

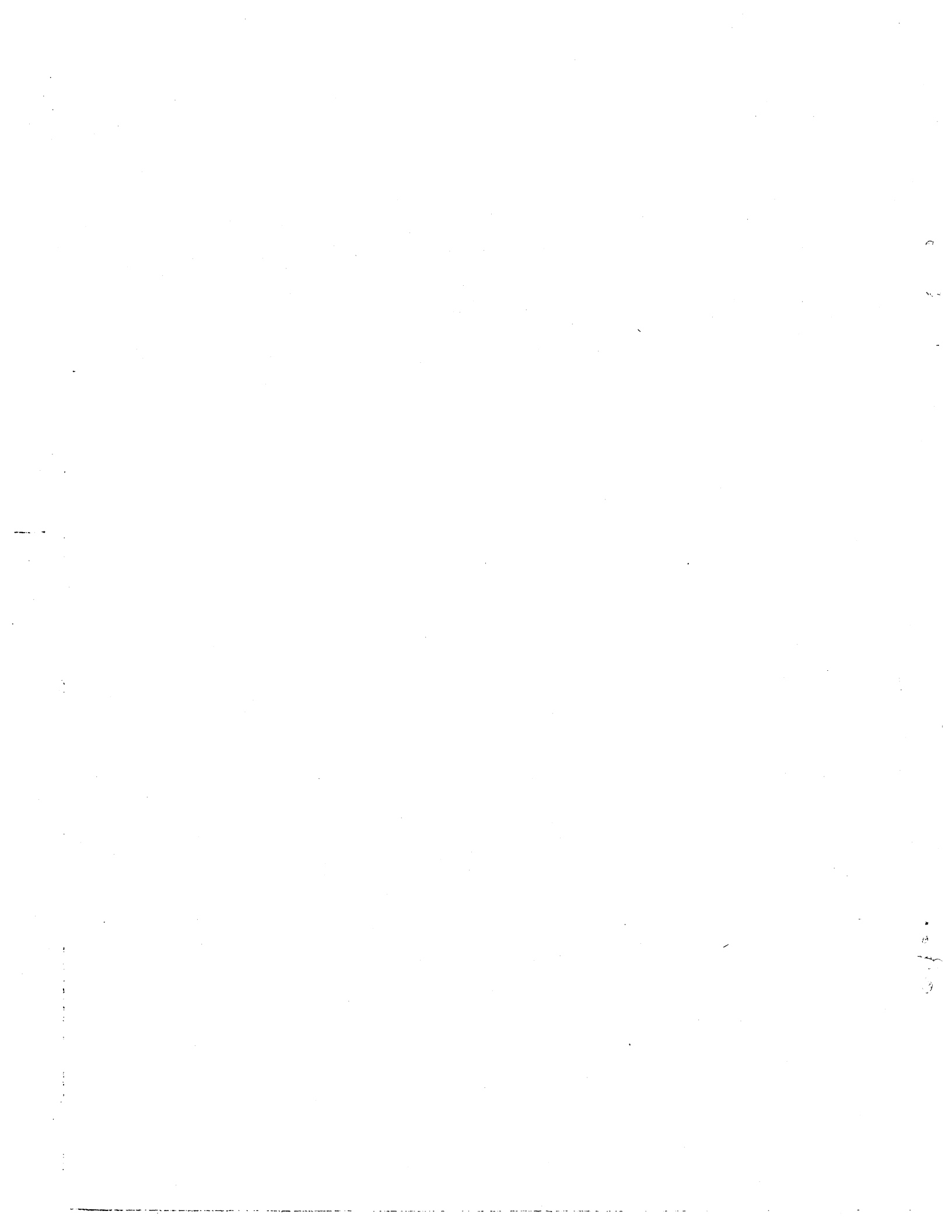
LOXAHATCHEE RIVER
NATIONAL WILD AND SCENIC RIVER
MANAGEMENT PLAN

STATE OF FLORIDA

DEPARTMENT OF NATURAL RESOURCES
Division of Recreation and Parks

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

December 1985





THE SECRETARY OF THE INTERIOR
WASHINGTON

MAY 17 1986

Honorable Bob Graham
Governor of Florida
Tallahassee, Florida 32303

Dear Governor Graham:

I am pleased to advise you that favorable action has been taken on your request that a 7.5-mile segment of the Loxahatchee River be designated as a component of the National Wild and Scenic Rivers System as provided for in Section 2(a)(ii) of the Wild and Scenic Rivers Act, P.L. 90-542, as amended. Florida has fulfilled the requirements of Section 2(a)(ii) of the Act by designating this segment of the Loxahatchee as a State Wild and Scenic River and by adopting a program of action, in conjunction with Palm Beach County, which will adequately protect the river environment from adverse State and local actions.

Your application and this action serve to demonstrate that protection of natural resource values of the Nation's rivers does indeed involve a Federal/State partnership. This is a point which Congress sought to make with the Wild and Scenic Rivers Act and which the Department of the Interior has emphasized since. We are pleased by your actions for two additional reasons: the Loxahatchee River is the first Florida river to be included in the national system (and one of the few in the southeastern United States), and the State of Florida acted promptly on the recommendation in the Department's congressionally authorized wild and scenic river study of the Loxahatchee.

Finally, I would like to compliment the personnel of the Florida Department of Natural Resources and the South Florida Water Management District, as well as Palm Beach and Martin counties, for the excellent work they did on the River Management Plan and the State's application. We wish them success in their continued management of this outstanding river resource.

Sincerely,

DONALD PAUL HODEL





State of Florida
DEPARTMENT OF NATURAL RESOURCES

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S T A T E O F F L O R I D A

C O U N T Y O F L E O N

C E R T I F I C A T E

I, Eileen A. Sullivan, do hereby certify that the Governor and Cabinet, sitting as head of the Department of Natural Resources of the State of Florida, met on November 27, 1984 and adopted, as amended, following Item 13 on the agenda for that date. The amendment included numerous revisions in the management plan.

Item 13

Consideration of staff recommendation for acceptance of the draft river management plan for the proposed Loxahatchee Wild and Scenic River. Upon acceptance of this plan, the Department of Natural Resources will request that the Governor apply to the Secretary of the Interior for designation of a 7.5-mile segment of the Loxahatchee River in Martin and Palm Beach Counties as a State-administered component of the National Wild and Scenic Rivers System. Copies of the draft management plan have been submitted to the Executive Board by separate memorandum.


This plan was developed by the Department of Natural Resources in conjunction with the South Florida Water Management District in accordance with Chapter 83-358, Laws of Florida, to qualify the Loxahatchee River for designation as a national wild and scenic river. The plan provides for the establishment of a river management program to permanently protect the natural resource values of a 7.5-mile segment of the Northwest Fork of the Loxahatchee River and a corridor of adjoining uplands. As provided for in Chapter 83-358, the area within the boundaries of the 7.5-mile river corridor would be managed by the Department of Natural Resources. Activities beyond the river corridor which might affect the designated river area would be managed in accordance with existing local and regional authorities. Interagency coordination in the

management program would be provided by a permanent management coordinating council comprised of representatives from all affected parties, both public and private. The council would function to resolve management problems and review permit applications and proposed changes to the plan and related administrative regulations.

The development of this plan has involved the participation of local, State and Federal agencies and private organizations in a series of meetings and workshops held in the local area over the past two years. The plan has undergone an extensive public review process and has been approved by the State clearinghouse.

RECOMMEND ACCEPTANCE

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Department of Natural Resources seal on November 28, 1984.


Eileen A. Sullivan, Admin. Asst.
Cabinet Affairs Office
Department of Natural Resources

SEAL

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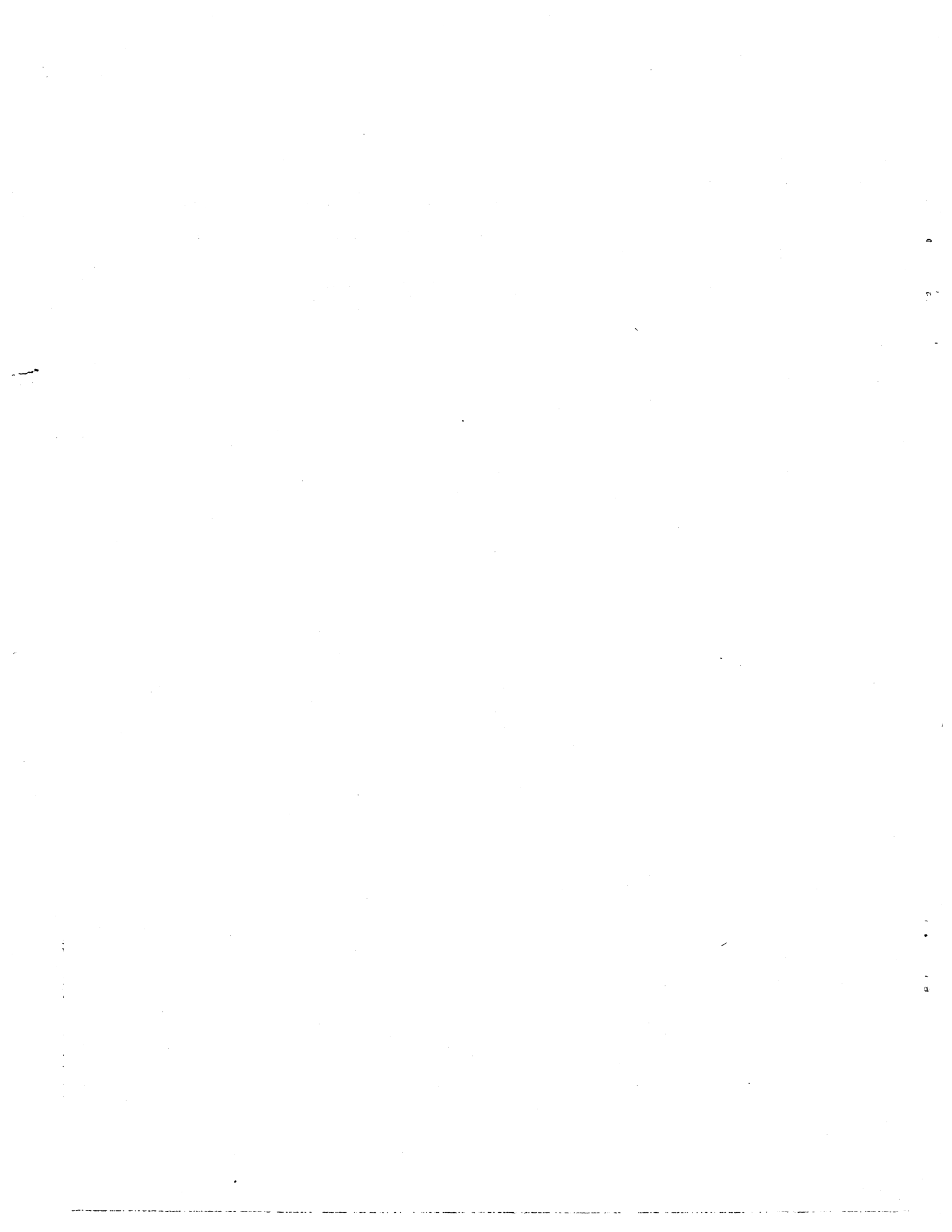
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CHAPTER I INTRODUCTION

Rivers have always held a special importance and fascination for man. In the earliest days, interest in rivers centered on the more material things: a source of water, a means of transportation, a habitat of edible fish and fowl. While these may still be important for modern man, rivers today have assumed yet another dimension in their ability to serve a wide variety of natural resource preservation and outdoor recreation needs. Whether for scientific research, education, boating, fishing, canoeing or simply marveling at the handiwork of nature, rivers and streams in all their diversity constitute one of the most valuable of natural resources.

But rivers, like most things in nature, are susceptible to drastic change at the hands of man. They may be bridged for highways, dammed for hydroelectricity, dredged for navigation and canalized for water control. Their banks may be cleared and their attendant marshes and swamps drained or filled for development. While much of this change, good and bad, may be inevitable as a side-effect of human growth and activity, it is unfortunately true that most of it diminishes the recreational potential of affected rivers. Unquestionably, the most serious consequence of such change is the irretrievable loss of aesthetic and wilderness qualities of the state's rivers and streams.

Because of their extreme importance as irreplaceable resources, Florida's remaining largely natural streams should be protected to the extent feasible from further human encroachment. The federal Wild and Scenic Rivers Program was created as one means of affording such protection through implementation of river preservation and enhancement programs. Such a program for the protection and preservation of the Loxahatchee River in southeastern Florida is set forth in the following plan.

WILD AND SCENIC RIVERS PROGRAM

The federal Wild and Scenic Rivers Program was established under the authority of P.L. 90-542, the Wild and Scenic Rivers Act of 1968. The program was conceived as a means of preserving selected free-flowing rivers in their natural condition and protecting the water quality of such rivers. The National Wild and Scenic Rivers System was initially composed of eight rivers designated in P.L. 90-542. Subsequent amendments to the Act and administrative actions by the Secretary of the Interior pursuant to the Act have increased the number of rivers or segments of rivers in the system to 66. The Suwannee River was the first river in Florida to be studied as a potential addition to the national system under the Act. It was subsequently recommended for inclusion in the system by the federal Bureau of Outdoor Recreation as a State-administered river but was never formally designated due to a lack of funds for land acquisition and management personnel.

The Wild and Scenic Rivers Act provides two basic options for obtaining designation of rivers as elements of the national system: designation by Congress, and designation by the Secretary of the Interior. Under the option of Congressional designation, Congress designates the river and assigns responsibility for administering the river to an appropriate managing agent. The managing agent is required to develop a detailed management plan for the river within one year following designation. Generally, Congressional designation has been reserved for cases when federal lands are involved or when federal funds are appropriated for acquisition or management of the designated river.

Under the option of Secretarial designation, two basic requirements must be met. First, the river must be designated as a "wild, scenic, or recreational river" by or pursuant to an act of the applicable state legislature. Second, the river must be permanently administered as a wild, scenic or recreational river by an agency or political subdivision of the State. If these two conditions are met, the Governor of the state may apply to the Secretary of the Interior for administrative designation of the river as a component of the national system.

PLANNING AUTHORITY

Specific authority for the development of a wild and scenic river management plan for the Loxahatchee River is provided by Chapter 83-358, Laws of Florida (see Addendum 1). This legislation directs the Department of Natural Resources and the

South Florida Water Management District to develop a plan to provide for the permanent protection of the river and to qualify the river for inclusion in the National Wild and Scenic River System. Section 83-358.5(2) provides for the involvement of other local, state and federal agencies and organizations in the plan development process. Specific criteria and conditions to be included in the plan are found in Section 83-358.5(3). Section 83-358.8 authorizes the Department and the District to develop procedures for periodically modifying or amending the plan.

PLAN DEVELOPMENT

Public awareness of the environmental problems of the Loxahatchee River began more than 20 years ago through the efforts of public officials, conservation groups, and individual citizens. These efforts led to the inclusion of the river's North and Northwest Forks in the National Parks and Recreation Act of 1978, which authorized the study of several rivers as potential additions to the National Wild and Scenic Rivers System. In 1982, the National Park Service published a draft report on the Loxahatchee's eligibility for national designation. The results of that draft report provided important direction for subsequent planning and management of the river. The study concluded that the Northwest Fork was eligible for designation and recommended that it be managed as a State-administered component of the national system. The study also delineated the

segment of the river to be considered for designation and established the management criteria and standards required for designation.

In March 1983, the Department of Natural Resources established an interagency planning committee to assist the Department and the South Florida Water Management District in the development and review of a river management plan. A broad spectrum of public agencies and private organizations at all levels were asked to participate in the activities of the committee, including the following:

Palm Beach County	Department of Community Affairs
Martin County	Game & Fresh Water Fish Commission
Jupiter Inlet District	Department of Environmental Regulation
Town of Jupiter	Department of Agriculture & Consumer Services, Division of Forestry
Village of Tequesta	Department of State, Division of Archives, History & Records Management
Loxahatchee River Environmental Control District	Department of Transportation
South Indian River Water Control District	U.S. Fish & Wildlife Service
Northern Palm Beach County Water Control District	U.S. Geological Survey
Save the Loxahatchee River Coalition	National Park Service
Treasure Coast Regional Planning Council	
South Florida Water Management District	

Representatives from these agencies and organizations provided input to the Department and the District for the development of the management plan. Information was collected on a variety of topics, including natural and cultural resources, water quality and quantity, carrying capacity, public access and

use of the river, resource management strategies, and demographic and economic considerations. Local governments provided input concerning their activities in the Loxahatchee River area and any potential impacts that designation of the river might have on their ongoing activities. The recommendations contained in this plan are a direct result of the advice and assistance received from this interagency committee.

CONTENTS OF THE PLAN

The information presented in this plan is organized on a chapter basis. Each chapter of the plan corresponds to a particular aspect of the management program.

Chapter II provides an overall assessment of the natural and cultural resources of the Loxahatchee River area, with special emphasis on the proposed wild and scenic river area. This chapter discusses the river's drainage system, geology, water quantity and quality in the river, vegetative communities, fish and wildlife, archaeologic and historic features, land use, and land ownership.

Chapter III describes the existing access and use facilities which support public enjoyment of the river. This chapter also analyzes the patterns of recreational use which have been observed on the river.

Chapter IV examines the local, state and federal authorities on which the river management program is based. It also reviews

the major sources of policy direction and guidance for the river management program.

Chapter V identifies the specific goals, objectives and measures that will be implemented to provide permanent protection of the river's natural and scenic resources. It delineates the general boundaries of the river corridor area to be protected by the plan.

Chapter VI identifies and discusses the various factors to be considered in determining a suitable carrying capacity for canoeing on the river. This chapter presents the plan's recommendations concerning maximum levels of canoeing on the river.

Chapter VII is the implementation program of the plan. It establishes an advisory body to coordinate management of the river and to assist the Department and the District in daily management activities. The action plan included in this chapter summarizes the major activities that will be involved in implementing the plan.



CHAPTER II RESOURCE DESCRIPTION AND ASSESSMENT

The feasibility study conducted by the National Park Service contains a thorough assessment of the natural and cultural resources of the Loxahatchee River. Other studies conducted by various agencies and levels of government have also analyzed these resources in detail. The following section summarizes the results of these studies.

DESCRIPTION OF THE RIVER AREA

The Northwest Fork of the Loxahatchee River originates in the Loxahatchee Slough in an area where surface flows have been altered by an extensive network of drainage canals and dikes. From its origin to about river mile 13.5, the Northwest Fork has been straightened and canalized, and receives its flow from a series of smaller canals and drainage ditches.

The river's natural meander pattern begins at approximately river mile 13.5. Below the Indiantown Road bridge (State Road 706), the river enters a closed canopy of cypress swamp. The channel is still narrow at this point, and its sinuous, meandering course offers a challenging and interesting journey through the largely pristine river swamp. Bald cypress trees dominate in this reach of the river. The most mature of these trees range from 300-500 years old. Species diversity in the understory is high due to the overlapping of tropical and

temperate vegetation communities. There are several small cabins along this reach of the river, but these do not constitute a major intrusion on the natural scene. Land use beyond the river swamp vegetation corridor is primarily agricultural, but little evidence of this is visible from the river. Cattle grazing occurs in this area. Occasionally, cattle wander close to the river and feed on the lush vegetation.

The first major intrusion on the natural scene is the Florida Turnpike crossing at approximately river mile 11.5. The alignment of Interstate Highway 95 through Martin County and Palm Beach County will cross the Loxahatchee River adjacent to the Florida Turnpike. The proposed bridge crossing has been designed to closely abut the existing highway in order to minimize impacts on the river.

The river turns in a northwesterly direction beyond the Florida Turnpike crossing and is once again characterized by a pristine cypress river swamp environment. The river enters Jonathan Dickinson State Park at river mile 10.25. There are no significant man-made intrusions between the Florida Turnpike and the Trapper Nelson Interpretive Site. Jonathan Dickinson State Park manages the site, an early resident's homesite at river mile 10, as an interpretive center which is accessible to the public only by boat.

Below the Trapper Nelson Interpretive Site, the character of the Northwest Fork undergoes a dramatic transition. The river widens and there is no longer a closed canopy overhead. The main

channel of the river is joined by Cypress Creek, Kitching Creek, and several smaller tributaries swelling the volume of the river. At about river mile 9.7, the first stressed cypress trees appear. The first mangroves also begin to appear in this section. At river mile 9.5, mangroves are interspersed with healthy and stressed cypresses. By river mile 9, mangroves cover entire islands in the river. Dead cypresses located 100 feet or more from the riverbank indicate the lateral extent of the effects of saltwater intrusion.

At approximately river mile 6, the river leaves Jonathan Dickinson State Park. Once outside the park, the banks of the river are almost entirely developed to Jupiter Inlet. There are four bridge crossings in this area: Island Way, Florida East Coast Railroad, State Road 811, and U.S. Highway 1.

GEOLOGY

The geologic formations underlying the area of the Loxahatchee River form two aquifers separated by confining beds. A shallow, non-artesian aquifer is composed of permeable sand, limestone, and shell beds. These comprise the Pamlico sand, Anastasia and Fort Thompson Formations, and the Caloosahatchee marl. The water bearing qualities of this aquifer vary widely throughout the area. The bottom of the shallow aquifer ranges from 30 to about 180 feet below the land surface.

The second aquifer, the Floridan Aquifer, occurs at depths varying from approximately 550 feet to 750 feet. This aquifer contains water under sufficient pressure to flow to the surface. In the Loxahatchee River area, the aquifer is composed of limestone of the Hawthorn, Tampa, Suwannee, Ocala and Avon Park Formations, ranging in age from 30 to 60 million years.

THE RIVER BASIN

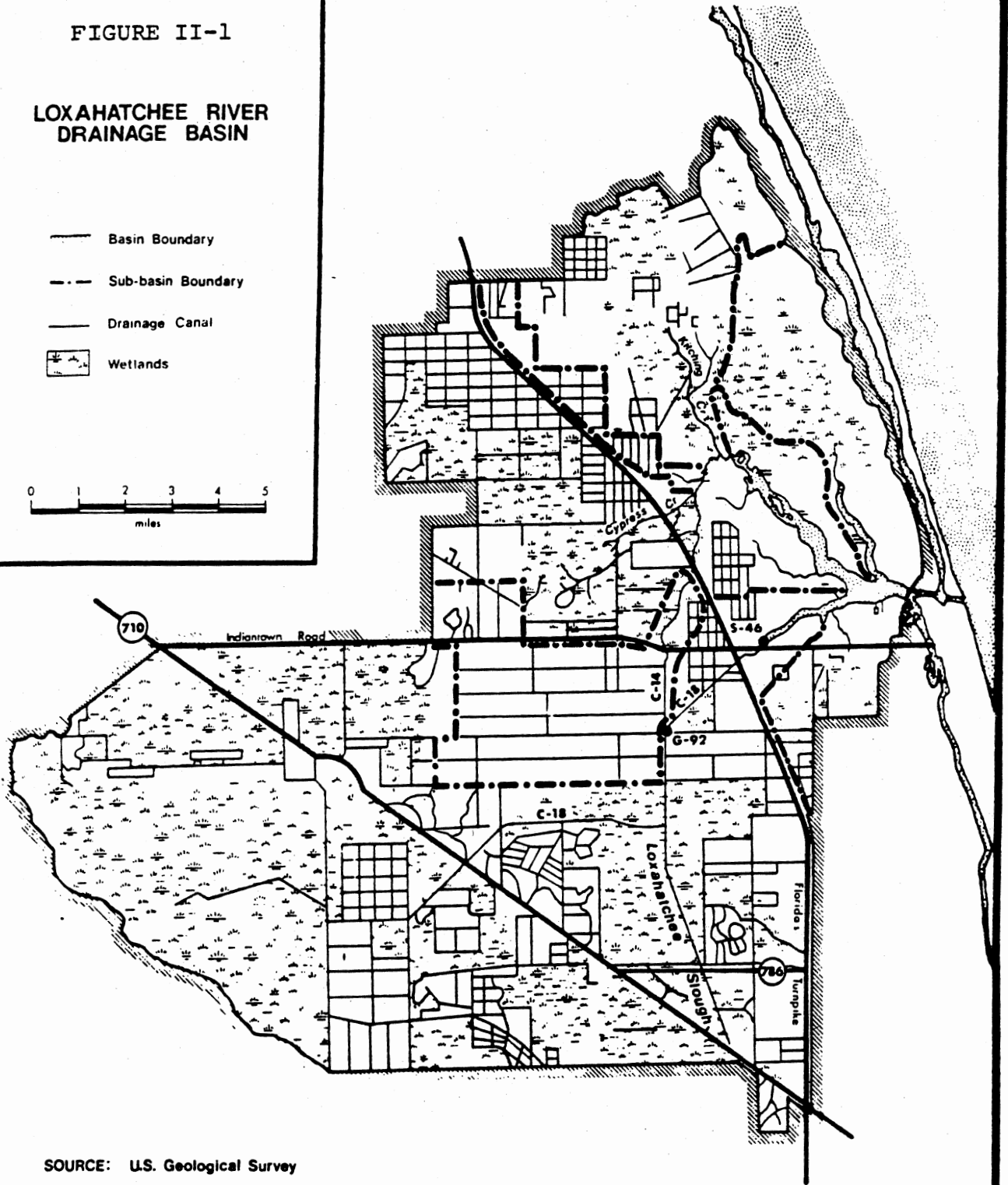
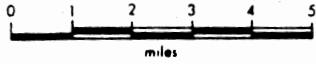
The Loxahatchee River drainage basin covers an area of approximately 210 square miles. The basin consists of nine sub-basins, ranging in size from three square miles to 117 square miles (see Figure II-1). The sub-basins form three major watersheds, each forming a branch, or fork, of the river. The forks merge in a large estuary that drains through Jupiter Inlet to the Atlantic Ocean.

In its natural condition, the Loxahatchee arose in the Loxahatchee Slough near West Palm Beach. Historically, this area was characterized by swampy flatlands interspersed with small, often interconnected ponds and streams that produced a sheet flow toward the north. Drainage patterns were determined by the poorly defined natural landforms of the area. The major features that presently influence drainage in the river basin are Canal 18 (C-18), the Florida Turnpike and State Road 710 (which act as important sub-basin divides), and the systems of secondary canals developed by special drainage districts and landowners within the basin.

FIGURE II-1

LOXAHATCHEE RIVER
DRAINAGE BASIN

- Basin Boundary
- - - Sub-basin Boundary
- Drainage Canal
- ▨ Wetlands



SOURCE: U.S. Geological Survey

The C-18 drainage system is the most prominent feature in the Loxahatchee River basin. This system drains a 106-square mile area (more than 50 percent of the river basin), and empties into the Southwest Fork through control structure S-46. C-18 was constructed in 1958 as part of the Central and South Florida Flood Control Project to improve drainage and flood protection for adjacent agricultural, residential, and industrial land and the J.W. Corbett Wildlife Management Area. The other major drainage system in the Loxahatchee River basin is maintained by the South Indian River Water Control District west of C-18 in an area known as Jupiter Farms. This area has been subdivided and sold as residential tracts of approximately 1.25 acres. Drainage occurs through a series of east-west collector canals into Canal 14 (C-14), a north-south canal administered by the South Indian River Water Control District. C-14 discharges directly into the Northwest Fork just south of the bridge at Indiantown Road.

WATER QUANTITY

Water is the most essential component of the Loxahatchee River ecosystem. Clean fresh water of sufficient quantity and periodicity is essential in maintaining the area's scenic qualities and diverse native plant communities and wildlife populations. Man-made alterations to the river's natural drainage patterns have reduced the quantity and quality of water in the river, and these changes have contributed to corresponding declines in the river's natural and scenic qualities.

Four major tributaries discharge into the Northwest Fork. These are C-14, Cypress Creek, Hobe Groves Canal and Kitching Creek. The main stem of the Loxahatchee River, fed by C-14, is the primary source of flows to the Northwest Fork during most periods of the year (see Table II-1). On the average, this component accounted for 40 percent of the total discharge to the Northwest Fork during the period 1980-1982. On a monthly basis, however, discharge from this source ranged from as low as 28 percent to as high as 72 percent of the total discharge. Surface flows are diverted from C-18 to C-14 and thence to the Northwest Fork via a culvert known as G-92. This structure was installed in 1975 and is capable of passing a maximum of 130 c.f.s. to C-14 at any given time. It is located on property administered by the South Indian River Water Control District, and is operated by the Loxahatchee River Environmental Control District.

The operation schedule for G-92 is important to the river management program because of its role in determining water levels in the river. Water is discharged from C-18 through the diversion culvert depending on the relationship between water levels in C-18 and in the Northwest Fork at Indiantown Road. Water is diverted to C-14 when (1) flows in C-14 fall below 50 c.f.s; and (2) when levels in C-18 exceed 12.5 feet above sea level. As shown in Figure II-2, minimum flow discharges to the Northwest Fork have increased significantly since the operation of G-92 began. This is partially because of higher rainfall amounts,

but also because C-18 has been maintained at higher levels, and because water levels at Indiantown Road have been lowered due to erosion of Lainhart and Masten Dams, two small weirs located respectively about 0.1 mile and 1.2 miles downstream of Indiantown Road. Erosion of these weirs, along with canal construction in the basin, have probably increased drainage in the area, thus contributing to increased discharges into the river. Since C-18 has virtually no capacity to store water for controlled discharge, however, no supplemental discharges are made during dry periods. While the installation of G-92 has significantly moderated the effects of drought conditions on water quantity in the river, it has not completely achieved the goal of a guaranteed minimum flow of 50 c.f.s. to preserve the freshwater character of the river (see Figure II-2).

Another significant source of surface water to the Northwest Fork, particularly during periods of low flows, is Cypress Creek. This tributary enters the river from the west, just downstream from the Trapper Nelson Interpretive Site in Jonathan Dickinson State Park. Discharges from Cypress Creek are normally less than those from the Loxahatchee River at Indiantown Road. During the period 1980-1982, Cypress Creek discharged an average of 35 percent of the total tributary discharge to the Northwest Fork.

Cypress Creek is an outlet for an extensive network of agricultural canals, draining an area of about 4,500 acres, maintained by the Hobe-St. Lucie Conservancy District. The

Table II-1

Average Freshwater Inflow Into the Northwest Fork
From Major Tributaries for Selected Periods During 1980-82

Major Tributaries	1980 Wet Season, (May-Oct.)		1980-81 extended Dry Season, (Nov. 1980-July 1981)		1981 Wet Season, (Aug.-Sept.)		Tropical Storm Dennis (Aug. 18-22, 1981)		1982 Early Spring Storm, (Mar. 29-Apr. 6)	
	184 days		273 days		61 days		5 days		9 days	
	<u>c.f.s.</u>	<u>% of total inflow</u>	<u>c.f.s.</u>	<u>% of total inflow</u>	<u>c.f.s.</u>	<u>% of total inflow</u>	<u>c.f.s.</u>	<u>% of total inflow</u>	<u>c.f.s.</u>	<u>% of total inflow</u>
Loxahatchee River at Indiantown Road (C-14)	65	44.22	28	48.95	106	34.75	242	29.02	236	45.30
Freshwater Inflow between Indiantown Road & Florida Turnpike	17	11.56	3	5.25	32	10.49	198	23.74	44	8.45
Cypress Creek	45	30.61	20	34.97	132	43.28	265	31.77	190	36.46
Hobe Groves Canal	12	8.16	4.5	7.86	18	5.90	108	12.95	51	9.79
Kitching Creek	8	5.44	1.7	2.97	17	5.57	21	2.52	ND	—
Total Inflow	147	99.99	57.2	100.00	305	99.99	834	100.00	521	100.00

Source: U.S. Geological Survey

largest portion of the Cypress Creek sub-basin, however, is composed of undeveloped wet prairie. These undeveloped areas are experiencing reductions in water levels due to canalization, but still act as an important freshwater reservoir for Cypress Creek and the Northwest Fork.

Three remaining sources provide an average of approximately one-quarter of the total surface flow of the Northwest Fork. The segment of the river between Indiantown Road and the Florida Turnpike discharges an average of nearly 12 percent of the total flow through several small unnamed tributaries. Hobe Groves Canal, which enters the river at approximately river mile 9 and drains large agricultural areas west of the Florida Turnpike, averages less than eight percent of the discharge to the Northwest Fork. Kitching Creek originates in an area of scattered ponds and marshes within Jonathan Dickinson State Park and provides an average of 4.1 percent of the discharge. Its drainage basin is the least developed of all the major tributaries of the Northwest Fork and allows for a high degree of water retention.

WATER QUALITY

A great deal of attention has been focused on the issue of water quality in the Loxahatchee River and its long term effects on the river's biological resources and aesthetic qualities. Today, despite the rapid urbanization of the West Palm Beach

area and the degree of man-made alterations that have been made to the river's natural drainage systems, the overall quality of water in the river can be characterized as good. Several important water quality problems do exist in the Northwest Fork, however, and these problems can be expected to persist as urbanization in the basin continues unless water quality management plans and preventive measures are implemented.

The Florida Department of Environmental Regulation has classified all waters of the state according to seven classes, each with established minimum criteria for various water quality parameters. Waters in the Loxahatchee River area are designated as follows:

<u>Classification</u>	<u>Water Body</u>
Class I-Potable Water Supplies	. C-18, freshwater portion
Class II-Shellfish Propagation and Harvesting	. C-18, S-46 downstream . Loxahatchee River above Florida East Coast Railroad Bridge, including South, Northwest and North Forks
Class III-Recreation and Propagation of Fish and Wildlife	. C-14 . Loxahatchee River below Florida East Coast Railroad Bridge

Review of Water Resource Studies

Various agencies have conducted water quality monitoring programs on the Loxahatchee River. The cumulative effect of these studies is to document the water quality deterioration

that has occurred on the river. The remainder of this section briefly describes the major water quality research that has been conducted to date.

U.S. Geological Survey

The U.S. Geological Survey, in cooperation with the Central and Southern Florida Water Management District and the Department of Natural Resources, conducted the first major hydrologic investigation of the Loxahatchee River in 1973. The results of this study were published in a report entitled The Loxahatchee-- A River in Distress, Southeast Florida. The study concluded that the primary cause of environmental problems facing the river was the upstream movement of salt water. The study attributed changes in the flora and fauna in Jonathan Dickinson State Park and other portions of the river to this cause. The report found that land development, canal construction, and water control practices allowed salt water to encroach upstream.

The study consisted of a water quality and quantity sampling program on the Northwest Fork. Two tide gauges were located in Jonathan Dickinson State Park and a streamflow gauging station was located at Lainhart Dam. In addition, 33 water quality data collection sites were located between the Martin County-Palm Beach County line and the Trapper Nelson Interpretive Site. Data on salinity and rate of freshwater flow indicated that a minimum continuous flow of 23,000 gallons per minute, or 50 c.f.s., was required to retard further upstream movement of salt water in the

Northwest Fork under the drainage and development conditions that existed at the time of the study. In April and May 1971 (an abnormally dry season during the study period), flows averaged about 13 c.f.s. The report suggested several possible means for preventing further saltwater encroachment upstream, including diversion of water from inland canals, construction of a downstream salinity barrier, and development of water storage areas in the drainage basin.

A second publication, Encroaching Salt Water In Northeast Palm Beach County, Florida (Map Series No. 59) was completed in 1973. This study concluded that salt water was encroaching inland in northeast Palm Beach County and that this encroachment threatened the municipal groundwater supplies of adjacent communities. The combination of wetland drainage and heavy pumping of municipal and irrigation wells was found as causing an inland advance of salt water in the groundwater system. Observation wells were used to monitor fluctuations in the water table and the underground saltwater wedge. Most of these wells were located in the Tequesta area between the North Fork and the Intracoastal Waterway. The position of the saline groundwater wedge advanced inland during a drought in 1970-1971 and caused pumping to be discontinued at several wells in the Tequesta well field.

To measure the encroachment of salt water up the Northwest Fork, salinity data were collected from numerous fixed sampling points and from a boat riding the crest of the high tide.

Salinities increased greatly over the period from October 1970 to May 1971, a period of severe drought. The report concluded that diminished surface flow of the Loxahatchee River brought about by land drainage and the drought caused ocean tides to reach further up the river.

In 1973, a third report was produced in cooperation with the Department of Natural Resources, entitled Appraisal of the Water Resources of Eastern Palm Beach County, Florida. The area of investigation was the eastern eight to ten miles of Palm Beach County. Rapid population growth along the coast was shown to be placing increasing demands on freshwater resources. Miles of canals dissect the area. Nutrient levels in the canals were found to be increasing due to runoff from farms and ranches and discharges of wastewater from sewage treatment plants.

The U.S. Geological Survey completed a fourth major water quality monitoring program in the Loxahatchee River estuary and the Northwest Fork in August 1983. The study produced four draft reports concerning freshwater discharges and salinity distribution in the river, nutrient loading in the river and the estuary, and an unpublished report concerning the extent of environmental stress in the river's cypress trees.

The study concluded that the mixing of fresh water with sea water in the Northwest Fork occurs over a distance of five to ten river miles (see Figure II-3). During the study period, the zone of saltwater-freshwater interface moved daily about 0.5 to 1.5

river miles as a result of tides, and annually, about three to five miles as a result of seasonal changes in freshwater flow. The maximum upstream encroachment of the saltwater-freshwater interface during 1976, 1977, and from 1979-1981 ranged between river mile 10 and river mile 7. The study also found that if tidal discharges are not altered, the cumulative amount of flow from the river's four main tributaries needed to restrict salt water (2 parts/1,000 bottom salinity) at various points on the river could be estimated, as shown below.

