize impact on the shoreland setting, it is further complicated because the current launching site at the bridge provides access for supplying Jalbert's Camps on Round Pond and is more accessible than a longer trail to the bogon would be. The Department will continue to work on an option that moves access to the bogon, with the understanding that access will continue to accommodate the needs of traditional use.

Segment 5. Michaud Farm Historic District

The Council considered a proposal to establish a "Michaud Farm Historic District" within the Restricted Zone (State owned land) encompassing an area from Cunliffe Depot Campsite to Allagash Falls (and perhaps north to the end of the AWW). Time did not allow for full development of this concept and no consensus was therefore possible. The Department believes that there is substantial potential to recognize, interpret, and possibly restore culturally significant features that contribute to the outstanding values and visitors' appreciation of the Waterway, while simultaneously preserving the wilderness recreation value of the Waterway consistent with state and federal statutes. The Department intends to explore this concept beginning this Winter. The National Park Service has expressed support for this effort and may be able to offer assistance.

TABLE 3. GENERIC ELEMENTS RECEIVING SUPPORT
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As the Council developed values and specific access elements, it became apparent that there are several issues that go beyond a specific site or area and apply to the Waterway in general. During the retreats, the Council listed and discussed some of these issues, but did not have the opportunity to fully develop them. The issues include elements such as building on a recent campsite study to determine visitor preferences and appropriate use levels; pursuing private funding sources to develop a plan and foundation to protect and enhance the Waterway; and seeking additional staff necessary to plan and guide Waterway management.

Table 3 summarizes the generic or wide-reaching elements that had support from the Council and indicates the action that the Department plans to take to further consider them.

NEXT STEPS

The Department will work toward a comprehensive access package based largely on the consensus items developed by the Council and upon further exploration and study of important areas identified for review. The Department will discuss specific elements with individual Council members and others, and will bring a package to the Council before holding public session(s).

The process will now be wrapped into the overall timeframe identified in the MOA for review of the AWW Management Plan (to be completed by Spring 2004). Proposed revisions to the Plan, other than mitigation efforts agreed to in the MOA, including access issues discussed in the attached tables, will be reviewed through a full public process prior to adoption by the Department.

In addition to including the consensus elements as part of the revisions to the 1999 Plan that the Department will bring to the public by Spring 2004, and in addition to working on the elements that require further action, the Department plans to move forward at this time on the other mitigation provisions of the MOA. Several of the mitigation provisions received the unanimous support of the Council—move the parking lot at Churchill Depot, vegetate the side slopes of Churchill Dam, and lengthen the trail at the former site of Bissonnette Bridge. As mentioned earlier, the Department plans to submit its LURC application for access near John's Bridge in November 2002.

The Department believes the retreat effort was a useful process and will result in a better management plan. As important, the Department is committed to finding balanced solutions that respect the Wild and Scenic Rivers Act and the State Allagash statute.

TABLE 1. AWW CONSENSUS ELEMENTS BY SEGMENT

Site	Comments/Action
<u>Segment 1. Allagash Lake & Stream</u>	
Island Campsite	Make water access only by rule/block trail
Road access to Allagash Lake	With landowner ok, block new roads at ¼ mile. Needs clarification with existing rule prohibiting vehicles within one mile of lake 5/1-9/30
Trail and tributary access to lake	Continue to allow access
<u>Segment 2. Chamberlain & Telos Lakes</u>	
Chamberlain Bridge	Continue vehicle access including disabled; reduce visual impact with new vegetation; consider changing trip start location
Mud Pond Carry	Seek formal protection
Allagash Stream	Continue to allow access
Webster Stream	Continue to allow access
Mud Pond Stream	Continue to allow access
Tramway Portage	Continue to maintain
Telos Lake	Adopt policy statement this is especially remote and wild area and no further access points will be developed
<u>Segment 3. Eagle & Churchill Lakes</u>	
Ziegler Trail	Close summer access by rule and block trail to campsite
Russell Cove Trail	Close summer access via rule and block
Churchill Depot	Continue vehicle access (including disabled access) to Churchill Lake; relocate parking per MOA so not visible from water
Trail and tributary access	Continue to allow
Eagle Lake trout study	Recommend IF&W make it high priority
<u>Seg. 4 Churchill Dam to Long Lake Dam</u>	
Canoe access below dam	Continue trail access for canoes below dam
Bissonnette	Lengthen trail per MOA to at least 400'
Chase Rapids Shuttle	Eliminate cost to bureau
Chase Rapids Shuttle	Allow only downriver shuttle
Chase Rapids Shuttle	Drop off shuttled dunnage at 400' trailhead
Bissonnette/Umsaskis	Explore potential campsite between them
Umsaskis Thoroughfare	Relocate entrance to parking lot behind ranger camp; disabled accessible trail (400-500') and use of canoe dollies allowed
Umsaskis Thoroughfare	Block water access on east side of bridge
Umsaskis Thoroughfare	Close present road and landscape to address visual impact
<u>Seg. 5 Long Lake Dam to W Twin Brook</u>	
No Consensus Elements	

