

Appendix E

Wild and Scenic River Eligibility Report



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Appendix E



Chequamegon-Nicolet National Forests

Appendix E

Wild and Scenic River Appendix

This Wild and Scenic River appendix consists of the 1994 Wild and Scenic River Eligibility Report and the following eligibility update.

In addition to the Eligibility Report, in 2002 the Chequamegon-Nicolet National Forests looked again at all eligible rivers listed in the 1994 report to see if conditions had changed. Changes were deemed significant if they caused the eligibility of that segment to change. Districts considered significant changes to the eligible rivers by comparing old records, as well as personal knowledge gained over time.

These significant changes may have resulted from a significant increase in federal ownership, removal or construction of bridges, removal or construction of private homes/cabins, and removal or construction of roads within river corridors. No significant changes were found since the 1994 report. Thus, all river segments are still eligible for Wild and Scenic River status as outlined in the 1994 Eligibility Report.

In 2002 the Forests also looked at other rivers not included in the 1994 Eligibility Report to see if significant changes in these rivers would allow them consideration as potential Wild and Scenic Rivers. The Forests found no significant changes to warrant considering additional rivers for Wild and Scenic River status.

Chequamegon-Nicolet National Forests

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Forest
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Reply To: 2360

March 15, 1994

Subject: Wild and Scenic River Eligibility Report

To: Joint Leadership Team

Here is the Eligibility Report for the five rivers studied on the Chequamegon and Nicolet National Forests. The eligibility process is one that inventories the features and attributes of each river and then makes a determination as to the significance of the rivers within the "region". All of the rivers were determined to be potentially eligible for consideration as wild, scenic, or recreational rivers with the exception of one 0.6 mil segment on the North Branch of the Peshtigo River.

JACK G. TROYER
Forest Supervisor

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ABSTRACT

This report evaluates the eligibility of five Wisconsin rivers for their inclusion in the National Wild and Scenic Rivers System, as established in the Wild and Scenic Rivers Act (Pub. L. 90-542 as amended). Two of the rivers, the East Fork of the Chippewa River and the South Fork of the Flambeau River, are located on the Chequamegon National Forest. The other three rivers, the Pine River, the Popple River, and the Peshtigo River originate within the boundaries of the Nicolet National Forest. This evaluation deals with the portions of the rivers within the boundaries of the national forests. Of the total 192.5 miles of rivers studied, 32.4 miles were classified as potentially Wild, 125.9 miles were classified as potentially Scenic, 33.6 miles were classified as potentially Recreational, and 0.6 mile was found to be ineligible. The Brule River, located on the Wisconsin/Michigan border, is also a designated study river and is being reviewed under a previously passed Michigan Wild and Scenic Rivers Bill. The South Fork of the Jump River and the White River were also identified for potential inclusion under the Wild and Scenic Rivers Act, however, the two rivers will not be evaluated in this report since only short segments of them cross the Chequamegon National Forest. . One mile of the Namekagon National Wild and Scenic River is within the boundaries of the National Forest. The National Park Service is responsible for management of the corridor, including that segment within the National Forest

1. INTRODUCTION

A. PURPOSE AND NEED

This report evaluates the eligibility of five Wisconsin rivers for their inclusion in the National Wild and Scenic Rivers System. Two of the rivers, the East Fork Chippewa River and the South Fork of the Flambeau River, are located on the Chequamegon National Forest. The other three rivers, the Pine River, the Popple River, and the Peshtigo River, originate within the boundaries of the Nicolet National Forest. This evaluation deals with the portions of the rivers within the boundaries of the national forest. The Brule River, located on the Wisconsin/Michigan border, is also a designated study river and is being reviewed under a previously passed Michigan Wild and Scenic Rivers Bill. The South Fork of the Jump River and the White River were also identified for potential inclusion under the Wild and Scenic Rivers Act; however, the two rivers will not be evaluated in this report since only short segments of them cross the Chequamegon National Forest. One mile of the Namekagon National Wild and Scenic River is within the boundaries of the National Forest. The National Park Service is responsible for management of the corridor, including that segment within the National Forest.

The Wild and Scenic Rivers Act, (Pub. L. 90-542 as amended; 16 U.S.C. 1271-1287) established a method for providing Federal protection for certain of our country's remaining free-flowing rivers, preserving them and their immediate environments for the use and enjoyment of present and future generations. Rivers are included in the system so that they may benefit from the protective management and control of development for which the Act provides. The assessment of a river's potential as a Wild and Scenic River should follow a three-step process:

1. Determination of eligibility
2. Potential classification (wild, scenic, recreational)
3. Determination of suitability.

As defined by the Act, a National Wild and Scenic River must be free flowing and must have at least one outstanding resource attribute – recreation, scenery, wildlife or fish habitat, history, geology, cultural, ecological, or other related feature. Determination of eligibility is based on these criteria. Public scoping was done to listen to concerns, answer questions, and explain the process. Scoping included mailing letters to all landowners adjoining the study rivers and to individuals and organizations interested in management issues on both Forests. Information meetings were held during August 1993, in the towns of Armstrong Creek, Madison, Park Falls and Draper, Wisconsin.

Following the eligibility determination, a potential classification was established for each eligible river segment. Rivers or segment of rivers included in the system may be classified as wild, scenic or recreational.

depending on the degree of development along the river at the time of the study. Of the total 192.5 miles of rivers studied, 32.4 miles were classified as potentially Wild, 125.9 miles were classified as potentially Scenic, 33.6 miles were classified as potentially Recreational, and 0.6 mile was found to be ineligible. The classifications are defined as follows:

1. Wild river areas: those rivers or section of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds and shorelines essentially primitive and water unpolluted.
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 railway, that may have some development along their shorelines and that may have undergone some impoundment or diversion in the past.

The final step in the river assessment is the determination of suitability. This step provides the basis for the decision to recommend to Congress the designation or non designation of the river. A detailed study report, accompanied by or combined with an environmental impact statement (EIS), normally is prepared for all rivers identified by the Forest Service as eligible for inclusion in the National System. A river may then be added to the system either by Act of Congress or by Order of the Secretary of the Interior upon official request by a state. Congress can/may choose to act independent of any Forest Service study or report and designate rivers or segment of rivers under the Wild and Scenic Rivers Act.