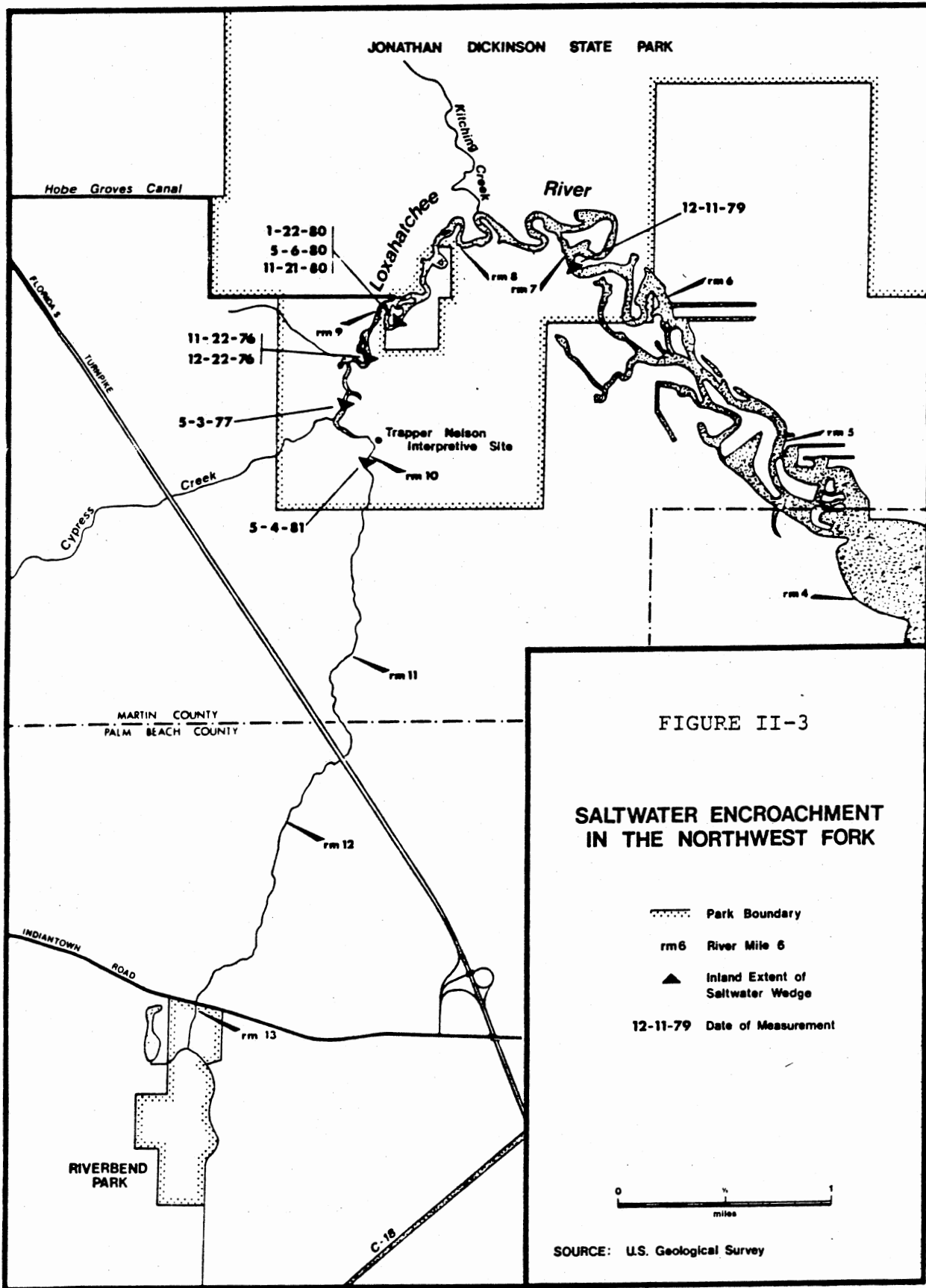
Table II-2

Freshwater Inflow
and the Extent of Saltwater Encroachment

<u>Mean Daily Discharge (c.f.s.)</u>	<u>Saltwater Wedge at River Mile</u>
220	7.0
130	8.0
120	8.2
75	9.0
43	10.0
26	11.0

Source: U.S. Geological Survey

Restricting saltwater intrusion from the section of the river below river mile 8 thus would require a mean daily discharge (comprising the combined discharges from the river's four principal sources of flow) of 130 c.f.s., and below river mile 7, of more than 220 c.f.s. For comparison, the mean daily



discharge during the study period (February 1980 to March 1982) was 120 c.f.s.

Another portion of the study program dealt with nutrient loading. The objective was to characterize nutrient sources, distribution, and loading and to estimate the potential for future nutrient enrichment. Salinity and nutrient concentrations were measured at gauging stations located on major tributaries of the river and downstream in the estuary. The study concluded that freshwater-saltwater mixing was the primary process controlling concentrations of nutrients in the estuary. Further, the study found that the nutrient loads emitting from C-18 at S-46, from the Loxahatchee River at Indiantown Road, and from Cypress Creek accounted for more than 85 percent of the input of nutrients from all of the estuary tributaries combined during 1981. Urban stormwater runoff and bottom sediments were identified as important sources of nutrient loading in the estuary.

Department of Environmental Regulation Studies

The Department of Environmental Regulation has monitored water quality in the Loxahatchee River since 1976. The Primary Station Monitoring Program includes the Loxahatchee River as one of eight water bodies that is periodically tested within the southeastern district. Four samplings for water quality are conducted each year (once each season) at a site just upstream from the State Road Alternate A1A bridge. No water quality

problems have been detected in these tests. Testing for nutrients, dissolved oxygen, coliform bacteria and other water quality indicators has shown no regular violation of state standards for Class II waters. The biological health, as indicated by benthic macroinvertebrates, is good. However, the bacteria population in the water causes shellfish to be unsafe for human consumption.

Loxahatchee River Environmental Control District

The Loxahatchee River Environmental Control District, the primary water treatment authority in the area of the river, has monitored water quality in the Loxahatchee River basin since 1973. Specific emphasis within the past six years has been on sampling 11 sites, two of which are located at points on the Northwest Fork: the recreation area boat ramp at Jonathan Dickinson State Park, and the Indiantown Road bridge. The purpose of the sampling program is to provide a means for a general accounting of water quality changes in the river.

The District's water quality sampling program indicates that certain water quality problems exist in the river basin. Dissolved oxygen in 26 percent of the samples taken from the Indiantown Road site meet or exceed the State minimum standard of 5 mg/l. More than 75 percent of the samples from Jonathan Dickinson State Park meet or exceed the standard. In regard to coliform bacteria, however, the District's sampling indicates

that only 40 percent of the samples from Indiantown Road and 22 percent of the samples from the state park meet the standard.

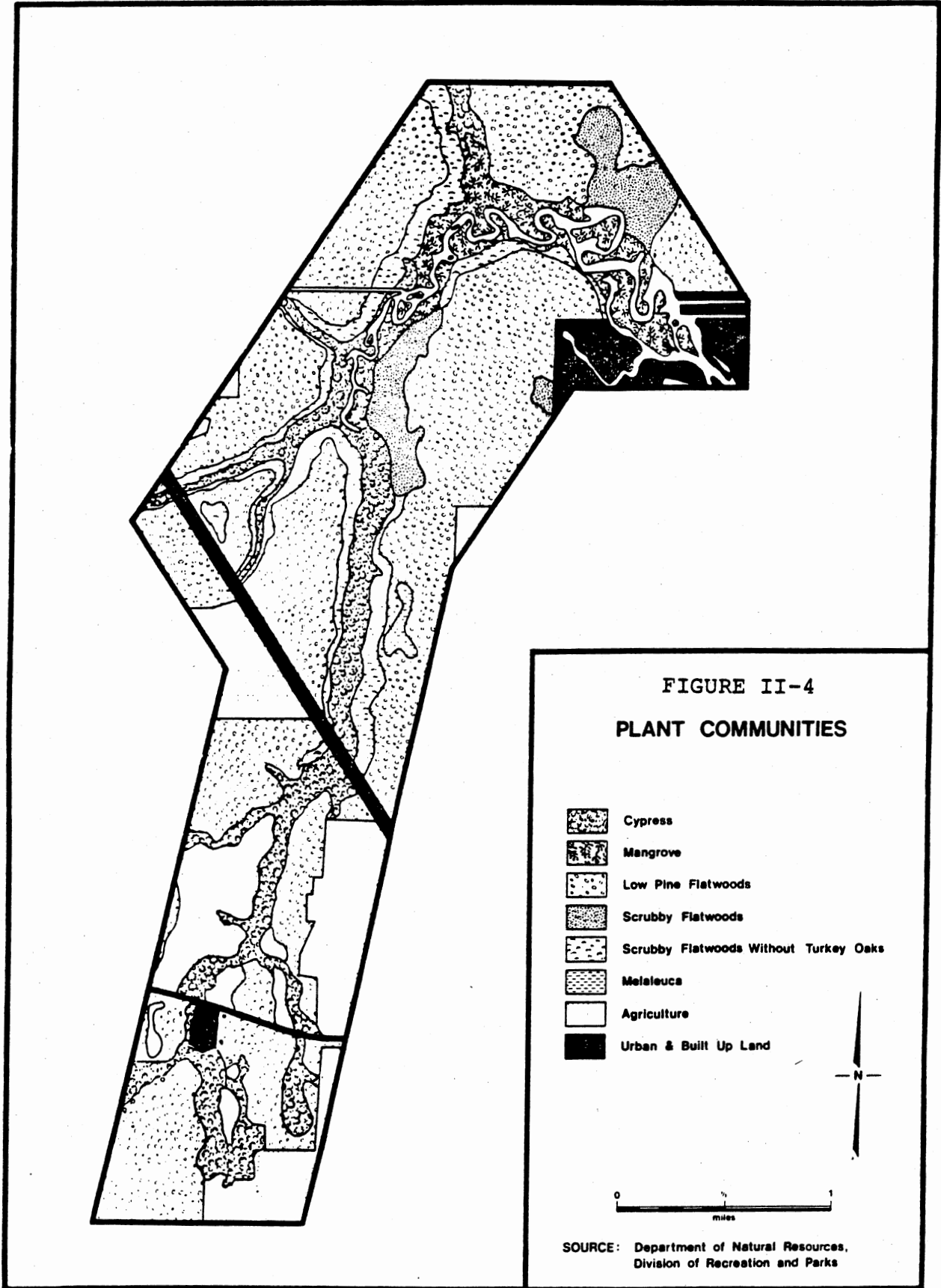
University of Florida

The Coastal and Oceanographic Engineering Laboratory prepared a report in 1975 entitled Evaluation of Salt Intrusion in Loxahatchee River, Florida. This study presented the results of a forecasting study to determine the probable extent of saltwater intrusion that would follow the removal of oyster bars and debris that were clogging the estuarine portion of the river at that time.

The study simulated conditions in the estuary and calculated the river's response to various stages of oyster removal. The study concluded that tidal range, tidal flows, currents, depths, and salinity profiles would all change if the oysters and debris were removed. The oyster bars and debris were removed in 1977 and 1978. The hydrologic changes resulting from this removal have not been completely identified.

PLANT COMMUNITIES

The principal wetland plant communities in the vicinity of the river corridor are freshwater cypress and saltwater-tolerant mangrove (see Figure II-4). Low pine flatwoods and scrubby flatwood communities occupy the slightly higher elevations bordering the floodplain. Other vegetation found in the area consists of cultivated row crops, citrus groves, exotics and urban vegetation.



The cypress swamp community solidly flanks the river and its tributaries upstream from about river mile 9.5, and is the dominant species to above river mile 9. This community is composed of bald cypress, southern red maple, cabbage palm, pop ash, pond apple, and strangler fig. Shrubby species mixed among the taller vegetation include cocoplum, wild coffee, water oak, myrsine, water hickory, and buttonbush. Vines, ferns, bromeliads and orchids also are characteristic of this community.

The mangrove community solidly lines the river downstream from river mile 9. Red mangroves front directly on the river where they will be most fully exposed to tidal flows. Dead cypress trees tower above the red mangroves for one or two miles downstream from this point, evidence of the extent of freshwater vegetation that existed before changes in the upstream movement of salt water. Somewhat removed from the river channel but near enough to be inundated at high tide are white mangroves.

The low pine flatwood community is dominated by widely scattered south Florida slash pine. The slightly elevated, level sandy areas in which this plant community are found lack the soils and drainage conditions necessary to support the type of dense understory found in the floodplain. Vegetation is typically shrubby in nature, and includes the saw palmetto, gallberry and fetterbush. Ground cover vegetation includes wiregrass, broom sedge and various herbacious species.

Scrubby flatwoods occupy the elevations above the pine flatwoods in the area downstream from the Florida Turnpike. Soils underlying this community are slightly richer in organic matter than those underlying the pine flatwoods. The dominant species is the south Florida slash pine, as in the pine flatwoods community, but the understory is characterized by the turkey oak, scrub oak and other scrub vegetation.

The principal problem affecting the river's plant communities is the gradual reduction in the number and geographic extent of healthy bald cypress in the floodplain and their replacement by mangroves. Virtually all of the cypress in the lowermost area of the wild and scenic river segment are now dead, as are the majority of cypress below Kitching Creek. Above Kitching Creek, the number of live trees increases with increasing distance up the river.

An analysis conducted by the U.S. Geological Survey between 1979 and 1982 documented the extent of environmental stress in the cypress trees along the river. The study examined core samples taken from 69 trees between the area of Lainhart Dam and the southern boundary of Jonathan Dickinson State Park to identify changes in tree ring width and quality. The results of the study indicated that although all of the trees sampled had experienced stress at periodic intervals over their life histories, the proportion of stressed trees in the downstream

section (below river mile 9) increased from 30 percent in 1940 to 80 percent in 1982. Stressed trees above river mile 9 decreased from 11 percent to 3 percent during the same period. Further, the study found a high correlation between the incidence of growth stress and high salinities in surface water and soils.

Based on the results of this study and the other available research, it is evident that the decline of cypress in the river is attributable to the upstream movement of salt water. Occasional inundation by saline surface water probably does not result in serious or long term effects. Frequent inundation, however, gradually increases the salinity of the floodplain's peat soils. Since these soils are not readily flushed, the resulting stress gradually spreads to more and more trees. Attempts to identify the principal cause of saltwater intrusion, and to make precise correlations between stress periods and the dates of known events likely to have affected tree growth, have been inconclusive. Nonetheless, three causes have been identified as contributing factors: (1) insufficient flows to the river; (2) dredging activities in the river's estuary and in Jupiter Inlet; and (3) the drawdown of groundwater levels by wells in the Jupiter-Tequesta area. Each of these factors must be addressed if the deterioration of the river's cypress communities is to be reversed.

FISH AND WILDLIFE

The combination of climate, vegetation, and water bodies in the Loxahatchee River area has resulted in the incidence of a highly diverse range of animal species. Two hundred sixty-seven species, consisting of 169 genera and 78 families, have been observed in and along the river and its estuary.

Aquatic animals are numerous in the marshes, lakes and streams in the river area. Freshwater fish include largemouth bass, speckled perch, bluegill, shellcracker, redbreast, warmouth, bowfin, gar, channel catfish and many species of minnows. The manatee, an endangered aquatic mammal, lives in the Loxahatchee River estuary. Numerous turtles also live in and around the river. Saltwater fish include snook, tarpon, mullet, bluefish, jack, sheepshead, drum, sand perch, grouper, snapper and flounder.

Mammals and birds are frequently encountered along the riverbank. The more commonly seen species include raccoon, opossum, whitetail deer, osprey, and several types of owls, egrets, herons and ibis.

Endangered or Threatened Species

The area surrounding the Northwest Fork is inhabited by 19 of the 108 vertebrate species identified as endangered, threatened or of special concern by the Game and Fresh Water Fish Commission (see Table II-3). In addition, the entire Loxahatchee River has been designated by the U.S. Fish and Wildlife Service as a critical habitat for the West Indian manatee.

Six additional species, although not identified on the official lists compiled by the State of Florida, have been identified as being either endangered, threatened or of special concern by the Florida Committee on Rare and Endangered Plants and Animals. The threatened osprey nests in dead cypress trees in the lower Northwest Fork. The great egret, the black-crowned night heron, the yellow-crowned night heron, the glossy ibis, and the white ibis, classified as species of special concern, are also found in the Loxahatchee River area.

ARCHAEOLOGICAL AND HISTORICAL RESOURCES

Cultural resources serve to portray the extent to which man has influenced the Loxahatchee River area historically. Man has left his imprint on the area as evidenced by the area's rich history and the archaeological resources that exist in the area. The geographic location of the river with its outlet to the Atlantic Ocean through Jupiter Inlet has drawn inhabitants to the area since it was first occupied by early Indian tribes. Through the years, the beauty of the area has continued to attract residents and tourists alike.

History

Jupiter Inlet has been known by several names throughout its history. Originally, the inlet was known as Hobe or Jobe for a tribe of Jeaga Indians who lived nearby. The English interpretation of Jobe was Jove, which later became Jupiter.

Table II-3

Endangered, Threatened, and Species of Special Concern
in the Area of the Northwest Fork

<u>Species</u>	<u>Status</u>
<u>Upland Species</u>	
Red-cockaded woodpecker (<u>Picoides borealis</u>)	Threatened
Southeastern kestrel (<u>Falco sparverius paulus</u>)	Threatened
Gopher frog (<u>Rana areolata</u>)	Special Concern
Gopher tortoise or turtle (<u>Gopherus polyphemus</u>)	Special Concern
Sherman's fox squirrel (<u>Sciurus niger shermani</u>)	Special Concern
Burrowing owl (<u>Athene cunicularia</u>)	Special Concern
<u>Transition Species</u>	
Kirtland's warbler (<u>Dendroica kirtlandii</u>)	Endangered
Eastern indigo snake (<u>Drymarchon corais couperi</u>)	Threatened
<u>Wetland and Aquatic Species</u>	
Wood stork (<u>Mycteria americana</u>)	Endangered
Everglades or Snail Kite (<u>Rostrhamus sociabilis</u>)	Endangered
Peregrine falcon (<u>Falco peregrinus</u>)	Endangered
Bald eagle (<u>Haliaeetus leucocephalus</u>)	Threatened
Florida sandhill crane (<u>Grus canadensis pratensis</u>)	Threatened
American alligator (<u>Alligator mississippiensis</u>)	Special Concern
Little Blue heron (<u>Egretta caerulea</u>)	Special Concern
Tricolored or Louisiana heron (<u>Egretta tricolor</u>)	Special Concern
Limpkin (<u>Aramus guaranauna</u>)	Special Concern
Snowy egret (<u>Egretta thula</u>)	Special Concern
West Indian manatee (<u>Trichechus manatus latirostris</u>)	Endangered

Source: Florida Game and Fresh Water Fish Commission
U.S. Fish and Wildlife Service

"Endangered species" means any species of fish and wildlife naturally occurring in Florida whose prospects of survival is in jeopardy due to modification or loss of habitat, over-utilization for commercial, sporting, scientific or educational purposes, disease, predation, inadequacy of regulatory mechanisms, or other natural or man-made factors affecting its continued existence.

"Threatened species" means any species of fish and wildlife naturally occurring in Florida which may not be in immediate danger of extinction, but exists in such small populations as to become endangered if it is subjected to increased stress as a result of further modification of its environment.

"Species of special concern" means any species of fish and wildlife naturally occurring in Florida which may not be threatened or endangered, but which has the potential to become threatened or endangered either through habitat modification or other adverse occurrences.

The name Loxahatchee originated from the two Seminole words, "Lowchow" meaning turtle, and "Hatchee" meaning river.

By the mid-1830s, Indians who subsequently became known as Seminoles began drifting into north Florida as a result of pressures from white settlers. The Seminoles occupied south Florida during and shortly after the Second Seminole War of 1835-1842, which drove them into the swamps of the Everglades. A battle with the Seminoles took place on January 24, 1838, in a dense hammock bordering the Loxahatchee River, probably near the present Indiantown Road.

General Thomas Jesup marched south with about 1,500 men in search of the Seminoles who had clashed with an amphibious patrol near Jupiter Inlet. On January 24, Jesup's column encountered about 300 Seminoles and their black allies at a crossing of the Loxahatchee, some 6 miles above where it discharges through Jupiter Inlet. A brief but savage fight ensued. General Jesup was slightly wounded, seven of his soldiers were killed, and 31 were wounded. The Indians and their allies fought with skill and determination and retired with slight losses. The next day, after a march toward the Inlet, the soldiers erected an enclosure which they named Fort Jupiter, where they remained for a week. This is referred to as "Jesup's Battle" after the commanding officer of the force pursuing the Seminoles. The spelling of the river name was changed from Lowchowhatchee to Lochahatchee by General Jesup in letters he

wrote while serving at Fort Jupiter. In later years, the spelling was again revised to Loxahatchee by a barge painter who had difficulty spelling the previous version.

Jupiter Inlet Lighthouse, listed in the Florida Master Site File, was commissioned on March 3, 1853 when Congress appropriated \$35,000 for the erection of a first-class lighthouse near Jupiter Inlet. By the time the light was completed in 1860, nearly twice the original \$35,000 had been spent. This was mainly due to the high cost of transporting construction materials to the area. Initially, because of opposition from local Indians it was very difficult to operate the lighthouse. During the Civil War, Confederate sympathizers removed the light mechanism and hid it to prevent its use, presumably, by the Union navy. Because the lens was impossible to duplicate, the original parts were recovered and saved until the end of the war when they were used to relight the beacon in June 1866.

Although not listed in the Florida Master Site File, Trapper Nelson's Zoo is located within the boundaries of Jonathan Dickinson State Park. Nelson was born in New Jersey in 1909. Dislike for the bitter northern winters caused Nelson to move to Florida while still in his teens. Because of poor trapping, Nelson abandoned his original beach settlement near Jupiter and moved to a wilderness area on the Northwest Fork of the Loxahatchee River. There he started to develop what was to become a nationally famous zoo after laws restricted him to

trapping on a seasonal basis. Nelson's large land holdings eventually made him a rich man, but problems associated with his wealth and the subsequent closing of his zoo by health officials turned Nelson into a recluse. Subsequently, he accepted visitors by appointment only and discouraged trespassers with a shotgun. In 1968, Trapper Nelson was found dead of a shotgun blast. To date, the circumstances of his death remain the subject of conjecture.

Archaeological and Historical Sites

The Florida Master Site File lists five sites within the vicinity of the Loxahatchee River corridor. The composition of these sites attests to the early Indian habitation of the river area and provides useful information concerning the diets and habits of these early inhabitants.

The first site is located in Martin County on Hobe Sound near Jonathan Dickinson State Park. The Palm Beach County sites include two middens located on either side of Jupiter Inlet, and a 15-foot mound located immediately east of the river's floodplain south of the Florida Turnpike. A fifth site, the Loxahatchee River Earthworks, is located approximately 1.8 miles south of Indiantown Road and northwest of the northeasterly bend in C-18.

Of these sites, only the Indian mound is located within the immediate area of the proposed Loxahatchee Wild and Scenic River

corridor. This archaeological feature was first documented in 1953 after the U.S. Geological Survey noted the distinctive elevation on a topographic map of the area. The potential archaeological significance of this mound has not been determined since no professional assessment of the site has been conducted. Similar types of archaeological features have yielded much information about the habits, diet, and rituals of the early inhabitants in the area. Staff of the Department of State, Division of Archives, History and Records Management has stated that the likelihood is high that similar but undocumented archaeological sites exist in the immediate area.

LAND USE AND LAND USE REGULATION

Land Use Patterns

Land Use in the Drainage Basin

As shown in Figure II-5, the Loxahatchee River drainage basin is predominately undeveloped. Wetlands comprise a large portion of the river's upper watershed and a total of one-half of the drainage basin's 210 square miles. Urban areas and areas committed to urban uses make up one-quarter of the basin. The large agricultural and forested upland areas in the northern portion of the basin collectively comprise another one-quarter of the basin.

Land in the river's watershed is being converted to urban uses at a rapid rate. The extreme southeastern section of the basin along the eastern edge of Loxahatchee Slough is one of the

Table II-4







Land Use and Land Cover
in the Loxahatchee River Drainage Basin

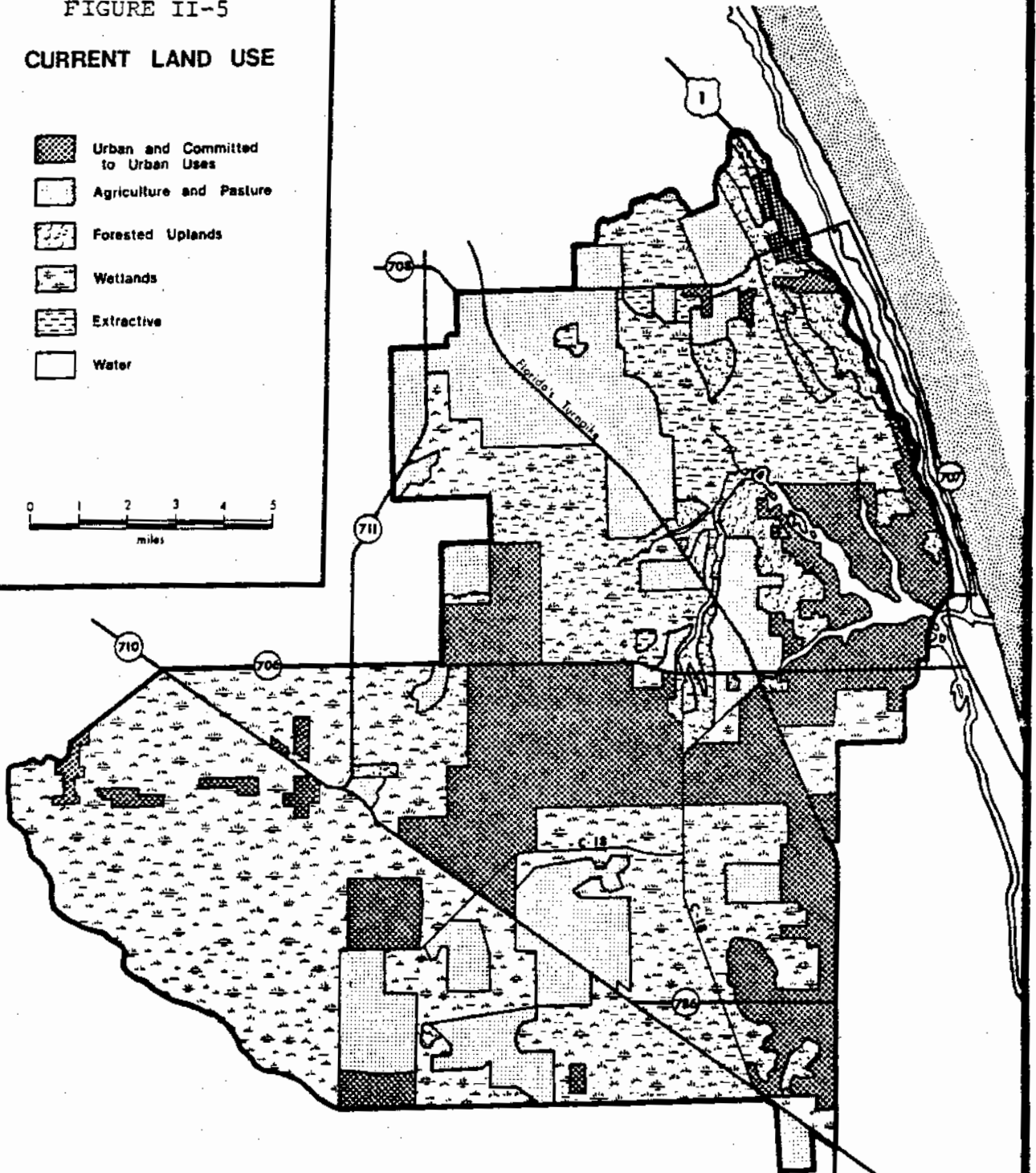
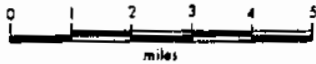
<u>Classification Area</u>	<u>Acreage</u>	<u>Percentage of Basin</u>
Wetlands	66,528	49.5
Urban and Committed to Urban Uses	33,331	24.8
Agriculture	27,015	20.1
Forested Uplands	7,123	5.3
Extractive	403	0.3
	<u>134,400</u>	<u>100.0</u>

Source: Florida Department of Transportation

fastest developing areas in the basin. Between 1979 and 1984, more than 2,100 building starts occurred in this area. Four large residential developments are in varying stages of approval or development. Another major area of land development is located in the central portions of the basin, both east and west of C-18. Palm Beach Country Estates, located west of the Loxahatchee River and south of Indiantown Road, is one example of the type of land development activity that has occurred in this portion of the basin. This 9,000-acre subdivision was platted in the 1920s and consists of parcels generally ranging in size from one to five acres. Today, only 25 percent of the area is developed. When completed, the project will contain over 4,600 dwelling units and a population of more than 11,000 residents. This area is unique in respect to the Loxahatchee River because it is located directly at the head of the wild and

FIGURE II-5
CURRENT LAND USE

-  Urban and Committed to Urban Uses
-  Agriculture and Pasture
-  Forested Uplands
-  Wetlands
-  Extractive
-  Water



SOURCE: Florida Department of Transportation

Table II-5

Land Use and Land Cover
in the Vicinity of the Northwest Fork

<u>Classification</u>	<u>Acreage</u>	<u>Percent</u>
Wetlands	4,005	24.4
Urban and Committed to Urban Uses	3,921	24.0
Forested Uplands	3,904	23.9
Agriculture	3,875	23.7
Water	570	3.4
Extractive	95	0.6
	16,370	100.0

Source: Florida Department of Transportation

scenic river segment and does not currently have any other primary drainage outfall. Additionally, since the area was subdivided before current water quality regulations were in effect, the area does not have provisions for the retention of surface water runoff. A third area undergoing urbanization, and perhaps the one with the greatest potential for directly affecting the river, is the area north of Indiantown Road, bordered on the west, north, and east by the Northwest Fork. Existing land use activity is predominately agricultural, and most of the land is in pasture or pine flatwoods. Nine major developments, consisting of 608 acres, either have been proposed or approved in this area.

Land Use in the River Area

Land use patterns in the immediate vicinity of the Northwest Fork are similar to those throughout the rest of the drainage basin (see Figure II-6). Wetlands are characterized primarily by extensive areas of pine and wet prairie, by the cypress river swamp community, and by mangroves.

Agriculture accounts for approximately 23 percent of the land use in the vicinity of the Northwest Fork. Croplands, consisting mainly of truck farms, are located along either side of the middle segment of the river. In most cases, these areas are separated from the river corridor by a band of pine and scrubby flatwoods. Orchards and groves predominate in the northwestern sections of the river area. Several small citrus groves are located in the Indiantown Road area within approximately 250 feet of the river. Improved pasture comprises a major portion of the agricultural land cover east of the Florida Turnpike.

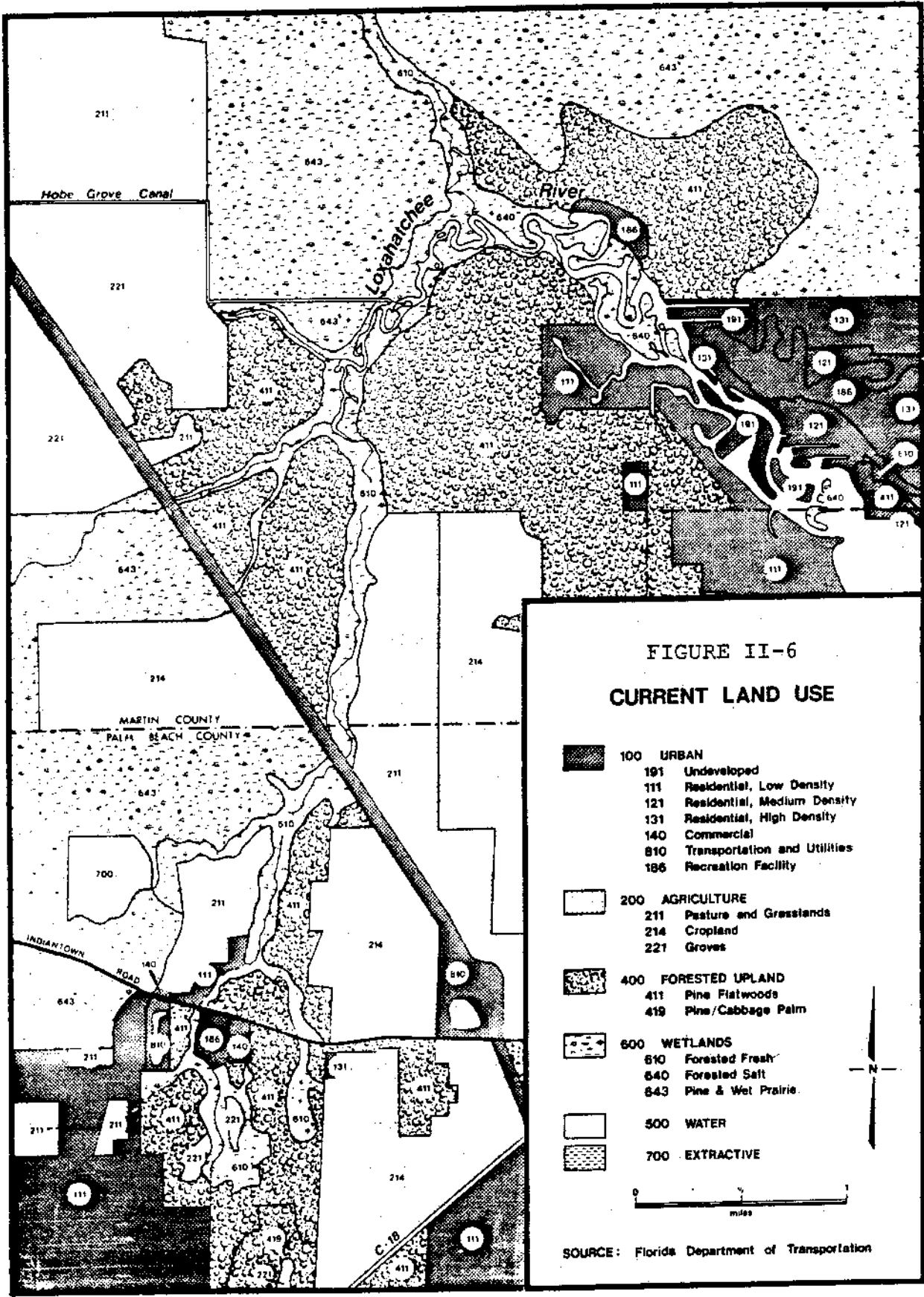
Developed areas and areas that are committed to urban uses are scattered throughout the eastern and southern portions of the mapped area, primarily in the areas southeast of Jonathan Dickinson State Park and below Indiantown Road. Less than a dozen residential structures exist in the immediate vicinity of the wild and scenic river segment. These include single family houses, mobile homes and cabins. A small community shopping center is located 0.2 miles west of the river on Indiantown Road.

Land Use Planning and Regulation

Local land use planning and regulatory authority in the immediate vicinity of the river is shared between Palm Beach County, Martin County, and the Town of Jupiter. In general, land use regulatory techniques have been successful in preventing development in areas where direct adverse impacts on the natural and scenic qualities of the river would result. Zoning and other police power applications are the tools most commonly used to regulate development. Although most of the privately owned land in the basin area is zoned to permit land development of some type, allowable densities immediately adjacent to the river are generally low, as shown in Figure II-7.

Palm Beach County

The Palm Beach County Comprehensive Plan identifies the Loxahatchee River as an "Area of Particular Concern" to be preserved in its natural state. County subdivision regulations provide two processes for approval of subdivision plans. The first process is applied in cases when the applicant demonstrates that the proposed activity satisfies standard subdivision requirements. The second process is utilized for evaluating applications for Planned Unit Developments and other cases when an applicant seeks an exception or exemption from standard criteria relating to density, drainage, or similar requirements. In the latter process, some of the standard requirements may be



waived in lieu of negotiation of the conditions for approval. In these cases, the County may require the applicant to meet certain performance criteria, such as higher-than-standard building setbacks from wetlands and other environmentally sensitive areas, as a condition of approval. This process has been effective in directing land development activities away from the proposed river corridor area.

Special regulatory protection is provided for the Loxahatchee Slough. The southern portion of the Slough area and the Slough's southern extension (outside of the river's drainage basin) is a principal storage area for municipal water supplies for the City of West Palm Beach. Development adjacent to the Slough is subject to special performance standards and a review coordination process. The Slough is designated as a "Conservation Area" and is zoned to permit development related directly to agricultural uses. Nevertheless, owners of property in this area may transfer a density allotment of one dwelling unit per 5 acres to other property within the Palm Beach County Urban Service Area to compensate for the loss of the right to develop their land for residential purposes.








Martin County

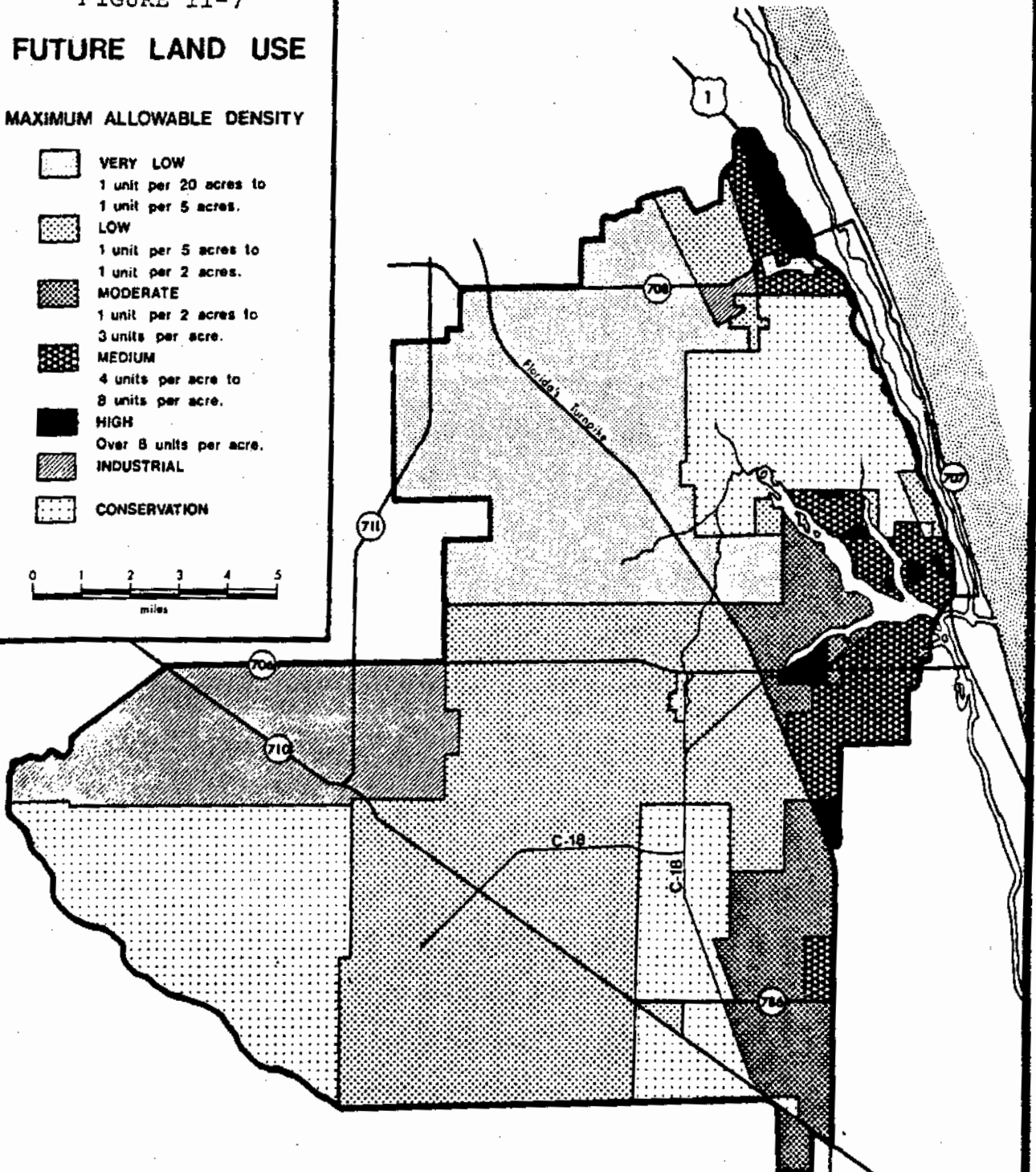
The land use regulatory methods utilized by Martin County are similar in many respects to those of Palm Beach County, however, several important differences exist. All development is

FIGURE II-7

FUTURE LAND USE

MAXIMUM ALLOWABLE DENSITY

-  VERY LOW
1 unit per 20 acres to
1 unit per 5 acres.
-  LOW
1 unit per 5 acres to
1 unit per 2 acres.
-  MODERATE
1 unit per 2 acres to
3 units per acre.
-  MEDIUM
4 units per acre to
8 units per acre.
-  HIGH
Over 8 units per acre.
-  INDUSTRIAL
-  CONSERVATION



SOURCE: Martin County, Community Development Department.
Palm Beach County, Department of Planning, Zoning, and Building.

prohibited in areas with wetland soils. In addition, a requirement for a 50-foot shoreline protection zone has been established in ecotonal areas adjacent to saltwater wetlands. No site alterations, including filling, grading or dredging, are permitted upland from the mean high water line in these buffer areas. Further, when subdivision approval or zoning exceptions are sought for activities in the vicinity of Cypress Creek, Kitching Creek, or the Loxahatchee River, an application review process is used to require mitigation of adverse effects on water quantity and quality. If planned unit development approval is sought, county regulations provide for the transfer of up to one-half of the permitted density for that portion of the property having wetland characteristics.

