

Wild and Scenic Rivers Act

16 U.S.C. §§1271-1287

The Act's purpose is to preserve selected rivers with outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values in their **free-flowing** condition. [16 U.S.C. §1271]

National wild and scenic rivers system

The **national wild and scenic rivers system** comprises rivers (1) that are designated by Congress, or (2) that are designated by the legislatures of the states through which they flow (and are to be administered by the states) and that are approved by the Secretary of the Interior for inclusion in the system. [16 U.S.C. §1273] The Act lists designated rivers. [16 U.S.C. §1274(a)]

For rivers designated on or after January 1, 1986, the federal agency charged with the administration of each component of the system shall prepare a **comprehensive management plan** for such river segment to provide for the protection of the river values. [16 U.S.C. §1274(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 and scenic river areas**, which are listed in the Act. [16 U.S.C. §1276(a), (d)]

Land acquisition

The Secretaries of the Interior and Agriculture are authorized to **acquire lands** within any component of the system administered by them, but shall not acquire fee title to an average of more than 100 acres per mile on both sides of the river. [16 U.S.C. §1277(a)(1)]

The federal government's power of **condemnation** in acquiring such lands is limited when the government or a state already owns 50 percent or more of the acreage within a federally administered wild and scenic river area, or when the lands lie in an urban area with a valid and satisfactory zoning ordinance that applies to such lands. [16 U.S.C. §1277(b), (c)]

The appropriate Secretary is authorized to accept title for nonfederal land within the boundaries of a federally administered component of the system and, in **exchange**, convert to the grantor federally owned property under the Secretary's jurisdiction within the state in which the component lies. [16 U.S.C. §1277(d)]

Owners of improved property on the date of its acquisition may retain a **right of use and occupancy** for noncommercial residential purposes, unless the Secretary finds that such use and occupancy is being exercised in a manner that conflicts with the Act's purposes. [16 U.S.C. §1277(g)]

Management of system lands and resources

The Federal Energy Regulatory Commission shall not license the construction of any **water project under the Federal Power Act** on or directly affecting a designated component of the national wild and scenic rivers system, and no federal agency shall assist the construction of any water project that would have a direct adverse effect on the wild and scenic nature of a designated river. However, the federal government may license and aid developments above or below a designated wild and scenic river area, so long as they do not invade or unreasonably diminish the scenic, recreational, and fish and wildlife values in the area. [16 U.S.C. §1278(a)]

The Act limits the ability of the federal government to license or aid developments affecting rivers designated as potential additions to the system. [16 U.S.C. §1278(b)]

All public lands within the designated boundaries of any component of the system are withdrawn from entry and disposition under U.S. **public land laws**. [16 U.S.C. §1279(a)] Public lands that constitute the bed or bank of a river that is designated as a potential addition to the system, or are within one-quarter mile of the bank, are withdrawn from entry or disposition. [16 U.S.C. §1279(b)]

Lands within the system (except, subject to existing rights, lands constituting the bed or bank and located within one-quarter mile of the bank) shall remain subject to the **federal mining and mineral leasing laws**. [16 U.S.C. §1280(a)(iii)] However, all activities relating to unperfected claims and pursuant to leases and permits issued after inclusion of the lands in the system shall be subject to regulations issued by the Secretary of the Interior or Agriculture. [16 U.S.C. §1280(a)(i)] Moreover, the perfection of a claim or the issuance of a patent shall convey only title to the mineral estate and the right to use the surface as reasonably necessary. [16 U.S.C. §1280(a)(ii)]

The Act withdraws minerals in federal lands surrounding potential additions to the system from appropriation under the mining laws. [16 U.S.C. §1280(b)]

Components of the system shall be administered to protect and enhance its wild and scenic values without, when consistent with those values, substantially interfering with their public use and enjoyment. Primary emphasis shall be given to protecting **aesthetic, scenic, historic, archaeologic, and scientific** features. [16 U.S.C. §1281(a)]

Components of the system located within the **National Wilderness Preservation System**, the Na-

tional Parks System, or the **National Wildlife Refuge System** are subject to the more restrictive laws governing such lands. [16 U.S.C. §1281(b), (c)] The Secretaries of the Interior or of Agriculture may, in administering any component of the national wild and scenic rivers system, use the general statutory authority for the National Park Service or the national forests, respectively. [16 U.S.C. §1281(c), (d)]

Federal agencies administering components of the system shall take such management action necessary to protect the rivers in accordance with the purposes of this Act. [16 U.S.C. §1283(a)]

Effects

This Act does not abrogate any existing private rights, privileges, or contracts affecting federal land

without the consent of the private party. [16 U.S.C. §1283(b)]

State jurisdiction or responsibilities with respect to fish and wildlife are not affected by the Act. [16 U.S.C. §1284(a)]

The jurisdiction of the United States or any state over waters of any stream included in the system shall be determined by established principles of law. When the federal government **takes** a water right that is vested under state or federal law at the time the stream is included in the system, the owner shall be entitled to **just compensation**. [16 U.S.C. §1284(b)]

Designation of a stream as a component of the system shall not constitute a **reservation** of the waters in quantities greater than necessary to accomplish the Act's purposes. [16 U.S.C. §1284(c)]