II. DESCRIPTION OF AREA

A. LOCATION

1. East Fork Chippewa River

The East Fork of the Chippewa River travels across approximately 20 miles of the Chequamegon National Forests in Ashland and Sawyer Counties, starting from the eastern district boundary and flowing southeasterly to Sturgeon Bay at the north end of Blaisdell Lake.

Streamflow is generally adequate to provide year round canoeing, except when frozen. Trophy muskies inhabit the waters, and extensive sugar maple lowlands adjoin the river.

2. South Fork Flambeau River

The South Fork of the Flambeau River crosses approximately 24.4 miles of the Chequamegon National Forest in Price County from the western shoreline of Round Lake to two miles east of Three Mile Creek.

The Round Lake Logging Dam, located at the river's origin, is listed on the National Register of Historic Places. There are other historical and cultural sites along the River as well. One 2.8 mile segment of the river is in almost total federal ownership and is a semi-primitive, non-motorized area. Unique fish and wildlife species include nesting bald eagles and breeding lake sturgeon.

3. North Branch Peshtigo River/Peshtigo River

The North Branch of the Peshtigo River and the Peshtigo River flow through approximately 44 miles of the Nicolet National Forest in Forest County. Beginning just south of the Headwaters Wilderness (North Branch), the River flows south to the Forest Boundary northeast of Argonne, Wisconsin. The North and South Branches join just east of Argonne to form the Peshtigo River. The river reenters the Forest Boundary two miles northeast of Cavour and flows southeast to the east boundary of the Forest.

Three segments of the North Branch and Peshtigo Rivers have been potentially classified as wild based on their remoteness and undeveloped nature. Other segments have low development also and contain scenic features such as large boulders, river bottom hardwoods, sloping rock ledges, and steep valley walls.

One 0.6-mile segment was found to be ineligible due to the river's proximity to a road, the narrowness of the waterways, and lack of scenic values.

4. North Branch Pine River/Pine River

The North Branch of the Pine River and the Pine River cross approximately 50.0 miles of the Nicolet National Forest in Forest and Florence Counties. Beginning at the outlet of Butternut Lake (North Branch) and the Headwaters Wilderness (Main Branch), the river flows east to the Forest Boundary east of Chipmunk Rapids Campground.

Two segments of the Pine River are considered to be Wild based on their remoteness and total federal ownership. The other segments, considered to be Scenic, are also somewhat remote and contain eagle habitat and potential wolf habitat.

5. South Branch Popple River/Popple River

The South Branch of the Popple River and the Popple River flow through

approximately 55 miles of the Nicolet National Forest in Forest and Florence Counties. Beginning just east of the Headwaters Wilderness (Popple River) and just east of Newald (South Branch of the Popple River), these two branches flow east to a point where they join near Morgan Lake and continue eastward to the Forest Boundary.

Much of the Popple River is in federal ownership and is remote. Deer yards and duck marshes are found adjacent to the river. There is limited road access and several heritage sites.

B. LAND OWNERSHIP

The following list displays the ownership within each river corridor. For eligibility purposes the corridor is defined as one quarter mile from each bank of the river.

1. East Fork Chippewa River

National Forest	4256 Acres
<u>Private</u>	<u>2549 Acres</u>
Total	6805 Acres

2. South Fork Flambeau River

National Forest	4333Acres
<u>Private</u>	<u>3347 Acres</u>
Total	7680 Acres

3. North Branch Peshtigo River/Peshtigo River

National Forest	6618 Acres
Private	4415 Acres
<u>State</u>	<u>681 Acres</u>
Total	11714Acres

4. North Branch Peshtigo/River /Peshtigo

National Forest	12745 Acres
Private	2586 Acres
<u>State</u>	<u>561 Acres</u>
Total	15892 Acres

5. South Branch Popple River/Popple River

National Forest	8482 Acres
Private	4088 Acres
<u>State</u>	<u>1990 Acres</u>
Total	14560 Acres

C. RESOURCES

The Chequamegon and Nicolet National Forests are located in north central Wisconsin. The Forests are within a days drive of Milwaukee, Green Bay, Madison, and Eau Claire, Wisconsin; Chicago, Illinois; and Duluth, Minneapolis, and St. Paul Minnesota.

Streamflow of all the study rivers is adequate to support canoeing in spring and early summer (except some upstream segments) and to maintain a viable fishery. Peak flows typically occur during spring snowmelt or in response to a heavy rainfall. A canoeist can enjoy a wide variety of scenic views, from bogs and bays to cliffs and large trees. Many stretches of the rivers are undeveloped.

The river corridors support a variety of vegetation types, located on both uplands and lowlands. On the Nicolet National Forest 70% of the national Forest acreage within the river corridors is upland. On the Chequamegon National Forest, 69% of the National Forest acreage within the river corridor is upland.

III. PUBLIC INVOLVEMENT

A. METHODS

An informal letter regarding the Wild and Scenic Rivers Program was sent initially to all landowners adjoining the rivers being considered and to those individuals and organizations on the Chequamegon and Nicolet mailing lists. Four public meetings were then held during August, 1993, in the towns of Armstrong Creek, Madison, Park Falls and Draper. The questions asked most frequently at the four public meetings were addressed and documented in a second mailing (Appendix A) that was sent to those people who attended the public meetings and to the mailing lists and landowners mentioned above.

B. ISSUES

Most of the issues raised about the candidate rivers were issues dealing with suitability, that is they focused on the question of whether the rivers should be added to the system. There were a few issues that focused on eligibility and classification.

1. ELIGIBILITY ISSUES

Free flow Very few people challenged the finding that the candidate rivers are substantially free flowing. Some people raised questions on the effect of beaver activity on free flow determinations. Others questioned the consideration of the South Fork of the Flambeau because of the historic logging dam at Round Lake and the two rock roller dams.

Outstandingly Remarkable Values There were some questions on the remarkability of some of the upper reaches of these rivers. Some felt that there are no features that are locally outstanding. They felt that there are many small streams in and around the national forests in Wisconsin that are no different than the upper parts of the candidate rivers. Others raised the issue of potential for outstanding values. They were concerned that the rivers may not have any outstanding values now, but that they have the potential to have these values in the future.

