



United States
Department of
Agriculture

Forest
Service

Chugach National
Forest

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Subject: Planning Direction for Wild and Scenic River Study and Potential Recommendations

To: Forest Plan Revision ID Team

Although the National Forest Management Act regulations do not mention Wild and Scenic Rivers, Forest Service manual (See FSM 1924) and handbook direction (See FSH 1909.12) directs planners to consider Wild and Scenic Rivers as an inherent part of the planning process. This direction requires that each river on national forest lands be evaluated to determine if it meets the eligibility criteria specified in the Wild and Scenic Rivers Act. The findings of eligibility or noneligibility and the river's potential classification shall be documented in the Forest Plan. The final step in the river assessment process is the determination of suitability. This step provides the basis for the decision to recommend designation or nondesignation of eligible rivers. The decision to recommend an eligible river for designation by Congress to the national rivers system is made in the record of decision for the Forest Plan.

Because the legality of Wild and Scenic River studies in Alaska has been questioned by several participants in the Forest Plan revision process, this is to provide direction to the planning team on how to proceed with the determination of potentially suitable rivers and possible recommendations to Congress.

Background

The statutory obligation of the Forest Service to consider rivers for inclusion in the Wild and Scenic Rivers program is contained in Section 5(d)(1) of the Wild and Scenic Rivers Act:

"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 [on lands under their Jurisdiction], 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."

ANILCA Direction

River corridor boundaries are established to protect the free-flowing nature, water quality, and outstandingly remarkable values of the river. Generally, the corridor width for designated rivers cannot exceed an average of 320 acres per mile which, if applied uniformly along the entire designated segment, is one-quarter of a mile (1,320 feet) on each side of the river [See Section 3(b) of the Wild and Scenic Rivers Act]. In Alaska, ANILCA Section 606(a) provides for a corridor width of 640 acres per mile for specific rivers designated by ANILCA identified in Sections 602 and 603 (rivers 38 through 50). ANILCA did not amend the Wild and Scenic Rivers Act for river corridors identified in Section 601, nor does it state that this standard applies to future designations in Alaska. Therefore a standard corridor width of 320 acres per mile will be applied to eligible rivers in accordance with the Wild and Scenic Rivers Act. A larger corridor may be considered if necessary to protect a river's outstandingly remarkable value(s). Corridor boundaries may vary based on a number of conditions, but are usually delineated by some form of on-the-ground physical feature which provides the basis for protecting the river's identified values and practicality in managing those values.



The Alaska National Interest Lands Conservation Act (ANILCA) states in Title XIII, Section 1326 (b):

"No further studies of Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress."

The Forest Plan revision is a comprehensive land use study of all resources and their values. Part of this comprehensive look is the consideration of potential Wild and Scenic rivers, which has never been done for the Chugach. Thus these studies are not conducted "for the single purpose" of establishing conservation system units, but are part of a much broader examination directed by NFMA.

River Navigability

Some participants contend that most of the rivers on the Chugach National Forest are navigable and their management is the responsibility of the State, not the Forest Service. Navigability is a judicial finding and must be made by a Federal court in order to bind the United States. Most rivers on the Chugach have not been adjudicated as navigable or nonnavigable.

Eligible rivers will be considered regardless of their navigability status. To date the Bureau of Land Management has made preliminary determinations of navigability, for commerce purposes, on eight rivers located on the Chugach National Forest. Four of those rivers (Copper, Katalla, Kenai and Snow) have been determined to be eligible for designation to the Wild and Scenic Rivers system. Where private land may be involved, the role is one of coordination to ensure the values of the river are maintained. The Wild and Scenic Rivers Act recognizes the rights of private landowners and the state.

Wilderness

In some cases, Wild and Scenic river recommendations may overlap other congressional area recommendations such as Wilderness, thereby providing additional protection to the free-flowing character and river values of the area. Section 10(b) of the Wild and Scenic Rivers Act addresses potential conflicts with the Wilderness Act and states, in cases where this occurs, the more restrictive provisions would apply (See also FSM 2354.42e). Certain activities such as water resource developments may be authorized by the President in a designated Wilderness but must be authorized by congress under the Wild and Scenic Rivers Act.

Adjacent Private Lands

If the designation of an eligible river has the potential of creating an adverse impact on adjacent rivers or lands in other ownership the agencies or land owners shall be consulted to provide advice on ways to avoid or mitigate adverse effects. This consultation shall be incorporated into the environmental analysis process. Private landowners are guaranteed reasonable access. Under the Act, designation neither gives or implies government control of private lands within the river corridor.

Planning Direction

Evaluate the suitability of all eligible rivers in Forest Plan alternatives. The range of alternatives that must be considered for each eligible river area will vary depending on the problems, opportunities, and issues associated with each specific river. River areas found suitable for designation under the Wild and Scenic Rivers Act shall be assigned management prescriptions that will protect river values consistent with the suitability determination; that is wild, scenic, recreational, or a combination thereof, pending subsequent action by Congress. For example, a river may be eligible as a wild river, but found suitable as a recreational river. In that case, the management prescription will protect the river values associated with the recreational classification until Congress acts or the suitability determination is changed by subsequent Forest Service planning and decision-making.



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