TABLE 2. ELEMENTS RECEIVING SUPPORT, RECOMMENDING FURTHER ACTION

Site	Comments/Action
<u>Segment 1. Allagash Lake & Stream</u>	
Little Allagash Falls/Lower Allagash Stream Bridge	Department review and report back in one year on people walking through campsite and bridge use
<u>Segment 3. Eagle & Churchill Lakes</u>	
John's Bridge	Dévelop per MOA, 770' foot path, spring and fall use, report on impact after 4 years
<u>Seg. 4 Churchill Dam to Long Lake Dam</u>	
Bissonnette	Consider further access adjustment policies
Chase Rapids Shuttle	Shuttle canoes/people
<u>Seg 5. Long Lake Dam to W Twin Brook</u>	
Henderson Brook Bridge	Move access to bogan with parking not visible and block vehicle access at bridge
Tributary Access	Continue to allow
Michaud Farm Historic District	In the next year, Department, with advice from others, will define concept of district, appropriate access, recognize culturally significant features

TABLE 3. GENERIC ELEMENTS RECEIVING SUPPORT FOR FURTHER ACTION

Element	Comments/Action
1. Pursue acquisition of high value areas	Will include as part of overall acquisition program
2. Seek additional staff for planning/operations	Will include position in budget request to administration
3. Build on campsite study for entire waterway, especially Round Pond	Attempt to do visitor survey summer of 2003
4. Study carrying capacity of Waterway	Follow-up as needed after customer survey and work with North Maine Woods (See No. 11)
5. No unlimited motors on Telos and Chamberlain	Would require change in statute
6. Examine entire Waterway road network to determine which roads still in ¼ mile zone needed to be kept open	Discuss with landowners and Maine Forest Service
7. Review ADA relationship to Waterway as a whole	Ongoing
8. Revise the organization of the Management Plan to reflect 5 Waterway segments	Consider when plan is amended
9. Seek outside funding for scientific studies of the ecology, fisheries, and water species	Determine grant availability and apply, work jointly with landowners looking at ecology beyond Restricted Zone
10. With private funding sources, develop plan and foundation to protect and enhance AWW	Pursue when staffing available
11. Explore and develop use of electronic information and communications systems	Explore with North Maine Woods

Wild & Scenic Rivers Act

An Act¹

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

SECTION 1.

(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.

SECTION 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

¹ The Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) as set forth herein consists of Public Law 90-542 (October 2, 1968) and amendments thereto.

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 26.5 miles to the Virginia State line.

Upon receipt of an application under clause (ii) 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 [Fund] 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 (ii).

(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.

SECTION 3.

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

[List of designated rivers omitted. Please see following list.]

(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 designation of such component under subsection (a) (except where a different date is provided in subsection (a)), establish detailed boundaries therefore (which boundaries shall include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of the river); and determine which of the classes outlined in section 2, subsection (b), of this Act best fit the river or its various segments. Notice of the availability of the boundaries and classification, and of subsequent boundary amendments 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.

(c) Maps of all boundaries and descriptions of the classifications of designated river segments, and subsequent amendments to such boundaries, shall be available for public inspection in the offices of the administering agency in the District of Columbia and in locations convenient to the designated river.

(d) (1) For rivers designated on or after January 1, 1986, the Federal agency charged with the administration of each component of the National Wild and Scenic Rivers System shall prepare a comprehensive management plan for such river segment to provide for the protection of the river values. The plan shall address resource protection, development of lands and facilities, user capacities, and other management practices necessary or desirable to achieve the purposes of this Act. The plan shall be coordinated with and may be incorporated into resource management planning for affected adjacent Federal lands. The plan shall be prepared, after consultation with State and local governments and the interested public within 3 full fiscal years after the date of designation. Notice of the completion and availability of such plans shall be published in the Federal Register.

(2) For rivers designated before January 1, 1986, all boundaries, classifications, and plans shall be reviewed for conformity within the requirements of this subsection within 10 years through regular agency planning processes.

SECTION 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 5(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 it 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 the 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.

(d) The boundaries of any river proposed in section 5(a) of this Act for potential addition to the National Wild and Scenic Rivers System shall generally comprise that area measured within one-quarter mile from the ordinary high water mark on each side of the river. In the case of any designated river, prior to publication of boundaries pursuant to section 3(b) of this Act, the boundaries also shall comprise the same area. This subsection shall not be construed to limit the possible scope of the study report to address areas which may lie more than one-quarter mile from the ordinary high water mark on each side of the river.

SECTION 5.

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

[List of study rivers and study periods is omitted. If you need the list, please contact a Council member.]

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

(d) (1) 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.