2. CLASSIFICATION ISSUES

Long term River Potential There was some concern that long term river potential was not considered in determining the current potential classification of the river segment. The concern was that by determining classification based on the current conditions, one does not take into consideration the relative potential for change. Specifically, a segment that meets the criteria for a scenic classification could be classified as wild if roads and other developments were to be removed. On the other hand, some expressed concern that classifications could change and become more restrictive.

3. SUITABILITY ISSUES

Effects of private Landowners The greatest concern with the possibility that these rivers may become part of the National Wild, Scenic, and Recreational Rivers System had to do with the potential effects on private land ownership. Many landowners are afraid that river designation is the first step in taking their land. They fear condemnation, or restrictions on selling or willing land in the river corridor.

Property Rights and Uses Another issue involves the restrictions on private property rights and uses. Some landowners fear that they could not improve their property, or that designation would add a layer of restrictive zoning.

Use of Public Lands There was also a set of issues raised that deals with possible restrictions of the use of public lands within the corridors. These include commodity and non-commodity concerns. Another issue addressed the fear of accelerated degradation of the rivers through overuse as a result of designation.

All of the suitability issues raised will be carried forward into the considerations for designation in either a suitability study or in the political process of designation. Since this is not a suitability study, we will not address them here.

IV. FINDINGS OF ELIGIBILITY AND CLASSIFICATION

A. CRITERIA

The concept of “region” is important in determining a river’s eligibility and classification. This is true because the Wild and Scenic Rivers Act states that rivers must have outstanding and remarkable features compared to other rivers within the “region”. The law does not define what “region” is so this is left to the eligibility evaluators. Regions considered include the “recreation region,” “physical region,” and the “cultural region.” The recreation region is the recreation zone of influence based on use patterns. The majority of users are from Wisconsin, northern Illinois, eastern Minnesota and the Upper Peninsula of Michigan, including such cities as Milwaukee, Chicago, Green Bay, La Crosse, St. Paul, and Minneapolis.

The “physical region” considered is that of the Southern Superior Uplands Section, as defined in the National Hierarchical Framework of Ecological Units. This Section is primarily differentiated based on the geomorphology, climate, and vegetation. The “cultural region” is the white pine logging area of the upper Great Lakes.

B. ELIGIBILITY DETERMINATION

To be eligible for inclusion in the national Wild and Scenic Rivers System a river must meet two criteria:

- 1.) the river must be free-flowing
- 2.) the river and the adjacent land area must possess one or more “outstandingly remarkable” value(s).

The Wild and Scenic Rivers Act defines “free flowing” as existing or flowing in a natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway.

The determination that a river area contains “outstandingly remarkable” values is a professional judgment on the part of the evaluation team. To be eligible, one or more of the following values within the river area must be outstandingly remarkable:

1. Scenic
2. Recreational
3. Geological
4. Fish and Wildlife
5. Historical
6. Cultural
7. Ecological

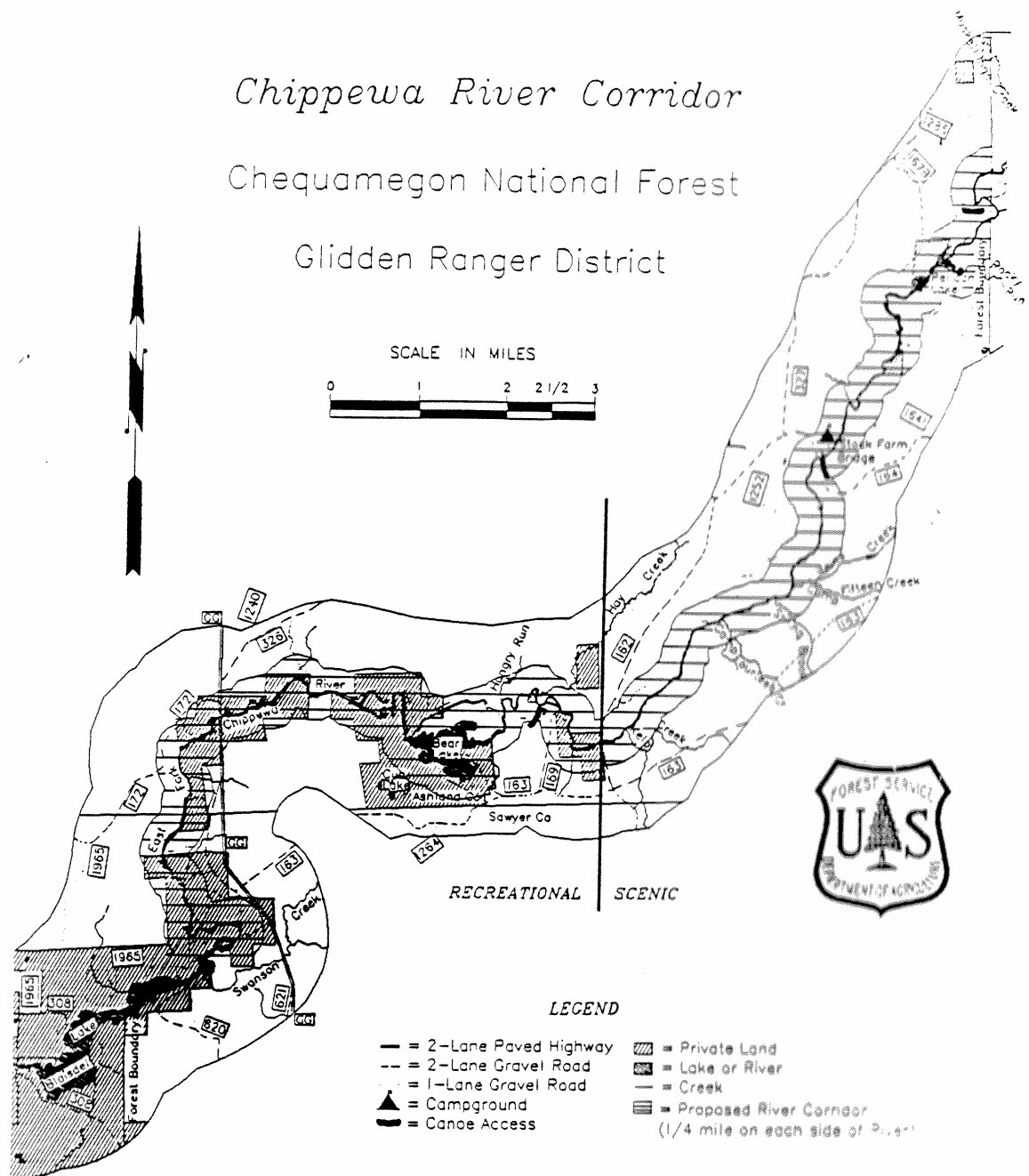
The eligibility determination for the five study rivers was completed by interdisciplinary teams on the Chequamegon and Nicolet National Forest and is summarized in Table One.