Town of Jupiter

All wetlands and environmentally sensitive areas within the Town of Jupiter, especially those subject to flooding, are classified as "Conservation Areas" in the Town's comprehensive plan. The plan discourages development in these areas, but there is no ordinance in effect to enforce compliance.

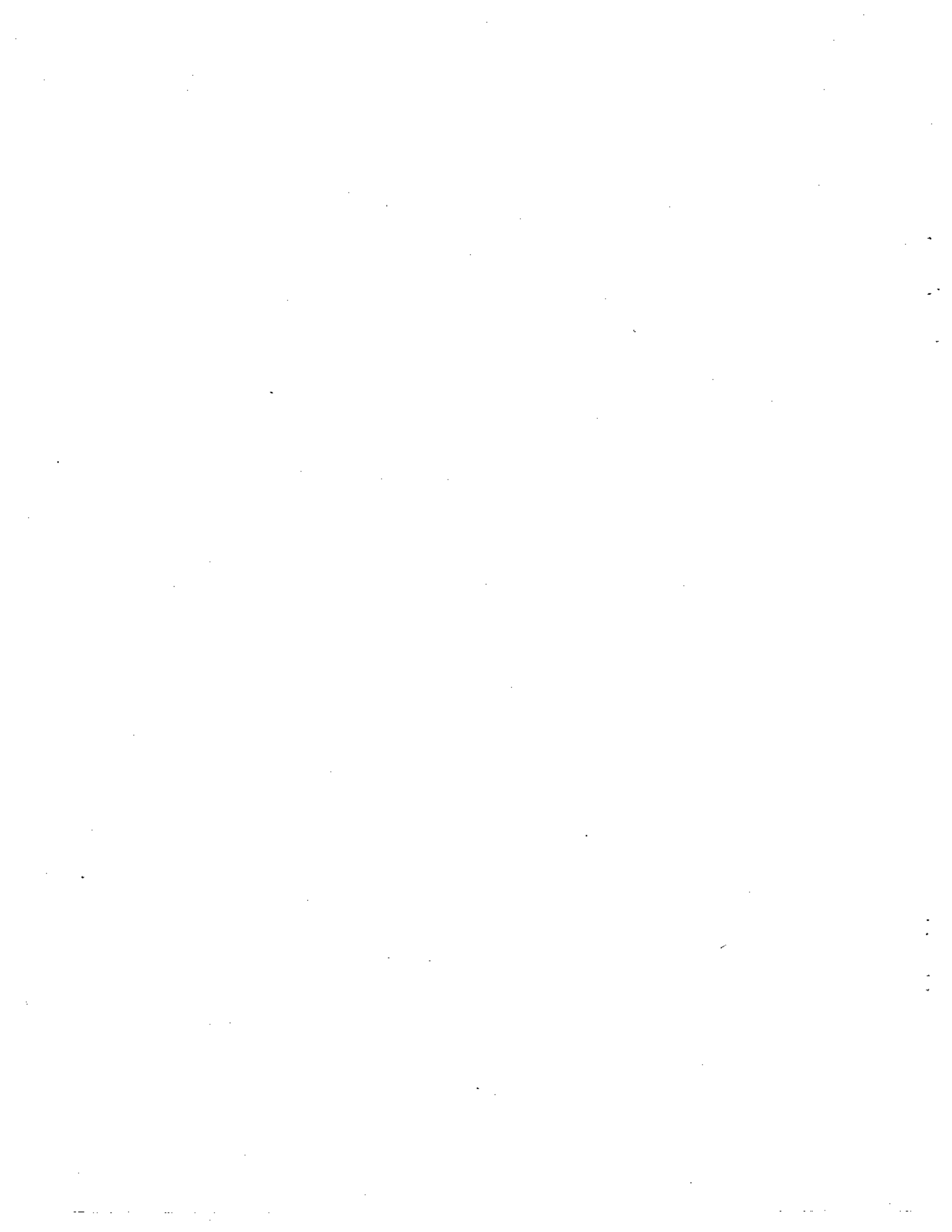
LAND OWNERSHIP

Approximately 4.8 miles of the 7.5-mile river segment proposed for national designation are publicly owned. These public lands include 4.25 miles of riverfront land in Jonathan Dickinson State Park, approximately 0.5 mile of riverfront land

in Riverbend Park, and approximately 750 feet of land along the west bank of the river north of Indiantown Road owned by the Town of Jupiter.

Private property between Riverbend Park and Jonathan Dickinson State Park is divided into eight parcels of various sizes, ranging from one to more than 400 acres. The majority of private land along the river is held in trust for the John D. and Catherine T. MacArthur Foundation. These lands are identified in county ownership records as being held by Royal American Industries, Inc.

Estimated land values along the Loxahatchee River vary according to development potential and access. Land values in the Jupiter Farms community near Riverbend Park range from \$8,000 to \$12,000 per acre. Between Indiantown Road and Jonathan Dickinson State Park, land in the river corridor is valued at \$2,200 to \$22,000 per acre.



CHAPTER III PUBLIC ACCESS AND USE

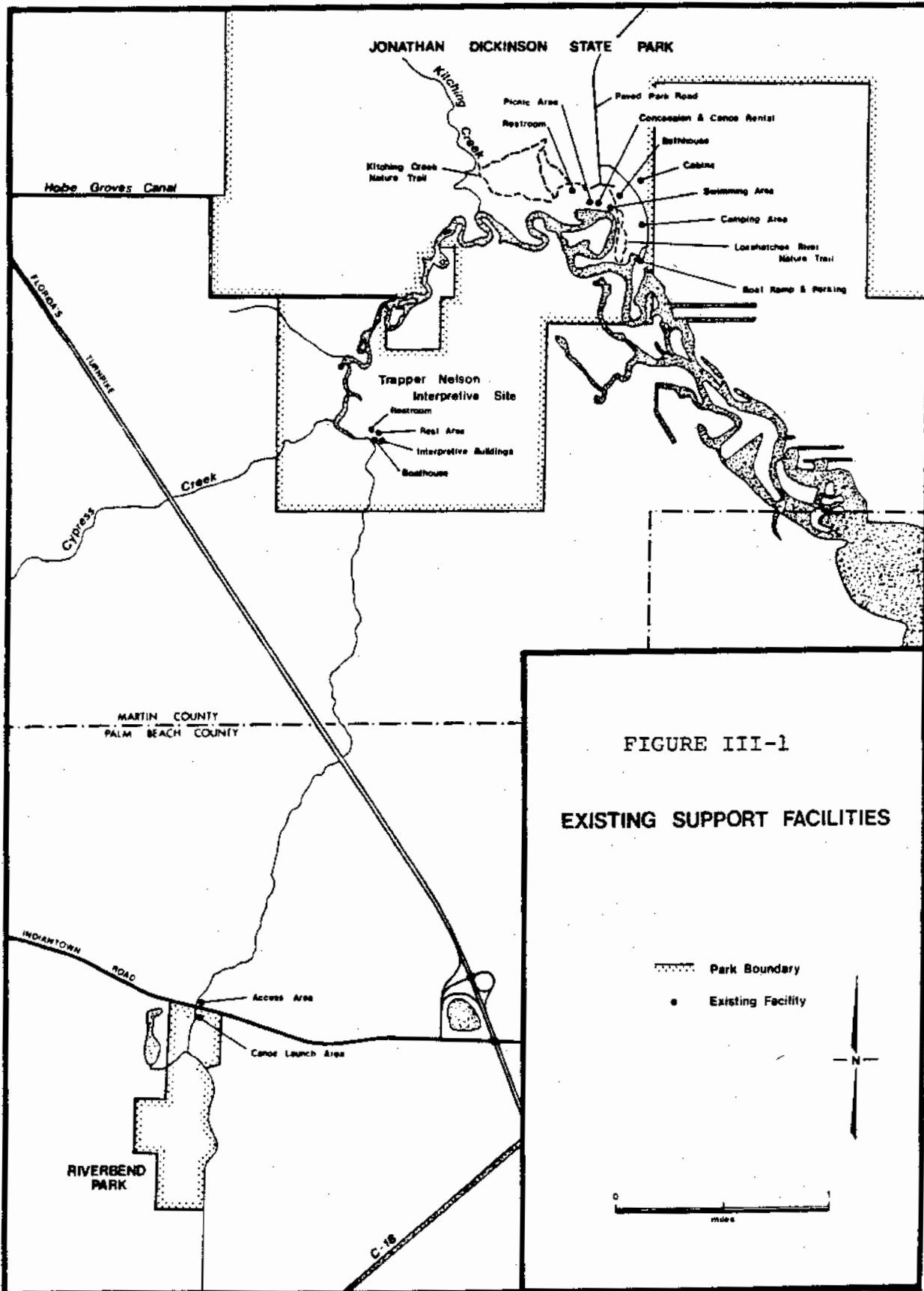
Unlike many rivers in Florida that are popular for outdoor recreation, the Loxahatchee is relatively limited in terms of public access. Existing access and support facilities are clustered at each end of the 7.5-mile segment proposed for designation. As a result, public use tends to concentrate in these two areas. This chapter describes the existing access and support facilities that exist within the river area and identifies the patterns of recreational use that have been observed on the river.

EXISTING ACCESS FACILITIES

Riverbend Park and Jonathan Dickinson State Park are the two primary public access areas on the river (see Figure III-1). Riverbend Park, located at the southern end of the segment, is currently an undeveloped area comprising 187 acres. The park has no developed facilities except an unlighted baseball diamond and a parking lot capable of accommodating approximately 20 vehicles. Riverbend Park is the principal launching point for canoe trips downriver to Jonathan Dickinson State Park. A minor access point, consisting of an unimproved boat ramp, is located outside of the park on the north side of the Indiantown Road right-of-way.

The public access area at Jonathan Dickinson State Park actually consists of two discrete access points. A boat dock is located near river mile 7. Restroom, bathhouse, swimming and picnicking facilities are nearby. The dock is a day-use facility and is the primary launching and take-out point for canoeists who rent boats from the park concessionaire. It is also the staging area for river cruises on the 36-foot "Loxahatchee Queen", operated by the concessionaire. The park's other access facility is located 0.5 miles downriver at river mile 6.5. This site is used primarily by park visitors who bring their own canoes, but it is also used occasionally as a take-out point by canoeists completing the trip from Riverbend Park. The site consists of a concrete boat ramp and is adjacent to a developed public use area with camping, parking areas and a 0.6-mile nature trail.

Several secondary access points exist in the river corridor area, but these are relatively insignificant as contributing sources of use pressure. An unimproved site immediately north of the Florida Turnpike at river mile 11.6 is used as a rest stop and picnic area by canoeists on the trip from Riverbend Park to Jonathan Dickinson State Park. Heavy use occurs on weekends, and some evidence of litter, streambank deterioration and soil compaction exists. This site has been utilized as a launching point in the past, but this no longer occurs since access to the site from Indiantown Road has been eliminated.



The Trapper Nelson Interpretive Site in Jonathan Dickinson State Park is also used frequently as a rest stop by canoeists from Riverbend Park. The site is the destination for the "Loxahatchee Queen" cruises, and is also a primary destination for canoeists who rent canoes from the park concession operation. Overland public access to the site through the state park is prohibited, so the site does not contribute to the total volume of river use. Restroom, picnicking, and interpretive facilities are located at the site.

Another secondary access point is located at about river mile 6 (outside of the designated river area) on private property immediately downstream from the Tanah Keeta Boy Scout Camp. The site has no development or improvements of any kind, and is utilized exclusively as the take-out point for the concession operation at Riverbend Park.

Several private residential access points exist in the "recreational" and "scenic" segments of the river between Indiantown Road and river mile 12.7. These sites are essentially primitive in nature and involve disturbed areas of shoreline ranging in length from less than 10 feet to approximately 100 feet. One small private dock (approximately 80 square feet) has been constructed in this area, but the structure is now in a state of disrepair and is probably unusable.

CURRENT USE PATTERNS

The Loxahatchee's natural features and its proximity to the urban areas of southeast Florida make it exceptionally well suited to provide outdoor recreation. Historically, canoeing has been the main recreational use of the river and its surrounding area. Many other activities are enjoyed in the general area of the wild and scenic river segment, including fishing, nature study, wildlife observation, motor boating, and hunting. Motor boating is effectively restricted to the portion of the river downstream from the Trapper Nelson Interpretive Site because of the narrow channel, numerous obstructions, and shallow depth of the upper river. Since virtually all public recreational use of the upper river involves canoeing, either as the primary activity or as a means of gaining access to the river area to enjoy other activities, the following discussion is limited to use of the river by canoeists.

The Loxahatchee presents a relatively uncomplicated situation for measuring recreational use because of its limited access and comparatively homogeneous use. To estimate canoeing activity on the river, the Department utilized trip records provided by Canoe Outfitters of Florida, Inc. (the concession operator at Riverbend Park), State Vending Corporation, Inc. (the concession operator at Jonathan Dickinson State Park), and the Tanah Keeta Boy Scout Camp. This information was supplemented by sample observations made during July 1983 by the Save the Loxahatchee River

Coalition. In cases when documentation or direct observations of use were not available, the Department relied on estimates provided by knowledgeable local experts.

From these sources, it was estimated that the amount of canoeing on the Northwest Fork during the period between July 1, 1982 and June 30, 1983, totaled more than 18,500 canoes. Considerable variation existed in the location, nature, and timing of this activity, and these variations have important implications on the management of recreational activity on the river. The following sections examine this activity in terms of its major components, temporal patterns and user characteristics.

Components of Use

Two general components of use were identified during the development of this plan: (1) a commercial component, comprised of concession patrons; and (2) a non-commercial component, comprised of Boy Scouts and private individuals who use their own canoes. Together, these two components account for all identified canoeing on the river. As shown in Table III-1, the commercial component accounts for more than 90 percent of all canoeing. The non-commercial component represents less than one-tenth of total use. Each of these components is discussed more fully below.

Commercial Component

The two concession operations, situated at opposite ends of the 7.5-mile segment, are ideally located to serve canoeists'

TABLE III-1

Components of Canoeing on the Northwest Fork
July 1982 - June 1983

<u>Component</u>	<u>Number of Canoes</u>	<u>Percent of Total Use</u>
Commercial Component		
-Riverbend Park concession	2,426	13.1
-Jonathan Dickinson State Park concession	<u>15,000</u>	<u>81.0</u>
Commercial subtotal	17,426	94.1
Non-Commercial Component		
-Tanah Keeta Boy Scouts	726	3.9
-Private individuals	<u>364</u>	<u>2.0</u>
Non-commercial subtotal	1,090	5.9
Total use (all components)	18,516	100.0

needs for boats, equipment and transportation. The Riverbend Park concession operation is conducted in accordance with an annual agreement with Palm Beach County, and serves canoeists who run the entire length of the river. Canoeists assemble in the park at the parking area and are launched in groups of varying sizes at periodic intervals. The trip takes approximately six hours and ends at the concessionaire's access site near river mile 6. The concessionaire provides shuttle service back to Riverbend Park. During the period from July 1982 to June 1983, this concession operation provided approximately 13 percent of all identified canoeing on the river, and more than 80 percent of the canoeing on the upper section of the river (see Table III-2).

TABLE III-2

Canoeing on the Northwest Fork, by Point of Origin,
July 1982 - June 1983

<u>Point of Origin</u>	<u>Number of Canoes</u>	<u>Percent of Use</u>
<u>Riverbend Park</u>		
Commercial Component		
-Riverbend Park concession	2,426	61.9
-Jonathan Dickinson State Park concession	<u>402</u>	<u>10.3</u>
Commercial subtotal	2,828	72.2
Non-Commercial Component		
-Tanah Keeta Boy Scouts	726	18.5
-Private individuals	<u>364</u>	<u>9.3</u>
Non-commercial subtotal	1,090	27.8
Total use, Riverbend Park	3,918	100.0
<u>Jonathan Dickinson State Park</u>		
Commercial Component		
-Jonathan Dickinson State Park concession	14,598	100.0
Non-Commercial Component		
-Private individuals	<u>negligible</u>	<u>0.0</u>
Total use, Jonathan Dickinson State Park	14,598	100.0
Total use, all origins	18,516	100.0

The state park concessionaire serves canoeists who float the section of the river in the state park, but also provides infrequent rentals and shuttle service to and from the unimproved access north of Indiantown Road. The trip to the Trapper Nelson

Interpretive Site consists of an upstream leg of approximately 3.5 miles, and a downstream return trip to the concession boat dock. The canoes from this concession operation accounted for more than three-fourths of the total canoe traffic on the river during the study period, and virtually all of the canoeing on the lower river.

Non-Commercial Component

The Tanah Keeta Boy Scout Camp accounted for four percent of the total canoeing and two-thirds of non-commercial canoeing in 1982-1983. From September through May, camp staff shuttle canoes and scouts to Riverbend Park on weekend days. Camp records indicate that as many as all of the camp's 20 canoes were launched from Riverbend Park on Saturdays and Sundays during this season. Average daily launches on weekends, however, averaged slightly more than nine canoes. During the summer months (June through August), camp canoes were used only within the immediate vicinity of the camp, located beyond the designated segment of the Loxahatchee proposed for national designation.

Using estimates from knowledgeable individuals, it was determined that private individuals and groups who provide their own canoes made up an extremely small portion (estimated at two percent) of all canoeing on the river. Most of these canoeists launch at Riverbend Park, but some utilize the unimproved access on the north side of the Indiantown Road right-of-way.

TABLE III-3

Seasonal Canoeing on the Northwest Fork,
by Component, 1982 - 1983

<u>Component</u>	<u>Quarter</u>				<u>Annual Total</u>
	<u>July- Sept.</u>	<u>Oct.- Dec.</u>	<u>Jan. March</u>	<u>April- June</u>	
	(number of boats)				
Commercial Component					
-Riverbend Park concession	593	446	487	900	2,426
-Jonathan Dickinson State Park concession	<u>3,990</u>	<u>2,535</u>	<u>3,825</u>	<u>4,650</u>	<u>15,000</u>
Commercial subtotal	4,583	2,981	4,312	5,550	17,426
Non-Commercial Component					
-Tanah Keeta Boy Scouts	123	172	253	178	726
-Private individuals	<u>92</u>	<u>64</u>	<u>84</u>	<u>124</u>	<u>364</u>
Non-Commercial subtotal	215	236	337	302	1,090
Total, all components	4,798	3,217	4,649	5,852	18,516

Temporal Patterns

River use exhibited both seasonal and weekday-weekend fluctuations. As shown in Table III-3 and Table III-4, the heaviest use, in terms of total volume, occurred during the spring quarter. The lightest use of the year occurred during the fall quarter. The Boy Scout camp displayed the highest seasonality of all use components, and this pattern exerted an important influence in dampening canoeing activity during the highest use seasons.

TABLE III-4

Weekday and Weekend Canoeing Activity, by Component,
July 1982 - June 1983

	<u>Weekdays</u>		<u>Weekends</u>	
	<u>Number of Canoes</u>	<u>Percent of Total Use</u>	<u>Number of Canoes</u>	<u>Percent of Total Use</u>
Commercial Component				
-Jonathan Dickinson State Park concession	5,000	33.3	10,000	66.6
-Riverbend Park concession	<u>112</u>	<u>4.6</u>	<u>2,314</u>	<u>95.4</u>
Commercial subtotal	5,112	37.9	12,314	162.0
Non-Commercial Component				
-Tanah Keeta Boy Scouts	0	0.0	726	100.0
-Private individuals	<u>17</u>	<u>4.7</u>	<u>347</u>	<u>95.3</u>
Non-commercial subtotal	17	4.7	1,073	195.3
Total, all components	5,129	27.7	13,387	72.3

The second type of temporal fluctuation is the extreme difference between weekend and weekday canoeing. As shown in Table III-4, canoeing peaked on weekends for all components during 1982-1983. The difference between weekday and weekend activity, however, was less pronounced for some components than others. The state park concessionaire's weekday rentals were one-third of total rentals, probably due to weekday campers at the park. This was in sharp contrast to the light weekday canoeing generated by concession patrons and private individuals at Riverbend Park.

Group Size

Information on group characteristics was obtained from records provided by Canoe Outfitters of Florida, Inc. This information shows that for canoes launched between July 1981 and June 1983, a nearly even division existed between small groups of one or two canoes and larger groups of three or more canoes, as shown in Table III-5.

Seasonal variations in group size during the two-year period were greatest among the smallest and the largest groups. Use of the river by groups of one or two canoes and by groups of ten or more canoes appears to be inversely correlated.

TABLE III-5

Canoeing Group Size, by Season,
January 1981 - June 1983

Quarter	Group Size (Percent of Canoes)										All Canoes
	1	2	3	4	5	6	7	8	9	10+	
January - March	30.8	31.8	10.1	3.6	4.5	5.4	0	3.6	1.0	4.2	100
April - June	21.1	23.5	13.7	9.2	6.0	4.7	4.2	2.4	3.3	11.9	100
July - September	21.3	23.6	15.6	8.1	5.7	4.6	1.8	2.0	1.1	10.1	100
October - December	24.8	30.4	14.9	10.1	5.8	5.5	2.4	3.7	1.0	1.4	100
Annual Percentage	23.9	26.7	13.6	9.0	5.6	5.0	2.5	2.9	1.9	8.9	100

Canoeing Group Size, by Season,
January 1981 - June 1983

Quarter	Group Size (Percent of Groups)										All Canoes
	1	2	3	4	5	6	7	8	9	10+	
January - March	56.1	28.9	6.2	3.9	1.65	1.65	0	.8	.2	.6	100
April - June	48.1	26.8	10.4	5.2	2.7	1.8	1.4	.7	.8	2.1	100
July - September	48.3	26.7	11.8	4.6	2.6	1.7	.6	.6	.3	2.9	100
October - December	49.0	30.1	9.8	5.0	2.3	1.8	.7	.9	.2	.2	100
Annual Percentage	50.2	28.0	9.6	4.7	2.4	1.7	.8	.8	.4	1.4	100



CHAPTER IV MANAGEMENT AUTHORITY AND DIRECTION

The number and variety of management authorities referenced in this chapter reflect the broad scope of the river management program. The discussion of authorizing statutes, rules, and policies is organized according to the governmental bodies in which authority is vested, beginning with the four primary management agencies. Where noted, the respective laws and administrative rules are included as addenda to the plan.

PRIMARY MANAGEMENT AGENCIES

The Department of Natural Resources and the South Florida Water Management District are the lead agencies responsible for implementing the management program for the wild and scenic river. The statutory authority for each agency's participation in the river management program is summarized below.

Department of Natural Resources

Executive authority for administration and management of the designated river corridor area ultimately lies with the Governor and Cabinet, serving as both the Executive Board of the Department of Natural Resources and as the Board of Trustees of the Internal Improvement Trust Fund, acting through the Executive Director of the Department of Natural Resources. The

Department's basic authority for planning and implementing a program for managing the river is found in Chapter 83-358, Laws of Florida. This statute authorizes the Department, in cooperation with the South Florida Water Management District, to develop and periodically amend a river management plan, conduct necessary resource management activities, establish a carrying capacity for recreational use on the river, and adopt rules to regulate activities in the designated river corridor area. This statute and the specific authorities it provides are discussed later in this chapter.

Chapter 258, Florida Statutes, authorizes the Department's Division of Recreation and Parks to manage State-owned parks and recreation areas and to adopt rules for managing these areas. Section 258.034, declares the policy of the Division to be, in part, to acquire typical portions of the state's original environment for access by the general public, and to manage these areas so as to conserve the natural values which derive from them. In implementing this policy, the Division is authorized to cooperate with county governments in park and recreation matters (Section 258.041), and to negotiate interagency agreements with water management districts to manage district lands reserved for recreational purposes (Section 258.004).

Chapter 258 also clearly establishes the proprietary overview role of the Board of Trustees of the Internal Improvement Trust Fund in the management of sovereignty submerged lands. The

Florida Aquatic Preserve Act (Sections 258.35-258.46), authorizes the Department to establish aquatic preserves on sovereignty submerged lands and to evaluate the use of submerged lands within preserves based on the public interest and on the merits of proposed projects within the context of environmental impact. Chapter 16Q-20, Florida Administrative Code, provides for management of sovereignty lands within a preserve primarily to maintain essentially natural conditions, promote development of fish and wildlife, and provide opportunities for public recreation, including hunting, fishing, and boating where deemed consistent with the overall purpose of the Aquatic Preserve Act.

South Florida Water Management District

The Florida Water Resources Act of 1972 (Chapter 373, Florida Statutes), is the basic source of the District's authority to acquire land and to regulate surface water and groundwater management and water consumption. Specific authority for these activities is contained in Chapter 373, Parts II, III and IV. Section 373.59 creates the Water Management Lands Trust Fund, which is the source of funding for the Save Our Rivers Program, and authorizes the District to acquire property for a variety of management purposes, including the conservation and protection of water resources.

The District is specifically authorized to participate in the management of the wild and scenic river by the provisions of

Chapter 83-358, Laws of Florida. This Act provides the District with broad permitting authority to regulate activities outside of the designated river corridor which would have direct and substantial adverse effects on the river. The specific authorities provided by this statute are discussed later in this chapter.

OTHER MANAGEMENT AGENCIES

Palm Beach County

Chapters 125, 162, and 163, Florida Statutes, vest the County with authority to regulate use and development of private property within its jurisdiction, including property within the wild and scenic river corridor. Specifically, Chapter 125 authorizes the County to adopt and enforce a comprehensive plan, zoning ordinances, and technical codes to regulate development for the public's health, safety and welfare. Chapter 162 authorizes the County to establish a code enforcement board to administer the zoning, subdivision, floodplain and other technical regulatory codes to control development and use of private property. Chapter 163 further clarifies and elaborates on the County's authority in the areas of comprehensive planning, zoning, technical codes and related matters. The 1980 Palm Beach County Comprehensive Plan supplements the County's other authorities by establishing performance standards for development in various environmentally sensitive areas. The County's authority to administer Riverbend Park as a recreational area derives from

Section 125.01(f), Florida Statutes, which authorizes county general governments to provide public parks, recreation areas and recreation programs.

Martin County

The general local government statutory authorities identified for Palm Beach County apply as well to Martin County. In addition to these authorities, the 1982 Martin County Comprehensive Plan prohibits development in wetland areas, specifically including the Loxahatchee River, Cypress Creek and Kitching Creek. This plan also applies the requirement for a 50-foot building setback in ecotonal areas adjacent to saltwater wetlands as a performance standard for new development.

Town of Jupiter

Like Palm Beach and Martin Counties, the Town of Jupiter is authorized by applicable laws to regulate the use and development of private lands for the public health, safety and welfare. The Town has adopted a comprehensive plan in accordance with Section 163.3161, Florida Statutes. This plan designates areas subject to flooding as Conservation Areas and discourages development in these areas.

OTHER AGENCIES

In addition to the agencies with direct management responsibilities in the wild and scenic river corridor area, numerous other agencies and private interests are involved in

activities which affect the river. These agencies are directed by various federal, state, and local authorities.

Federal Agencies

Three federal entities are involved in activities affecting the management of the river. These are the National Park Service, the U.S. Fish and Wildlife Service, and the U.S. Army Corps of Engineers.

National Park Service

This agency administers the National Wild and Scenic River Program in accordance with the Wild and Scenic Rivers Act (16 U.S. Code 1271). Under the broad authority of this act, the National Park Service conducts studies on the eligibility of rivers proposed for designation in the national system and coordinates with states in the development and implementation of management plans for rivers in the system. The National Park Service also reviews permits required by the U.S. Army Corps of Engineers under Section 404 of the Clean Waters Act of 1972 for potential environmental impacts on national wild and scenic rivers. Based on the authority of Section 7(a) of the Act, no federal agency may assist by loan, grant, license or otherwise in the construction of any water resources project that would have a direct and adverse effect on any of the resource values of the designated segment of the river.

U.S. Fish and Wildlife Service

Section 401 of the Fish and Wildlife Coordination Act of 1958 (16 U.S. Code 661, as amended), authorizes the U.S. Fish and Wildlife Service to participate in the review of dredge and fill permit applications. The Service's participation in this activity is based on its vested interest in the conservation of wetlands as wildlife habitat for federally protected species. In addition, the Service is authorized to administer the Endangered Species Act of 1973 (16 U.S. Code 1531, as amended). This Act seeks to ensure the continued existence of endangered species by requiring federal agencies to consult with the Service whenever an agency's actions may be detrimental to an identified species or its habitat.

U.S. Army Corps of Engineers

Section 10 of the Rivers and Harbors Act of 1899, (30 Statute 1131, as amended), authorizes the U.S. Army Corps of Engineers to regulate dredging of obstructions and review proposals for channel construction and improvements in navigable waterways including the Loxahatchee River. This Act, together with Section 404 of the Clean Waters Act of 1972 (33 U.S. Code 1344, as amended), relating to the regulation of dredge and fill activities in wetlands, involves the Corps indirectly in the State's management of the wild and scenic river.

State Agencies

In addition to the Department of Natural Resources and South Florida Water Management District, seven other state agencies affect the river in less direct, but nonetheless important capacities. Authority for these agencies' involvement is based on various chapters of the Florida Statutes.

Department of Environmental Regulation

Chapter 403, Florida Statutes, provides for the maintenance and enhancement of water quality and wetlands protection through programs administered by the Department of Environmental Regulation. Section 403.061 authorizes the Department to perform a variety of functions with regard to waters of the state. As far as protection of the wild and scenic river is concerned, the most important Departmental responsibilities involve the establishment of ambient water quality standards, water quality sampling, regulation of known sources of pollution, and enforcement of rules pertaining to Outstanding Florida Waters. The Department's administrative rules concerning ambient water quality standards and Outstanding Florida Waters are contained in Chapters 17-3 and 17-4, Florida Administrative Code, respectively. Chapter 84-79, Laws of Florida, The Warren S. Henderson Wetlands Protection Act of 1984, authorizes the Department to establish rules concerning water quality criteria for wetlands to enable the State to more effectively regulate use of wetlands under Departmental jurisdiction.

Department of Community Affairs

The Department's efforts to ensure consideration of unique natural resources such as the Loxahatchee River in local and regional planning are authorized by Chapters 380 and 163, Florida Statutes. Sections 380.045, 380.05, and 380.06 respectively authorize the Department to establish resource planning and management committees, coordinate designation of areas of critical state concern, and administer the review of developments of regional impact. Section 163.3184 authorizes the Department to coordinate State agency review of local government comprehensive plans.

Department of State

Chapter 267, Florida Statutes, vests the Division of Archives, History and Records Management with title to historical and archaeological resources and artifacts on state-owned lands. The statute provides the Division with the authority to locate and arrange for the protection, preservation and restoration of historical and archaeological property of other governmental agencies.

Game and Fresh Water Fish Commission

Chapter 372, Florida Statutes, vests the Game and Fresh Water Fish Commission with administrative, management and enforcement authority with respect to the State's freshwater fish and wildlife. Specific sections which authorize Commission activities

in the river management program include Sections 372.07(2) (enforcement of freshwater fishing laws), 372.072(4)(a)(1) (research and management of freshwater/upland species), and 372.77 (implementation of wildlife restoration projects).

Department of Agriculture and Consumer Services

Section 589.04, Florida Statutes, authorizes the Division of Forestry to assist governmental agencies in gathering information concerning forest management and in combating forest fires on government lands. Section 589.275 provides the Division with authority to assist State agencies "...to partially restore the original domain of Florida by planting native trees on state lands...".

Department of Transportation

Section 335.16, Florida Statutes, authorizes the Department to control access from State roads to public waters within highway rights-of-way. As provided by Chapter 14-41, Florida Administrative Code, it is the policy of the Department to cooperate fully with other public agencies regarding maintenance of fishing and boating facilities at state road system bridges.

Regional Agencies

Authority for the participation of the Treasure Coast Regional Planning Council in the river management program is based on Sections 380.06 and 163.3164, Florida Statutes. The former provides for regional planning councils to coordinate the

review of development of regional impact applications with affected governmental agencies. The latter mandates the Council to review and comment on the content of local comprehensive plans prior to their adoption by local governments.

Local Agencies

In addition to Palm Beach County, Martin County and the Town of Jupiter, the Village of Tequesta exercises control over land use and development within the vicinity of the wild and scenic river area. Several other local bodies are involved in activities which can contribute to the overall river management program.

Drainage Districts

Five drainage districts, authorized under the general provisions of Chapter 298, Florida Statutes, are located within the Loxahatchee River basin, as follows:

Hobe-St. Lucie Conservancy District
Indian Trail Water Control District
Northern Palm Beach County Water Control District
North Palm Beach Heights Water Control District
South Indian River Water Control District

Under Chapter 298 and various special acts and amendments, these drainage districts are authorized to levy special taxes and to provide surface water management and control in areas not served by municipal or county agencies. The districts are also authorized to construct and maintain canals, ditches, levees, dikes, pumping plants and other works and improvements. The

activities of the districts are subject to State regulation by the Department of Environmental Regulation and the South Florida Water Management District under authority of Section 403.061 and Chapter 373, Part IV, Florida Statutes.

Jupiter Inlet District

The Jupiter Inlet District was established by Chapter 8910, Special Acts of Florida, 1921. The District was given broad authority to construct and maintain an inlet at the mouth of the Loxahatchee River and to deepen and maintain the river where required. The District is also authorized to construct any improvements needed to accomplish these purposes.

Loxahatchee River Environmental Control District

Chapter 71-822, Special Acts of Florida, 1971, as amended, established the District to meet local needs for water supply, wastewater management and storm drainage, and authorized the District to conduct various planning, regulatory and operational functions to meet these needs. Acting under the authority of this legislation, the District has established a regional wastewater system to serve the urbanized sections of the Loxahatchee River drainage basin. The District is authorized to discharge up to 4.0 million gallons per day of tertiary treated effluent into the Northwest Fork under a permit agreement with the U.S. Environmental Protection Agency.

POLICY DIRECTION

The river management program described in this plan derives its direction from several sources, including state and federal legislation and policy resolutions. Together, these sources represent the policy foundations of the management program. The following section discusses these sources of direction.

The Wild and Scenic Rivers Act

The Wild and Scenic Rivers Act provides the framework for the establishment of a national system of wild and scenic rivers (see Addendum 2). The Act identifies the processes by which the Loxahatchee River and other rivers throughout the United States are selected for study, recommended for designation, and included in the National Wild and Scenic Rivers System. The Act also defines the philosophy that will be pursued in the management of rivers in the system. Section 10(a) of the Act provides that:

Each component of the national wild and scenic rivers system shall be administered in such a manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its esthetic, scenic, historic, archaeological, and scientific features.

The Act establishes a classification system for designated rivers. This classification system is important to the management program for the Loxahatchee, in that it provides the

basic criteria for approval of the program at the federal level. In order for designation to be approved, the State's management program must ensure that the various river segments will continue to meet the criteria for each classification.

Federal Register Guidelines

On September 7, 1982, the Department of the Interior published guidelines for implementing the Wild and Scenic Rivers Act in the Federal Register. These guidelines expand upon the provisions of the legislation and interpret how the Wild and Scenic Rivers Act will be applied with respect to river studies and management plans. The interpretation of Section 10(a) of the Act contained in these guidelines provides the river management program with its basic philosophy.

This section is interpreted as stating a non-degradation and enhancement policy for all designated river areas, regardless of classification. Each component will be managed to protect and enhance the values for which the river was designated, while providing for public recreation and resource uses which do not adversely impact or degrade those values. Specific management strategies will vary according to classification but will always be designed to protect and enhance the values of the river area. Land uses and developments on private lands within the river which were in existence when the river was designated may be permitted to continue. New land uses must be evaluated for their compatibility with the purposes of the Act.

Clearly, the direction of this and subsequent sections of the guidelines is that protection and enhancement of the river's natural and cultural qualities must be the highest priorities for

the management program. Further, while the management program may allow for the continuation of existing land uses and developments within the corridor, new developments must be considered within the context of their effects on the special attributes of the protected area. These program guidelines are contained in Addendum 3.

Direction by the Governor and Cabinet

On January 11, 1983, the Governor and Cabinet, sitting as the Executive Board of the Department of Natural Resources, adopted a resolution directing the Department, with the assistance of affected local, regional, state and federal agencies, to begin the development of a management plan for the river. The resolution provides that, "The principal goals of the plan will be to preserve and enhance the river's unique natural values, restore the river's historical hydrologic regime, and reverse deleterious saltwater intrusion into the river." In order to fully accomplish these goals, the river management program, within the jurisdictional framework of Chapter 83-358, Laws of Florida, must deal with water quantity and quality problems at their basic sources. The text of this resolution is found in Addendum 4.

