

Wild & Scenic River Information

Wild & Scenic Rivers Act, October 2, 1968:

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 dams 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.



Cache La Poudre, Colorado. This is the only designated Wild & Scenic River in the State.

National Wild & Scenic River System¹

The National Wild and Scenic Rivers System was created by Congress in 1968 (Public Law 90-542; 16 U.S.C. 1271 et seq.) to preserve certain rivers with outstanding natural, cultural, and recreational values in a free-flowing condition for the enjoyment of present and future generations. The Act is notable for safeguarding the special character of these rivers, while also recognizing the potential for their appropriate use and development. It encourages river management that crosses political boundaries and promotes public participation in developing goals for river protection.

Rivers may be designated by Congress or, if certain requirements are met, the Secretary of the Interior (commonly referred to as the 2(a)(ii) process). Each river is administered by either a federal or state agency. Designated segments need not include the entire river and may include tributaries. For federally administered rivers, designated boundaries generally average one-quarter mile on either bank in the lower 48 states in order to protect river-related values. The majority of all designated Wild & Scenic rivers have been completed through the traditional designation process 2(a)(i), designation via an act of Congress.

Rivers are classified as wild, scenic, or recreational. The classification represents the existing level of development along a river segment, which is used as a guide to determine which future

¹ Overview reproduced from the Introduction of Wild & Scenic Rivers System by the National Wild & Scenic River System, Available at www.rivers.gov

land and water uses might be appropriate along that segment. A designated river may be divided into several different segments, with each segment having a different classification.

- 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.
- 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.
- 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.

Regardless of classification, each river in the National System is administered with the goal of protecting and enhancing the values that caused it to be designated. Designation neither prohibits development nor gives the federal government control over private property. Recreation, agricultural practices, residential development, and other uses may continue. Protection of the river is provided through voluntary stewardship by landowners and river users and through regulation and programs of federal, state, local, or tribal governments.

The Act purposefully strives to balance dam and other construction at appropriate sections of rivers with permanent protection for some of the country's most outstanding free-flowing rivers. To accomplish this, it prohibits federal support for actions such as the construction of dams or other instream activities that would harm the river's free-flowing condition, water quality, or outstanding resource values. However, designation does not affect existing water rights or the existing jurisdiction of states and the federal government over waters as determined by established principles of law. In 2002, the United States Supreme Court, in a case regarding the designation of the Upper Klamath River in Oregon, the court outlined the amount of water the federal government can set aside for protecting the ORVs of each WSR; "the standard for determining the quantity of the express Wild and Scenic River reserved water right is the amount of water is the amount of water reasonably necessary to meet the purposes of the reservation."

There are more than 160 designated WSRs and of these rivers, only a small number have quantified, decreed federal rights to protect the ORVs of the designated river. The federal government is required to submit water rights claims to the respective state's adjudication process for quantification of the reserved right. Because of the lengthy process of adjudication, most federal water rights on WSRs have not been quantified. Federal water rights claims can also be addressed in advance of the WSR designation, as was the case for Hells Canyon, Idaho. In this 1975 case, two pieces of legislation were used to specifically preclude federally reserved water rights on the Snake River below Hells Canyon dam. In other cases, specific amounts and timelines were set created to force the quantification of the federal right as well as to allow for livestock requirements, municipal development, and/or other beneficial uses in varying amounts depending on the time of year and river specific needs. In any case, the priority date for the water right is set at the date of designation and in past cases has been specifically subordinated against other additional, future rights.

Benefits of Designating a Wild & Scenic River

Designation of a Wild & Scenic River has multiple permanent benefits for the stream and riparian corridor as well as our greater community. Designation incorporates all river related values including scenery, recreation opportunities, water quality, geology, preservation of a functioning and healthy aquatic and riparian habitats, protecting and enhancing native trout fisheries, and other outstandingly remarkable values as defined in the Forest Service draft plan for Hermosa Creek. Furthermore, designation guarantees that resources present today will continue unimpaired for the enjoyment of future generations.



Cache La Poudre River and Canyon, Colorado.

Designation and subsequently the development of a river management plan (as required for all WSRs), provides an additional opportunity to deepen awareness of the public benefits derived from rivers. Education and/or outreach can further understanding of the watershed and more so, the characteristics that provide a greater sense of place. Whether through public information via publications, workshops, or appropriately placed signage, designation provides testament to the community's long-standing goals for resource protection and management.

Congressional designation of a Wild & Scenic River after recommendation by the River Protection Workgroup would create a successful model of locally based, collaborative resource management. It would act as a template for continued cross collaboration and foster resource management from a watershed (or basin) perspective.

Designation would begin breaking down the ideological arguments against WSRs and federal reserved water rights. It would be a major accomplishment not only for all involved but also for the State of Colorado. While designation would be case specific for each river, successfully garnering WSR designation for Hermosa Creek would serve to act as a foundation for discussions of other rivers within the San Juan National Forest as well as across the state. Finally, designation under the Wild & Scenic Rivers System may provide an additional source of funding for management of the river. The designation creates a higher priority for federal funding for management activities via the recognizable name. Designation may result in greater consistency in receiving funds for management.