C: POTENTIAL CLASSIFICATION DETERMINATION

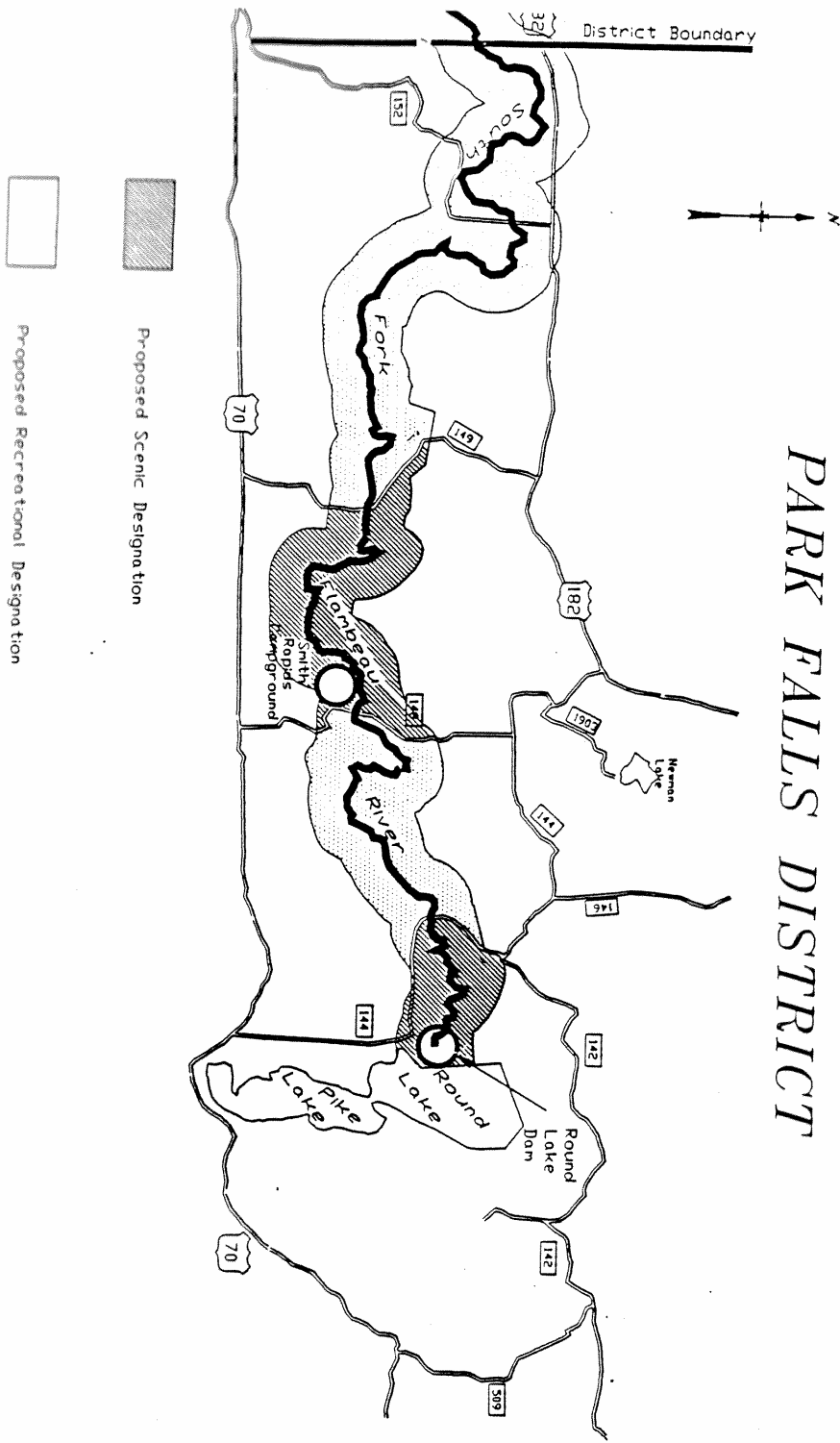
The potential classification of a river is based on the condition of the river and adjacent lands as they exist at the time of the study. The Act specifies three classification categories for eligible rivers: wild rivers, scenic rivers, and recreational rivers.

The potential classification determination for the five study rivers was also completed by interdisciplinary teams on the two forests and is summarized in Table One.