Chapter 83-358, Laws of Florida
Loxahatchee River Wild and Scenic Designation and Preservation Act

This legislation was enacted in 1983 to serve as the "act of the state legislature" required by Section 2(a)(ii) of the Wild

and Scenic Rivers Act for designation of the Loxahatchee by the Secretary of the Interior. This Act is by far the most comprehensive of the management program's various legal authorities, and provides the management program with its basic and most important source of policy direction (see Addendum 1).

The Act reaffirms the environmental preservation and enhancement policy of the national act. The Act directs the management plan and the program it creates to provide for the permanent protection and enhancement of the river's natural values. It states that:

The Legislature finds and declares that a certain segment of the Loxahatchee River.....possesses outstandingly remarkable ecological, fish and wildlife, and recreational values which are unique in the United States. These values give national significance to the river as one which should be permanently preserved and enhanced, not only for the citizens of the State of Florida, but for citizens of the United States, of present and future generations.

Section 9 provides for adoption of rules and for separation of regulatory authority between the Department of Natural Resources and the South Florida Water Management District. The Department is authorized to regulate activities within the river corridor area, and the District is authorized to regulate activities outside the river corridor area. Section 10 authorizes the Department and the District to create permit systems to regulate activities which will have direct and substantial adverse effects on resource values in the river area. Section 10(1) states that:

No person or entity shall conduct any activity or do anything which will or may have an adverse impact on any resource value in the river area without first having received a permit from the board or the department, as appropriate.

Further, this section defines the conditions under which the Department and the District may approve required permits. It provides that:

A permit may be granted only after a finding by the board or the department, whichever has regulatory authority, that the activity for which a permit has been requested will not have a substantial adverse impact on resource values in the river area.

CHAPTER V RIVER MANAGEMENT PROGRAM

The preceding chapters of this plan have assessed the unique natural and cultural features which exist in the Loxahatchee River area and have discussed the patterns of recreational use currently being exerted on the river. This chapter identifies the specific objectives, policies, and procedures which will direct the day-to-day activities involved in managing the river as a State-administered component of the National Wild and Scenic Rivers System.

GENERAL MANAGEMENT PRINCIPLES

Initial direction for the establishment of the management program, and the specific objectives and procedures to be implemented as part of the program, are derived from the foregoing policy directives. In addition to these, the Department of Natural Resources researched and solicited a wide range of technical information and guidance to help in the refinement of principles. This information was obtained from state and federal environmental agencies, from planning agencies in the Loxahatchee River area, and from experts in various technical fields. In addition, the Department surveyed the other states for information on their progress in managing State-administered components of the National Wild and Scenic Rivers System.

The recommendations of this plan for the day-to-day management of the river and its adjoining upland corridor are based on the general considerations that follow. These considerations, together with subsequent legislation, policy directives and amendments to this plan, will direct the actions of river management agencies and other interested parties in the implementation of this plan.

1. The preservation and enhancement of the river's outstanding natural and cultural values are the primary purposes of the program. These values include the unique diversity of temperate and subtropical plant and animal species, and the aesthetic, scientific, and recreational values which derive from these features.

2. Effective management of the river corridor cannot take place in isolation from river basin management. Activities beyond the river corridor which might affect the designated river area will be managed in accordance with existing authorities, except as otherwise provided by Chapter 83-358, Laws of Florida. The river management plan, as well as subsequent resource management activities implemented as a result of the plan, should be utilized to help direct land use and water management decisions which have the potential for substantial adverse impact on the river.

3. Management will be accomplished through a range of management tools, including an aggressive land acquisition program, effective resource management activities, regulation of the corridor area, local government land use controls, and voluntary actions by private citizens.
4. Management will be a continuing effort. The specific management actions proposed in this plan will be supplemented or modified as necessary based on their effectiveness in meeting the goals of the management program.
5. The specific management methods used and the type of management provided by these methods may differ considerably from segment to segment. For example, the "wild" river segment generally will be managed less intensively than the "recreational" segment of the river. Irrespective of management methods along any particular segment, however, the basic policies and intent of the management program apply.
6. Existing legal authorities and jurisdictions will not be curtailed or limited by any policy or action of the management program. The management program proposed in this plan is applicable to private lands only to the extent allowed by existing law. The river management program does not open private lands to public recreation.
7. Coordination and cooperation between local, state and federal agencies and private citizens are crucial to the success of the management program. The principles of

the management program are intended to be implemented to the fullest extent possible under each managing agency's statutory authority and other applicable laws.

8. In conjunction with the above, the cooperation of the public is critical to the success of the management program. The process of formulating this management plan has been opened to a wide range of public involvement. Maintaining this involvement in the management program will be just as essential to long-range public understanding and support for the program.

RESOURCE MANAGEMENT AND PROTECTION ELEMENTS

Each of the general principles discussed above is based on a particular aspect of the program's policy direction and philosophy. The remainder of this chapter presents the plan's program for incorporating these principles into daily practice in on-site management, with respect to the various elements of the river management program.

Land Management and Protection

The permanent protection and enhancement of the river cannot be accomplished completely without an adequate upland corridor to buffer the river from activities that would degrade its natural qualities. The management and protection of a suitable buffer area will necessarily involve both State and local responsibilities. Lead responsibility for land resource management

in the river corridor area will lie with the Department of Natural Resources. Palm Beach County will also have important direct management responsibility for lands in Riverbend Park. Palm Beach County, Martin County and other local land regulatory agencies will play a pivotal role in influencing the success of the management program through their exercise of land use controls. The following sections describe the plan's program for managing and protecting the designated river corridor area.

Corridor Classification

For the purposes of federal designation and as criteria for subsequent management, the various sections of the river corridor are classified as either "wild", "scenic", or "recreational", based on the degree of evidence of human alteration and other factors. The particular classification of a segment is both an assessment of its current condition and a statement of management philosophy. As used in this plan, "wild" river areas are free of impoundments and generally inaccessible except by trail. Their shorelines are essentially primitive and their waters unpolluted. "Scenic" river areas are free of impoundments with shorelines largely primitive and undeveloped. These areas may be accessible in places by roads. "Recreational" river areas may be readily accessible by road and may have undergone some impoundment or diversion in the past. Some development may exist along their shorelines.

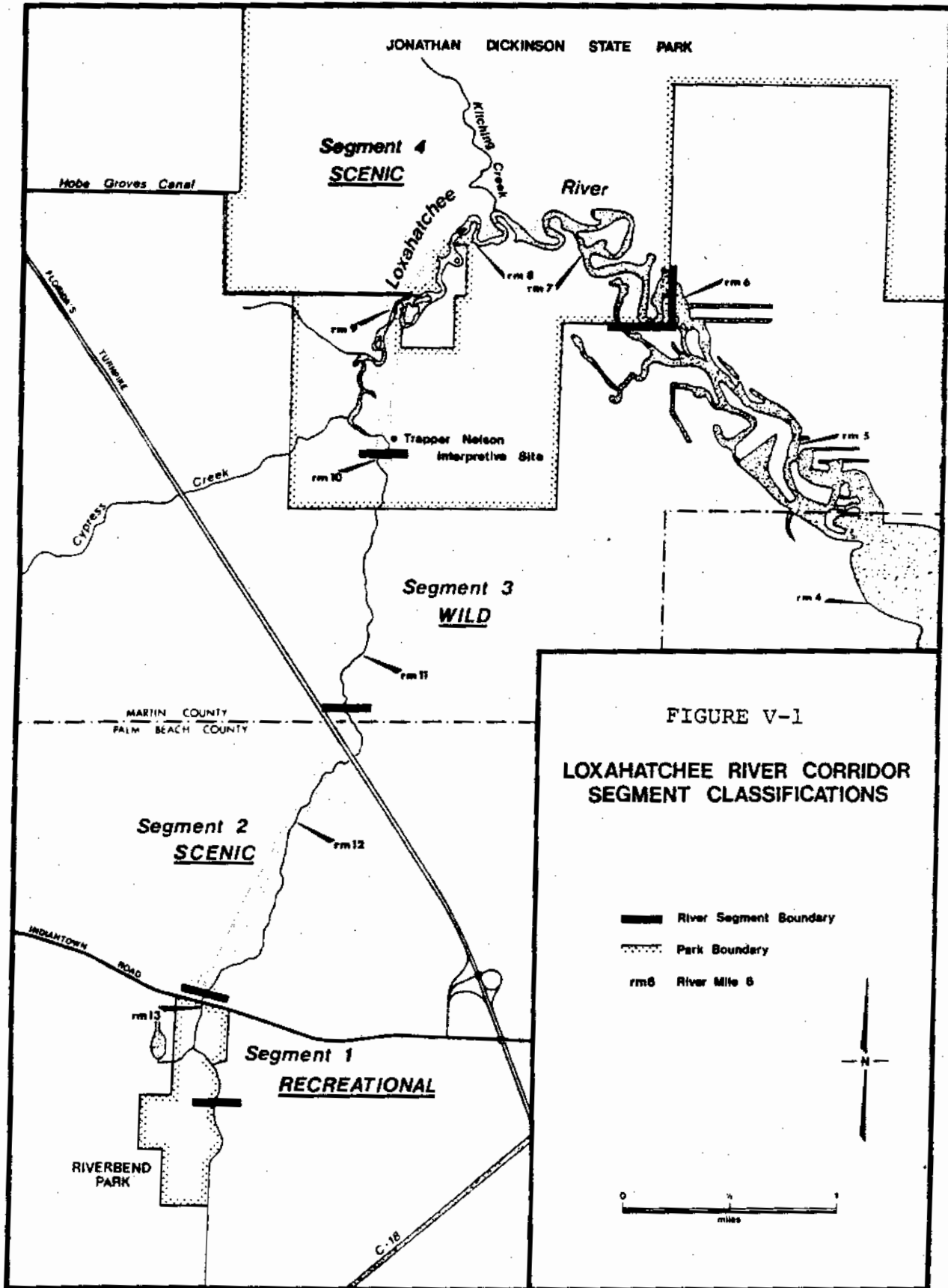
As shown in Figure V-1, the Northwest Fork is divided into four segments for purposes of classification. Segment 1 is classified as "recreational". It begins in Riverbend Park at mile 13.5 and extends 0.5 miles north to Indiantown Road. Segment 2 is classified as "scenic" and extends from Indiantown Road to just north of the Florida Turnpike (river mile 13 to river mile 11.5), a total of about 1.50 miles. Segment 3 is the "wild" segment of the river, between river mile 11.5 and about river mile 10. Segment 4 is also classified as "scenic", and extends approximately four miles between the Trapper Nelson Interpretive Site and the southern boundary of Jonathan Dickinson State Park at river mile 6.

Corridor Delineation

The river corridor area is the central geographic focus of the river management program. Section 83-358.3(8), Laws of Florida, defines the river corridor area as follows:

...that portion of the Northwest Fork of the Loxahatchee River from river mile 6 to river mile 13.5, together with such abutting uplands as determined in the permanent management plan to form the corridor having visual impact on the river user, and which may be necessary to maintain the natural and scenic appeal of the river.

Three criteria were utilized to delineate the river corridor area to be protected by this plan. First, the corridor area must be of sufficient width to include all of the natural resource values identified as being outstanding, remarkable or worthy of note by the National Park Service in its feasibility



study of the river. The geographic extent of these resources coincides with the extent of the river's wetland vegetation communities. Secondly, the corridor area must be configured in a manner that facilitates management by on-site personnel. A regularly-shaped corridor can be identified and managed more effectively than one with an irregular configuration. Thirdly, as a practical consideration, the corridor must lie entirely within the area identified for purchase by the South Florida Water Management District under the Save Our Rivers Program. In those locations where the lateral extent of corridor area, as defined by the first two criteria above, would extend beyond the boundaries of the acquisition area, the corridor boundaries will be adjusted to coincide with the acquisition area.

Based on these factors, the boundaries of the designated river corridor area were determined (see Figure V-2). The corridor area may be generally expressed as either (1) the maximum upland extent of the floodplain's freshwater or saltwater wetland vegetation plus a buffer area of 100 feet on each side of the river; or (2) 350 feet on each side of the river, measured from the center of the main river channel, whichever is greater. The corridor area does not include the river's tributaries. As shown in Figure V-3, the 350-foot alternative corridor measurement applies to those areas where the width of the wetland vegetation area (measured from the center of the river) is less than the observed average for the entire 7.5-mile segment. This average

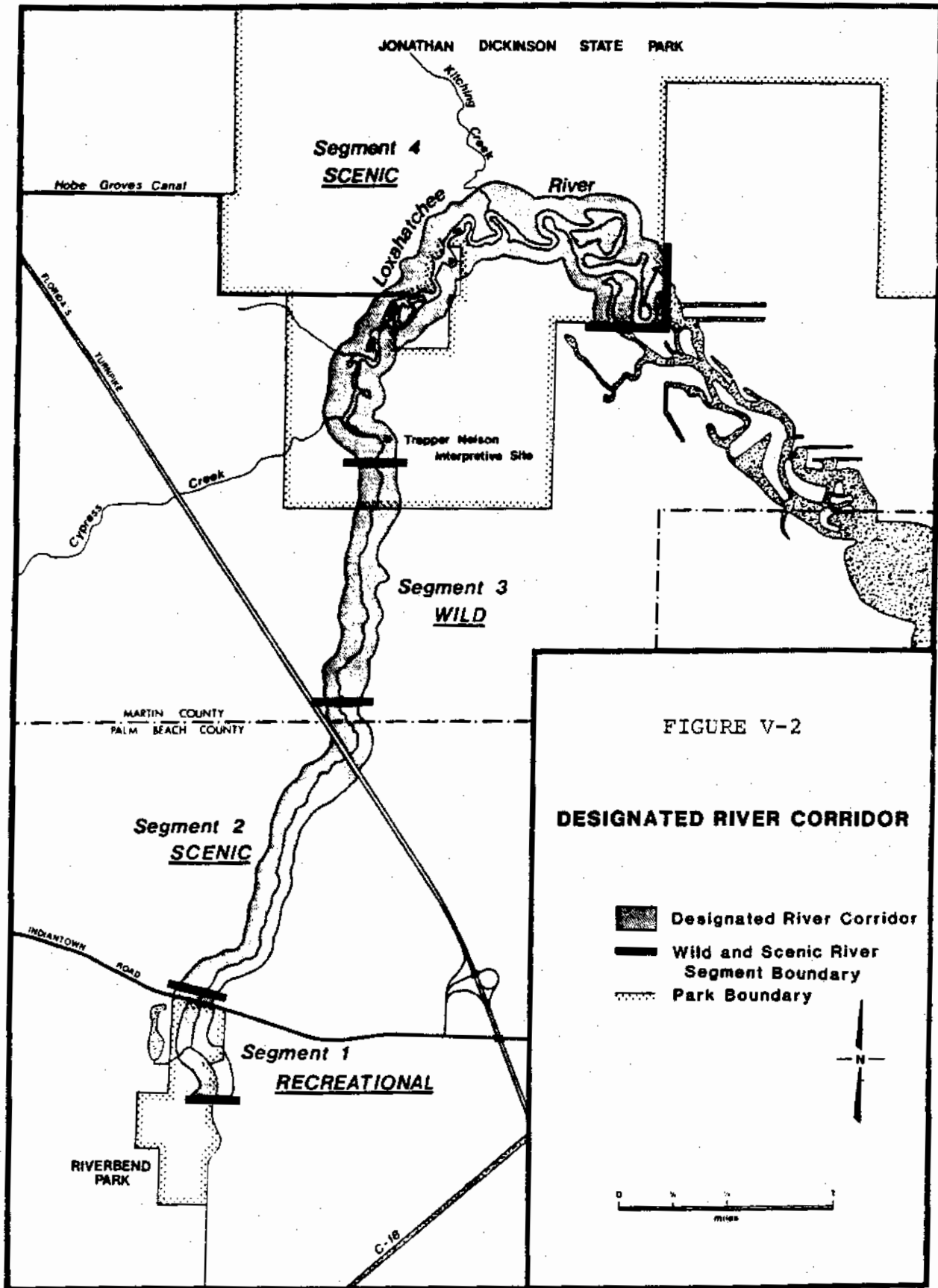
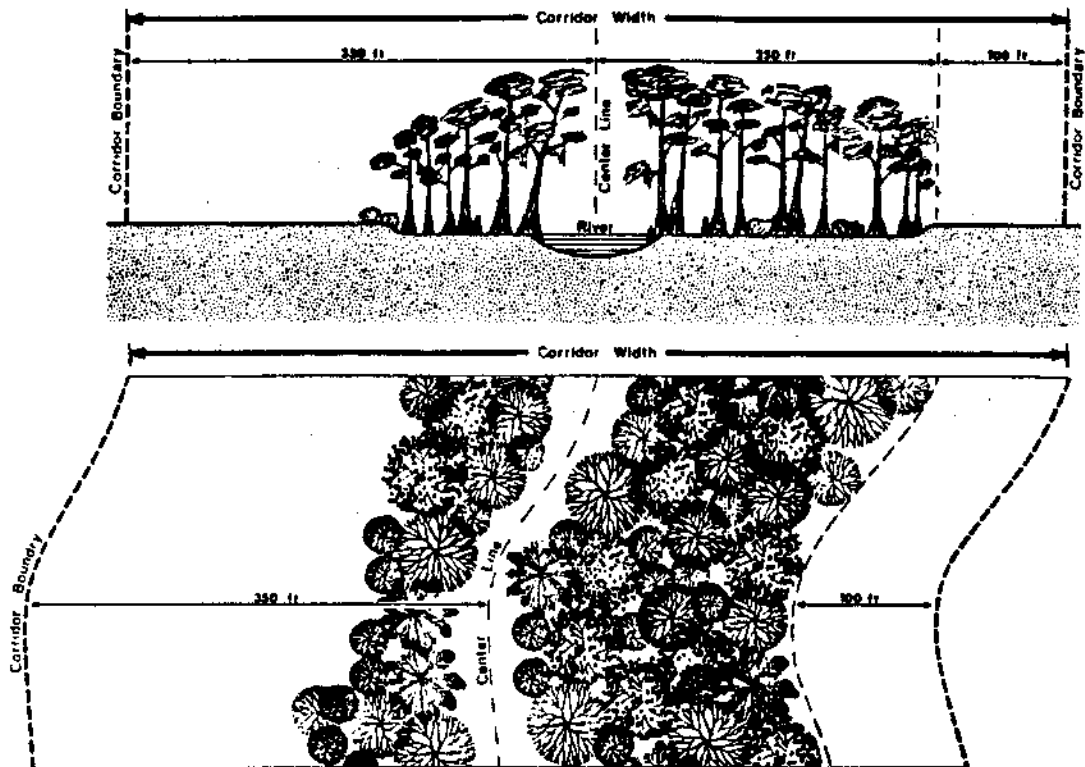


FIGURE V-3

DELINEATION OF THE RIVER CORRIDOR AREA



was determined by measurements based on large scale aerial photography, which indicated an average wetland vegetation width of 500 feet, or 250 feet on each side of the river. This distance, plus a 100-foot buffer, was utilized to determine the alternate corridor standard.

The corridor area as defined above comprises approximately 795 acres of land, of which some 500 acres are now under public ownership. The corridor area extends approximately 150

feet beyond the Save Our Rivers Program land acquisition boundary in three locations: (1) for a distance of about 1,600 feet on the west bank of the river north of Indiantown Road in the vicinity of the Blankenship property; (2) for approximately 900 feet just north of the Florida Turnpike along the proposed right-of-way of Interstate Highway 95; and (3) for about 900 feet on the east bank of the river adjoining Riverbend Park. In these three specific locations, the Department determined that the buffer provided by the District's acquisition area will be effective in screening visual intrusions on the river from adjacent uplands. Thus, in these areas, the corridor boundary will be modified to conform to the boundaries of the acquisition area.

Corridor Protection

After designation, the Department of Natural Resources may promulgate rules to implement a coordinated program for protecting the resource values of the river corridor. This program may include the establishment of a permitting system, developed in accordance with the requirements of Section 83-358.10, Laws of Florida, for the purpose of preventing activities which would have substantial adverse impacts on the resource values of the river corridor.

The rules of the Department will apply to activities on lands in the designated river corridor area. These rules will utilize to the greatest possible extent all existing protections afforded under current authorities, the intent being to ensure that the

rules will be coordinated as much as possible with other environmental and land use regulatory programs, and to avoid duplication of effort and conflicting regulations. These rules will be utilized as supplementary measures to local governmental land use regulations and other existing protections, and will in no way divest any agency of any authority or jurisdiction in existence at the time of designation. The issuance of a permit by the Department under this system will not relieve the applicant of the responsibility for obtaining other required local, state or federal permits.

In accordance with Chapter 83-358, the Department's rules will provide for the continuation of existing land uses within the river corridor area which are not incompatible with the purposes of designation. The Department may receive comments on any proposed rules from the management coordinating council established by Section 83-358.5(3)(o). The coordinating council will also review all permits required by these rules, and render its non-binding, advisory recommendations to the Department. Enforcement of program rules will be carried out by the Department in accordance with its authority under Section 83-358.11.

On-site management personnel will review all permit requests to determine any adverse effects the proposed activity may have on the resource values of the river and the designated corridor area. The findings of the management staff will be provided to the management coordinating council to assist in its review of

required permits, and will be submitted to the Department to assist in making final determinations on permit applications. On-site management personnel may solicit comments from the Department of Environmental Regulation, Game and Fresh Water Fish Commission, affected local governments and private interests, as well as from any other appropriate federal, state or local agencies in reviewing permit applications.

Land Use Controls

The effective exercise of local government land use regulatory authority is an integral component of the river management program in two respects. First, in order for national designation to be approved, the management plan must demonstrate that alterations which would degrade the natural or scenic values of the designated river corridor area will be prevented. In the short term, local land use regulations are the best management tool available for directing potentially harmful land alteration activities away from the proposed river corridor area. Until such time as rules to implement the management programs outlined in this plan are promulgated by the Department and the District, local governments must bear the responsibility for preventing development that would impair the natural or scenic qualities of the river.

Land use controls also play a critical role in the overall management of the river's drainage system as a hydrologic unit. Land use changes in the basin inevitably affect the quantity and

quality of water in the river. Since local land use controls help direct the timing, location and character of land development activities in the basin, the application and proper coordination of such controls are of continuing importance to the long term management of the river.

The section that follows outlines specific actions that local land regulatory agencies should take to assist in preserving the existing character of the river. These actions, together with an aggressive public land acquisition effort and effective resource management programs by the State, will be sufficient to **provide the level of protection necessary to maintain the** Loxahatchee as Florida's first component of the National Wild and Scenic Rivers System.

Comprehensive planning. - As discussed in Chapter III, land use in the river corridor area is regulated by Palm Beach County, Martin County, and the Town of Jupiter. Each of these bodies has an officially approved local government comprehensive plan developed pursuant to Section 163.3191, Florida Statutes. In general, these plans should be consistent with the provisions of the wild and scenic river plan, and should give explicit recognition to the uniqueness and environmental sensitivity of the wild and scenic river corridor. Specifically, Palm Beach County should amend its comprehensive plan to include the designated corridor area among those areas which are subject to the plan's special performance standards and development coordination requirements. Martin County should amend its

comprehensive plan to apply the plan's required 50-foot shoreline preservation zone to environmentally sensitive freshwater wetlands, including the Northwest Fork. The Town of Jupiter should amend its comprehensive plan to provide specific performance criteria for reviewing proposed developments that could impair the river area's unique natural qualities.

Maintain zoning densities. - Increases in land use density within the drainage basin can result in negative impacts on water quantity and quality in the river. In situations such as those that occur in cluster developments, planned unit developments, and density transfers, however, selective increases in density, coupled with corresponding density reductions in environmentally sensitive areas, have the potential for creating beneficial environmental effects.

All decisions involving requests for increases in zoning densities in the basin will be made in accordance with local government comprehensive plans and other existing authorities. Nothing contained herein shall be construed as prohibiting local governments from amending their comprehensive plans. Generally, each local land use regulatory jurisdiction should maintain currently allowed development densities in the designated corridor area and in other areas which have a potential for substantial adverse effects on the resource values of the river area. For the most part, the regulatory tools needed to implement this measure already exist. Requests for increases in zoning densities anywhere in these areas should be given the most

careful and rigorous review, and should be approved only after it has been clearly demonstrated that such action will not result in a reduction of water storage capacity or in deleterious effects on the natural or scenic qualities of the river or adjoining upland corridor.

Improve review coordination. - To further this intent, each land use regulatory body should establish a formal process for coordinating the review of such proposed projects with the Department of Natural Resources and the South Florida Water Management District. A formal agreement should be developed between these agencies to allow the Department and the District an opportunity to review and comment on all requests for upzoning or other proposed increases in allowable densities in the basin of the Northwest Fork. Any review made by the Department or the District in this connection will be non-binding and advisory in nature except as otherwise provided by law, rule or agreement. The purpose of the review will be to identify any potential negative impacts the requested activity may have on the natural or scenic values of the river corridor area, as defined in this plan. In cases when a significant potential for adverse effects is found to exist, the local regulatory agency should require the applicant to provide a plan for mitigating the effects of the impacts.

Manage public improvements. - Public improvements such as drainage, utility and road facilities have a profound influence on the location, timing, and extent of land development in the

drainage basin. The provision of these facilities should be carefully managed to ensure that development takes place in an orderly, planned manner, and that development does not result in negative environmental impacts on the resource values of the river or the river corridor area. When new improvements such as water and sewer lines are necessary, they should be located and sized to prevent incremental connections that could result in additional demand for improvements. New major road construction, because of its potential for further fragmenting natural systems, disturbing drainage patterns, and encouraging "leapfrog" development, particularly should be avoided. When no alternative routes are available, however, the location and construction of new utility or road rights-of-way should be done in a manner that minimizes adverse effects on resource values in the river corridor. In this regard, the Department of Transportation should undertake the construction of Interstate Highway 95 within the river area utilizing techniques which minimize any adverse effects on the river area.

Water and Watershed Management

Water is both the most valuable and the most vulnerable resource in the Loxahatchee River drainage basin. Alterations in quantity, quality, and periodicity of water entering the river are responsible for the saltwater intrusion problem that now exists, and further undesirable alterations can worsen threats to the health of the system. Successful preservation and management

of the Loxahatchee River is dependent on sound management of its freshwater tributaries and its drainage basin.

The principal goals of this plan, insofar as the management of the river's water resources is concerned, are as follows: (1) to maximize the ability of the Loxahatchee River drainage basin to serve as a retention and recharge area for surface water and groundwater flow to the Northwest Fork, with recognition of the need to provide adequate flood protection; (2) to increase minimum flows to the river as much as possible in order to effect the greatest possible downstream movement of the saltwater wedge during dry conditions; and (3) to maintain existing water quality in the river and eliminate identified water quality problems when possible. Specific management objectives and measures have been identified, based on sound hydrological and environmental planning principles, as means of accomplishing the goals. These measures may be modified or additional measures proposed if necessary to achieve the goals of the river management program. If implemented together as a single effort, however, these actions represent an effective and practical long-term program for reversing saltwater encroachment, improving water quality, and restoring freshwater conditions to the Northwest Fork.

Land Acquisition

The South Florida Water Management District is negotiating with property owners to acquire approximately 1,125 acres of land along the river and its tributaries utilizing funds from the Save

Our Rivers Program. The acquisition of this property is perhaps the foremost of the water management objectives of the management plan. Acquisition will help to maintain water quality by preserving existing wetland areas along the river and by controlling erosion and surface runoff from areas immediately adjacent to the river.

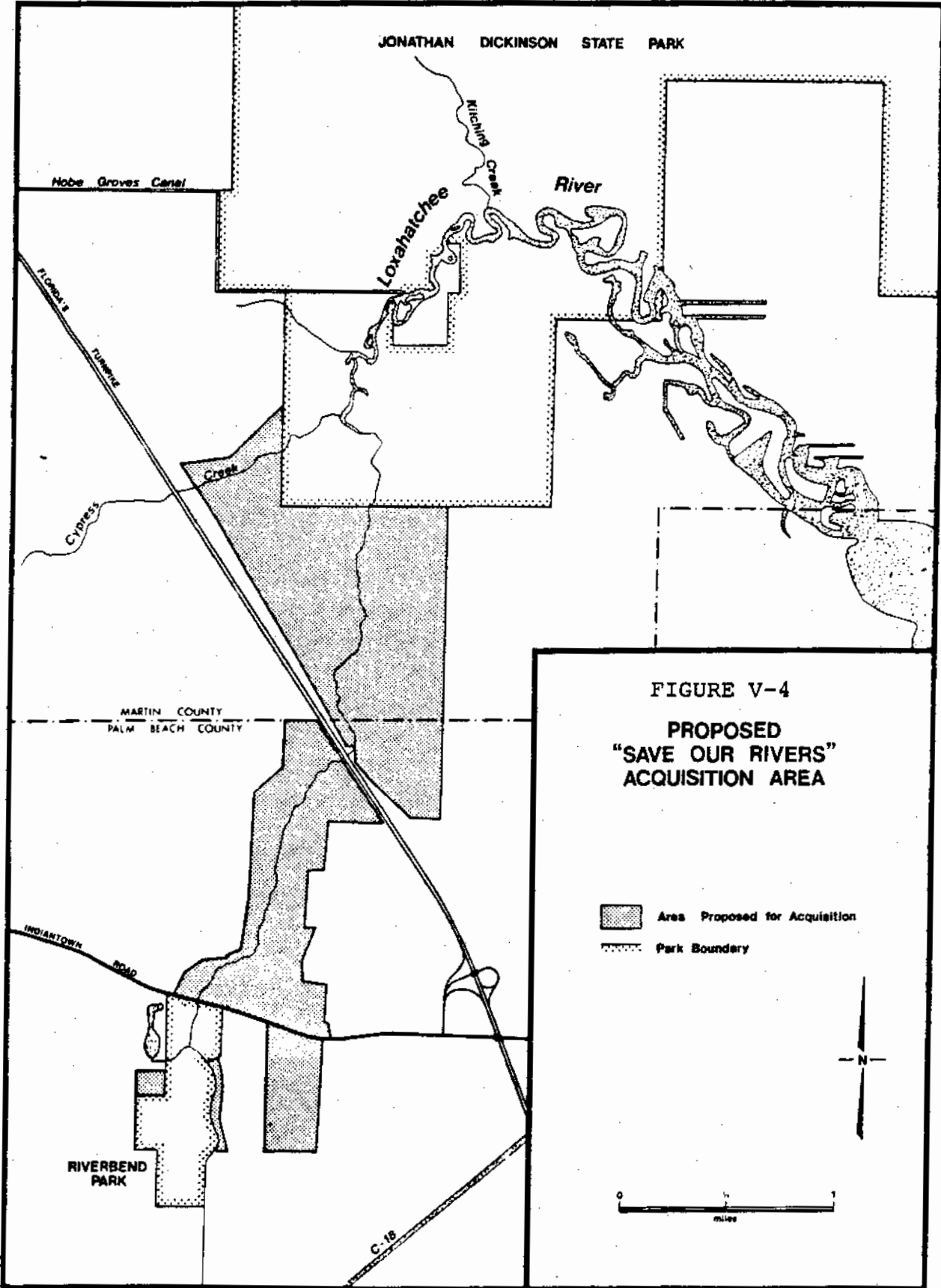
As shown in Figure V-4, the area proposed for acquisition comprises the entire river corridor area between Riverbend Park and Jonathan Dickinson State Park. Acquisition of these lands would complete a buffer of public ownership around the 7.5-mile river segment, thus ensuring adequate control for effective management and protection of the river corridor. Some nine individual private ownerships exist within the proposed acquisition area. Acquisition of the majority of parcels is expected to be completed by June 1985. In those cases where voluntary fee purchase is not possible, the District may seek legislation to provide eminent domain authority as a last resort.

Enhanced Storage Capacity in the Drainage Basin

The management program will attempt to restore, to the extent possible, the historical function of the river's basin, particularly the Loxahatchee Slough, as a freshwater recharge area for surface and groundwater flow to the river. This objective will be pursued through a combination of structural and non-structural measures, as set forth below.

Adjust culvert openings. - C-18 is constructed with levees on each side of the canal in the Slough area. Runoff from the Slough enters the canal through culverts placed through the levees. Increasing the height of the flashboard control devices will allow for higher elevation and greater storage in the Slough. This will inundate the Slough for longer periods of time, thereby enhancing existing wetlands and improving storage capacity. Increasing detention in the Slough will create a higher potential than is presently possible for flows to the river during low water periods. It will also facilitate recharge to the shallow aquifer and increase opportunities for sedimentation and filtration of nutrients.

Create Loxahatchee Slough wetlands management area. - This will involve the creation of a wetlands area behind the C-18 culverts. This measure, together with culvert adjustments, should result in the inundation of the Slough for approximately 75 percent of the year under normal rainfall conditions. The creation of an area of this nature will improve water storage capacity in the drainage basin for controlled release to the river. It will also improve the Slough's value to wildlife and reverse the present general trend in the Slough toward a more mesic plant community caused by shorter hydroperiods. This measure will also have the effect of limiting additional land development and drainage in this environmentally sensitive



wetlands area. The District will construct low dikes around the perimeter of the Slough in order to provide necessary surface water management.

Install pumps. - The creation of the wetlands management area will require installation and operation of low-head, low-capacity pumps to drain storm runoff from surrounding areas during peak flow periods. As adjacent areas are developed, private landowners and developers will install these pumps to provide stormwater drainage. This measure will help further increase the water potential available for diversion to the Northwest Fork during the dry season. A similar pumping system is presently being utilized on the eastern side of Loxahatchee Slough in conjunction with major development projects. The pumped discharge will be monitored for quality by the Department of Environmental Regulation and the South Florida Water Management District.

Adopt basin management rules. - Activities in the drainage basin influencing the use or diversion of water are controlled by the South Florida Water Management District in accordance with Chapter 373, Florida Statutes, and other applicable authorities. Upon completion of ongoing environmental studies concerning the river, the District will examine its existing rules for the regulation of surface water management to determine if additional rules are required to prevent substantial adverse impacts on the resource values of the river area. If additional rules are required, such rules will be implemented as required by law in the Loxahatchee River basin. The District may receive comments

on any proposed rules from the management coordinating council established by Section 83-358.5(3)(o). The coordinating council will also review all permits required by these rules, and render its non-binding, advisory recommendations to the District. Enforcement of these rules will be carried out by the District in accordance with its authority under Section 83-358.11, and other authorities. It is the intent of this plan that the provisions of Section 373.114, Florida Statutes, will apply.

The criteria contained in these rules will ensure that development in the basin incorporates appropriate water quantity and water quality control measures necessary to protect the integrity of the river and minimize adverse impacts to the river's water resources. Systems design criteria will be established to achieve the greatest practicable degree of stormwater retention in the basin, require preservation of existing wetlands and natural flow patterns whenever possible, and prohibit the creation of new discharge points to the river.

Increased Flows to the Northwest Fork

Increased flows to the river are vital if saltwater intrusion is to be reversed. The enhancement of the Slough's storage capacity will significantly improve the ability of the C-18 system to provide surface flows to the river, particularly during periods of low flows. Additional measures are needed, however, to ensure that these flows are actually delivered to the Northwest Fork.

The South Florida Water Management District, through its own actions and in cooperation with other appropriate entities, will implement several measures for increasing the volume of direct discharges from C-18 to the river. These measures are described below.

Modify S-46 operation. - This will require adjusting the controls on S-46 to allow less frequent discharges over the structure and to fully open the structure only during large storm events. Flood flows of lesser magnitude will be diverted to the Loxahatchee River to the extent that lands within the South Indian River Water Control District will not be adversely affected. This measure will prevent the increases in water potential that will accompany enhancement of the Slough area from being discharged to tide in the Southwest Fork, in effect, "plugging a leak" in the C-18 system. Additionally, this measure will provide some increase in the water supply available in C-18 and further increase detention by maintaining levels in the canal at higher stages for longer periods.

Modify C-18 diversion culvert operation. - This culvert (G-92) diverts water from C-18 to C-14, which is the primary source of water for the Loxahatchee. More careful control of releases through the culvert will achieve some increase in flows to the river. The culvert is operated by the Loxahatchee River Environmental Control District, which, with the South Indian River Water Control District and the South Florida Water Management District, will implement this measure.

Install additional diversion culvert at C-18. - In order for the Loxahatchee to realize the benefits of increased storage potential in the upper basin, an additional diversion facility adjacent to the existing G-92 culvert is required. At present, G-92 is capable of passing up to 130 c.f.s. into C-14. Flows of up to 400 c.f.s., if prevented from discharging at S-46, will be possible through the new culvert. The implementation of this measure will be the joint responsibility of the District, the South Indian River Water Control District, and the Loxahatchee River Environmental Control District. In determining the actual schedule for operating the culvert, consideration will be given to the environmental needs of the river and to the need for providing sufficient discharge for the South Indian River Water Control District to prevent flooding in times of excessive rainfall. The former will be determined by studies being conducted by the South Florida Water Management District. The latter will be accomplished by (1) continued acceptance of flow from South Indian River Water Control District to the Loxahatchee River in amounts consistent with those prior to the installation of the additional diversion culvert; and (2) scheduling of G-92 and S-46 to allow reverse flow to C-18 through G-92 to provide additional discharge during flood conditions associated with large storm events.

Install discharge control devices on C-14. - The South Indian River Water Control District maintains a system of east-west "feeder" canals that drains into C-14. The junctions of these

canals are unimproved, meaning that water passes freely between the canals and C-14. In the past, these canals have caused excessive drainage within the jurisdiction of the South Indian River Water Control District. In addition, discharges from C-18 to C-14, intended for the Northwest Fork, have been diverted into the canals, particularly during low flow periods. The installation of adequate control devices on these canals will allow free discharge from the feeder canals into C-14 during wet periods, but prevent discharges from C-14 into the canals during dry periods. The South Indian River Water Control District will evaluate and, if necessary, install the needed improvements in conjunction with the South Florida Water Management District.

Repair Lainhart and Masten Dams. - Minimal repairs will be made to the Lainhart and Masten Dams to produce higher stages upstream to C-18. This will promote higher water table conditions in the vicinity of the upper river, thus contributing to a more consistent level of flow and increased base flows. Repairs will be made by the District with natural materials in a manner that will be as inconspicuous and as faithful to the historical appearance of the structures as possible.

