

National Wild & Scenic Rivers

Questions & Answers

November 2014

What are Wild & Scenic Rivers?

The National Wild & Scenic Rivers Act is the nation's primary river conservation tool. Congress passed the Act in 1968 to specifically balance our existing policy of developing rivers for the water, power, and flood control resources by building large dams, with a new policy of protecting some free flowing rivers with outstanding natural and cultural values for the benefit and enjoyment of present and future generations.

How does Wild & Scenic designation protect rivers?

Wild & Scenic protection explicitly prohibits the federal government from licensing, permitting, or funding new hydroelectric dams or major diversions on protected stream segments. The federal government may license or approve new water resource projects upstream or downstream of protected segments as long as the projects do not unreasonably diminish the stream. Federal public lands within an average quarter mile wide corridor on both sides of designated Wild & Scenic Rivers are managed to protect their outstanding scenic, recreational, historical/cultural, fish, wildlife, ecological, geological, and hydrological values.

How are Wild & Scenic Rivers protected on public lands?

Federal public lands (National Forests, BLM lands, National Parks, etc.) within a river corridor averaging 320 acres per mile (about 1/4 mile on each side of the river) are managed to protect the river's free flowing character and outstanding values. Federal agencies that administer public lands are responsible for the management of designated rivers and are required to develop a plan within three years of designation to guide future management of the protected stream.

What does Wild, Scenic, or Recreational classification mean?

In addition to protecting a river's free flowing character and outstanding values, federal agencies are also required to manage the public lands along protected segments according to their Wild, Scenic, or Recreational classification. Classification is based on the existing level of development along the river. The following guidelines are used to establish and manage for classification:

- **Wild** - These segments are wild, unroaded and undeveloped. Logging, road building, new mining claims, developed campgrounds, and motorized access are generally prohibited on Wild segments. All other activities associated with public lands such as grazing, mining of valid existing claims, hunting and other forms of non-motorized recreation are permitted provided that the river's free flowing character and outstanding values are protected.
- **Scenic** - These segments are generally undeveloped, but may have occasional road crossings and riverside structures that are visually screened from the river. Motorized use on trails may or may not be permitted based on existing use and resource protection needs. All other activities normally associated with public lands are permitted, as long as the river's visual quality, free flowing character, and outstanding values are protected.
- **Recreational** - These segments are generally developed, with parallel roads, bridges and structures. All activities normally associated with public lands may occur provided that the river's free flowing character and outstanding values are protected.

River segments may be classified as Wild, Scenic, and/or Recreational in the designating legislation or the managing federal agency may classify segments within one year after the designating legislation is passed.

How is a stream protected as a Wild & Scenic River?

Rivers are protected through an act of Congress signed by the President. Federal agencies may study and make recommendations to Congress as to whether certain rivers should be protected, but Congress makes the final decision. In relatively rare cases, the Governor of a state with a river conservation system similar to the federal system may request that a state river be added to the federal system upon the approval of the Interior Secretary, but most rivers are added to the federal system by an act of Congress.

How does a stream become a candidate for Wild & Scenic River protection?

Congress may protect rivers outright through legislation or it may direct federal agencies that manage public lands to conduct studies and make recommendations concerning designation. The Forest Service, BLM, and other federal agencies that manage public lands are also required to identify, study, and recommend candidate Wild & Scenic Rivers in the land and resource planning process. To be eligible, a candidate river must be free flowing and possess one or more outstanding values. Once a river is determined eligible, the agency provides interim protection of the river's free flowing character and outstanding values until Congress acts in response to the agency study.

Does Wild & Scenic protection affect private property?

No. The National Wild & Scenic Rivers Act confers no federal authority over private land use or local zoning of private lands. There is no practical impact on private property, except that federal protection typically increases private property values and contributes to the local economy by attracting tourists and recreational visitors.

Can private land be condemned on the Wild & Scenic Rivers?

The National Wild & Scenic Rivers Act prohibits fee title condemnation of any private lands along a protected river if 50% or more of the designated river segment is already under public ownership. As a practical matter, condemnation of private land on Wild & Scenic Rivers is quite rare, particularly in the west. No private land has ever been condemned in fee title on any of the more than 2,100 miles of National Wild & Scenic Rivers in California.

Does Wild & Scenic protection affect existing water rights?

No, the state's authority to regulate water rights remains unaffected by designation. There is a federal water right conferred by designation, but it begins at the date of designation and is junior to all other existing rights. To assert this right, the managing federal agency must apply to the appropriate state water rights agency and any decision would follow existing state water rights procedures and established rule of law. To acquire water rights, federal agencies would have to pay fair market value. As a practical matter, federal protection will not affect downstream water projects and are unlikely to affect any upstream water projects. None of the Wild & Scenic Rivers in California have affected the operation of upstream and downstream dams and other water facilities.

Which California rivers enjoy federal protection?

More than 2,100 miles on 25 California rivers and streams have been included in the National Wild & Scenic Rivers System since the system was established in 1968.

For more information concerning National Wild & Scenic Rivers in California, contact Steve Evans, Wild Rivers Consultant for the California Wilderness Coalition and Friends of the River, Phone: (916) 708-3155, Email: sevans@friendsoftheriver.org.