MAPS



FLAMBEAU RIVER CORRIDOR
PARK FALLS DISTRICT



Nicolet National Forest Study Rivers

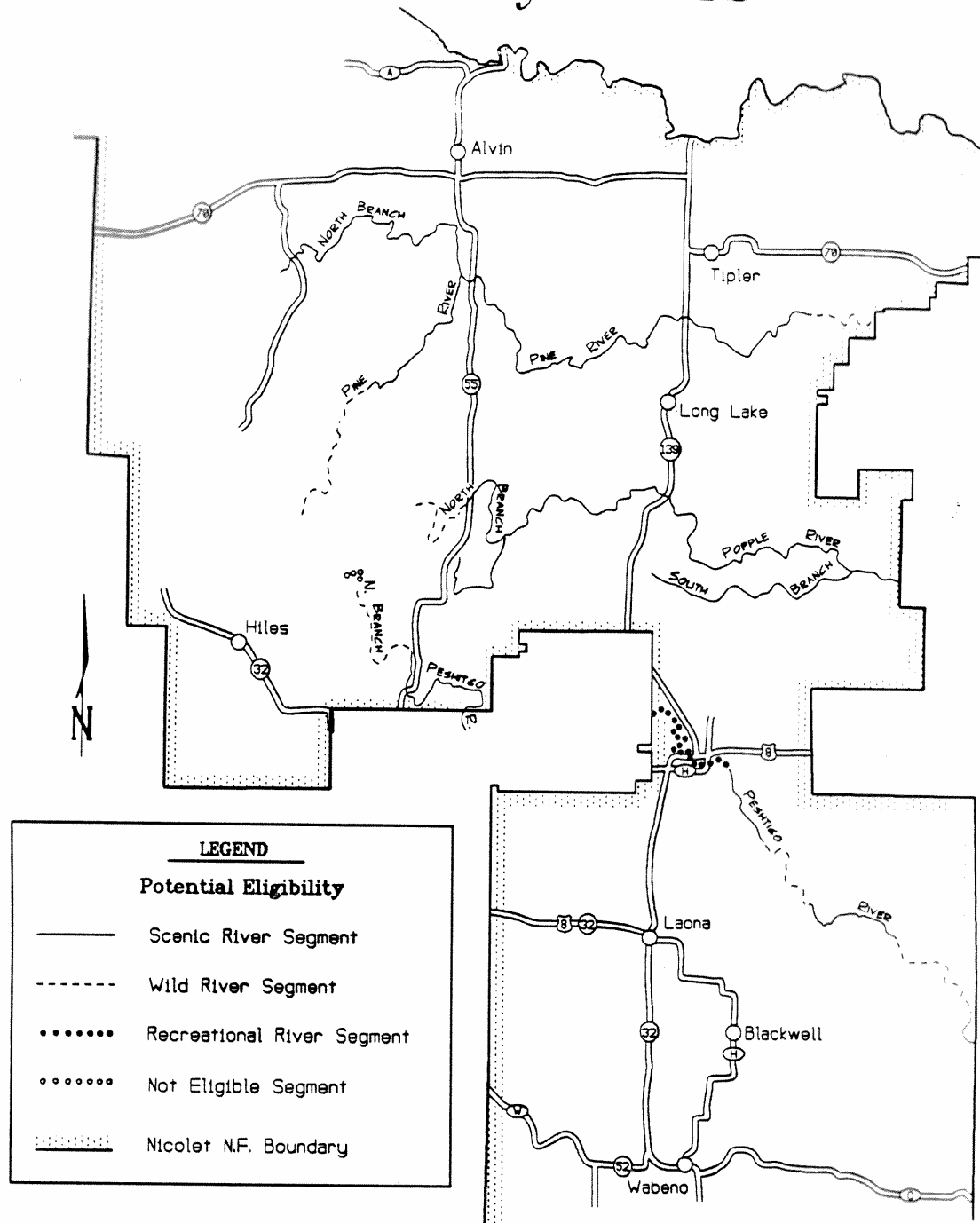


TABLE ONE

ELIGIBILITY DETERMINATION AND POTENTIAL CLASSIFICATION

ELIGIBILITY DETERMINATION AND POTENTIAL CLASSIFICATION

SEGMENT	DESCRIPTION OF SEGMENT	OUTSTANDINGLY REMARKABLE FEATURE CATEGORY	SPECIFIC FEATURE ATTRIBUTE	POTENTIAL CLASSIFICATION
<u>EAST FORK CHIPPEWA RIVER</u>				
1.	Forest Bdy to FR 162 (10 miles)	Fish and Wildlife Ecological Recreational	Trophy muskies Upland conifer and hard- wood lowlands Calypso orchids Mostly public ownership Low development	Scenic
2.	FR 162 to bridge on Blaisdell Lake (9.8 miles)	Fish and Wildlife Recreational Scenic	Trophy muskies Canoeable year round, except when frozen Wild rice at Bear Lake Eagle sightings	Recreational

ELIGIBILITY DETERMINATION AND POTENTIAL CLASSIFICATION

SEGMENT	DESCRIPTION OF SEGMENT	OUTSTANDINGLY REMARKABLE FEATURE CATEGORY	SPECIFIC FEATURE ATTRIBUTE	POTENTIAL CLASSIFICATION
<u>SOUTH FORK FLAMBEAU RIVER</u>				
1.	Headwaters to footbridge (0.2 mile)	Historical Fish and Wildlife	Historic Round Lk logging dam Breeding Lake Sturgeon	Scenic
2.	Footbridge to east of FR 144 (2.8 miles)	Recreational Historical Ecological	Nearly 100 % Federal ownership Semi-primitive nonmotorized CCC-era rock roller dams State Natural Area (Large Hemlock and White Pine)	Wild
3.	East of FR 144 to Smith Rapids bridge (FR 148) (5.2 miles)	Historical/Cultural Recreational	Fishtrap Rapids prehistoric site, rock roller dams Generally unroaded corridor	Recreational
4.	Smith Rapids bridge to FR 149 (4.8 miles)	Scenic Fish and Wildlife Historical/Cultural	Unique covered bridge Nesting bald eagles CCC heritage site	Scenic
5.	FR 149 to Forest Bdy (11.4 miles)	Historical/Cultural	Native American culture CCC-era rock roller dams	Recreational

ELIGIBILITY DETERMINATION AND POTENTIAL CLASSIFICATION

SEGMENT	DESCRIPTION OF SEGMENT	OUTSTANDINGLY REMARKABLE FEATURE CATEGORY	SPECIFIC FEATURE ATTRIBUTE	POTENTIAL CLASSIFICATION
<u>NORTH BRANCH PESHTIGO RIVER</u>				
1.	FR 2174 to Sec. 19/30 line, T38N, R13E (0.6 miles)	None	None	Ineligible
2.	Sec. 23/30 line to confluence with unnamed creek in Sec. 4 T37N, R13E (6.0 miles)	Recreational	Remoteness Undeveloped	Wild
3.	Unnamed creek to Forest Bdy. Sec. 14 T37N. R13E (8.5 miles)	Recreational Scenic	Low development Large boulders Upland hardwoods	Scenic
<u>PESHTIGO RIVER</u>				
4.	Forest Bdy. Sec 18, T37N, R15E to railroad bridge (7.2 miles)	Recreational Ecological	Flat water canoeing River bottom hardwoods	Recreational
5.	Railroad bridge to ¼ mile downstream from CCC bridge (4.8 miles)	Recreational Ecological	Remote Low development Flat water canoeing River bottom hardwoods	Scenic
6.	¼ mile downstream from CCC bridge to ¼ mile upstream from Evans bridge (4.3 miles)	Recreational Ecological	Remote Rapids Big trees	Wild
7.	¼ mile upstream from Evans bridge to confluence with Armstrong Creek (5.0 miles)	Recreational Scenic	Remote Rapids Big trees Roadside views of river	Scenic
8.	Confluence with Armstrong Creek to Sec. 12/13 line. T35N, R16E (5.3 miles)	Recreational Geological	Remote Rapids Sloping rock ledges Steep valley walls	Wild
9.	Sec. 12/13 line to Forest Bdy in Sec. 24 T35N, R16E	Recreational	Rapids Low development	Scenic