Maintenance and Improvement of Water Quality

Water quality and quantity in the river can be threatened by a variety of activities, many of which originate outside the river corridor area. Stormwater runoff from disturbed sites transports pollutants and sediments into canals and the river.

Inadequately treated sewage from unpermitted sources contributes to bacterial and nutrient contamination of the river and, perhaps, groundwater. Activities necessary for agriculture, navigation and even recreation can disrupt natural hydrological patterns, affecting drainage areas, vegetation, and ultimately, water quality.

The plan's program for maintaining and improving water quality is described below. These actions are consistent with and supplemental to the other water management measures proposed in the plan. The implementation of most of these measures will require action by several agencies, including the Department of Environmental Regulation, the South Florida Water Management District, the Department of Natural Resources, the U.S. Geological Survey, local agencies, and private interests.

Designate river as an Outstanding Florida Water. - Upon designation, the Department of Natural Resources will request the Florida Environmental Regulation Commission to designate the Loxahatchee River from river mile 8.3 to river mile 13.5 as an Outstanding Florida Water. The portion of the river within Jonathan Dickinson State Park is already under that designation. Outstanding Florida Water designation will affect only new polluting activities which require a Department of Environmental Regulation permit. Generally, water quality permits cannot be issued for new direct discharges which would lower ambient water quality in an Outstanding Florida Water. New indirect discharges

to tributaries of an Outstanding Florida Water must not significantly degrade existing water quality in the designated water. Activities under the jurisdiction of the Department of Environmental Regulation, but which are eligible for a permit exemption, are exempt from regulation under the program. Examples of such activities include small boat docks and stormwater runoff from urban and agricultural development.

Limit impact of activities in estuary. - Dredging and other bottom-disturbing activities in the Loxahatchee River estuary are periodically conducted to maintain needed navigation channels and other public works. These activities, however, can contribute to the upstream movement of **salt water in the Northwest Fork.**

The management program will seek to limit to the greatest possible extent the impacts on the river caused by activities in the Loxahatchee River estuary. Most of the estuary between river mile 8.3 and the U.S. Highway 1 bridge is within the Loxahatchee River-Lake Worth Creek Aquatic Preserve. On June 12, 1984, the Board of Trustees of the Internal Improvement Trust Fund approved a plan developed by the Department of Natural Resources for the management of this aquatic preserve. The plan establishes the policies which the Division of Recreation and Parks will follow, acting as "agent" for the Trustees, in reviewing permits for the use of sovereignty submerged lands in the preserve. Uses which may be approved pursuant to a permit include limited dredge and

fill activities, maintenance dredging, construction and operation of marinas, docks, piers, and related structures, drilling of oil and gas, and removal of dead shell.

In accordance with existing review processes and the authorities granted by Chapter 83-358, permit requests for all activities in the preserve will be reviewed with the objective of preventing further intrusion of salt water in the Loxahatchee River. In evaluating permits, the Division will give detailed consideration to any possible negative environmental impacts an activity may cause in the portion of the river designated as a wild and scenic river. If the Division determines that such impacts will be significant and cannot be mitigated, it will recommend that the permit be denied. Formal review comments will be provided by the Division to the Department's Division of State Lands for inclusion in the Department's recommendations for consideration by the Trustees.

Designate Northwest Fork as an Aquatic Preserve. - After designation of the river, the Department of Natural Resources will seek legislation to designate the remaining portions of the Northwest Fork (between river mile 13.5 and river mile 8.3) as an aquatic preserve. This designation will authorize the Department to administer the sovereignty submerged lands in the river corridor area in accordance with the purposes of Section 258.35, Florida Statutes. It will also enable the Department to administer the sovereignty lands in the river with those in the estuary as an

ecological unit. Permit reviews will be conducted consistent with the policies outlined above, and subsequent recommendations made by the Division concerning proposed uses.

Participate in permit reviews. - On-site management personnel will review requests for permits for proposed activities which may have the potential for substantial adverse effects on the resource values of the river corridor area. Such permit requests may issue from the Town of Jupiter, Village of Tequesta, Palm Beach County, Martin County, Department of Environmental Regulation, South Florida Water Management District, Department of Natural Resources, or the U.S. Army Corps of Engineers or other agencies. Such reviews will identify any negative environmental consequences of a proposed activity and consider alternatives for mitigating environmental damage resulting from permitted projects.

Limit impacts of wastewater discharges. - The Loxahatchee River Environmental Control District is authorized to discharge up to 4.0 million gallons per day of advanced treatment effluent into the Northwest Fork under a permit agreement with the U.S. Environmental Protection Agency. Current discharge levels average about one-half of the permitted maximum. The quality of these discharges has generally met State standards in the past, although periodic violations have occurred, particularly with regard to suspended solids.

The adequate management of effluent discharges is vital to the maintenance of water quality in the river. The U.S. Environmental Protection Agency and the Department of Environmental Regulation should not approve any reissuance or modification of the District's operating permit that would lower ambient water quality or allow increased permitted volumes of discharge to the river. The District should increase its use of golf course irrigation and other alternative methods of effluent disposal to reduce levels of discharge to the river and to preclude the need for greater discharges in the future. In considering such alternatives, however, the District should avoid using any disposal method that would result, either directly or indirectly, in negative impacts to the river.

Implement best management practices. - Non-point source pollution (stormwater runoff) is emerging as a primary degrading element in the condition of surface waters in the river and in the estuary. As the drainage basin continues to develop, the diversity of land use activities, each with its own type of runoff, will grow. Urban and agricultural land uses, which today comprise 45 percent of the drainage basin, generally produce runoff that can be particularly degrading to water quality. As agricultural lands in the watershed are converted to urban uses, however, urban runoff will pose more of a long term threat to surface water quality than agricultural runoff.

The proper control of all stormwater pollution in the drainage basin is essential to the overall health of the river. The basin management rules which may be promulgated by the South Florida Water Management District should be effective in preventing adverse impacts on water quality caused by new development. On-site management personnel will assist the District in ensuring that the best management practices for non-point source pollution are initiated. On-site personnel will also work with the Martin and Palm Beach County Farm Bureaus, local Soil and Water Conservation Districts, the Florida Department of Agriculture and Consumer Services, and individual growers and drainage districts to develop and implement conservation plans to mitigate potential negative impacts of agricultural runoff on the river. Management personnel will become active participants in the development and revision of local government comprehensive plans, in the review of Developments of Regional Impact, and in the review of existing and proposed land use activities which could affect the environmental integrity of the river. On-site personnel will also monitor conditions on the river to help ensure compliance with the water quality standards of Chapter 17-3, Florida Administrative Code.

Improve water quality monitoring. - Several federal, state and local agencies have conducted periodic water quality sampling activities on the Northwest Fork in conjunction with various

monitoring programs and scientific studies. These sampling efforts have been done largely on an ad hoc basis, and little systematic attempt has been made to ensure that complete base line data exist for all of the major water quality parameters. As a result, important data gaps exist, particularly for salinities, bacteriological parameters, and levels of nutrients, pesticides, herbicides and heavy metals.

The South Florida Water Management District will assume the lead responsibility for assessing water quality data needs and conducting the studies needed to fill data gaps. The District staff will coordinate the water quality monitoring activities of the Department of Environmental Regulation, the U.S. Geological Survey, the Department of Natural Resources and other applicable agencies. On-site management staff will assist the District and the various other agencies in implementing programs to obtain the data. Management staff will make documented observations of activities and events in and near the river, as appropriate, and identify their impacts on the river corridor area. Detrimental activities or events will be reported to the appropriate regulatory agencies.

Biological Resources Management

The freshwater vegetation and associated fish and wildlife resources of the Loxahatchee River are the river area's most unique natural resources. The effectiveness of the river management program in meeting its general goal of preservation

and enhancement will depend largely on its ability to prevent the further decline of these resources and reverse the deterioration that has already occurred. The plan's goals for the management of biological species in the river corridor area are as follows: (1) to eliminate or reduce as much as possible any adverse human impacts on these resources; (2) to perpetuate these resources in a condition that existed in Florida at the time of European discovery; and (3) to provide special management for any species classified as endangered, threatened or of special concern. The sections below outline additional management activities which, in conjunction with the plan's water management program, will help to meet the plan's overall goal of preservation and enhancement of the river's vegetation communities and fish and wildlife resources.

Vegetation Communities

In conjunction with other appropriate agencies, on-site personnel will implement a vegetation management plan for the river corridor area. This plan will determine management and restoration needs in all portions of the river corridor area, and will recommend a program for restoring to the extent feasible the corridor's vegetative communities to their original condition at the time of first European contact. It will also identify specific activities to be undertaken over a ten-year period to implement the provisions of the plan. The plan will contain a program for each of the following specific management elements.

Water level management. - Hydrology exerts a strong influence on the river corridor's vegetation. The distribution of species in the corridor's wetland habitats, and the response of trees and shrubs to excessive or insufficient water, are all influenced by maximum and minimum water levels in the river. For example, a healthy, viable cypress swamp plant community can perpetuate itself only under conditions of low water, but it requires periods of high water to control hardwood competition. The vegetation plan will identify water levels required for optimum growth of the river's cypress swamp communities and for regeneration of cypress in areas where excessive stress has occurred.

Fire management. - In conjunction with management of water levels, ecological burning will be utilized to control the encroachment of hardwood vegetation into the river swamp, restore and perpetuate the low pine flatwood community along the river, and reduce the threat of wildfires. The vegetation plan will include a long range burn program that identifies the timing, location and extent of ecological burning needed to restore and enhance corridor vegetation. The burn plan will be implemented by a series of annual work programs to be conducted by management personnel, and will provide for periodic reviews of progress made toward implementing the program. A program for controlling wildfires along the river corridor will also be established. This program will be consistent with the fire management program

for Jonathan Dickinson State Park, and will be developed in coordination with the Department of Agriculture and Consumer Services, Division of Forestry.

Exotic plant control. - Ecological burning is useful in maintaining a proper balance among native vegetation and in reducing the likelihood of uncontrolled forest fires, but it is limited as a means of eliminating exotic plants, at least one species of which is actually spread through burning. The vegetation management plan will identify a procedure for locating exotic plant species and removing them to the maximum extent possible. Priority consideration will be given to those portions of the corridor which are in public ownership and to those which are actually visible from the river itself.

Reforestation. - Reforestation of cypress trees and slash pine will be important objectives of the vegetation management plan, and the plan will recommend a program for accomplishing these objectives. Natural regeneration of cypress is at best extremely difficult except under ideal conditions. Virtually no research exists concerning the reestablishment of cypress in areas affected by saltwater intrusion. Consequently, the cypress reforestation program will be conducted on an experimental basis to determine conditions under which natural and artificial regeneration are successful. Natural regrowth of cypress trees will be monitored annually at selected sample plots. Management

staff will identify controlled studies needed to determine the environmental conditions and management practices best suited for reestablishing cypress within the corridor.

Another recognized need is the reforestation of areas on the upland fringes of the corridor where past lumbering and agricultural land clearing have eliminated large areas of slash pine. Unlike the cypress, slash pine will regenerate naturally. Properly planned reforestation, however, will help to speed regrowth in areas where it is most needed. The vegetation plan will determine priority reforestation needs within the corridor and establish a schedule for meeting them.

Plants of special concern. - All native plants within the river corridor area are of interest and worthy of protection. The vegetation management plan will specify the methods and procedures to be utilized for locating, cataloging and protecting plants which are of special concern because of uniqueness or endangerment, such as the Hand Fern and Cow Horn Orchid.

Fish and Wildlife Resources

The program for managing the corridor's fish and wildlife resources closely reflects that identified for plant communities. This is not surprising considering the dependence of local animal life on the plant communities for food and habitat. The management program will seek to preserve and enhance native animal habitats and living conditions, eliminate or reduce human and exotic animal impacts on native wildlife and fish, provide

special management for endangered and threatened populations and those of special interest, and enhance opportunities for recreational fishing. The Department of Natural Resources will ensure close coordination with the Game and Fresh Water Fish Commission in this and other appropriate elements of the management program. These objectives will be pursued in accordance with the following.

Research and monitoring activities. - Research will be conducted by on-site personnel and other interested agencies on topics concerning local animal life for later use in fish and wildlife management activities and public education programs. Animal populations will be cataloged and monitored thereafter on a regular basis to provide data on which detailed biological carrying capacities and management criteria can be evaluated. A particular emphasis of these activities will be to monitor the effects of public recreational use of the river and the effects of diverting greater amounts of surface water to the river.

Exotic and native animal population control. - Exotic fish and wildlife will be eliminated or reduced wherever possible. Priority will be given to controlling those species which have the greatest impact on the river corridor's unique natural values and those which can be most effectively controlled by available management techniques. Unnatural increases in native species which endanger the natural character of the river corridor will also be controlled.

Ecological burning. - Controlled burning of undergrowth and vegetation which promotes wildfires will be conducted as needed to protect animal habitats. All burning will be coordinated with burning required for vegetation management.

Reintroduction/replenishment of species. - Whenever possible, efforts will be made to reintroduce native species which have become locally extinct. Native species which are declining in numbers will be studied to determine the cause and whether corrective measures can be taken to promote natural restoration. Otherwise, the local population will be replenished with specimens from outside the area.

Archaeological and Historical Resource Management

The river corridor's archaeological and historical sites have several characteristics which must be recognized in the river management program. First, these resources are finite and non-renewable, and are necessarily limited in both distribution and number. Second, each site is unique in that, individually, it represents the tangible remains of events which occurred at a specific time and place. Third, these sites, particularly archaeological sites, are very fragile because their significance is derived not only from the individual artifacts within them, but also from the spatial arrangement of those artifacts.

The goals of the river management program in the administration of archaeological and historical sites in the river corridor area are to protect known resources for scientific

study and public education and to preserve land and water resources within the corridor as a means of protecting future discoveries. Day-to-day management procedures will involve coordination with the Division of Archives, History and Records Management, regulation of access to known resources, monitoring and enforcement activities, and salvage and research activities. A detailed statement of these procedures is contained in Addendum 5.

Public Access and Use Management

Effective on-site control of public access and use is essential to the ability of the management program to prevent adverse impacts on the natural values of the river and the upland corridor. After designation, the South Florida Water Management District and the Department of Natural Resources will negotiate appropriate interagency agreements to transfer management authority for the properties purchased by the District under the Save Our Rivers Program to the Department. These lands will be incorporated under the management jurisdiction of Jonathan Dickinson State Park, and administered in accordance with rules to be promulgated by the Department. Any rules promulgated for the management of these lands will be consistent with the applicable provisions of Chapter 16D-2, Florida Administrative Code (see Addendum 6).

The responsibility for controlling public access and managing public recreational use of the river necessarily will be shared

between the Department and Palm Beach County, which administers Riverbend Park. In situations where neither agency has full management authority over the resource, cooperation and coordination will be indispensable to the success of the total management effort. To this end, the Department and the County will enter a formal agreement for joint management of access and use of the river. The sections below identify the general objectives and policies which the Department and the County will follow in providing public access facilities and managing public recreational use of the river area.

Public Access

The intent of the management program is to limit opportunities for public access to the river and the river corridor to those areas which already exist. No new public access points (including roads, boat ramps, docks, launching areas, and parking areas), will be established in the publicly owned portions of the corridor. The proposed location of Interstate Highway 95 along the existing right-of-way of the Florida Turnpike will not have the effect of providing additional access to the river since it is designed as a limited access highway. Nothing contained in this plan shall be construed to either prohibit or approve the addition of interchanges at the Florida Turnpike, State Road 7 or Interstate Highway 95 outside of the designated river corridor area. Existing access points that are determined unnecessary or detrimental to the ability of

the Department or the County to manage public use (such as the area located on the north side of the Indiantown Road right-of-way) will be closed as soon as feasible. Access to the river by adjoining private landowners will continue uninterrupted after designation as long as such access does not adversely affect the resource values of the river or the effective management of public use. As lands are brought into public ownership, however, access to the river and the corridor by adjacent landowners will be prohibited unless specifically provided otherwise by law, contract, deed restriction, easement, or other legal means.

After transfer of management authority, the Department will schedule the development of a detailed site plan and analysis. This effort will require close coordination with Palm Beach County in order to avoid conflicts with development plans for Riverbend Park. The site plan and analysis will identify the capacity of the river area to support recreation activities without degrading its natural resource values, and will determine the spatial factors that either favor or limit the provision of individual activities. It will address various non-design related issues such as external environmental threats, relationships with other management and regulatory programs, and other similar issues. The general criteria for locating basic and major facilities to be utilized in this analysis are identified below.

Basic facilities. - Basic support facilities may be placed in the corridor to absorb user impacts on the river's resources. The Department and the County will avoid placing any developed facilities or other improvements in the "wild" segment of the corridor. Basic comfort facilities such as toilets, shelters, cooking grills, picnic tables and refuse containers may be placed in the "scenic" and "recreational" segments. When placed within the river corridor, these facilities will be judiciously located so as to avoid any visual encroachment on the river and prevent excessive user impacts on the area. Each agency will minimize the placement of signs in the corridor area.

Major Facilities. - Construction of major public use facilities such as campgrounds, major visitor centers and administrative headquarters will be located outside of the river corridor area whenever feasible. If such facilities are necessary to provide for public use or protect the river's resources, and if location outside the corridor area is unfeasible, then they may be located within the corridor provided that they do not have an adverse effect on the natural or scenic values of the river. Access to the corridor area will be by existing roads and trails. No new access roads will be constructed in the corridor.

As lands are transferred to the Department for management, the Department will identify and schedule for removal any artificial facilities or conditions in the corridor area that are incompatible with the purposes of the management program. Such

facilities may include dikes, canals, fences, buildings or other features or conditions that occur in unnatural situations. Care will be taken to avoid removing any structure that may have historical or archaeological significance, or that may be useful in interpreting a particular era in the river's history.

Public Use

The objective of the management program in administering the wild and scenic river area is to provide maximum public use consistent with the preservation of the river's natural and scenic values. Following designation of the river and transfer of management authority, the Department will promulgate rules for managing the use of public lands in the river area. Additional lands will be brought under the jurisdiction of these rules as they are purchased. These rules will identify the policies and procedures to be followed in managing the day-to-day operation of the designated river area, and will address such matters as allowable and prohibited uses, visitor services, vehicle use, concessions, interpretive activities, and enforcement of carrying capacity.

Also after designation, the Department and the County will implement a monitoring program to measure the effectiveness of the plan's carrying capacity in meeting the objectives of the management program. The monitoring program will contain the specific procedures to be utilized by on-site management personnel in determining the degree of human impact received by

the river's resources and facilities. The program will also identify specific methods to be used to measure recreational use levels on the river (including any increases in use that occur as a result of national designation), and to monitor canoeists' satisfaction levels.

CHAPTER VI CARRYING CAPACITY

An important function of the river management program is to determine and monitor the quantity and mixture of recreation and other public use which can be permitted on the river without adverse impacts on the resource values of the river area. The recreation "carrying capacity" of rivers has received the attention of river managers for more than a decade, but there is little consensus as to the most appropriate means for estimating carrying capacity. This is because carrying capacity is a dynamic concept and a number of factors exist, including management objectives, the physical and biological nature of the resource, and the preferences and tolerances of users, which must be considered together in selecting a carrying capacity for the river.

CONSIDERATIONS IN DETERMINING CARRYING CAPACITY

The concept of carrying capacity may be approached from two standpoints: the capacity of natural features, and the demands of the human component. These may be further differentiated into four related categories: physical capacity, ecological capacity, facility capacity, and social capacity. These may then be used in roughly a descending order to establish capacity.

The upper limit of capacity is the amount of space available to humans. In the case of canoeing on the Loxahatchee, this

might ultimately be the number of canoes that could physically occupy the river at one time with only enough spacing between them to allow for a minimum level of user safety. Allocating all of the available space in the river to areas large enough to accommodate a canoe would yield a carrying capacity far in excess of current levels of canoeing on the river.

A second, and probably the most widely recognized and discussed capacity, concerns human impacts on the resource. Obviously, if the physical capacity of the river was reached every day of the year, dramatic impacts on animal and plant life would result. Ecological capacity is difficult to establish because any human use will have an impact, but also because the impacts of some uses--particularly canoeing--are low in comparison with others such as tubing, camping, or picnicking. The critical question is how much impact is tolerable.

To accommodate use, physical facilities such as parking lots and launching areas are needed. When parking lots are full or launching areas are covered with canoes, the carrying capacity of the facilities has been reached. Over a long term, facility capacity is probably the most flexible of the categories, although it may well be fixed over short periods. While physical or ecological capacity may be adjusted by the application of mitigation measures or other technology, facility capacity can be enlarged by expanding parking lots, building additional boat ramps, or hiring personnel if funds for these purposes are available.

A fourth capacity, social capacity, involves the question of how many visitors can be placed into an area before their recreational experience is significantly reduced. Social carrying capacity inevitably requires a value judgment concerning how much human interaction is too much, and at what point is the experience significantly reduced. The problem is made more difficult in the case of social carrying capacity because there is even less value agreement about a preferred recreational experience than there is about a preferred ecosystem. Under one set of values, social capacity might be reached when there is one boat on the river; under another set, when there are enough boats to make the activity a pleasurable social experience.

The application of these four types of carrying capacity may be illustrated for river recreation on the Loxahatchee River. Currently, canoeing does not approach physical capacity, even on the narrow upper portion of the river. Ecological capacity is probably also above current use levels, partially because of the generally low impact of canoeing, but also because other, higher impact activities do not occur in conjunction with canoeing. Facility capacity, if measured by the size of the parking area at Riverbend Park, is approximately 20 cars. As shown in Chapter III, however, this is exceeded on many weekend days during the spring months. In any case, the construction of additional parking area could easily alleviate the problem.

The real limiting factor on the Loxahatchee River may be social carrying capacity, where the number of canoeists influences the nature of the experience. In establishing such a carrying capacity for the river, the management program must recognize that there is no widely shared premise regarding preferred experiences among canoeists. The management program must therefore attempt to accommodate as wide a range of canoeing preferences as possible without causing overcrowding or natural resource deterioration.

DERIVATION OF CARRYING CAPACITY

Two basic patterns of canoeing presently occur on the Loxahatchee River. Small groups--those consisting of one or two canoes--comprise almost half of the canoeing that originates at Riverbend Park. Larger groups, ranging in size from three to more than ten canoes, comprise the other half. This observed behavior reflects preferences for two distinct types of recreational experience. The first type is a wilderness experience, characterized by quiet, slow movement and the opportunity to observe and appreciate the river's vegetation and wildlife. The canoeist who prefers this type of experience may tolerate some limited visual or auditory contact with other canoeists, but, in general, he prefers an experience of solitude. The second type of experience is less of a wilderness-oriented, resource-based activity than it is a social experience. Camaraderie, occasional racing, and the desire to share the

experience with others all typify the elements of this style of canoeing. To the canoeist who prefers this experience, the primary emphasis is on social considerations, with natural resource considerations being either of secondary importance or not important at all. Of course, not all of the canoeing that occurs on the river can be characterized so conveniently by these two extremes; most canoeists probably fall somewhere on a continuum between them. The distinction is useful, however, in illustrating the range of preferences currently displayed on the river.

In order to provide opportunities for both general types of canoeing, two separate use periods of equal duration, and corresponding maximum use levels for each period, will be established after designation. These restrictions will apply only to use that originates at Riverbend Park. An early morning "quiet" period will be established to allow an opportunity to enjoy a high quality, wilderness canoeing experience. The remainder of the day will be available for canoeists who prefer a more social experience, or who prefer to travel in larger groups. The precise duration of the two use periods will vary according to seasonal changes in daylight hours available for canoeing. Because large groups are essentially incompatible with wilderness canoeing, groups during the "quiet" period will be limited in size to no more than two boats. No maximum group size will be established for the "group" use period.

A spacing interval, or the average distance between canoeing groups, is utilized as the means of influencing the opportunity for visual and auditory contact between groups, and thus, the nature of the recreational experience provided. Spacing interval is a theoretical notion since the actual spacing between groups and between individual canoes within groups depends on a number of factors including velocity and level of river flow, channel size and configuration, group size, canoeist experience and preference and other factors. Further, it is difficult to determine a single effective interval for all parts of the river because the spacing needed to achieve a specified experience in one setting may be insufficient--or excessive--to achieve the same experience in other settings. Despite these limitations, interval spacing is a useful planning concept and helps to further define the range of recreational experiences anticipated by this plan.

Based on field observations and empirical estimates, it was determined that an average interval between groups of approximately one-quarter mile (1,320 feet) on the portion of the river upstream from the Trapper Nelson Interpretive Site will reduce the likelihood of seeing or hearing another group of canoeists to reasonable minimum levels. The resulting recreational experience may be termed a wilderness experience. Similarly, it was determined that an average spacing of one-eighth mile (660 feet) is the minimum interval needed to

ensure a reasonable separation between groups during the late morning "group" use period. At this interval, occasional sight and sound contact may occur between groups, and opportunities for wildlife observation may be somewhat less frequent than at the wider spacing. The recreational experience derived from a trip on the river at this interval, however, should still be essentially natural and offer ample opportunities to appreciate the river's natural character.

Calculations of maximum use levels for each period were based on the formula below. Utilizing these values resulted in the carrying capacities shown in Table VI-1.

$$\text{Carrying Capacity (number of groups)} = \frac{\text{Trip Distance X Hours Available for Launching}}{\text{Spacing Interval X Average Trip Time}}$$

Where:

Trip distance = 7 miles
Hours available for launching:
April-September (7:00 am to 1:00 pm)
"Quiet" use period = 3 hours
"Group" use period = 3 hours
October-March (7:00 am to 11:00 am)
"Quiet" use period = 2 hours
"Group" use period = 2 hours
Spacing interval:
"Quiet" use period = 1,320 feet
"Group" use period = 660 feet
Average trip time = 6 hours

TABLE VI-1

Proposed Maximum Use Levels at Riverbend Park

<u>Use Period</u>	<u>Summer Season</u> <u>April-September</u>	<u>Winter Season</u> <u>October-March</u>
	<u>(7:00 am to 1:00 pm)</u>	<u>(7:00 am to 11:00 am)</u>
"Quiet" period	7:00 am to 10:00 am	7:00 am to 9:00 am
	Maximum 14 groups	Maximum 9 groups
	Maximum group size- 2 canoes	Maximum group size- 2 canoes
	Maximum 28 canoes	Maximum 18 canoes
- - - - -		
"Group" period	10:00 am to 1:00 pm	9:00 am to 11:00 am
	Maximum 28 groups	Maximum 19 groups
	Average group size- 4 canoes	Average group size- 4 canoes
	Maximum 112 canoes	Maximum 76 canoes
Total Daily Use	140 canoes	94 canoes

Scheduling and Enforcement

After designation, the Department of Natural Resources and Palm Beach County, with input from other interested groups and individuals, will develop a system for scheduling and monitoring use of the river and enforcing the plan's carrying capacity. This system will be jointly implemented by the Department and Palm Beach County in accordance with a formal interagency agreement. The system will establish appropriate launching intervals for both use periods, and may, if determined to be necessary, allocate available launches between commercial and non-commercial components. A permit system may also be

instituted if determined necessary to regulate canoeing on the river. The Department will closely monitor impacts which result from the levels of use indicated herein. Carrying capacities will be reviewed on at least an annual basis and adjustments made as needed after considering resource impacts, increases in use, user preferences, river conditions and other factors.



CHAPTER VII PLAN IMPLEMENTATION

In preceding chapters, this plan has sought to identify the natural and cultural features which combine to make the Loxahatchee River an area of unique natural resource values. It has sought, as well, to set forth a program of goals, objectives and specific actions to be taken to ensure that these resource values are permanently protected and enhanced. It will not be easy to provide the resources, facilities or programs required to do the job, but by conscientious efforts to implement the actions discussed herein, public agencies and private interests can work together toward achieving the goals and objectives set forth in this plan.

MANAGEMENT COORDINATION

Management of the Loxahatchee Wild and Scenic River will be accomplished through the cooperative actions of many local, state, and federal agencies having vested interests in this area of the river. An important function of the river management program will be to coordinate the management activities of the various involved agencies. After designation of the river, the Department of Natural Resources and the South Florida Water Management District will establish a permanent management coordinating council, as provided in Section 83-358.5(3)(o), Laws

of Florida, to ensure that effective interagency management coordination is maintained. The coordinating council will be composed of one representative from each of the agencies specified below, in accordance with Section 83-358.5(3)(o). Recognizing the need for broad representation on the council, however, the Department and the District will confer immediately after designation to add additional members to the council. These members shall represent, among others, local environmental groups, public entities within the basin, and private property owners who may be affected by the plan.

- U.S. Department of the Interior
- Department of Environmental Regulation
- Department of Transportation
- Game & Fresh Water Fish Commission
- Department of Community Affairs
- Department of Agriculture & Consumer Services, Division of Forestry
- Department of State, Division of Archives, History & Records Management
- Treasure Coast Regional Planning Council
- Martin County
- Palm Beach County
- Town of Jupiter
- Jupiter Inlet District
- Loxahatchee River Environmental Control District
- South Indian River Water Control District
- Northern Palm Beach County Water Control District
- Palm Beach County Farm Bureau

The coordinating council will advise the Department and the District on matters that affect the administration of the river within its authority as granted by Chapter 83-358. The council will play a vital role in ensuring that the preservation and enhancement goals of the plan are realized by identifying and

resolving coordination problems and enhancing communication between all interests in the river area. Most of this function will be conducted at the on-site staff level. Conflicts that may arise between user groups and agencies, or problems that have no established channels for resolution, will be identified and resolved through coordination and negotiation. When necessary, the council may formally review problems and provide its recommendations to the appropriate decision-making or management agencies.

The coordinating council ^{may} will also review and provide advisory recommendations on all permits required by Chapter 83-358. Permits required under this Act are subject to the provisions of Chapter 120, Florida Statutes, and the council's review will not impede the timely processing of those permits. The specific process for the council's review of such permits will be established by the Department and the District in their respective rules for the administration of the wild and scenic river. In reviewing permits, the council may find it necessary to conduct in-depth analyses of the potential impacts of proposed activities. On-site management personnel may assist the council in these assessments, as requested.

Third, the council will review and make recommendations concerning all proposed modifications to this plan. Plan amendments may be proposed to the council by individual member agencies, or to the Department and the District by the council. In either case, the council will conduct a formal review of the

proposed amendment, including an assessment of any potential effects on the natural and scenic values of the river or the corridor area. If appropriate, the council may issue its recommendations concerning amendments to the Department and the District.

Finally, the council will review all rules required by Chapter 83-358 for the protection, management, and operation of the river. The council will review these rules for their impact on management program goals. Recommendations will be made to the Department of Natural Resources through the Executive Director of the Department, or to the Governing Board of the South Florida Water Management District through the Executive Director of the District, as appropriate.

After its constitution, the coordinating council may elect appropriate officers as provided in Section 83-358.5(3)(o). The council may adopt by-laws to provide for the conduct of its business on behalf of the State and other matters as the members deem advisable, subject to the approval of the Department and the District. The District will provide necessary professional staff to the council.

PLAN REVIEW AND AMENDMENT

The Loxahatchee Wild and Scenic River Management Plan will be reviewed and, if necessary, revised periodically, but at least at five-year intervals to ensure that the objectives and measures of the management program remain relevant to achieving the plan's

preservation and enhancement goals. All regular (five-year) reviews of the plan will be conducted by the Department and the District. A report on such reviews will be submitted to the council for review and comment. The report will then be submitted to the Department and the District for acceptance.

Any revision or modification of the approved management plan will be accomplished through essentially the same process utilized to adopt the original plan. Amendments to the plan may be proposed at any time by the Department, the District, or the coordinating council. All proposed amendments will be submitted to the District, acting as staff to the council. The District will then schedule the proposal for joint discussion by the council and by staff of the Department and District. The council may, at its discretion, appoint a subcommittee or other appropriate work group to further analyze the proposed revision before making its final recommendations. The analysis of the work group will identify or predict (1) any potential adverse affect on any natural, cultural, or scenic resource of the river or the designated corridor area which may result as a direct or indirect consequence of the proposed plan amendment; and (2) any other matters the council finds desirable. On-site management personnel will issue recommendations on all proposed plan amendments. After the work group submits its findings to the council, the council will meet to make its recommendations to the Department and the District. All amendments to the plan must be approved by the Department and the District.

ACTION PLAN

The final section of this plan summarizes the major actions that are recommended to be taken to implement the findings of the plan. Most of the actions are the responsibility of the Department of Natural Resources or the South Florida Water Management District. Many local, state and federal agencies, as well as private interests, however, will play vital roles in the overall execution of the management program.

While the action plan set forth herein represents the plan's major recommendations, it should not be viewed as a comprehensive listing of all the activities that will be taken to implement the plan. Rather, it should be viewed as indicative of the types of actions that will be needed to ensure that the river's special attributes are permanently preserved and enhanced. Some of the actions represent ongoing activities of the various agencies. Additional actions may be identified as implementation of the plan progresses. Where possible, estimates of funding required to complete these activities and a projected completion data for each has been included in the plan. The implementation of these actions is governed by applicable law and the availability of funds. All agencies are expected to assume responsibility for implementing those recommended actions relevant to their functional areas of responsibility.

Recommendation	Responsibility (* Indicates Lead Agency)	Estimated Funding Required	Projected Action Date
7. Complete acquisition of property within and adjacent to designated river corridor.	SFWMD	\$5.5 million	June 1985
8. Introduce legislation authorizing use of eminent domain to complete acquisition of specific parcels, if necessary.	SFWMD	N.A.	February 1985, or as needed
9. Modify operation schedule of S-46.	SFWMD	N.A.	Ongoing
10. Install improvements needed to regulate discharge from feeder canals into C-14.	*SIRWCD, SFWMD	T.B.D.	March 1986
11. Modify operation of G-92 diversion culvert.	*SFWMD, SIRWCD	N.A.	Ongoing
12. Install additional diversion culvert at G-92.	*SFWMD, SIRWCD	\$300,000	March 1986
13. Adjust C-18 culverts to increase storage in Loxahatchee Slough.	SFWMD	N.A.	Ongoing
14. Require the installation of low-head, low-capacity pumps and related facilities adjacent to planned Loxahatchee Slough Wetlands Management Area.	SFWMD	N.A.	Ongoing
15. Repair Lainhart and Masten Dams.	SFWMD	\$100,000	March 1986
16. Create Loxahatchee Slough wetlands management area.	SFWMD	T.B.D.	June 1989
17. Determine geographic extent of Loxahatchee Slough Wetland Management Area.	*SFWMD, Palm Beach County	N.A.	January 1985
18. Designate segment of river upstream from Jonathan Dickinson State Park as an Outstanding Florida Water.	DER	N.A.	June 1986

Recommendation	Responsibility (* Indicates Lead Agency)	Estimated Funding Required	Projected Action Date
19. Introduce legislation to designate Northwest Fork as an aquatic preserve.	DNR	N.A.	February 1986
20. Monitor water quality conditions in Northwest Fork and tributaries within river corridor.	DER	N.A.	Ongoing
21. Enter State-local agreement for coordinating review of land use proposals affecting the river corridor.	*DNR, SFWMD, Palm Beach County Martin County, Town of Jupiter	N.A.	December 1985
22. Develop vegetation management plan.	*DNR, DACS/DOF	N.A.	December 1985
23. Develop fish and wildlife management program.	*DNR, GFWFC	N.A.	December 1985
24. Close access to river on Indiantown Road right of way.	Palm Beach County	N.A.	T.B.D.
25. Develop procedures for coordinating review of DRIs which may impact the river corridor area with management agencies.	*TCRPC, DCA, DNR, SFWMD, DER	N.A.	December 1985
26. Enter agreement for joint management of public use and access in the river corridor area.	*DNR, Palm Beach County	N.A.	December 1985
27. Develop and staff Riverbend Park.	Palm Beach County	\$500,000	January 1985
28. Develop site analysis and plan for river corridor.	*DNR, Palm Beach County	N.A.	June 1985
29. Amend Palm Beach County comprehensive plan to develop performance standards for designated river corridor area.	Palm Beach County	N.A.	June 1985
30. Amend Martin County comprehensive plan to require 50-foot setback from wetland areas along the Loxahatchee River.	Martin County	N.A.	June 1985

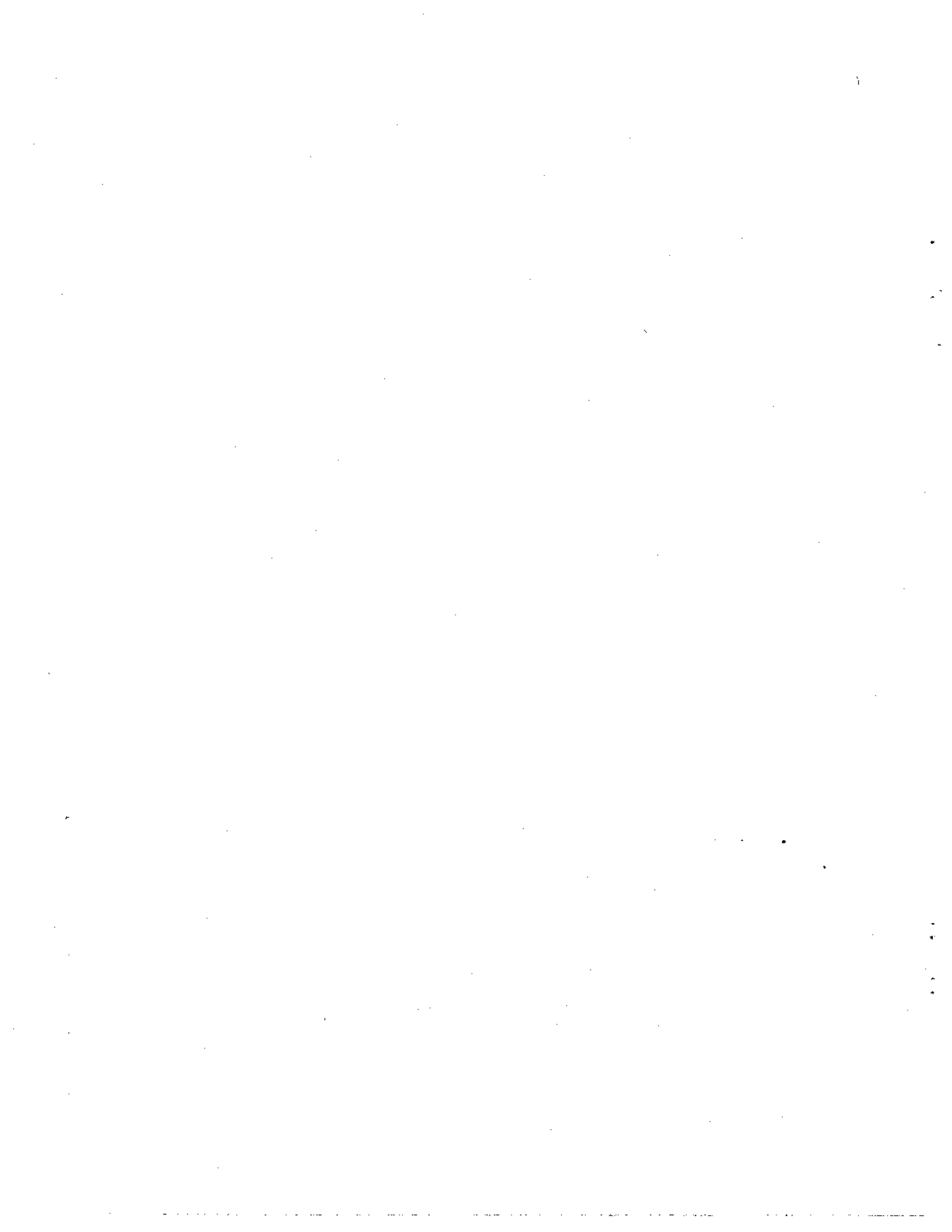
Recommendation	Responsibility (* Indicates Lead Agency)	Estimated Funding Required	Projected Action Date
31. Amend Town of Jupiter comprehensive plan to provide site review performance criteria for projects in river corridor area.	Town of Jupiter	N.A.	June 1985
32. Establish procedures for federal level review of required federal permits which may adversely affect the river.	NPS	N.A.	December 1985

DNR - Florida Department of Natural Resources
 DER - Florida Department of Environmental Regulation
 DOS/DAHRM - Florida Department of State, Division
 of Archives, History and Records Management
 DCA - Florida Department of Community Affairs
 DACS/DOF - Florida Department of Agriculture and
 Consumer Services, Division of Forestry
 DOT - Florida Department of Transportation
 GFWFC - Florida Game and Fresh Water Fish Commission

SFWMDC - South Florida Water Management District
 TCRPC - Treasure Coast Regional Planning Council
 SIRWCD - South Indian River Water Control District
 NPBCWCD - Northern Palm Beach County Water Control
 District
 ENCON - Loxahatchee River Environmental Control
 District
 JID - Jupiter Inlet District
 NPS - U.S. Department of the Interior, National
 Park Service

ADDENDUM 1

CHAPTER 83-358, LAWS OF FLORIDA
LOXAHATCHEE RIVER WILD AND SCENIC DESIGNATION
AND PRESERVATION ACT



CHAPTER 83-358

Committee Substitute for Senate Bill No. 459

An act relating to the Loxahatchee River; creating the Loxahatchee River Wild and Scenic Designation and Preservation Act; providing legislative declarations and intent; providing definitions; designating a portion of the river as a wild and scenic river; providing for development of a management plan; providing for a coordinating council; authorizing the Governor to apply for inclusion of the designated portion of the river in the National Wild and Scenic Rivers System; providing for preservation of existing governmental authority; providing for rules; specifying regulatory and permitting authority; providing for enforcement; providing for injunctions; specifying violations and penalties; providing for repeal; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Short title.--Sections 1 through 12 of this act may be cited as the "Loxahatchee River Wild and Scenic Designation and Preservation Act."