(2) The Congress finds that the Secretary of the Interior, in preparing the Nationwide Rivers Inventory as a specific study for possible additions to the National Wild and Scenic Rivers System, identified the Upper Klamath River from below the John Boyle Dam to the Oregon-California State line. The Secretary, acting through the Bureau of Land Management, is authorized under this subsection to complete a study of the eligibility and suitability of such segment for potential addition to the National Wild and Scenic Rivers System. Such study shall be completed, and a report containing the results of the study shall be submitted to Congress by April 1, 1990. Nothing in this paragraph shall affect the authority or responsibilities of any other Federal agency with respect to activities or action on this segment and its immediate environment.

SECTION 6.

(a) (1) 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 or by exchange in accordance with the subsection (d) of this section. 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.

(2) When a tract of land lies partially within and partially outside the boundaries of a component of the National Wild and Scenic Rivers System, the appropriate Secretary may, with the consent of the landowners for the portion outside the boundaries, acquire the entire tract. The land or interest therein so acquired outside the boundaries shall not be counted against the average one-hundred-acre-per-mile fee title limitation of subsection (a)(1). The lands or interests therein outside such boundaries, shall be disposed of, consistent with existing authorities of law, by sale, lease, or exchange.

(b) If 50 per centum or more of the entire acreage outside the ordinary high water mark on both sides of the river within a federally administered wild, scenic or recreational river area is owned in fee title 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 therefore, 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 a date 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.

SECTION 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 designation of a river as a component of the National Wild and Scenic Rivers System. 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 effect 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 5, subsection (a), of this Act, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river might be designated, as determined by the Secretary responsible for its study or approval --

(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 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 interim period from the date a report is due and the time a report is actually submitted to the Congress; and

(iii) during such additional period thereafter as, in the case of any river the report for which is submitted to the President and the Congress for inclusion in the national wild and scenic rivers system, is necessary for congressional consideration thereof or, in the case of any river recommended to the Secretary of the Interior 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 designation of a river for study as provided in section 5 of this Act. No department or agency of the United States shall, during the periods hereinbefore specified, recommend authorization of any water resources project on any such river or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture in writing of its intention so to do at least sixty days in advance of doing so and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this Act and would affect the component and the values to be protected by it under this Act.

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

(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.).

SECTION 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. This subsection shall not be construed to limit the authorities granted in section 6(d) or section 14A of this Act.

(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. Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, subject only to valid existing rights, including valid Native selection rights under the Alaska Native Claims Settlement Act, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (77) through (88) of section 5(a) are hereby withdrawn from entry, sale, State selection or other disposition under the public land laws of the United States for the periods specified in section 7(b) of this Act.

SECTION 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 components 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. Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (77) through (88) of section 5(a), are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto, during the periods specified in section 7(b) of this Act.

SECTION 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, archaeologic, 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 refuge 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.

SECTION 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.

(b) (1) The Secretary of the Interior, the Secretary of Agriculture, or the head of any other Federal agency, shall assist, advise, and cooperate with States or their political subdivisions, landowners, private organizations, or individuals to plan, protect, and manage river resources. Such assistance, advice and cooperation may be through written agreements or otherwise. This authority applies within or outside a federally administered area and applies to rivers which are components of the National Wild and Scenic Rivers System and to other rivers. Any agreement under this subsection may include provisions for limited financial or other assistance to encourage participation in the acquisition, protection, and management of river resources.

(2) Wherever appropriate in furtherance of this Act, the Secretary of Agriculture and the Secretary of the Interior are authorized and encouraged to utilize the following:

(A) For activities on federally owned land, the Volunteers in the Parks Act of 1969 (16 U.S.C. 18g-j) and the Volunteers in the Forest Act of 1972 (16 U.S.C. 558a-558d).

(B) For activities on all other lands, section 6 of the Land and Water Conservation Fund Act of 1965 (relating to the development of statewide comprehensive outdoor recreation plans).

(3) For purposes of this subsection, the appropriate Secretary or the head of any Federal agency may utilize and make available Federal facilities, equipment, tools and technical assistance to volunteers and volunteer organizations, subject to such limitations and restrictions as the appropriate Secretary or the head of any Federal agency deems necessary or desirable.

(4) No permit or other authorization provided for under provision of any other Federal law shall be conditioned on the existence of any agreement provided for in this section.

SECTION 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 Administrator, Environmental Protection Agency and with the appropriate State water pollution control agencies for the purpose of eliminating or diminishing the pollution of waters of the river.

SECTION 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 the 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.

SECTION 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.

SECTION 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.

SECTION 15.

Notwithstanding any other provision to the contrary in sections 3 and 9 of this Act, with respect to components of the National Wild and Scenic Rivers System in Alaska designated by paragraphs (38) through (50) of section 3(a) of this Act --

(1) the boundary of each such river shall include an average of not more than six hundred and forty acres per mile on both sides of the river. Such boundary shall not include any lands owned by the State or a political subdivision of the State nor shall such boundary extend around any private lands adjoining the river in such manner as to surround or effectively surround such private lands; and

(2) the withdrawal made by paragraph (iii) of section 9(a) shall apply to the minerals in Federal lands which constitute the bed or bank or are situated within one-half mile of the bank of any river designated a wild river by the Alaska National Interest Lands Conservation Act.