ELIGIBILITY DETERMINATION AND POTENTIAL CLASSIFICATION

SEGMENT	DESCRIPTION OF SEGMENT	OUTSTANDINGLY REMARKABLE FEATURE CATEGORY	SPECIFIC FEATURE ATTRIBUTE	POTENTIAL CLASSIFICATION
<u>NORTH BRANCH PINE RIVER</u>				
1.	Butternut Lake to confluence with Pine River (12.6 miles)	Recreational Ecological	Somewhat remote Mostly public ownership Pine River Conifers Special Area	Scenic
<u>PINE RIVER</u>				
2.	Headwaters Wilderness segment (5.3 miles)	Recreational	Remote All public ownership	Wild
3.	Headwaters Wilderness to private bridge (6.1 miles)	Recreational	Somewhat remote Mostly public ownership	Scenic
4.	Private bridge to Hwy 55 (2 miles)	Recreational	Somewhat remote	Scenic
5.	Hwy 55 to FR 2169 (11.4 miles)	Recreational	Remote	Scenic
6.	FR 2169 to FR 2133 (3.8 miles)	Fish and Wildlife	Essential eagle habitat	Scenic
7.	FR 2133 to FR 2156 (5.3 miles)	Recreational	Remote	Scenic
8.	FR 2156 to Forest Bdy (3.5 miles)	Fish and Wildlife Recreational	Potential wolf habitat Remote All public ownership	Wild

ELIGIBILITY DETERMINATION AND POTENTIAL CLASSIFICATION

SEGMENT	DESCRIPTION OF SEGMENT	OUTSTANDINGLY REMARKABLE FEATURE CATEGORY	SPECIFIC FEATURE ATTRIBUTE	POTENTIAL CLASSIFICATION
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NORTH BRANCH POPPLE RIVER

1.	River origin in Sec 10. T38N, R13E to ¼ mile west of Hwy 55 (5.2 miles)	Recreational	Remote All public ownership No road access	Wild
2.	¼ mile west of Hwy 55 to confluence with the Popple River (6.2 miles)	Recreational	Remote Mostly public ownership	Scenic

POPPLE RIVER

3.	River origin in Sec. 23. T38N, R13E to FR 2167 (9.8 miles)	Recreational Fish and Wildlife	Mostly public ownership Remote Deer yard	Scenic
4.	FR 2167 to Hwy 139 (6.7 miles)	Recreational	Remote Limited road access Mostly public ownership	Scenic
5.	Hwy 139 to FR 2398 (7.6 miles)	Fish and Wildlife Recreational	Merlin habitat Limited road access	Scenic
6.	FR 2398 to Forest Bdy (8.6 miles)	Recreation Historical Scenic Fish and Wildlife	Class I-IV rapids Heritage sites Pine corridor Wildlife habitat	Scenic

SOUTH BRANCH POPPLE

7.	River origin in Sec. 25, T38N, R14E to confluence with Popple River (10.76 miles)	Fish and Wildlife Historical	Duck marshes Heritage sites	Scenic
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APPENDIX A

ISSUES ADDRESSED AT PUBLIC MEETINGS

United States
Department of
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54501

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Service

Nicolet
National
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(TTY)

REPLY TO 2300

Date: December 16, 1993

Greetings:

Here are the most-asked questions with answers, from the four Wild and Scenic River public meetings held last August. We did not list all the questions and responses because there were so many of them. We have focused on those that were most frequently asked. We have documented answers to all the questions. If you wish a copy of the complete set, please write us at the above address.

Also enclosed is a set of maps showing each candidate river and the eligibility recommended by the Forest Service.

Finally, we have also included the "Management Activities Chart," which describes potential management activities that would be appropriate under each of the three potential classifications.

We hope you will keep this information as well as the information given out at the meetings, so you can stay informed as the Wild and Scenic River process unfolds.

We had hoped to get this information to you much earlier, but were not able to do so. We appreciate your patience in waiting for this response. Thanks again for participating in the meetings and helping us to understand your questions and concerns.

Sincerely,

/s/ JACK TROYER

JACK TROYER
Chequamegon Forest Supervisor

/s/ W. Kent Armentrout

W. KENT ARENTROUT
Nicolet Acting Forest Supervisor

Enclosures

WILD AND SCENIC RIVERS PUBLIC MEETINGS

QUESTIONS AND ANSWERS

I. WHY DO THE STUDY?

Q. Why are you doing this study? Why are you doing it now? Why is the Federal Government now getting involved? Who is asking and why? Who asked for this study? Who picked the rivers? Who started the W & S Rivers?

A. Congress passed the Wild and Scenic Rivers Act of 1968 due to its concern over the number of dams and the need to maintain as many rivers as possible in their free-flowing condition. The Wild and Scenic Rivers Act created a small system of designated rivers. It also directed the Secretaries of Interior and Agriculture to consider additions to the system when they developed any Land and Resource Management Plans. Further, Congress directed the Secretaries to determine which rivers should be evaluated by all federal agencies as potential additions to the system. In 1982 the Heritage Conservation and Recreation Service published the National Rivers Inventory (NRI). This inventory listed all the rivers in the country that had potential for addition to the Wild and Scenic Rivers System. The five rivers currently under consideration in the Chequamegon and Nicolet National Forests were included in that NRI.

The 1986 Land and Resource Management Plans for both the Nicolet and Chequamegon National Forest, (popularly called Forest Plans), and accompanying Records of Decision, included the rivers identified in the national Rivers Inventory and gave them special protection to preserve their potential for inclusion in the system. These rivers were to be studied during the life of the plans. These plans were designed to last for 10-15 years. They will need revision between 1996 and 2001.