Section 2. Legislative declaration.--The Legislature finds and declares that a certain segment of the Loxahatchee River in Palm Beach and Martin Counties possesses outstandingly remarkable ecological, fish and wildlife, and recreational values which are unique in the United States. These values give national significance to the river as one which should be permanently preserved and enhanced, not only for the citizens of the State of Florida, but for the citizens of the United States, of present and future generations. The permanent management and administration of the river, however, involves a complex interaction of national, state, regional, and local interests which require balancing, coordination of purpose and continuing participation by and access to the public, through its elected representatives. It is the intention of the Legislature to provide for the permanent preservation of the designated segment of the Loxahatchee River by way of development of a plan for permanent administration by agencies of the state and local government which will ensure the degree of protection necessary for inclusion of that segment of the river in the National Wild and Scenic Rivers System but retaining that degree of flexibility, responsiveness, and expertise which will accommodate all of the diverse interests involved in a manner best calculated to be in the public interest.

Section 3. Definitions.--As used in this act:

- (1) "Activity" means the doing of any act or the failing to do any act, whether by a natural person or a corporation.
- (2) "Board" means the governing board of the South Florida Water Management District.
- (3) "Coordinating Council" means the council created by s. 5(3)(o).
- (4) "Department" means the Department of Natural Resources.
- (5) "Division" means the Division of Recreation and Parks of the Department of Natural Resources.
- (6) "Executive Board" means the Governor and Cabinet sitting as the head of the Department of Natural Resources.
- (7) "Resource value" means any one or more of the specific scenic, recreational, geologic, fish and wildlife, historic, cultural, or ecological features identified by the National Park Service, Department of the Interior, in its Draft Wild and Scenic Rivers Study/Draft Environmental Impact Statement as being outstandingly remarkable or worthy of note.

(8) "River area" means that portion of the Northwest Fork of the Loxahatchee River from river mile 6 to river mile 13.5, together with such abutting uplands as determined in the permanent management plan to form the corridor having visual impact on the river user, and which may be necessary to maintain the natural and scenic appeal of the river.

Section 4. Designation of wild and scenic river.--The Northwest Fork of the Loxahatchee River between river mile 6 and river mile 13.5 is hereby designated as a wild and scenic river for the purposes of this act and subject to all of the provisions of this act. Such designated portion is more particularly described as that portion of the Northwest Fork downstream of the southern boundary of Riverbend County Park located in Palm Beach County and upstream of an east-west line passing through a point where the southern boundary of Jonathan Dickinson State Park intersects the eastern shoreline of the river.

Section 5. Development of management plan.--

(1) The department and the South Florida Water Management District shall jointly develop a proposed management plan for the designated segment of the Loxahatchee River, which management plan, subject to and consistent with the provisions of this act, will be designed to qualify the designated segment of the river for inclusion in the National Wild and Scenic Rivers System.

(2) The development of the proposed management plan shall include participation by the National Park Service, by all appropriate state agencies, by all appropriate or interested local governments, including but not limited to Palm Beach County, Martin County, the Jupiter Inlet District, the Town of Jupiter, the Loxahatchee River Environmental Control District, the South Indian River Water Control District, and the Northern Palm Beach County Water Control District, the Palm Beach County Farm Bureau, and by any others deemed advisable by the department or board. To the extent not inconsistent with the provisions of this act, the plan shall include such conditions as the United States Secretary of the Interior may require.

(3) The proposed management plan shall include provision for:

(a) Permanent protection and enhancement of the ecological, fish and wildlife, and recreational values identified by the National Park Service in its draft study of the river and for which the river was chosen for inclusion in the system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of those values; primary emphasis being given to protecting esthetic, scenic, historic, archaeological, and scientific features;

(b) Continuation of land uses and developments on private lands within the river area which are in existence on the effective date of this act which are not incompatible with the purposes of designation;

(c) Periodic studies to determine the quantity and mixture of recreation and other public uses which can be permitted without adverse impact on the resource values of the river area;

(d) Regulation and distribution of public access where necessary to protect and enhance the resource values of the river area;

(e) Basic facilities to absorb user impact on the river area, including necessary toilet or refuse containers, but located in order to minimize their intrusive impact;

(f) Location of major facilities such as developed campgrounds, visitor centers, and administrative headquarters outside the river area;

(g) Restriction of motorized travel by land vehicle or boat where necessary to protect the resource values in the river area;

(h) Agricultural and forestry practices similar in nature and intensity or less intensive than those present in the river area on the effective date of this act;

(i) Limitation of resource management practices to those necessary for protection, conservation, rehabilitation, or enhancement of river area resource values;

(j) Maintenance of existing water quality;

(k) Whenever alternative routes are unavailable, location and construction of new public utility or road rights-of-way in a way which minimizes adverse effects on scenic, recreational, fish and wildlife, and other resource values in the river area;

(l) Continuance of existing drainage and water management practices, unless such existing practices will degrade or diminish existing water quality or existing resource values in the river area, and allowance of new water resource management practices which will not have a substantial adverse impact on resource values in the river area;

(m) Review and regulation of all activities conducted or proposed to be conducted which will or may have a substantial adverse impact on any of the resource values in the river area as provided in this act;

(n) Continuation of activities or developments below or above the designated segment which will not invade the river area or substantially diminish the scenic, recreational, and fish and wildlife resource values present in the river area on the effective date of this act; and

(o) A permanent management coordinating council composed of one representative from each of the participants provided for in subsection (2). The coordinating council shall review and make recommendations, in the first instance, on all applications for permits required by this act, as well as all proposals for amendments or modifications to the permanent management plan, and render its nonbinding advisory opinion to the board and the department. Each participant shall appoint one member to the coordinating council. The coordinating council shall elect a chairman, vice chairman, and secretary to serve for a term of 1 year. The coordinating council shall adopt bylaws to provide for such other officers as it may deem necessary, election of officers, removal of officers for just cause, meetings, quorum, procedures for the conduct of its business, and such other matters as the membership may deem advisable in the conduct of its business. Such professional staff as the coordinating council may require shall be provided by the South Florida Water Management District.

(4) To the extent not inconsistent with this act, the proposed management plan may also include any other provisions deemed by the department and the board to be necessary or advisable for the permanent protection of the river as a component of the National Wild and Scenic Rivers System.

Section 6. Authority for application for inclusion in National Wild and Scenic Rivers System.--Upon completion of the development of a proposed management plan, the executive director of the department shall forward the proposed management plan to the executive board. After the executive board has received, reviewed and accepted a proposed management plan, the Governor may apply to the United States Secretary of the Interior for inclusion of the designated segment of the Loxahatchee River into the National Wild and Scenic Rivers System.

Section 7. Preservation of existing governmental authority.--

(1) Nothing contained in this act shall operate to divest any agency, water management district, municipality, county, or special district of any authority or jurisdiction in existence on the effective date of this act.

(2) Construction and maintenance of improvements at the Jupiter Inlet and in the Loxahatchee River downstream from the designated segment for purposes of navigation, waterway flushing, or upland drainage, including creation or preservation of channels, maintenance dredging, jetty improvements, riprapping, construction of groins and similar improvements, and removal of sand or dead oyster shell bars when deemed to have a potential for substantial adverse impact on the resource values of the river area shall be undertaken using techniques which minimize adverse effects on scenic, recreational, fish and wildlife and other values of the river area.

Section 8. Rulemaking authority.--After approval by the Secretary of the Interior of an application by the Governor under this act for inclusion of the Loxahatchee River in the National Wild and Scenic Rivers System, the board and the department shall each have full authority under their separate jurisdictions as provided in s. 9 to adopt rules deemed necessary for the discharge of the respective duties of each as provided herein, including the adoption of the proposed management plan as the permanent management plan, and including the power to adopt rules modifying or amending the management plan in accordance with the provisions of this act and rules providing for permanent management of the designated segment as a component of the National Wild and Scenic Rivers System.

Section 9. Separation of regulatory authority.--

(1) The department shall have full and exclusive authority to adopt rules concerning and to regulate activities within the river area having a direct and substantial adverse effect on any resource value within the river area.

(2) The board shall have full and exclusive authority to adopt rules concerning and to regulate activities outside the river area having substantial adverse impact on resource values within the river area.

(3) The department and the board shall coordinate all activities related to rule adoption and enforcement in order to avoid to the maximum extent possible any conflicts or duplication arising therefrom.

Section 10. Permitting authority.--

(1) No person or entity shall conduct any activity or do anything which will or may have an adverse impact on any resource value in the river area without first having received a permit from the board or the department, as appropriate.

(2) Any applicant for a permit shall file an application for a permit with the board or the department, whichever has regulatory authority, upon such forms and in such manner as the board or the department shall by rule require. The board and the department may require, with or in addition to such applications, the furnishing of any information deemed necessary or desirable for full and complete consideration of all factors relevant to informed decisions on the applications.

(3) A permit may be granted only after a finding by the board or the department, whichever has regulatory authority, that the activity for which a permit has been requested will not have a substantial adverse impact on resource values in the river area.

(4) The board and the department may adopt an application fee schedule providing for payment of reasonable fees to defray the cost of processing applications.

(5) The provisions of chapter 120, Florida Statutes, shall apply to the board and to the department, but not to the coordinating council, in carrying out the functions and duties prescribed for each by this act.

Section 11. Enforcement.--

(1) Officers of the division shall have full authority to enforce any rule adopted under this act with the same police powers given them by law to enforce the rules of state parks.

(2) The board shall have full power to enforce this act or any rule adopted under this act by action for injunctive relief or by any other method available for enforcement of rules adopted under chapter 373.

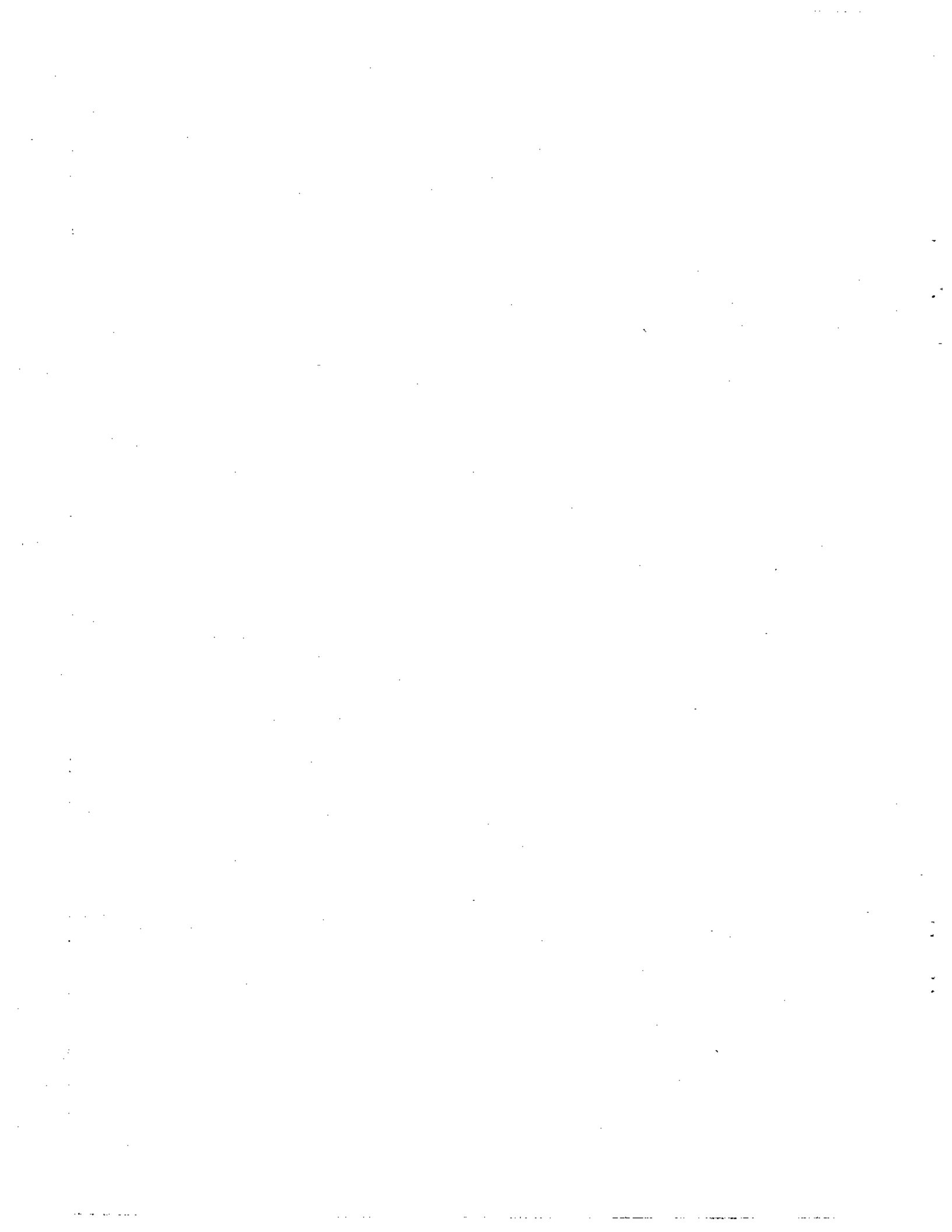
Section 12. Penalties.--Violation of any rule adopted under this act constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes. Continuing violation after notice constitutes a separate violation for each day so continued.

Section 13. This act is repealed on a date 2 years after the effective date of this act, unless the portion of the Loxahatchee River designated by this act as a wild and scenic river is included in the National Wild and Scenic Rivers System on or before that date.

Section 14. This act shall take effect upon becoming a law.

Approved by the Governor June 24, 1983.

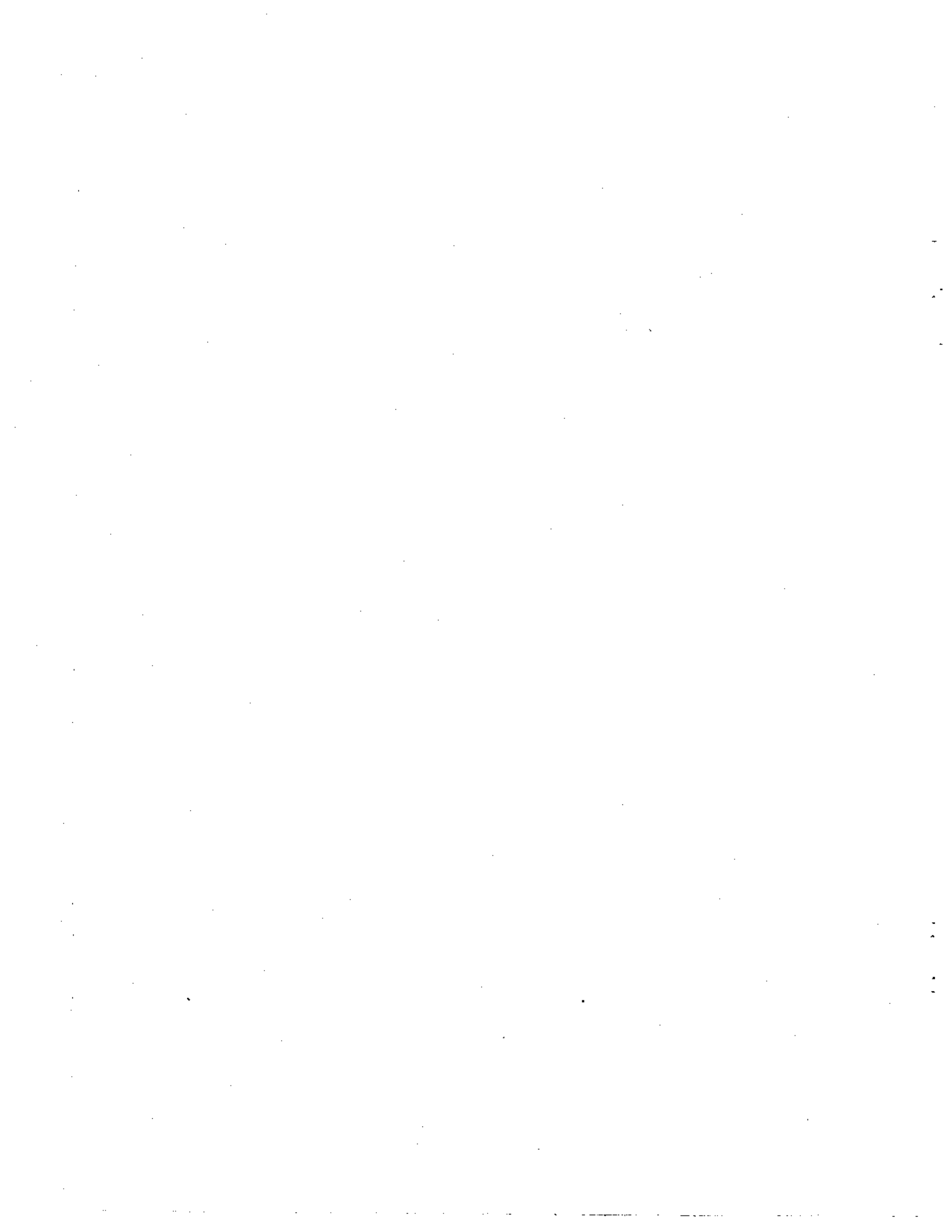
Filed in Office Secretary of State June 24, 1983.



ADDENDUM 2

PUBLIC LAW 90-542
(16 U. S. CODE 1271 ET SEQ.)

WILD AND SCENIC RIVERS ACT
AS AMENDED



CHAPTER 28—WILD AND SCENIC RIVERS

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1271. Congressional declaration of policy.
1272. Congressional declaration of purpose.
1273. National wild and scenic rivers system.
 (a) Composition; application; publication in Federal Register; expense; administration of federally owned lands.
 (b) Classification, designation, and administration of rivers.
1274. Component rivers and adjacent lands.
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 (b) Establishment of boundaries; classification; development plans.
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1285b. Establishment of boundaries for certain component rivers in Alaska; withdrawal of minerals.
1286. Definitions.
1287. Authorization of appropriations.</p> |
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 460gg-3 of this title.

§ 1271. Congressional declaration of policy

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 dam 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.

(Pub. L. 90-542, § 1(b), Oct. 2, 1968, 82 Stat. 906.)

SHORT TITLE OF 1972 AMENDMENT

Section 1 of Pub. L. 92-560, Oct. 25, 1972, 86 Stat. 1174, provided: "That this Act (enacting subsec. (a)(9) of section 1274 of this title and provisions set out as notes under such section) may be cited as the 'Lower Saint Croix River Act of 1972'."

SHORT TITLE

Section 1(a) of Pub. L. 90-542 provided that: "This Act (enacting this chapter) may be cited as the 'Wild and Scenic Rivers Act'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1272, 1273 of this title.

§ 1272. Congressional declaration of purpose

The purpose of this chapter is to implement the policy set out in section 1271 of this title by instituting a national wild and scenic rivers system, by designating the initial components of that system, and by prescribing the methods by which and standards according to which additional components may be added to the system from time to time.

(Pub. L. 90-542, § 1(c), Oct. 2, 1968, 82 Stat. 906.)

§ 1273. National wild and scenic rivers system.

(a) Composition; application; publication in Federal Register; expense; administration of federally owned lands

The national wild and scenic rivers system shall comprise rivers (i) that are authorized for inclusion therein by Act of Congress, or (ii) that are designated as wild, scenic or recreational rivers by or pursuant to an act of the legislature of the State or States through which they flow, that are to be permanently administered as wild, scenic or recreational rivers by an agency or political subdivision of the State or States concerned that are found by the Secretary of the Interior, upon application of the Governor of the State or the Governors of the States concerned, or a person or persons thereunto duly appointed by him or them, to meet the criteria established in this chapter and such criteria supplementary thereto as he may prescribe, and that are approved by him for inclusion in the system, including, upon application of the Governor of the State concerned, the Allagash Wilderness Waterway, Maine; that segment of the Wolf River, Wisconsin, which flows through Langlade County; and that segment of the New River in North Carolina extending from its confluence with Dog Creek downstream approximately 26.5 miles to the Virginia State line. Upon receipt of an application under clause (ii) of this subsection, the Secretary shall notify the Federal Energy Regulatory Commission and publish such application in the Federal Register. Each river designated under clause (ii) shall be administered by the State or political subdivision thereof without expense to the United States other than for administration and management of federally owned lands. For purposes of the preceding sentence, amounts made available to any State or political subdivision under the Land and Water Conservation Act of 1965 [16 U.S.C. 4601-4 et seq.] or any other provision of law shall not be

treated as an expense to the United States. Nothing in this subsection shall be construed to provide for the transfer to, or administration by, a State or local authority of any federally owned lands which are within the boundaries of any river included within the system under clause (ii).

(b) Classification, designation, and administration of rivers

A wild, scenic or recreational river area eligible to be included in the system is a free-flowing stream and the related adjacent land area that possesses one or more of the values referred to in section 1271 of this title. Every wild, scenic or recreational river in its free-flowing condition, or upon restoration to this condition, shall be considered eligible for inclusion in the national wild and scenic rivers system and, if included, shall be classified, designated, and administered as one of the following:

(1) 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.

(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 railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.

(Pub. L. 90-542, § 2, Oct. 2, 1968, 82 Stat. 906; Pub. L. 94-407, § 1(1), Sept. 11, 1976, 90 Stat. 1238; Pub. L. 95-625, title VII, § 761, Nov. 10, 1978, 92 Stat. 3533.)

REFERENCES IN TEXT

The Land and Water Conservation Act of 1965, referred to in subsec. (a), probably means the Land and Water Conservation Fund Act of 1965, Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 4601-4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601-4 of this title and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-625 provided for notification of the Federal Energy Regulatory Commission and publication of any application in the Federal Register; made it an expense of the United States for administration and management of federally owned lands; treated amounts available to the States under provisions of law not as an expense of the United States; and made federally owned lands within boundaries of State rivers free of ownership or administration of State or local authority.

1976—Subsec. (a). Pub. L. 94-407 added provision for inclusion of specified segment of New River in North Carolina.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1274, 1278, 1283 of this title.

§ 1274. Component rivers and adjacent lands

(a) Designation

The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system:

- (1) **CLEARWATER, MIDDLE FORK, IDAHO**—The Middle Fork from the town of Kooskia upstream to the town of Lowell; the Lochsa River from its junction with the Selway at Lowell forming the Middle Fork, upstream to the Powell Ranger Station; and the Selway River from Lowell upstream to its origin; to be administered by the Secretary of Agriculture.
- (2) **ELEVENTH POINT, MISSOURI**—The segment of the river extending downstream from Thomasville to State Highway 142; to be administered by the Secretary of Agriculture.
- (3) **FEATHER, CALIFORNIA**—The entire Middle Fork downstream from the confluence of its tributary streams one kilometer south of Beckwourth, California; to be administered by the Secretary of Agriculture.
- (4) **RIO GRANDE, NEW MEXICO**—The segment extending from the Colorado State line downstream to the State Highway 96 crossing, and the lower four miles of the Red River; to be administered by the Secretary of the Interior.
- (5) **ROGUE, OREGON**—The segment of the river extending from the mouth of the Applegate River downstream to the Lobster Creek Bridge; to be administered by agencies of the Departments of the Interior or Agriculture as agreed upon by the Secretaries of said Departments or as directed by the President.
- (6) **SAINT CROIX, MINNESOTA AND WISCONSIN**—The segment between the dam near Taylors Falls, Minnesota, and the dam near Gordon, Wisconsin, and its tributary, the Namekago, from Lake Namekago downstream to its confluence with the Saint Croix; to be administered by the Secretary of the Interior: *Provided*, That except as may be required in connection with items (a) and (b) of this paragraph, no funds available to carry out the provisions of this chapter may be expended for the acquisition or development of lands in connection with, or for administration under this chapter of, that portion of the Saint Croix River between the dam near Taylors Falls, Minnesota, and the upstream end of Big Island in Wisconsin, until sixty days after the date on which the Secretary has transmitted to the President of the Senate and Speaker of the House of Representatives a proposed cooperative agreement between the Northern States Power Company and the United States (a) whereby the company agrees to convey to the United States, without charge, appropriate interests in certain of its lands between the dam near Taylors Falls, Minnesota, and the upstream end of Big Island in Wisconsin, including the company's right, title, and interest to approximately one hundred acres per mile, and (b) providing for the use and development of other lands and interests in land retained by the company between said points adjacent to the river in a manner which shall complement and not be inconsistent with the purposes for which the lands and interests in land donated by the company are administered under this chapter. Said agreement may also include provision for State or local governmental participation as authorized under subsection (e) of section 1281 of this title. A one-thousand-three-hundred-and-eighty-acre portion of the area commonly known as the Velie Estate, located adjacent to the Saint Croix River in Douglas County, Wisconsin, as depicted on the map entitled "Boundary Map/Velie Estate—Saint Croix National Scenic Riverway", dated September 1980, and numbered 630-90,001, may be acquired by the Secretary without regard to any acreage limitation set forth in subsection (b) of this section or subsection (a) or (b) of section 1277 of this title.
- (7) **SALMON, MIDDLE FORK, IDAHO**—From its origin to its confluence with the main Salmon River; to be administered by the Secretary of Agriculture.
- (8) **WOLF, WISCONSIN**—From the Langlade-Menominee County line downstream to Keshena Falls; to be administered by the Secretary of the Interior.
- (9) **LOWER SAINT CROIX, MINNESOTA AND WISCONSIN**—The segment between the dam near Taylors Falls and its confluence with the Mississippi River: *Provided*, (i) That the upper twenty-seven miles of this river segment shall be administered by the Secretary of the Interior; and (ii) That the lower twenty-five miles shall be designated by the Secretary upon his approval of an application for such designation made by the Governors of the State of Minnesota and Wisconsin.
- (10) **CHATTOOGA, NORTH CAROLINA, SOUTH CAROLINA, GEORGIA**—The Segment from 0.8 mile below Cashiers Lake in North Carolina to Tugaloo Reservoir, and the West Fork Chattooga River from its junction with Chattooga upstream 7.3 miles, as generally depicted on the boundary map entitled "Proposed Wild and Scenic Chattooga River and Corridor Boundary", dated August 1973; to be administered by the Secretary of Agriculture: *Provided*, That the Secretary of Agriculture shall take such action as is provided for under subsection (b) of this section within one year from May 10, 1974: *Provided further*, That for the purposes of this river, there are authorized to be appropriated not more than \$5,200,000 for the acquisition of lands and interests in lands and not more than \$809,000 for development.
- (11) **RAPID RIVER, IDAHO**—The segment from the headwaters of the main stem to the national forest boundary and the segment of the West Fork from the wilderness boundary downstream to the confluence with the main stem, as a wild river.
- (12) **SNAKE, IDAHO AND OREGON**—The segment from Hells Canyon Dam downstream to Pittsburgh Landing, as a wild river; and the segment from Pittsburgh Landing downstream to an eastward extension of the north boundary of section 1, township 5 north, range 47 east, Willamette meridian, as a scenic river.
- (13) **FLATHEAD, MONTANA**—The North Fork from the Canadian border downstream to its confluence with the Middle Fork; the Middle Fork from its headwaters to its confluence to the South Fork; and the South Fork from its origin to the Hungry Horse Reservoir, as gener-

ally depicted on the map entitled "Proposed Flathead Wild and Scenic River Boundary Location" dated February 1976; to be administered by agencies of the Departments of the Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President. Action required to be taken under subsection (b) of this section shall be taken within one year from October 12, 1976. For the purposes of this river, there are authorized to be appropriated not more than \$6,719,000 for the acquisition of lands and interests in lands. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.

(14) MISSOURI, MONTANA—The segment from Fort Benton one hundred and forty-nine miles downstream to Robinson Bridge, as generally depicted on the boundary map entitled "Missouri Breaks Freeflowing River Proposal", dated October 1975, to be administered by the Secretary of the Interior. For the purposes of this river, there are authorized to be appropriated not more than \$1,800,000 for the acquisition of lands and interests in lands. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.

(15) OBED, TENNESSEE—The segment from the western edge of the Catoosa Wildlife Management Area to the confluence with the Emory River; Clear Creek from the Morgan County line to the confluence with the Obed River; Daddys Creek from the Morgan County line to the confluence with the Obed River; and the Emory River from the confluence with the Obed River to the Nemo bridge as generally depicted and classified on the stream classification map dated December 1973. The Secretary of the Interior shall take such action, with the participation of the State of Tennessee as is provided for under subsection (b) of this section within one year following October 12, 1976. The development plan required by such subsection (b) shall include cooperative agreements between the State of Tennessee acting through the Wildlife Resources Agency and the Secretary of the Interior. Lands within the Wild and Scenic River boundaries that are currently part of the Catoosa Wildlife Management Area shall continue to be owned and managed by the Tennessee Wildlife Resources Agency in such a way as to protect the wildlife resources and primitive character of the area, and without further development of roads, campsites, or associated recreational facilities unless deemed necessary by that agency for wildlife management practices. The Obed Wild and Scenic River shall be managed by the Secretary of the Interior. For the purposes of carrying out the provisions of this chapter with respect to this river, there are authorized to be appropriated such sums as may be necessary, but not to exceed \$2,000,000 for the acquisition of lands or interests in lands and not to exceed \$400,000 for development. No funds authorized to be appropriated pursuant to this paragraph shall be available prior to October 1, 1977.

(16) PERE MARQUETTE, MICHIGAN—The segment downstream from the junction of the Middle and Little South Branches to its junc-

tion with United States Highway 31 as generally depicted on the boundary map entitled "Proposed Boundary Location, Pere Marquette Wild and Scenic River."; to be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public, the Secretary shall take such action as is provided for under subsection (b) of this section with respect to the segment referred to in this paragraph within one year from November 10, 1978. Any development or management plan prepared pursuant to subsection (b) of this section shall include (a) provisions for the dissemination of information to river users and (b) such regulations relating to the recreational and other uses of the river as may be necessary in order to protect the area comprising such river (including lands contiguous or adjacent thereto) from damage or destruction by reason of overuse and to protect its scenic, historic, esthetic and scientific values. Such regulations shall further contain procedures and means which shall be utilized in the enforcement of such development and management plan. For the purposes of carrying out the provisions of this chapter with respect to the river designated by this paragraph, there are authorized to be appropriated not more than \$8,125,000 for the acquisition of lands or interests in lands and \$402,000 for development.

(17) RIO GRANDE, TEXAS—The segment on the United States side of the river from river mile 842.3 above Mariscal Canyon downstream to river mile 651.1 at the Terrell-Val Verde County line; to be administered by the Secretary of the Interior. The Secretary shall, within two years after November 10, 1978, take such action with respect to the segment referred to in this paragraph as is provided for under subsection (b) of this section. The action required by such subsection (b) shall be undertaken by the Secretary, after consultation with the United States Commissioner, International Boundary and Water Commission, United States and Mexico, and appropriate officials of the State of Texas and its political subdivisions. The development plan required by subsection (b) of this section shall be construed to be a general management plan only for the United States side of the river and such plan shall include, but not be limited to, the establishment of a detailed boundary which shall include an average of not more than 160 acres per mile. Nothing in this chapter shall be construed to be in conflict with—

(A) the commitments or agreements of the United States made by or in pursuance of the treaty between the United States and Mexico regarding the utilization of the Colorado and Tijuana Rivers and of the Rio Grande, signed at Washington, February 1944 (59 Stat. 1219), or

(B) the treaty between the United States and Mexico regarding maintenance of the Rio Grande and Colorado River as the international boundary between the United States and Mexico, signed November 23, 1970.

For purposes of carrying out the provisions of this chapter with respect to the river designated by this paragraph, there are authorized to

be appropriated such sums as may be necessary, but not more than \$1,650,000 for the acquisition of lands and interests in lands and not more than \$1,800,000 for development.

(18) **SKAGIT, WASHINGTON**—The segment from the pipeline crossing at Sedro-Woolley upstream to and including the mouth of Bacon Creek; the Cascade River from its mouth to the junction of its North and South Forks; the South Fork to the boundary of the Glacier Peak Wilderness Area; the Sulattle River from its mouth to the boundary of the Glacier Peak Wilderness Area at Milk Creek; the Sauk River from its mouth to its junction with Elliott Creek; the North Fork of the Sauk River from its junction with the South Fork of the Sauk to the boundary of the Glacier Peak Wilderness Area; as generally depicted on the boundary map entitled "Skagit River—River Area Boundary"; all segments to be administered by the Secretary of Agriculture. Riprapping related to natural channels with natural rock along the shorelines of the Skagit segment to preserve and protect agricultural land shall not be considered inconsistent with the values for which such segment is designated. After consultation with affected Federal agencies, State and local government and the interested public, the Secretary shall take such action as is provided for under subsection (b) of this section with respect to the segments referred to in this paragraph within one year from November 10, 1978; as part of such action, the Secretary of Agriculture shall investigate that portion of the North Fork of the Cascade River from its confluence with the South Fork to the boundary of the North Cascades National Park and if such portion is found to qualify for inclusion, it shall be treated as a component of the Wild and Scenic Rivers System designated under this section upon publication by the Secretary of notification to that effect in the Federal Register. For the purposes of carrying out the provisions of this chapter with respect to the river designated by this paragraph there are authorized to be appropriated not more than \$11,734,000 for the acquisition of lands or interest in lands and not more than \$332,000 for development.

(19) **UPPER DELAWARE RIVER, NEW YORK AND PENNSYLVANIA**—The segment of the Upper Delaware River from the confluence of the East and West branches below Hancock, New York, to the existing railroad bridge immediately downstream of Cherry Island in the vicinity of Sparrow Bush, New York, as depicted on the boundary map entitled "The Upper Delaware Scenic and Recreational River", dated April 1978; to be administered by the Secretary of the Interior. Subsection (b) of this section shall not apply, and the boundaries and classifications of the river shall be as specified on the map referred to in the preceding sentence, except to the extent that such boundaries or classifications are modified pursuant to section 704(c) of the National Parks and Recreation Act of 1978. Such boundaries and classifications shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the Committee on Interior and Insular Affairs of the United States House of Representatives and

the Committee on Energy and Natural Resources of the United States Senate. For purposes of carrying out the provisions of this chapter with respect to the river designated by this paragraph there are authorized to be appropriated such sums as may be necessary.

(20) **DELAWARE, NEW YORK, PENNSYLVANIA, AND NEW JERSEY**—The segment from the point where the river crosses the northern boundary of the Delaware Water Gap National Recreation Area to the point where the river crosses the southern boundary of such recreation area; to be administered by the Secretary of the Interior. For purposes of carrying out this chapter with respect to the river designated by this paragraph, there are authorized to be appropriated such sums as may be necessary. Action required to be taken under subsection (b) of this section with respect to such segment shall be taken within one year from November 10, 1978, except that, with respect to such segment, in lieu of the boundaries provided for in such subsection (b), the boundaries shall be the banks of the river. Any visitors facilities established for purposes of use and enjoyment of the river under the authority of the Act establishing the Delaware Water Gap National Recreation Area [16 U.S.C. 460o et seq.] shall be compatible with the purposes of this chapter and shall be located at an appropriate distance from the river.