American Rivers Inc. filed appeals of several Forest Plans and the Eastern Region Planning guide because they felt the NRI rivers were not adequately protected. The Regional Forester settled the appeal by agreeing to protect and study the candidate rivers.

The Chief of the Forest Service told Congress that the Forest Service would recommend 200 additions to the system by the year 1995. He asked the National Forests throughout the nation to study candidates to accomplish this goal. This study is part of that national response.

II. PUBLIC INPUT

Q. Are decisions already made whether we like them or not? What impact do public citizens have? Does local opposition make a difference?

A. We have made a preliminary determination of eligibility and classification which are shown on the maps. If you have any information that would affect the eligibility of classification of any of the study segments we would like to include that information in our determination.

Since river designation takes an Act of Congress, it is essentially a political process. We have not made any recommendations to Congress, and Congress is not considering any specific legislation on these rivers at this time. Sometimes Congress accepts Forest Service recommendations and sometimes it doesn't. The Public has influence through elected representatives. Further, in the case of river designation, the local delegation has a great deal of influence. It is very unusual for a river to be designated without the consent of the delegation from the state in which the river is located.

Q. What would happen to the study if a majority of landowners didn't want a particular river to be designated?

A. We expect to finish the eligibility study this year even if the majority of landowners are opposed to designation. We are not designating the rivers; we can't. Not all of the rivers studied in the past have been designated by Congress. Just because we are studying the rivers doesn't mean that they will become part of the system.

Q. If we are totally against it, what should we do?

A. Once a proposal to designate a river is before Congress, let your representatives and senators know why you are against the proposal. Stay involved with all the steps of the process.

III. PROCESS

Q. Who started the W & S program and what is the procedure? What is the W&S Rivers Act and what are its features? What is the process for designating a Wild and Scenic River?

A. Congress passed the Wild and Scenic Rivers Act in 1968, establishing the Wild, Scenic and Recreational Rivers System. The Act was passed to keep some rivers or segments free flowing and in a largely natural condition. The Act designated eight rivers and provided for additions to the system.

There are two ways a river can be added to the system. The most common way is for Congress to pass an Act amending the Wild and Scenic Rivers Act to include additional rivers. The law also provides the states a way to add rivers to the national system. This requires the state legislature to pass an act, and the governor to petition the Secretary of Interior to add the river.

Q. What is the process to get a river recommended to Congress?

A. Interior and Agriculture Departments have jointly developed a study and recommendation process for potential additions to the system. The first step is to determine if the river or river segment is eligible for the system. In other words, does it meet the basic criteria to be included in the system? The basic criteria is that the candidate river be free flowing and have at least one outstandingly remarkable feature.

The next step is to determine the river segment's classification. These are three classifications in the Act: wild, scenic, and recreational.

Once the eligibility and classification are determined, then the agency must determine the suitability of the river. That is, to answer the question should it be added to the system? This includes a discussion of the characteristics that make it a worthy addition to the system; the current land ownership and use; the reasonably foreseeable potential uses that may be enhanced, curtailed or foreclosed; and the agency that would administer the river.

This information and a recommendation are documented in a Legislative Environmental Impact Statement or as part of a Forest Plan or Plan Revision, which the appropriate Secretary forwards to Congress. While these are the normal agency methods, Congress is not bound by this process nor are they bound to act according to the recommendations of the agency.

Q. Have rivers been designated without this study process?

A. Yes. The original Act designated eight rivers before any formal study process was ever developed. The Michigan Rivers Act, passed in 1992 included rivers that had not gone through the process or only partly through.

Q. Is there a written plan for study available to the public? How is a decision made and documented? how does the public participate?

A. The Nicolet and Chequamegon agreed to complete an eligibility and classification study by the fall of 1993. We are using the guidelines developed jointly with the Department of Interior and published in the Federal Register in 1982. We will write a report in the winter of 93-94 documenting our eligibility and classification findings.

Congress makes the decision on designation. After a suitability study the agency will make a recommendation to Congress. This is documented in a Legislative Environmental Statement (LEIS) or is documented as part of the Forest Plan revision.

The public can participate in several ways. Raising questions and concerns in meetings about our determination of outstandingly remarkable values and classification is one of the first ways. We will involve the public when we do the suitability study. You can also be involved in the final decision through the political process by working with your congressional delegation.

IV. PRIVATE LANDS AND OWNERS RIGHTS.

Q. Can the Federal government take (condemn) private property if the rivers are designated? Does the Act give rights of condemnation? If condemnation proceeds, can government take the property? If government condemns land, what is the compensation to the landowner?

A. The Forest Service already has authority to condemn land within the National Forest boundary. We have not used that authority on the Chequamegon Nicolet National Forests. If the river segments within the National Forests are designated by Congress, the Federal government would lose its authority to condemn private property on those portions of the study rivers that are within the boundaries of the Chequamegon and Nicolet National Forests. The Wild and Scenic Rivers Act specifically states that private land can not be condemned in fee title if more than 50 percent of the land is in the river corridor is in public ownership. All five of the study rivers corridors have more than 50 percent public ownership.

Right now the Forest Service has the authority to condemn easements on private lands within the National Forests. This authority would not change if the rivers were designated. This authority hasn't been used on the National Forests in Wisconsin.

An easement is a set of specific landowner rights that can be sold separately from the land. One example is a utility easement where a utility company purchases a right of way for utility lines. Such easements restrict the owner's right to build on that part of the property. Another example is where the mineral rights are owned separately from the surface.

If a river is made part of the national Wild and Scenic Rivers system, the managing agency develops a river management plan. The plan identifies management activities and uses compatible with designation. If a landowner proposed development that would negatively affect the river's values, and if the proposal was not covered by local zoning, the Federal government could ask the landowner not to carry out the planned development. If the landowner still wanted to proceed and the government had funds for land purchase, then the government could offer to buy the land on a willing seller- willing buyer basis. If that were not acceptable, the government could offer to buy an easement (the specific right to develop the land) on a willing seller-willing buyer basis.

Condemning an easement is a last resort. The Forest Service has the authority but has not used it.

Q. If private property is in the river study, is this the first step in the process of condemnation of private property?

A. No. The Wild and Scenic Rivers Act specifically states that private land cannot be condemned in a fee title if more than 50 percent of the land in the river corridor is in public ownership.

Q. What is the percentage of Forest Service/public land in these five river corridors?

A. Within the National Forest boundaries, on each of the rivers in this study Federal ownership is over 50 percent – on some of them it exceeds 70 percent.

Q. How does this affect the South Fork of the Flambeau landowner? How does the Wild and Scenic Rivers Act affect private property?

A. Where there is a mix of federal and private land, the private land is regulated by State, County, and Town zoning. Congress is careful to protect private ownership. See previous discussion of land condemnation authorities.

Q. Are there any Wild and Scenic Rivers within the National Forest where condemnation has taken place as a result of those rivers being designated?

A. Yes. The Forest Service has used condemnation on the Eleven Point River in Missouri. That occurred over a dozen years ago and the Forest Service hasn't used condemnation since. What we gained wasn't worth the bad feelings with our neighbors.

Q. Can the state condemn land?

A. We aren't familiar with State authorities. That's a question for the Wisconsin Department of Natural Resources.

Q. Can the law be changed by Congress to allow condemnation at some point after designation?

A. That's a possibility. The original law was an Act of Congress and Congress can amend it at any time. In fact, they have amended this Act many times, but in the 25 years since it first became law, Congress has never amended the rules for condemnation.

Q. Is there any other process, besides condemnation, for acquisition or land use determination, that landowners find distasteful?

A. If a landowner proposes a project that would have a direct and negative impact on the free flow of a designated river, such as a dam, and the project involved federal funds or needed a federal permit, then the Forest Service would have to recommend against the project.

Q. Will designation affect private property inheritance rights?

A. No.

Q. What happens to landowners after the river is designated? What happens to the property along the river and what happens in the future? What will happen to private owners with river frontage within the corridor? Will they retain ownership of property?

A. Designation of a river under the Wild and Scenic Rivers Act does not give the Federal government any additional authority on private lands. The government has no zoning authority and no way to force local governments to zone. The Federal government would lose condemnation authority on all of the study rivers within the Chequamegon and Nicolet National Forests. If a river is designated the Forest Service could spend National Forest funds on cooperative projects on private land within the river corridor.

Q. Does the process for property developments, etc., change from what it currently is (who is contacted, etc.)?

A. No. State, County, and local authority does not change with river designations, therefore property owners still need to get required permits and comply with current zoning, etc.

Q. Would any new construction on private land be allowed? What if my house burns down...would I be allowed to rebuild?

A. Designation would not affect new construction. Construction on private property is controlled by local zoning ordinance.

Q. How will designation affect the landowner's ability to regulate trespassing, etc.? Would designation constitute an invasion of privacy?

A. If a river is designated, it doesn't change the landowner's right to post their land against trespassing. Sometimes along with designation of a river comes publicity and increased use that may make it harder to control illegal trespass. Increased use may also mean less privacy on the river itself. The rivers in this study may see increased use in the spring with high water, but the rest of the year the rivers themselves will limit use because of low water.

Q. How will designation affect land values? Would corridor designation affect local property values?

A. It is difficult to say what will happen to land values along these study rivers if they are designated. In the case of the Lower St. Croix, property values inside the river corridor have risen faster than they have outside. The value for industrial development might decrease.

Q. How does designation affect saleability of property?

A. Nothing in the Act prevents the sale of private land. There is no provision to force landowners to offer their land to the Federal government if an owner wishes to sell nor is there any restriction on advertising or price. Designation may affect the market value of private lands within the river corridor. In many cases property values inside river corridors have risen faster than those outside.

Q. Has the Federal government ever made an offer to purchase in a designated river corridor? Where would land acquisition money come from?

A. Yes. If land is for sale and it is desirable for the management of the river to have it in public ownership and money is available, we may offer to purchase it at appraised value. Funds would come from Congress. There is very little money available for land acquisition – nothing for 1993 and 1994 in Wisconsin.

Q. If land goes up for sale, can it be sold or must it be offered to the government?

A. Yes, it can be sold. There is no provision in any law that land must be offered to the government.

Q. Can access to a non-willing seller's property be closed by feds?

A. If the only reasonable access to private property is across national Forest System land, then we must by law provide access. That doesn't change with designation.

Q. What is the effect on potential subdivisions of property in the corridor?

A. Subdivision is controlled by local zoning. River designation would not directly change this. If a local government wished to change zoning because of designation, it could but would not be forced to do so.

Q. Are there any funds or ways to reimburse private land owners for loss of timber or timber lands?

A. Designation would not restrict private land use unless it affected river values along the bank. In such cases it is possible to purchase the timber rights.

Q. Can the Federal government zone private property if the rivers are designated?

A. No. Zoning is controlled by State and local governments.

Q. Could the Federal government force local governments to change their zoning regulations and laws if the rivers were designated?

A. There is nothing in the Wild and Scenic Rivers Act that gives the Federal government the authority to control local zoning.

V. USES

Q. Who would determine how timber in the corridor and for what reasons?

A. Management practices on National Forest system lands follow the standard and guides set up in the Forest Plans. These standards say the rivers will be managed so that the values that make them eligible will not be compromised. If the rivers are designated by Congress, specific management plans would replace Forest Plan standards. Private lands are controlled by local zoning and forest crop law, if the land owner is insured in part of that program.

Q. Will there still be fisheries management on the river if it is designated?

A. Yes.

Q. What kind of structure would not be allowed? What will happen to existing structure if a river is designated?

A. Structures and uses in existence at the time of designation are generally deemed by Congress as compatible. New structures or changes to structures that would be incompatible with the classification or the values that the river was designated for would not be allowed on federal lands. Some examples are shown on the Management Activities chart. On private lands, local zoning would govern structures. The river management plan, developed after designation, would specifically govern structures and uses on a specific river segment.

Q. Will the width of the river corridors stay ¼ mile on each side of the rivers or can that change?

A. If a river is designated by Congress, we will develop a River Management Plan, involving the public, which will establish the corridor boundary. The corridor would be wide enough to protect the values of the river and could be narrower than ¼ mile. It could not average any more than ¼ mile on each side, a maximum of 320 acres per mile of river.