(21) **AMERICAN, CALIFORNIA**—The North Fork from a point 0.3 mile above Heath Springs downstream to a point approximately 1,000 feet upstream of the Colfax-Iowa Hill Bridge, including the Gold Run Addition Area, as generally depicted on the map entitled "Proposed Boundary Maps" contained in Appendix I of the document dated January 1978 and entitled "A Proposal: North Fork American Wild and Scenic River" published by the United States Forest Service, Department of Agriculture; to be designated as a wild river and to be administered by agencies of the Departments of Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President. Action required to be taken under subsection (b) shall be taken within one year after November 10, 1978; in applying such subsection (b) in the case of the Gold Run Addition Area, the acreage limitation specified therein shall not apply and in applying section 1277(g)(3) of this title, January 1, 1977 shall be substituted for January 1, 1967. For purposes of carrying out the provisions of this chapter with respect to the river designated by this paragraph, there are authorized to be appropriated not more than \$850,000 for the acquisition of lands and interests in land and not more than \$765,000 for development.

(22) **MISSOURI RIVER, NEBRASKA, SOUTH DAKOTA**—The segment from Gavins Point Dam, South Dakota, fifty-nine miles downstream to Ponca State Park, Nebraska, as generally depicted in the document entitled "Review Report for Water Resources Development, South Dakota, Nebraska, North Dakota, Montana", prepared by the Division Engineer, Missouri River Division, Corps of Engineers, dated August 1977 (hereinafter in this paragraph re-

ferred to as the "August 1977 Report"). Such segment shall be administered as a recreational river by the Secretary. The Secretary shall enter into a written cooperative agreement with the Secretary of the Army (acting through the Chief of Engineers) for construction and maintenance of bank stabilization work and appropriate recreational development. After public notice and consultation with the State and local governments, other interested organizations and associations, and the interested public, the Secretary shall take such action as is required pursuant to subsection (b) of this section within one year from November 10, 1978. In administering such river, the Secretary shall, to the extent, and in a manner, consistent with this section—

(A) provide (i) for the construction by the United States of such recreation river features and streambank stabilization structures as the Secretary of the Army (acting through the Chief of Engineers) deems necessary and advisable in connection with the segment designated by this paragraph, and (ii) for the operation and maintenance of all streambank stabilization structures constructed in connection with such segment (including both structures constructed before November 10, 1978, and structures constructed after such date, and including both structures constructed under the authority of this section and structures constructed under the authority of any other Act); and

(B) permit access for such pumping and associated pipelines as may be necessary to assure an adequate supply of water for owners of land adjacent to such segment and for fish, wildlife, and recreational uses outside the river corridor established pursuant to this paragraph.

The streambank structures to be constructed and maintained under subparagraph (A) shall include, but not be limited to, structures at such sites as are specified with respect to such segment on pages 62 and 63 of the August 1977 Report, except that sites for such structures may be relocated to the extent deemed necessary by the Secretary of the Army (acting through the Chief of Engineers) by reason of physical changes in the river or river area. The Secretary of the Army (acting through the Chief of Engineers) shall condition the construction or maintenance of any streambank stabilization structure or of any recreational river feature at any site under subparagraph (A)(i) upon the availability to the United States of such land and interests in land in such ownership as he deems necessary to carry out such construction or maintenance and to protect and enhance the river in accordance with the purposes of this chapter. Administration of the river segment designated by this paragraph shall be in coordination with, and pursuant to the advice of a Recreational River Advisory Group which shall be established by the Secretary. Such Group may include in its membership, representatives of the affected States and political subdivisions thereof, affected Federal agencies, and such organized private groups as the Secretary deems desirable. Notwithstanding the authority to the contrary contained in sec-

tion 1277(a) of this title, no land or interests in land may be acquired without the consent of the owner; *Provided*, That not to exceed 5 per centum of the acreage within the designated river boundaries may be acquired in less than fee title without the consent of the owner, in such instance of the Secretary's determination that activities are occurring, or threatening to occur thereon which constitute serious damage or threat to the integrity of the river corridor, in accordance with the values for which this river was designated. For purposes of carrying out the provisions of this chapter with respect to the river designated by this paragraph, there are authorized to be appropriated not to exceed \$21,000,000, for acquisition of lands and interests in lands and for development.

(23) SAINT JOE, IDAHO—The segment above the confluence of the North Fork of the Saint Joe River to Spruce Tree Campground, as a recreational river; the segment above Spruce Tree Campground to Saint Joe Lake, as a wild river, as generally depicted on the map entitled "Saint Joe River Corridor Map" on file with the Chief of the Forest Service and dated September 1978; to be administered by the Secretary of Agriculture. Notwithstanding any other provision of law, the classification of the Saint Joe River under this paragraph and the subsequent development plan for the river prepared by the Secretary of Agriculture shall at no time interfere with or restrict the maintenance, use, or access to existing or future roads within the adjacent lands nor interfere with or restrict present use of or future construction of bridges across that portion of the Saint Joe designated as a "recreational river" under this paragraph. Dredge or placer mining shall be prohibited within the banks or beds of the main stem of the Saint Joe and its tributary streams in their entirety above the confluence of the main stem with the North Fork of the river. Nothing in this chapter shall be deemed to prohibit the removal of sand and gravel above the high water mark of the Saint Joe River and its tributaries within the river corridor by or under the authority of any public body or its agents for the purposes of construction or maintenance of roads. The Secretary shall take such action as is required under subsection (b) of this section within one year from November 10, 1978. For the purposes of this river, there are authorized to be appropriated not more than \$1,000,000 for the acquisition of lands or interest in lands.

(24) SALMON, IDAHO—(A) The segment of the main river from the mouth of the North Fork of the Salmon River downstream to Long Tom Bar in the following classes:

(i) the forty-six-mile segment from the mouth of the North Fork of the Salmon River to Corn Creek as a recreational river; and

(ii) the seventy-nine-mile segment from Corn Creek to Long Tom Bar as a wild river; all as generally depicted on a map entitled "Salmon River" dated November 1979, which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture.

(B) This segment shall be administered by the Secretary of Agriculture: *Provided*, That after consultation with State and local governments and the interested public, the Secretary shall take such action as is required by subsection (b) of this section within one year from July 23, 1980.

(C) The use of motorboats (including motorized jetboats) within this segment of the Salmon River shall be permitted to continue at a level not less than the level of use which occurred during calendar year 1978.

(D) Subject to existing rights of the State of Idaho, including the right of access, with respect to the beds of navigable streams, tributaries or rivers, dredge and placer mining in any form including any use of machinery for the removal of sand and gravel for mining purposes shall be prohibited within the segment of the Salmon River designated as a component of the Wild and Scenic Rivers System by this paragraph; within the fifty-three-mile segment of the Salmon River from Hammer Creek downstream to the confluence of the Snake River; and within the Middle Fork of the Salmon River; and its tributary streams in their entirety: *Provided*, That nothing in this paragraph shall be deemed to prohibit the removal of sand and gravel, outside the boundaries of the River of No Return Wilderness or the Gospel-Hump Wilderness, above the high water mark of the Salmon River or the Middle Fork and its tributaries for the purposes of construction or maintenance of public roads; *Provided further*, That this paragraph shall not apply to any written mineral leases approved by the Board of Land Commissioners of the State of Idaho prior to January 1, 1980.

(E) The provisions of section 1278(a) of this title with respect to the licensing of dams, water conduits, reservoirs, powerhouses, transmission lines or other project works, shall apply to the fifty-three-mile segment of the Salmon River from Hammer Creek downstream to the confluence of the Snake River.

(F) For the purposes of the segment of the Salmon River designated as a component of the Wild and Scenic Rivers System by this paragraph, there is hereby authorized to be appropriated from the Land and Water Conservation Fund, after October 1, 1980, not more than \$6,200,000 for the acquisition of lands and interests in lands.

(25) ALAGNAK, ALASKA—That segment of the main stem and the major tributary to the Alagnak, the Nonvianuk River, within Katmai National Preserve; to be administered by the Secretary of the Interior.

(26) ALATNA, ALASKA—The main stem within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

(27) ANIAKCHAK, ALASKA—That portion of the river, including its major tributaries, Hidden Creek, Mystery Creek, Albert Johnson Creek, and North Fork Aniakchak River, within the Aniakchak National Monument and National Preserve; to be administered by the Secretary of the Interior.

(28) CHARLEY, ALASKA—The entire river, including its major tributaries, Copper Creek, Bonanza Creek, Hosford Creek, Derwent Creek,

Flat-Orthmer Creek, Crescent Creek, and Moraine Creek, within the Yukon-Charley Rivers National Preserve; to be administered by the Secretary of the Interior.

(29) CHILIKADROTNA, ALASKA—That portion of the river within the Lake Clark National Park and Preserve; to be administered by the Secretary of the Interior.

(30) JOHN, ALASKA—That portion within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

(31) KOBUK, ALASKA—That portion within the Gates of the Arctic National Park and Preserve; to be administered by the Secretary of the Interior.

(32) MULCHATNA, ALASKA—That portion within the Lake Clark National Park and Preserve; to be administered by the Secretary of the Interior.

(33) NOATAK, ALASKA—The river from its source in the Gates of the Arctic National Park to its confluence with the Kelly River in the Noatak National Preserve; to be administered by the Secretary of the Interior.

(34) NORTH FORK OF THE KOYUKUK, ALASKA—That portion within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

(35) SALMON, ALASKA—That portion within the Kobuk Valley National Park; to be administered by the Secretary of the Interior.

(36) TINAYGUK, ALASKA—That portion within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

(37) TLIKAKILA, ALASKA—That portion within the Lake Clark National Park; to be administered by the Secretary of the Interior.

(38) ANDREAFSKY, ALASKA—That portion from its source, including all headwaters, and the East Fork, within the boundary of the Yukon Delta National Wildlife Refuge; to be administered by the Secretary of the Interior.

(39) IVISHAK, ALASKA—That portion from its source, including all headwaters and an unnamed tributary from Porcupine Lake within the boundary of the Arctic National Wildlife Range; to be administered by the Secretary of the Interior.

(40) NOWITNA, ALASKA—That portion from the point where the river crosses the west limit of township 18 south, range 22 east, Kateel River meridian, to its confluence with the Yukon River within the boundaries of the Nowitna National Wildlife Refuge; to be administered by the Secretary of the Interior.

(41) SELAWIK, ALASKA—That portion from a fork of the headwaters in township 12 north, range 10 east, Kateel River meridian to the confluence of the Kugarak River; within the Selawik National Wildlife Refuge to be administered by the Secretary of the Interior.

(42) SHEENJEK, ALASKA—The segment within the Arctic National Wildlife Refuge; to be administered by the Secretary of the Interior.

(43) WIND, ALASKA—That portion from its source, including all headwaters and one unnamed tributary in township 13 south, within the boundaries of the Arctic National Wildlife Refuge; to be administered by the Secretary of the Interior.

(44) **ALAGNAK, ALASKA**—Those segments or portions of the main stem and Nonvianuk tributary lying outside and westward of the Katmia National Park/Preserve and running to the west boundary of township 13 south, range 43 west; to be administered by the Secretary of the Interior.

(45) **BEAVER CREEK, ALASKA**—The segment of the main stem from the vicinity of the confluence of the Bear and Champion Creeks downstream to its exit from the northeast corner of township 12 north, range 6 east, Fairbanks meridian within the White Mountains National Recreation Area, and the Yukon Flats National Wildlife Refuge, to be administered by the Secretary of the Interior.

(46) **BIRCH CREEK, ALASKA**—The segment of the main stem from the south side of Steese Highway in township 7 north, range 10 east, Fairbanks meridian, downstream to the south side of the Steese Highway in township 10 north, range 16 east; to be administered by the Secretary of the Interior.

(47) **DELTA, ALASKA**—The segment from and including all of the Tangle Lakes to a point one-half mile north of Black Rapids; to be administered by the Secretary of the Interior.

(48) **FORTY MILE, ALASKA**—The main stem within the State of Alaska: O'Brien Creek; South Fork; Napoleon Creek, Franklin Creek, Uhler Creek, Walker Fork downstream from the confluence of Liberty Creek; Wade Creek; Mosquito Fork downstream from the vicinity of Kechumstuk; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork; Logging Cabin Creek; North Fork; Hutchison Creek; Champion Creek; the Middle Fork downstream from the confluence of Joseph Creek; and Joseph Creek; to be administered by the Secretary of the Interior.

(49) **GULKANA, ALASKA**—The main stem from the outlet of Paxon Lake in township 12 north, range 2 west, Copper River meridian to the confluence with Sourdough Creek; the south branch of the west fork from the outlet of an unnamed lake in sections 10 and 15, township 10 north, range 7 west, Copper River meridian to the confluence with the west fork; the north branch from the outlet of two unnamed lakes, one in sections 24 and 25, the second in sections 9 and 10, township 11 north, range 8 west, Copper River meridian to the confluence with the west fork; the west fork from its confluence with the north and south branches downstream to its confluence with the main stem; the middle fork from the outlet of Dickey Lake in township 13 north, range 5 west, Copper River meridian to the confluence with the main stem; to be classified as a wild river area and to be administered by the Secretary of the Interior.

(50) **UNALAKLEET, ALASKA**—The segment of the main stem from the headwaters in township 12 south, range 3 west, Kateel River meridian extending downstream approximately 65 miles to the western boundary of township 18 south, range 8 west; to be administered by the Secretary of the Interior.

(b) **Establishment of boundaries; classification; development plans**

The agency charged with the administration of each component of the national wild and scenic rivers system designated by subsection (a) of this section shall, within one year from October 2, 1968 (except where a different date is provided in subsection (a) of this section), establish detailed boundaries therefor (which boundaries shall include an average of not more than three hundred and twenty acres per mile on both sides of the river); determine which of the classes outlined in section 1273(b) of this title best fit the river or its various segments; and prepare a plan for necessary developments in connection with its administration in accordance with such classification. Said boundaries, classification, and development plans shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the President of the Senate and the Speaker of the House of Representatives.

(Pub. L. 90-542, § 3, Oct. 2, 1968, 82 Stat. 907; Pub. L. 92-560, § 2, Oct. 25, 1972, 86 Stat. 1174; Pub. L. 93-279, § 1(a), May 10, 1974, 88 Stat. 122; Pub. L. 94-199, § 3(a), Dec. 31, 1975, 89 Stat. 1117; Pub. L. 94-486, title I, § 101, title II, § 201, title III, § 301, title VI, § 601, Oct. 12, 1976, 90 Stat. 2327, 2329, 2330; Pub. L. 95-625, title VII, §§ 701-704(a), 705-708, 755, 763(a), Nov. 10, 1978, 92 Stat. 3521-3523, 3527-3529, 3533; Pub. L. 96-87, title IV, § 401(p)(1), Oct. 12, 1979, 93 Stat. 666; Pub. L. 96-312, § 9(a), July 23, 1980, 94 Stat. 952; Pub. L. 96-344, § 16, Sept. 8, 1980, 94 Stat. 1137; Pub. L. 96-487, title VI, §§ 601-603, Dec. 2, 1980, 94 Stat. 2412-2414; Pub. L. 96-580, Dec. 23, 1980, 94 Stat. 3370.)

REFERENCES IN TEXT

Section 704(c) of the National Parks and Recreation Act of 1978, referred to in subsec. (a)(19), is section 704(c), Pub. L. 95-625, Nov. 10, 1978, 92 Stat. 3524, which is set out under this section in a note captioned "Upper Delaware Segment Special Provisions".

The Act establishing the Delaware Water Gap National Recreation Area, referred to in subsec. (a)(20), is Pub. L. 89-158, Sept. 1, 1965, 79 Stat. 612, which is classified generally to subchapter LXXIII (§ 4600 et seq.) of chapter I of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1980—Subsec. (a)(6). Pub. L. 96-580 authorized acquisition of part of Velle Estate acreage.

Subsec. (a)(22). Pub. L. 96-344 substituted in provision following subpar. (B) "which shall be established" for "which may be established".

Subsec. (a)(24). Pub. L. 96-312 added par. (24).

Subsec. (a)(25) to (37). Pub. L. 96-487, § 601, added pars. (25) to (37).

Subsec. (a)(38) to (43). Pub. L. 96-487, § 602, added pars. (38) to (43).

Subsec. (a)(44) to (50). Pub. L. 96-487, § 603, added pars. (44) to (50).

1979—Subsec. (a)(19). Pub. L. 96-87 substituted "section 704(c) of the National Parks and Recreation Act of 1978" for "section 705(c) of the National Parks and Recreation Act of 1978".

1978—Subsec. (a)(10). Pub. L. 95-625, § 755, increased appropriations authorization for Chattooga River to \$5,200,000 from \$2,000,000.

Subsec. (a)(16) to (23). Pub. L. 95-625, §§ 701-703, 704(a), 705-708, added pars. (16) to (23).

Subsec. (b). Pub. L. 95-625, § 763(a), inserted parenthetical phrase "(except where a different date is provided in subsection (a) of this section)" following "one year from October 2, 1968".

1976—Subsec. (a)(3). Pub. L. 94-486, § 601, inserted "downstream from the confluence of its tributary streams one kilometer south of Beckwourth, California," following "entire Middle Fork".

Subsec. (a)(13). Pub. L. 94-486, § 101, added par. (13).

Subsec. (a)(14). Pub. L. 94-486, § 201, added par. (14).

Subsec. (a)(15). Pub. L. 94-486, § 301, added par. (15).

1975—Subsec. (a)(11), (12). Pub. L. 94-199 added pars. (11) and (12).

1974—Subsec. (a)(10). Pub. L. 93-279 added par. (10).

1972—Subsec. (a)(9). Pub. L. 92-560 added par. (9).

CLASSIFICATION AND ADMINISTRATION OF COMPONENT RIVERS IN ALASKA; BOUNDARIES; COOPERATIVE AGREEMENTS

Section 605 of Pub. L. 96-487 provided that:

"(a) Rivers in paragraphs (25) through (37) in units of the National Park System (subsec. (a)(25) to (37) of this section), and (38) through (43) in units of the National Wildlife Refuge System (subsec. (a)(38) to (43) of this section) are hereby classified and designated and shall be administered as wild rivers pursuant to the Wild and Scenic River Act (this chapter).

"(b) The Alagnak, Beaver Creek, Birch Creek, Gulkana, and Unalakleet components as well as the segment of the Delta component from the lower lakes area to a point opposite milepost 212 on the Richardson Highway; the Mosquito Fork downstream from the vicinity of Kechemstuk to Ingle Creek, North Fork, Champion Creek, Middle Fork downstream from the confluence of Joseph Creek, and Joseph Creek segments of the Fortymile component, are hereby classified and designated and shall be administered as wild river areas pursuant to the Wild and Scenic Rivers Act (this chapter). The classification as wild river areas of certain segments of the Fortymile by this subsection shall not preclude such access across those river segments as the Secretary determines to be necessary to permit commercial development in an environmentally sound manner, of asbestos deposits in the North Fork drainage.

"(c) The following segments of the Fortymile River component are hereby classified and shall be administered as scenic river areas pursuant to such Act (this chapter): the main stem within the State of Alaska; O'Brien Creek, South Fork; Napoleon Creek; Franklin Creek; Uhler Creek; Walker Fork downstream from the confluence of Liberty Creek; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork; Logging Cabin Creek; and Hutchinson Creek. The Wade Creek unit of the Fortymile component and the segment of the Delta River from opposite milepost 212 on the Richardson Highway to a point one-half mile north of Black Rapids are classified and shall be administered as recreational river areas pursuant to such Act (this chapter).

"(d) The Secretary of the Interior shall take such action as is provided for under section 3(b) of the Wild and Scenic Rivers Act (subsec. (b) of this section) to establish detailed boundaries and formulate detailed development and management plans within three years after the date of enactment of this title (Dec. 2, 1980) with respect to the Alagnak, Beaver Creek, Birch Creek, the Delta, Fortymile, Gulkana, and Unalakleet components. With respect to the river components designated in parts A and B of this title (subsec. (a)(25) to (37) and (38) to (43) of this section, respectively), the Secretary shall take such action under said section 3(b) at the same time as, and in coordination with, the submission of the applicable conservation and management plans for the conservation system units in which such components are located.

"(e) The Secretary may seek cooperative agreements with the owners of non-public lands adjoining the wild and scenic rivers established by this title (subsec. (a)(25) to (50) of this section) to assure that the purpose of designating such rivers as wild and scenic rivers is served to the greatest extent feasible."

UPPER DELAWARE SEGMENT SPECIAL PROVISIONS

Section 704(b) to (j) of Pub. L. 95-625, as amended Pub. L. 96-87, title IV, § 401(p)(2), Oct. 12, 1979, 93 Stat. 666, provided that:

"(b)(1) Notwithstanding any requirement to the contrary contained in section 6(c) of the Wild and Scenic Rivers Act (section 1277(c) of this title) within one hundred and eighty days after the date of enactment of this Act (Nov. 10, 1978), the Secretary shall publish in the Federal Register general guidelines for land and water use control measures to be developed and implemented by the appropriate officials of the States of New York and Pennsylvania (hereinafter referred to as the 'directly affected States'), by the local political subdivisions, and by the Delaware River Basin Commission (hereinafter referred to as the 'Commission'). The Secretary shall provide for participation in the development of the said general guidelines by all levels of States, county, and local government, and concerned private individuals and organizations, and also shall seek the advice of the Upper Delaware Citizens Advisory Council established in subsection (f) (hereinafter referred to as the 'Advisory Council'). In each of the directly affected States, prior to publication of such general guidelines, public hearings shall be conducted by the Secretary or his designee, in the region of the Upper Delaware River designated by subsection (a) (adding subsec. (a)(19) of this section) (hereinafter in this section referred to as the 'Upper Delaware River').

"(2) The Secretary may from time to time adopt amended or revised guidelines and shall do so in accordance with the provisions of paragraph (1) hereof.

"(c)(1) Within three years from the date of the enactment of this Act (Nov. 10, 1978), the Secretary, in cooperation with the Commission, the Advisory Council, the directly affected States and their concerned political subdivisions and other concerned Federal agencies, shall develop, approve, and submit to the Governors of the directly affected States a management plan (hereinafter in this section referred to as the 'management plan' or 'the plan') for the Upper Delaware River which shall provide for as broad a range of land and water uses and scenic and recreational activities as shall be compatible with the provisions of this section, the Wild and Scenic Rivers Act (this chapter), and the general guidelines for land and water use controls promulgated by the Secretary under the provisions of subsection (b).

"(2) The plan shall apply to the Upper Delaware River and shall set forth—

"(A) a map showing detailed final landward boundaries, and upper and lower termini of the area and the specific segments of the river classified as scenic and recreational, to be administered in accordance with such classifications;

"(B) a program for management of existing and future land and water use, including the application of available management techniques;

"(C) an analysis of the economic and environmental costs and benefits of implementing the management plan including any impact of the plan upon revenues and costs of local government;

"(D) a program providing for coordinated implementation and administration of the plan with proposed assignment of responsibilities to the appropriate governmental unit at the Federal, regional, State, and local levels; and

"(E) such other recommendations or provisions as shall be deemed appropriate to carry out the purposes of this section.

"(3) Immediately following enactment of this Act [Nov. 10, 1978], the Secretary, through the National Park Service or such other designee, shall develop and implement such interim programs as he shall deem necessary and appropriate to protect the Upper Delaware River and its environs and to protect the public health and safety. Such interim programs shall include provisions for information to river users, education and interpretation activities, and regulation of recreational use of the river.

"(4) To enable the directly affected States and their political subdivisions to develop and implement programs compatible with the management plan, the Secretary shall provide such technical assistance to the said States and their political subdivisions as he deems appropriate.

"(5) The Secretary shall promote public awareness of and participation in the development of the management plan, and shall develop and conduct a concerted program to this end. Prior to final approval of the management plan, the Secretary shall hold two or more public hearings in the Upper Delaware River region of each directly affected State.

"(6) Upon approval of the management plan by the Secretary, it shall be published in the Federal Register and shall not become effective until ninety days after it shall have been forwarded to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The plan shall be administered by the Secretary in accordance with the provisions of this section and the Wild and Scenic Rivers Act [this chapter]. The Secretary is hereby granted such authority as may be required to implement and administer said plan.

"(d) Notwithstanding any provisions of the Wild and Scenic Rivers Act [this chapter], the Secretary may not acquire more than a total of four hundred and fifty acres of land and interests in land for access, development sites, the preservation of scenic qualities, or for any other purposes. *Provided*, That the Secretary may acquire additional land and interests in land for such purposes not in excess of one thousand acres if such additional acquisition is recommended and provided for in the management plan as finally approved by the Secretary. The limitations contained in this section shall not apply under the circumstances set forth in subsection (e)(4) of this section. Prior to acquisition of any land or interests in land which has been used for business purposes during the annual period immediately preceding the date of the enactment of this Act [Nov. 10, 1978], the Secretary shall first make such efforts as he deems reasonable to acquire easements or restrictive covenants, or to enter into any other appropriate agreements or arrangements with the owners of said land, consistent with the purposes of this section.

"(e)(1) For the purpose of protecting the integrity of the Upper Delaware River, the Secretary shall review all relevant local plans, laws, and ordinances to determine whether they substantially conform to the approved management plan provided for in subsection (c) and to the general guidelines promulgated by the Secretary pursuant to subsection (b). Additionally, the Secretary shall determine the adequacy of enforcement of such plans, laws, and ordinances, including but not limited to review of building permits and zoning variances granted by local governments, and amendments to local laws and ordinances.

"(2) The purpose of such reviews shall be to determine the degree to which actions by local governments are compatible with the purposes of this section. Following the approval of the management plan and after a reasonable period of time has elapsed, but not less than two years, upon a finding by the Secretary that such plans, laws, and ordinances are nonexistent, are otherwise not in conformance with the management plan or guidelines, or are not being enforced in such manner as will carry out the purposes of this section (as determined by the Secretary), the Secretary may

exercise the authority available to him under the provisions of paragraph (4) hereof.

"(3) To facilitate administration of this section, the Secretary may contract with the directly affected States or their political subdivisions to provide, on behalf of the Secretary, professional services necessary for the review of relevant local plans, laws, and ordinances, and of amendments thereto and variances therefrom, and for the monitoring of the enforcement thereof by local governments having jurisdiction over any area in the region to which the management plan applies. The Secretary shall notify the appropriate State or local officials as to the results of his review under this section within forty-five days from the date he receives notice of the local government action.

"(4) In those sections of the Upper Delaware River where such local plans, laws, and ordinances, or amendments thereto or variances therefrom, are found by the Secretary not to be in conformance with the guidelines or the management plan promulgated pursuant to subsections (b) and (c) of this section, respectively, or are not being enforced in such manner as will carry out the purposes of this section (as determined by the Secretary), the Secretary is hereby authorized to acquire land or interests in land in excess of the acreage provided for in subsection (d) of this section. Land and interests in land acquired pursuant to this subsection shall be restricted to the geographical area of the local governmental unit failing to conform with the said guidelines or management plan, and shall be limited to those lands clearly and directly required, in the judgment of the Secretary, for protection of the objectives of this Act [see Short Title of 1978 Amendment note set out under section 1 of this title]. The total acreage of land and interests in land acquired pursuant to this subsection shall not in any event exceed the limitations contained in section 6(a) of the Wild and Scenic Rivers Act [section 1277(a) of this title]. This subsection shall apply notwithstanding the first sentence of section 6(c) of the Wild and Scenic Rivers Act [section 1277(c) of this title]. Notwithstanding any limitation on amounts authorized to be appropriated for acquisition of land and interests in land which is contained in section 3(a)(21) of the Wild and Scenic Rivers Act [subsec. (a)(21) of this section] or in any other provision of law, there are authorized to be appropriated such sums as may be necessary to carry out this subsection.

"(f)(1) At the earliest practicable date following enactment of this Act [Nov. 10, 1978], but no later than one hundred and twenty days thereafter, there shall be established an Upper Delaware Citizens Advisory Council. The Advisory Council shall encourage maximum public involvement in the development and implementation of the plans and programs authorized by this section. It shall report to the Commission and the Secretary from time to time during preparation of the management plan. Following completion of the management plan, it shall report to the Secretary and the Governors of the directly affected States no less frequently than once each year its recommendations, if any, for improvement in the programs authorized by this Act [see Short Title of 1978 Amendment note set out under section 1 of this title], or in the programs of other agencies which may relate to land or water use in the Upper Delaware River region. The Advisory Council shall terminate ten years after the date on which it is established.

"(2) Membership on the Advisory Council shall consist of seventeen members appointed as follows: there shall be--

"(A) six members from each of the directly affected States appointed by the Secretary from nominations submitted by the legislatures of the respective counties and appointed such that two members shall be from each of Orange, Delaware, and Sullivan Counties, New York, and three members shall be from each of Wayne and Pike Counties, Pennsylvania (at least one appointee from each county shall

be a permanent resident of a municipality abutting the Upper Delaware River):

"(B) two members appointed at large by each Governor of a directly affected State; and

"(C) one member appointed by the Secretary.

The Secretary shall designate one of the aforesaid members to serve as Chairperson of the Advisory Council who shall be a permanent resident of one of the aforementioned counties. Vacancies on the Advisory Council shall be filled in the same manner in which the original appointment was made. Members of the Advisory Council shall serve without compensation as such, but the Secretary is authorized to pay expenses reasonably incurred by the Advisory Council in carrying out its responsibilities under this Act [see Short Title of 1978 Amendment note set out under section 1 of this title] on vouchers signed by the Chairman.

"(g) With respect to the land and water in areas which are not owned by the United States but which are within the boundaries of the segment of the Delaware River designated as a wild and scenic river under subsection (a) [adding subsec. (a)(19) of this section], the Secretary is authorized to enter into contracts with the appropriate State or political subdivisions thereof pursuant to which the Secretary may provide financial assistance to such State or political subdivision for purposes of—

"(1) enforcing State and local laws in such areas, and

"(2) removing solid waste from such areas and disposing of such waste.

"(h) Nothing in this section shall be construed as limiting the right to fish and hunt on any of the lands or waters within the boundaries of the Upper Delaware River in the manner provided in section 13 of the Wild and Scenic Rivers Act [section 1284 of this title].

"(i) There are hereby authorized to be appropriated to carry out the purposes of this section such sums as may be necessary.

"(j) Where any provision of the Wild and Scenic Rivers Act [this chapter] is inconsistent with any provisions of this section, the provision of this section shall govern. In applying the provisions of section 6(g)(3) of the Wild and Scenic Rivers Act [section 1277(g)(3) of this title], with regard to 'improved property', the date specified therein, shall, for purposes of the river designated in this Act [see Short Title of 1978 Amendment note set out under section 1 of this title], be the date of enactment of this Act (Nov. 10, 1978) (rather than January 1, 1967)."

MISSOURI BREAKS FREEFLOWING RIVER; BOUNDARIES; CLASSIFICATION; LAND ACQUISITION; MANAGEMENT

Sections 202 and 203 of Pub. L. 94-486 provided that:

"Sec. 202. After consultation with the State and local governments and the interested public, the Secretary shall, pursuant to section 3(b) of the Wild and Scenic Rivers Act [subsec. (b) of this section] and within one year of enactment of this Act [Oct. 12, 1976]—

"(1) establish detailed boundaries of the river segment designated as a component of the National Wild and Scenic Rivers System pursuant to section 1 of this Act (hereinafter referred to as the 'river area') [probably refers to subsec. (a)(14) of this section]; *Provided*, That the boundaries of the portion of the river area from Fort Benton to Coal Banks Landing and the portion of the river area within the boundaries of the Charles M. Russell National Wildlife Range shall be drawn to include only the river and its bed and exclude all adjacent land except significant historic sites and such campsites and access points as are deemed necessary by the Secretary, and to which the Secretary finds no reasonable alternative, as set forth in the management plan required pursuant to clause (2) of this section; and

"(2) determine, in accordance with the guidelines in section 2(b) of the Wild and Scenic Rivers Act [section 1273(b) of this title], which of the three classes—wild river, scenic river, or recreation river—

best fit portions of the river segment, designate such portions in such classes, and prepare a management plan for the river area in accordance with such designation.

"Sec. 203. (a) The Secretary of the Interior (hereinafter referred to as the 'Secretary') shall manage the river area pursuant to the provisions of this Act (probably refers to Title II of Pub. L. 94-486) and the Wild and Scenic Rivers Act [this chapter], and in accordance with the provisions of the Taylor Grazing Act (48 Stat. 1269), as amended (43 U.S.C. 315) [see Short Title note set out under section 315 of Title 43, Public Lands] under principles of multiple use and sustained yield, and with any other authorities available to him for the management and conservation of natural resources and the protection and enhancement of the environment, where such Act, principles, and authorities are consistent with the purposes and provisions of this Act and the Wild and Scenic Rivers Act.

"(b)(1) The Secretary may acquire land and interests in land only in accordance with the provisions of this Act (probably refers to Title II of Pub. L. 94-486) and the Wild and Scenic Rivers Act [this chapter] and the limitations contained in section 6 of that Act [section 1277 of this title] and only: (A) at Fort Benton for the visitor facility as provided in subsection (g)(2) of this section; (B) at the site of Fort McKenzie; (C) in that portion of the river area downstream from Fort Benton to Coal Banks Landing for historic sites, campsites, and access points in accordance with section 202(1) of this Act; and (D) in that portion of the river area downstream from Coal Banks Landing so as to provide, wherever practicable and necessary for the purposes of this Act and the Wild and Scenic Rivers Act, rim-to-rim protection for such portion.

"(2) In accordance with section 6(b) of the Wild and Scenic Rivers Act [section 1277(b) of this title], the Secretary shall not acquire fee title to any lands by condemnation under the authority of that Act [this chapter] or this Act (probably refers to Title II of Pub. L. 94-486), except that the Secretary may use condemnation when necessary and within the limitations on acquisition set forth in clause (1) of this subsection to clear title, acquire scenic easements, or acquire such other easements as are reasonably necessary to give the public access to the river segment within the river area and to permit its members to traverse the length of said river area or of selected portions thereof.

"(3) The Secretary shall, to the extent feasible, give priority in expenditure of funds pursuant to this Act (probably refers to Title II of Pub. L. 94-486) for the acquisition and development of campsites and historic sites, including the site of the visitor center at Fort Benton and the site of Fort McKenzie.

"(c) Consistent with the provisions of this Act (probably refers to Title II of Pub. L. 94-486) and the Wild and Scenic Rivers Act [this chapter], the Secretary may issue easements, licenses, or permits for rights-of-way through, over, or under the lands in Federal ownership within the river area, or for the use of such lands on such terms and conditions as are in accordance with the provisions of this Act, the Wild and Scenic Rivers Act, and other applicable law.

"(d) The Secretary is authorized to permit the construction of a bridge across the river in the general vicinity of the community of Winifred, Montana, in order to accommodate the flow of north-south traffic. Such construction shall be in accordance with a plan which is mutually acceptable to the Secretary and State and local highway officials, and which is consistent with the purposes of this Act (probably refers to Title II of Pub. L. 94-486) and the Wild and Scenic Rivers Act [this chapter].

"(e) To the extent and in a manner consistent with the purposes of the Wild and Scenic Rivers Act [this chapter] the Secretary shall permit such pumping facilities and associated pipelines as may be necessary to assure the continuation of an adequate supply of

water from the Missouri River to the owners of lands adjacent to the river and for future agricultural use outside the river corridor. The Secretary is authorized to permit such pumping facilities and associated pipelines for use for fish, wildlife, and recreational uses outside the river corridor.

"(f) The Secretary shall permit hunting and fishing in the river area in accordance with applicable Federal and State laws, except that he may designate zones where, and periods when, no hunting or fishing shall be permitted for reasons of public safety or administration.

"(g)(1) The Secretary, acting through the Bureau of Land Management, shall exercise management responsibilities in the river area for:

"(A) the grazing of livestock;

"(B) the application of the United States mining and mineral leasing laws;

"(C) the management of fish and wildlife habitat;

"(D) the diversion and use of water for agricultural and domestic purposes;

"(E) the acquisition of lands and interests therein;

"(F) the administration of public recreational uses of, and any historic sites and campsites in, the river area; and

"(G) all other management responsibilities except those set forth in paragraph (2) of this subsection.

"(2) The Secretary, acting through the National Park Service, shall be responsible for the construction, operation, and management of any visitor facility in or near Fort Benton which is found necessary in accordance with the management plan developed pursuant to section 202 and the provision, at such facility, of interpretive services for the historic, archeological, scenic, natural, and fish and wildlife resources of the area."

SNAKE RIVER AND RAPID RIVER AREAS ADMINISTRATION

Section 3(b) of Pub. L. 94-199 provided that: "The segments of the Snake River and the Rapid River designated as wild or scenic river areas by this Act [sections 460gg et seq. of this title] shall be administered by the Secretary in accordance with the provisions of the Wild and Scenic Rivers Act (82 Stat. 906), as amended [this chapter]; and the Secretary shall establish detailed boundaries of the Snake River segments thereof in accordance with subsection 3(b) of that Act [subsec. (b) of this section]: *Provided*, That the Secretary shall establish a corridor along the segments of the Rapid River and may not undertake or permit to be undertaken any activities on adjacent public lands which would impair the water quality of the Rapid River segment; *Provided further*, That the Secretary is authorized to make such minor boundary revisions in the corridors as he deems necessary for the provision of such facilities as are permitted under the applicable provisions of the Wild and Scenic Rivers Act (82 Stat. 906)."

LOWER SAINT CROIX, MINNESOTA AND WISCONSIN

Section 3 of Pub. L. 92-560 provided that: "The Secretary of the Interior shall, within one year following the date of enactment of this Act [Oct. 25, 1972], take with respect to the Lower Saint Croix River segment, such actions as is provided for under section 3(b) of the Wild and Scenic Rivers Act [subsec. (b) of this section]: *Provided*, That (a) the action required by such section shall be undertaken jointly by the Secretary and the appropriate agencies of the affected States; (b) the development plan required by such section shall be construed to be a comprehensive master plan which shall include, but not be limited to, a determination of the lands, waters, and interests therein to be acquired, developed, and administered by the agencies or political subdivisions of the affected States; and (c) such development plan shall provide for State administration of the lower twenty-five miles of the Lower Saint Croix River segment and for continued adminis-

tration by the States of Minnesota and Wisconsin of such State parks and fish hatcheries as now lie within the twenty-seven-mile segment to be administered by the Secretary of the Interior."

LAND ACQUISITION

Section 4 of Pub. L. 92-560 provided that: "Notwithstanding any provision of the Wild and Scenic Rivers Act (this chapter) which limits acquisition authority within a river segment to be administered by a Federal agency, the States of Minnesota and Wisconsin may acquire within the twenty-seven-mile segment of the Lower Saint Croix River segment to be administered by the Secretary of the Interior such lands as may be proposed for their acquisition, development, operation, and maintenance pursuant to the development plan required by section 3 of this Act [this section]."

NAVIGATION AIDS

Section 5 of Pub. L. 92-560 provided that: "Nothing in this Act [see second paragraph of Short Title note set out under section 1271 of this title] shall be deemed to impair or otherwise affect such statutory authority as may be vested in the Secretary of the Department in which the Coast Guard is operating or the Secretary of the Army for the maintenance of navigation aids and navigation improvements."

AUTHORIZATION OF APPROPRIATIONS; LIMITATION

Section 6 of Pub. L. 92-560, as amended by Pub. L. 93-621, § 2, Jan. 3, 1975, 88 Stat. 2096, provided that:

"(a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [see second paragraph of Short Title note set out under section 1271 of this title], but not to exceed \$19,000,000 for the acquisition and development of lands and interests therein within the boundaries of the twenty-seven-mile segment of the Lower Saint Croix River segment to be administered by the Secretary of the Interior.

"(b) No funds otherwise authorized to be appropriated by this section shall be expended by the Secretary of the Interior until he has determined that the States of Minnesota and Wisconsin have initiated such land acquisition and development as may be proposed pursuant to the development plan required by section 3 of this Act [this section], and in no event shall the Secretary of the Interior expend more than \$2,550,000 of the funds authorized to be appropriated by this section in the first fiscal year following completion of the development plan required by section 3 of this Act. The balance of funds authorized to be appropriated by this section shall be expended by the Secretary of the Interior at such times as he finds that the States of Minnesota and Wisconsin have made satisfactory progress in their implementation of the development plan required by section 3 of this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460gg, 460gg-4, 1277 to 1280, 1283, 1285b, 1287 of this title.

§ 1275. Additions to national wild and scenic rivers system

(a) Reports by Secretaries of the Interior and Agriculture; recommendations to Congress; contents of reports

The Secretary of the Interior or, where national forest lands are involved, the Secretary of Agriculture or, in appropriate cases, the two Secretaries jointly shall study and submit to the President reports on the suitability or non-suitability for addition to the national wild and scenic rivers system of rivers which are designated herein or hereafter by the Congress as

potential additions to such system. The President shall report to the Congress his recommendations and proposals with respect to the designation of each such river or section thereof under this chapter. Such studies shall be completed and such reports shall be made to the Congress with respect to all rivers named in section 1276(a) (1) through (27) of this title no later than October 2, 1978. In conducting these studies the Secretary of the Interior and the Secretary of Agriculture shall give priority to those rivers (i) with respect to which there is the greatest likelihood of developments which, if undertaken, would render the rivers unsuitable for inclusion in the national wild and scenic rivers system, and (ii) which possess the greatest proportion of private lands within their areas. Every such study and plan shall be coordinated with any water resources planning involving the same river which is being conducted pursuant to the Water Resources Planning Act [42 U.S.C. 1962 et seq.].

Each report, including maps and illustrations, shall show among other things the area included within the report; the characteristics which do or do not make the area a worthy addition to the system; the current status of land ownership and use in the area; the reasonably foreseeable potential uses of the land and water which would be enhanced, foreclosed, or curtailed if the area were included in the national wild and scenic rivers system; the Federal agency (which in the case of a river which is wholly or substantially within a national forest, shall be the Department of Agriculture) by which it is proposed the area, should it be added to the system, be administered; the extent to which it is proposed that such administration, including the costs thereof, be shared by State and local agencies; and the estimated cost to the United States of acquiring necessary lands and interests in land and of administering the area, should it be added to the system. Each such report shall be printed as a Senate or House document.

(b) Study of report by affected Federal and State officials; recommendations and comments; transmittal to President and Congress

Before submitting any such report to the President and the Congress, copies of the proposed report shall, unless it was prepared jointly by the Secretary of the Interior and the Secretary of Agriculture, be submitted by the Secretary of the Interior to the Secretary of Agriculture or by the Secretary of Agriculture to the Secretary of the Interior, as the case may be, and to the Secretary of the Army, the Secretary of Energy, the head of any other affected Federal department or agency and, unless the lands proposed to be included in the area are already owned by the United States or have already been authorized for acquisition by Act of Congress, the Governor of the State or States in which they are located or an officer designated by the Governor to receive the same. Any recommendations or comments on the proposal which the said officials furnish the Secretary or Secretaries who prepared the report within ninety days of the date on which the report is submitted to them, together with

the Secretary's or Secretaries' comments thereon, shall be included with the transmittal to the President and the Congress.

(c) Publication in Federal Register

Before approving or disapproving for inclusion in the national wild and scenic rivers system any river designated as a wild, scenic or recreational river by or pursuant to an act of a State legislature, the Secretary of the Interior shall submit the proposal to the Secretary of Agriculture, the Secretary of the Army, the Secretary of Energy, and the head of any other affected Federal department or agency and shall evaluate and give due weight to any recommendations or comments which the said officials furnish him within ninety days of the date on which it is submitted to them. If he approves the proposed inclusion, he shall publish notice thereof in the Federal Register.

(Pub. L. 90-542, § 4, Oct. 2, 1968, 82 Stat. 909; Pub. L. 93-279, § 1(b)(1), May 10, 1974, 88 Stat. 122; Pub. L. 93-621, § 1(d), Jan. 3, 1975, 88 Stat. 2096; Pub. L. 94-486, title V, § 501, Oct. 12, 1976, 90 Stat. 2330; Pub. L. 95-91, title III, § 301(b), Aug. 4, 1977, 91 Stat. 577.)

REFERENCES IN TEXT

The Water Resources Planning Act, referred to in subsec. (a), is Pub. L. 89-80, July 22, 1965, 79 Stat. 244, as amended, which is classified generally to chapter 19B (§ 1962 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1962 of Title 42 and Tables.

AMENDMENTS

1976—Subsec. (b), Pub. L. 94-486 struck out provision which directed that no river be added to the national wild and scenic river system after October 2, 1968, until the close of the next full session of the State legislature or legislatures, if more than one State was involved, which began following submission of the proposed addition to the President.

1975—Subsec. (a), Pub. L. 93-621, in the first paragraph, designated the provision relating to the developments, which, if undertaken, would render the rivers unsuitable for inclusion in the system as cl. (i), and added cl. (ii).

1974—Subsec. (a), Pub. L. 93-279, in the first paragraph, substituted provisions requiring submission of reports to the President on the suitability or nonsuitability for addition to the national wild and scenic river system of rivers designated by Congress as potential additions to such system, and submission by President of recommendations and proposals to the Congress, for provisions for submission of proposals to the President and the Congress, struck out reference to section 1273(b) of this title and administration by an agency of the United States, added provisions that the studies relating to rivers named in section 1276(a) of this title be completed by Oct. 2, 1978, and that the Secretary of the Interior and the Secretary of Agriculture give priority to rivers which may be unsuitable for inclusion in the national wild and scenic river system if developments were undertaken, and in the second paragraph, substantially incorporated the existing provisions with minor changes.

TRANSFER OF FUNCTIONS

"Secretary of Energy" was substituted for "Chairman of the Federal Power Commission" in subssecs. (b) and (c) pursuant to Pub. L. 95-91, § 301(b), which is classified to section 7151(b) of Title 42, The Public Health and Welfare.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

§ 1276. Rivers constituting potential additions to national wild and scenic rivers system

(a) Enumeration of designated rivers

The following rivers are hereby designated for potential addition to the national wild and scenic rivers system:

(1) Allegheny, Pennsylvania: The segment from its mouth to the town of East Brady, Pennsylvania.

(2) Bruneau, Idaho: The entire main stem.

(3) Buffalo, Tennessee: The entire river.

(4) Chattooga, North Carolina, South Carolina, and Georgia: The entire river.

(5) Clarion, Pennsylvania: The segment between Ridgway and its confluence with the Allegheny River.

(6) Delaware, Pennsylvania and New York: The segment from Hancock, New York, to Matamoras, Pennsylvania.

(7) Flathead, Montana: The North Fork from the Canadian border downstream to its confluence with the Middle Fork; the Middle Fork from its headwaters to its confluence with the South Fork; and the South Fork from its origin to Hungry Horse Reservoir.

(8) Gasconade, Missouri: The entire river.

(9) Illinois, Oregon: The entire river.

(10) Little Beaver, Ohio: The segment of the North and Middle Forks of the Little Beaver River in Columbiana County from a point in the vicinity of Negly and Elkton, Ohio, downstream to a point in the vicinity of East Liverpool, Ohio.

(11) Little Miami, Ohio: That segment of the main stem of the river, exclusive of its tributaries, from a point at the Warren-Clermont County line at Loveland, Ohio, upstream to the sources of Little Miami including North Fork.

(12) Maumee, Ohio and Indiana: The main stem from Perrysburg, Ohio, to Fort Wayne, Indiana, exclusive of its tributaries in Ohio and inclusive of its tributaries in Indiana.

(13) Missouri, Montana: The segment between Fort Benton and Ryan Island.

(14) Moyie, Idaho: The segment from the Canadian border to its confluence with the Kootenai River.

(15) Obed, Tennessee: The entire river and its tributaries, Clear Creek and Daddys Creek.

(16) Penobscot, Maine: Its east and west branches.

(17) Pere Marquette, Michigan: The entire river.

(18) Pine Creek, Pennsylvania: The segment from Ansonia to Waterville.

(19) Priest, Idaho: The entire main stem.

(20) Rio Grande, Texas: The portion of the river between the west boundary of Hudspeth County and the east boundary of Terrell County on the United States side of the river: *Provided*, That before undertaking any study of this potential scenic river, the Secretary of the Interior shall determine, through the channels of appropriate executive agencies, that

Mexico has no objection to its being included among the studies authorized by this chapter.

(21) Saint Croix, Minnesota and Wisconsin: The segment between the dam near Taylors Falls and its confluence with the Mississippi River.

(22) Saint Joe, Idaho: The entire main stem.

(23) Salmon, Idaho: The segment from the town of North Fork to its confluence with the Snake River.

(24) Skagit, Washington: The segment from the town of Mount Vernon to and including the mouth of Bacon Creek; the Cascade River between its mouth and the junction of its North and South Forks; the South Fork to the boundary of the Glacier Peak Wilderness Area; the Suiattle River from its mouth to the Glacier Peak Wilderness Area boundary at Milk Creek; the Sauk River from its mouth to its junction with Elliott Creek; the North Fork of the Sauk River from its junction with the South Fork of the Sauk to the Glacier Peak Wilderness Area boundary.

(25) Suwannee, Georgia and Florida: The entire river from its source in the Okefenokee Swamp in Georgia to the gulf and the outlying Ichetucknee Springs, Florida.

(26) Upper Iowa, Iowa: The entire river.

(27) Youghiogheny, Maryland and Pennsylvania: The segment from Oakland, Maryland, to the Youghiogheny Reservoir, and from the Youghiogheny Dam downstream to the town of Connellsville, Pennsylvania.

(28) American, California: The North Fork from the Cedars to the Auburn Reservoir.

(29) Au Sable, Michigan: The segment downstream from Foot Dam to Oscoda, and upstream from Loud Reservoir to its source, including its principal tributaries and excluding Mio and Bamfield Reservoirs.

(30) Big Thompson, Colorado: The segment from its source to the boundary of Rocky Mountain National Park.

(31) Cache la Poudre, Colorado: Both forks from their sources to their confluence, thence the Cache la Poudre to the eastern boundary of Roosevelt National Forest.

(32) Cahaba, Alabama: The segment from its junction with United States Highway 31 south of Birmingham downstream to its junction with United States Highway 80 west of Selma.

(33) Clark's Fork, Wyoming: The segment from the Clark's Fork Canyon to the Crandall Creek Bridge.

(34) Colorado, Colorado and Utah: The segment from its confluence with the Dolores River, Utah, upstream to a point 19.5 miles from the Utah-Colorado border in Colorado.

(35) Conejos, Colorado: The three forks from their sources to their confluence, thence the Conejos to its first junction with State Highway 17, excluding Platoro Reservoir.

(36) Elk, Colorado: The segment from its source to Clark.

(37) Encampment, Colorado: The Main Fork and West Fork to their confluence, thence the Encampment to the Colorado-Wyoming border, including the tributaries and headwaters.

(38) Green, Colorado: The entire segment within the State of Colorado.

- (39) Gunnison, Colorado: The segment from the upstream (southern) boundary of the Black Canyon of the Gunnison National Monument to its confluence with the North Fork.
- (40) Illinois, Oklahoma: The segment from Tenkiller Ferry Reservoir upstream to the Arkansas-Oklahoma border, including the Flint and Barren Fork Creeks.
- (41) John Day, Oregon: The main stem from Service Creek Bridge (at river mile 157) downstream to Tumwater Falls (at river mile 10).
- (42) Kettle, Minnesota: The entire segment within the State of Minnesota.
- (43) Los Pinos, Colorado: The segment from its source, including the tributaries and headwaters within the San Juan Primitive Area, to the northern boundary of the Granite Peak Ranch.
- (44) Manistee, Michigan: The entire river from its source to Manistee Lake, including its principal tributaries and excluding Tippy and Hodenpyl Reservoirs.
- (45) Nolichucky, Tennessee and North Carolina: The entire main stem.
- (46) Owyhee, South Fork, Oregon: The main stem from the Oregon-Idaho border downstream to the Owyhee Reservoir.
- (47) Piedra, Colorado: The Middle Fork and East Fork from their sources to their confluence, thence the Piedra to its junction with Colorado Highway 160.
- (48) Shepaug, Connecticut: The entire river.
- (49) Sipsey Fork, West Fork, Alabama: The segment, including its tributaries, from the impoundment formed by the Lewis M. Smith Dam upstream to its source in the William B. Bankhead National Forest.
- (50) Snake, Wyoming: The segment from the southern boundaries of Teton National Park to the entrance to Palisades Reservoir.
- (51) Sweetwater, Wyoming: The segment from Wilson Bar downstream to Spring Creek.
- (52) Tuolumne, California: The main river from its source on Mount Dana and Mount Lyell in Yosemite National Park to Don Pedro Reservoir.
- (53) Upper Mississippi, Minnesota: The segment from its source at the outlet of Itasca Lake to its junction with the northwestern boundary of the city of Anoka.
- (54) Wisconsin, Wisconsin: The segment from Prairie du Sac to its confluence with the Mississippi River at Prairie du Chien.
- (55) Yampa, Colorado: The segment within the boundaries of the Dinosaur National Monument.
- (56) Dolores, Colorado: The segment of the main stem from Rico upstream to its source, including its headwaters; the West Dolores from its source, including its headwaters, downstream to its confluence with the main stem; and the segment from the west boundary, section 2, township 38 north, range 16 west, NMPM, below the proposed McPhee Dam, downstream to the Colorado-Utah border, excluding the segment from one mile above Highway 90 to the confluence of the San Miguel River.
- (57) Snake, Washington, Oregon, and Idaho: The segment from an eastward extension of the north boundary of section 1, township 5 north, range 47 east, Willamette meridian, downstream to the town of Asotin, Washington.
- (58) Housatonic, Connecticut: The segment from the Massachusetts-Connecticut boundary downstream to its confluence with the Shepaug River.
- (59) Kern, California: The main stem of the North Fork from its source to Isabella Reservoir excluding its tributaries.
- (60) Loxahatchee, Florida: The entire river including its tributary, North Fork.
- (61) Ogeechee, Georgia: The entire river.
- (62) Salt, Arizona: The main stem from a point on the north side of the river intersected by the Fort Apache Indian Reservation boundary (north of Buck Mountain) downstream to Arizona State Highway 288.
- (63) Verde, Arizona: The main stem from the Prescott National Forest boundary near Paulden to the vicinity of Table Mountain, approximately 14 miles above Horseshoe Reservoir, except for the segment not included in the national forest between Clarkdale and Camp Verde, North segment.
- (64) San Francisco, Arizona: The main stem from confluence with the Gila upstream to the Arizona-New Mexico border, except for the segment between Clifton and the Apache National Forest.
- (65) Fish Creek, New York: The entire East Branch.
- (66) Black Creek, Mississippi: The segment from Big Creek Landing in Forrest County downstream to Old Alexander Bridge Landing in Stone County.
- (67) Allegheny, Pennsylvania: The main stem from Kinzua Dam downstream to East Brady.
- (68) Cacapon, West Virginia: The entire river.
- (69) Escatawpa, Alabama and Mississippi: The segment upstream from a point approximately one mile downstream from the confluence of the Escatawpa River and Jackson Creek to a point where the Escatawpa River is joined by the Yellowhouse Branch in Washington County, Alabama, near the town of Deer Park, Alabama; and the segment of Brushy Creek upstream from its confluence with the Escatawpa to its confluence with Scarsborough Creek.
- (70) Myakka, Florida: The segment south of the southern boundary of the Myakka River State Park.
- (71) Soldier Creek, Alabama: The segment beginning at the point where Soldier Creek intersects the south line of section 31, township 7 south, range 6 east, downstream to a point on the south line of section 6, township 8 south, range 6 east, which point is 1,322 feet west of the south line of section 5, township 8 south, range 6 east in the county of Baldwin, State of Alabama.
- (72) Red, Kentucky: The segment from Highway numbered 746 (also known as Spradlin Bridge) in Wolf County, Kentucky, downstream to the point where the river descends below seven hundred feet above sea level (in its normal flow) which point is at the Menifee and Powell County line just downstream of the iron bridge where Kentucky Highway numbered 77 passes over the river.

(73) Bluestone, West Virginia: From its headwaters to its confluence with the New.

(74) Gauley, West Virginia: Including the tributaries of the Meadow and the Cranberry, from the headwaters to its confluence with the New.

(75) Greenbrier, West Virginia: From its headwaters to its confluence with the New.

(76) Birch, West Virginia: The main stem from the Cora Brown Bridge in Nicholas County to the confluence of the river with the Elk River in Braxton County.

(77) Colville, Alaska.

(78) Etivluk-Nigu, Alaska.

(79) Utukok, Alaska.

(80) Kanektok, Alaska.

(81) Kisaralik, Alaska.

(82) Melozitna, Alaska.

(83) Sheenjek (lower segment), Alaska.

(84) Situk, Alaska.

(85) Porcupine, Alaska.

(86) Yukon (Ramparts section), Alaska.

(87) Squirrel, Alaska.

(88) Koyuk, Alaska.

(b) Studies and reports

(1) The studies of rivers named in subparagraphs (28) through (55) of subsection (a) of this section shall be completed and reports thereon submitted by not later than October 2, 1979: *Provided*, That with respect to the rivers named in subparagraphs (33), (50), and (51), the Secretaries shall not commence any studies until (i) the State legislature has acted with respect to such rivers or (ii) one year from January 3, 1975, whichever is earlier.

(2) The study of the river named in subparagraph (56) of subsection (a) of this section shall be completed and the report thereon submitted by not later than January 3, 1976.

(3) The studies of the rivers named in paragraphs (59) through (76) of subsection (a) of this section shall be completed and reports submitted thereon not later than five full fiscal years after November 10, 1978. The study of rivers named in paragraphs (62) through (64) of subsection (a) of this section shall be completed and the report thereon submitted by not later than April 1981.

(4) There are authorized to be appropriated for the purpose of conducting the studies of the rivers named in subparagraphs (28) through (56) such sums as may be necessary, but not more than \$4,060,000. There are authorized to be appropriated for the purpose of conducting the studies of the rivers named in subparagraphs (59) through (76) such sums as may be necessary.

(5) The studies of the rivers in paragraphs (77) through (88) shall be completed and reports transmitted thereon not later than three full fiscal years from December 2, 1980. For the rivers listed in paragraphs (77), (78), and (79) the studies prepared and transmitted to the Congress pursuant to section 6505(b) of title 42 shall satisfy the requirements of this section.

(6) Studies of rivers listed in paragraphs (80) and (81) shall be completed, and reports submitted within and not later than the time when the Bristol Bay Cooperative Region Plan is submitted to Congress in accordance with section 3183 of this title.

(c) State participation

The study of any of said rivers shall be pursued in as close cooperation with appropriate agencies of the affected State and its political subdivisions as possible, shall be carried on jointly with such agencies if request for such joint study is made by the State and shall include a determination of the degree to which the State or its political subdivisions might participate in the preservation and administration of the river should it be proposed for inclusion in the national wild and scenic rivers system.

(d) Continuing consideration by Federal agencies to potential national, wild, scenic and recreational river areas

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, 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.

(Pub. L. 90-542, § 5, Oct. 2, 1968, 82 Stat. 910; Pub. L. 93-279, § 1(b)(2), May 10, 1974, 88 Stat. 123; Pub. L. 93-621, § 1(a), (b), Jan. 3, 1975, 88 Stat. 2094, 2095; Pub. L. 94-199, § 5(a), Dec. 31, 1975, 89 Stat. 1118; Pub. L. 94-486, title IV, § 401, title VII, § 701, Oct. 12, 1976, 90 Stat. 2330; Pub. L. 95-625, title VII, §§ 721-736, title XI, § 1108, Nov. 10, 1978, 92 Stat. 3530-3532, 3547; Pub. L. 96-87, title IV, § 404, Oct. 12, 1979, 93 Stat. 667; Pub. L. 96-199, title I, § 102, Mar. 5, 1980, 94 Stat. 68; Pub. L. 96-487, title VI, § 604, Dec. 2, 1980, 94 Stat. 2415.)

CODIFICATION

In the original, pars. (5) and (6) of subsec. (b) were added by section 604(b) of Pub. L. 96-487 as pars. (4) and (5) but were editorially redesignated as pars. (5) and (6), to reflect the probable intent of Congress, in view of the addition of par. (3) by section 736 of Pub. L. 95-625 and the redesignation of former par. (3) as (4) by section 735 of Pub. L. 95-625.

In the original, section 3183 of this title, referred to in subsec. (b)(6), read "section 1204 of the Alaska National Interest Lands Conservation Act" and has been editorially translated as section 3183 of this title, which is section 1203 of that Act, as the probable intent of Congress, in view of that Act being enacted without a section 1204 and section 1203 of that Act relating to the Bristol Bay Cooperative Region Plan.

AMENDMENTS

1980—Subsec. (a)(76), Pub. L. 96-199, § 102(a), added par. (76).

Subsec. (a)(77) to (88), Pub. L. 96-487, § 604(a), added pars. (77) to (88).

Subsec. (b)(3), (4), Pub. L. 96-199, § 102(b), substituted "(76)" for "(75)".

Subsec. (b)(5), (6), Pub. L. 96-487, § 604(b), added pars. (5) and (6). See Codification note set out above.

1979—Subsec. (b)(3), Pub. L. 96-87, § 404(a), substituted "paragraphs (59) through (75)" for "paragraphs (59) through (72)".

Subsec. (b)(4). Pub. L. 96-87, § 404(b), substituted "subparagraphs (59) through (75)" for "subparagraphs (59) through (74)".

1978—Subsec. (a)(59) to (75). Pub. L. 95-625, §§ 721-734, 1108, added pars. (59) to (75).

Subsec. (b)(3). Pub. L. 95-625, § 736, added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 95-625, § 735, redesignated as par. (4) former par. (3), and in par. (4) as redesignated increased appropriations authorization for certain studies to \$4,060,000 from \$2,175,000 and authorized necessary appropriations for certain other river studies.

1978—Subsec. (a)(47). Pub. L. 94-486, § 701, struck out "including the tributaries and headwaters on national forest lands" which followed "Colorado Highway 160".

Subsec. (a)(58). Pub. L. 94-486, § 401, added par. (58).

1975—Subsec. (a)(28) to (56). Pub. L. 93-621, § 1(a), added pars. (28) to (56).

Subsec. (a)(57). Pub. L. 94-199 added par. (57).

Subsec. (b). Pub. L. 93-621, § 1(b), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 93-621, § 1(b), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 93-621, § 1(b), redesignated subsec. (c) as (d).

1974—Subsec. (b). Pub. L. 93-279 redesignated subsec. (c) as (b). Former subsec. (b) relating to the study of rivers named in subsec. (a) of this section for inclusion in the national wild and scenic river system and submission of reports to the President and the Congress, was incorporated in section 1275(a) of this title.

Subsec. (c). Pub. L. 93-279 redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 93-279 redesignated subsec. (d) as (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460gg-13, 1275, 1278, 1279, 1280, 1283 of this title; title 30 section 1272.

§ 1277. Land acquisition

(a) Grant of authority to acquire; State and Indian lands; use of appropriated funds

The Secretary of the Interior and the Secretary of Agriculture are each authorized to acquire lands and interests in land within the authorized boundaries of any component of the national wild and scenic rivers system designated in section 1274 of this title, or hereafter designated for inclusion in the system by Act of Congress, which is administered by him, but he shall not acquire fee title to an average of more than 100 acres per mile on both sides of the river. Lands owned by a State may be acquired only by donation, and lands owned by an Indian tribe or a political subdivision of a State may not be acquired without the consent of the appropriate governing body thereof as long as the Indian tribe or political subdivision is following a plan for management and protection of the lands which the Secretary finds protects the land and assures its use for purposes consistent with this chapter. Money appropriated for Federal purposes from the land and water conservation fund shall, without prejudice to the use of appropriations from other sources, be available to Federal departments and agencies for the acquisition of property for the purposes of this chapter.

(b) Curtailment of condemnation power in area 50 per centum or more of which is owned by Federal or State government

If 50 per centum or more of the entire acreage within a federally administered wild, scenic or recreational river area is owned by the United States, by the State or States within which it lies, or by political subdivisions of those States, neither Secretary shall acquire fee title to any lands by condemnation under authority of this chapter. Nothing contained in this section, however, shall preclude the use of condemnation when necessary to clear title or to acquire scenic easements or such other easements as are reasonably necessary to give the public access to the river and to permit its members to traverse the length of the area or of selected segments thereof.

(c) Curtailment of condemnation power in urban areas covered by valid and satisfactory zoning ordinances

Neither the Secretary of the Interior nor the Secretary of Agriculture may acquire lands by condemnation, for the purpose of including such lands in any national wild, scenic or recreational river area, if such lands are located within any incorporated city, village, or borough which has in force and applicable to such lands a duly adopted, valid zoning ordinance that conforms with the purposes of this chapter. In order to carry out the provisions of this subsection the appropriate Secretary shall issue guidelines, specifying standards for local zoning ordinances, which are consistent with the purposes of this chapter. The standards specified in such guidelines shall have the object of (A) prohibiting new commercial or industrial uses other than commercial or industrial uses which are consistent with the purposes of this chapter, and (B) the protection of the bank lands by means of acreage, frontage, and setback requirements on development.

(d) Exchange of property

The appropriate Secretary is authorized to accept title to non-Federal property within the authorized boundaries of any federally administered component of the national wild and scenic rivers system designated in section 1274 of this title or hereafter designated for inclusion in the system by Act of Congress and, in exchange therefor, convey to the grantor any federally owned property which is under his jurisdiction within the State in which the component lies and which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal or, if they are not approximately equal, shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(e) Transfer of jurisdiction over federally owned property to appropriate Secretary

The head of any Federal department or agency having administrative jurisdiction over any lands or interests in land within the authorized boundaries of any federally administered component of the national wild and scenic rivers system designated in section 1274

of this title or hereafter designated for inclusion in the system by Act of Congress in ' authorized to transfer to the appropriate secretary jurisdiction over such lands for administration in accordance with the provisions of this chapter. Lands acquired by or transferred to the Secretary of Agriculture for the purposes of this chapter within or adjacent to a national forest shall upon such acquisition or transfer become national forest lands.

(f) Acceptance of donated land, funds, and other property

The appropriate Secretary is authorized to accept donations of lands and interests in land, funds, and other property for use in connection with his administration of the national wild and scenic rivers system.

(g) Retained right of use and occupancy; termination; fair market value; "improved property" defined

(1) Any owner or owners (hereinafter in this subsection referred to as "owner") of improved property on the date of its acquisition, may retain for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term not to exceed twenty-five years or, in lieu thereof, for a term ending at the death of the owner, or the death of his spouse, or the death of either or both of them. The owner shall elect the term to be reserved. The appropriate Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

(2) A right of use and occupancy retained pursuant to this subsection shall be subject to termination whenever the appropriate Secretary is given reasonable cause to find that such use and occupancy is being exercised in a manner which conflicts with the purposes of this chapter. In the event of such a finding, the Secretary shall tender to the holder of that right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination. Such right of use or occupancy shall terminate by operation of law upon tender of the fair market price.

(3) The term "improved property", as used in this chapter, means a detached, one-family dwelling (hereinafter referred to as "dwelling"), the construction of which was begun before January 1, 1967, (except where a different date is specifically provided by law with respect to any particular river) together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the appropriate Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(Pub. L. 90-542, § 6, Oct. 2, 1968, 82 Stat. 912; Pub. L. 95-625, title VII, § 763(b), Nov. 10, 1978, 92 Stat. 3533.)

¹So in original. Probably should be "is".

AMENDMENTS

1978—Subsec. (g)(3). Pub. L. 95-625 inserted parenthetical phrase "(except where a different date is specifically provided by law with respect to any particular river)" following "January 1, 1967".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1274 of this title.

§ 1278. Restrictions on water resources projects

(a) Construction projects licensed by Federal Energy Regulatory Commission

The Federal Energy Regulatory Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), on or directly affecting any river which is designated in section 1274 of this title as a component of the national wild and scenic rivers system or which is hereafter designated for inclusion in that system, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area on October 2, 1968. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration, or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior or the Secretary of Agriculture, as the case may be, in writing of its intention so to do at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this chapter and would affect the component and the values to be protected by it under this chapter. Any license heretofore or hereafter issued by the Federal Energy Regulatory Commission affecting the New River of North Carolina shall continue to be effective only for that portion of the river which is not included in the National Wild and Scenic Rivers System pursuant to section 1273 of this title and no project or undertaking so licensed shall be permitted to invade, inundate or otherwise adversely affect such river segment.

(b) Construction projects on rivers designated for potential addition to system

The Federal Energy Regulatory Commission shall not license the construction of any dam.

water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act, as amended [16 U.S.C. 791a et seq.], on or directly affecting any river which is listed in section 1276(a) of this title, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river might be designated, as determined by the Secretary responsible for its study or approval—

(i) during the ten-year period following October 2, 1968, or for a three complete fiscal year period following any Act of Congress designating any river for potential addition to the national wild and scenic rivers system, whichever is later, unless, prior to the expiration of the relevant period, the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, on the basis of study, determine that such river should not be included in the national wild and scenic rivers system and notify the Committees on Interior and Insular Affairs of the United States Congress, in writing, including a copy of the study upon which the determination was made, at least one hundred and eighty days while Congress is in session prior to publishing notice to that effect in the Federal Register: *Provided*, That if any Act designating any river or rivers for potential addition to the national wild and scenic rivers system provides a period for the study or studies which exceeds such three complete fiscal year period the period provided for in such Act shall be substituted for the three complete fiscal year period in the provisions of this clause (i); and

(ii) during such additional period thereafter as, in the case of any river the report for which is submitted to the President and the Congress, is necessary for congressional consideration thereof or, in the case of any river recommended to the Secretary of the Interior for inclusion in the national wild and scenic rivers system under section 1273(a)(ii) of this title, is necessary for the Secretary's consideration thereof, which additional period, however, shall not exceed three years in the first case and one year in the second.

Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a potential wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or diminish the scenic, recreational, and fish and wildlife values present in the potential wild, scenic or recreational river area on the date of approval of this chapter. No department or agency of the United States shall, during the periods hereinbefore specified, recommend authorization of any water resources project on any such river or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture in writing of its intention so to do at least sixty days in advance of doing so and without specifically re-

porting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this chapter and would affect the component and the values to be protected by it under this chapter.

(c) Activities in progress affecting river of system; notice to Secretary

The Federal Energy Regulatory Commission and all other Federal agencies shall, promptly upon enactment of this chapter, inform the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, of any proceedings, studies, or other activities within their jurisdiction which are now in progress and which affect or may affect any of the rivers specified in section 1276(a) of this title. They shall likewise inform him of any such proceedings, studies, or other activities which are hereafter commenced or resumed before they are commenced or resumed.

(d) Grants under Land and Water Conservation Fund Act of 1965

Nothing in this section with respect to the making of a loan or grant shall apply to grants made under the Land and Water Conservation Fund Act of 1965 [16 U.S.C. 460f-4 et seq.].

(Pub. L. 90-542, § 7, Oct. 2, 1968, 82 Stat. 913; Pub. L. 93-279, § 1(b)(3), (4), May 10, 1974, 88 Stat. 123; Pub. L. 93-621, § 1(c), Jan. 3, 1975, 88 Stat. 2096; Pub. L. 94-407, § 1(2), Sept. 11, 1976, 90 Stat. 1238; Pub. L. 95-91, title IV, § 402(a)(1)(A), Aug. 4, 1977, 91 Stat. 583.)

REFERENCES IN TEXT

The Federal Power Act, referred to in subsecs. (a) and (b), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (d), is Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460f-4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460f-4 of this title and Tables.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-407 added provision relating to licenses issued affecting the New River of North Carolina.

1975—Subsec. (b)(i). Pub. L. 93-621 added the proviso that if any Act provides a time period for study in excess of the three fiscal year period, that period shall be substituted for the three complete fiscal year period provision of cl. (i).

1974—Subsec. (b)(i). Pub. L. 93-279, § 1(b)(3), substituted provisions that construction projects may not be licensed or assisted before Oct. 2, 1978, or for a three year period following inclusion of a river in the list of rivers for potential addition to the national wild and scenic river system, unless, prior to that period, the Secretary of the Interior or the Secretary of Agriculture, as the case may be, determined that such river should not be so included and notified the Committees on Interior and Insular Affairs, before publication in the Federal Register, for provisions that such projects may not be licensed or assisted before Oct. 2, 1973, unless, prior to that period, the Secretary of the Interior or the Secretary of Agriculture, as the case may

be, concluded that such river should not be so included and published notice to that effect in the Federal Register.

Subsec. (b)(1), Pub. L. 93-279, § 1(b)(4), substituted "the report for which is submitted to the President and the Congress, is necessary" for "which is recommended to the President and the Congress for inclusion in the national wild and scenic rivers system, is necessary".

CHANGE OF NAME

The Committee on Interior and Insular Affairs of the Senate was abolished and replaced by the Committee on Energy and Natural Resources of the Senate, Effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Interior related to compliance with system activities requiring coordination and approval under this chapter and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this chapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas were transferred to the Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, until the first anniversary of date of initial operation of the Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees.

"Federal Energy Regulatory Commission" was substituted for "Federal Power Commission" in subsecs. (a), (b), and (c) pursuant to Pub. L. 95-91, § 402(a)(1)(A), which is classified to section 7172(a)(1)(A) of Title 42, The Public Health and Welfare.

The Federal Power Commission was terminated and its functions with regard to licenses and permits for dams, reservoirs, or other works for the development and improvement of navigation and for the development and utilization of power across, along, from, or in navigable waters under part I of the Federal Power Act (16 U.S.C. 792 et seq.) were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1274, 1279, 1280 of this title.

§ 1279. Withdrawal of public lands from entry, sale, or other disposition under public land laws

(a) Lands within authorized boundaries of components of system

All public lands within the authorized boundaries of any component of the national wild and scenic rivers system which is designated in section 1274 of this title or which is designated after October 2, 1968, for inclusion in that system are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States.

(b) Lands constituting bed or bank of river; lands within bank area

All public lands which constitute the bed or bank, or are within one-quarter mile of the bank, of any river which is listed in section

1276(a) of this title are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States for the periods specified in section 1278(b) of this title. Notwithstanding the foregoing provisions of this subsection or any other provision of this chapter, subject only to valid existing rights, including valid Native selection rights under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (77) through (88) of section 1276(a) of this title are hereby withdrawn from entry, sale, State selection or other disposition under the public land laws of the United States for the periods specified in section 1278(b) of this title.

(Pub. L. 90-542, § 8, Oct. 2, 1968, 82 Stat. 915; Pub. L. 96-487, title VI, § 606(c), Dec. 2, 1980, 94 Stat. 2417.)

REFERENCES IN TEXT

The public land laws of the United States, referred to in text, are classified generally to Title 43, Public Lands.

The Alaska Native Claims Settlement Act, referred to in subsec. (b), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

1980—Subsec. (b), Pub. L. 96-487 inserted provision withdrawing, subject to valid existing rights, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in section 1276(a)(77) through (88) of this title, from entry, sale, State selection or other disposition under the public land laws for periods specified in section 1278(b) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 192b-9 of this title.

§ 1280. Federal mining and mineral leasing laws

(a) Applicability to components of system

Nothing in this chapter shall affect the applicability of the United States mining and mineral leasing laws within components of the national wild and scenic rivers system except that—

(i) all prospecting, mining operations, and all other activities on mining claims which, in the case of a component of the system designated in section 1274 of this title, have not heretofore been perfected or which, in the case of a component hereafter designated pursuant to this chapter or any other Act of Congress, are not perfected before its inclusion in the system and all mining operations and other activities under a mineral lease, license, or permit issued or renewed after inclusion of a component in the system shall be subject to such regulations as the Secretary of the Interior or, in the case of national

forest lands, the Secretary of Agriculture may prescribe to effectuate the purposes of this chapter;

(ii) subject to valid existing rights, the perfection of, issuance of a patent to, any mining claim affecting lands within the system shall confer or convey a right or title only to the mineral deposits and such rights only to the use of the surface and the surface resources as are reasonably required to carrying on prospecting or mining operations and are consistent with such regulations as may be prescribed by the Secretary of the Interior or, in the case of national forest lands, by the Secretary of Agriculture; and

(iii) subject to valid existing rights, the minerals in Federal lands which are part of the system and constitute the bed or bank or are situated within one-quarter mile of the bank of any river designated a wild river under this chapter or any subsequent Act are hereby withdrawn from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto.

Regulations issued pursuant to paragraphs (i) and (ii) of this subsection shall, among other things, provide safeguards against pollution of the river involved and unnecessary impairment of the scenery within the component in question.

(b) **Withdrawal from appropriation of minerals in Federal river beds or bank areas; prospecting, leases, licenses, and permits**

The minerals in any Federal lands which constitute the bed or bank or are situated within one-quarter mile of the bank of any river which is listed in section 1276(a) of this title are hereby withdrawn from all forms of appropriation under the mining laws during the periods specified in section 1278(b) of this title. Nothing contained in this subsection shall be construed to forbid prospecting or the issuance of leases, licenses, and permits under the mineral leasing laws subject to such conditions as the Secretary of the Interior and, in the case of national forest lands, the Secretary of Agriculture find appropriate to safeguard the area in the event it is subsequently included in the system. Notwithstanding the foregoing provisions of this subsection or any other provision of this chapter, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (77) through (88) of section 1276(a) of this title are hereby withdrawn subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto, during the periods specified in section 1278(b) of this title.

(Pub. L. 90-542, § 9, Oct. 2, 1968, 82 Stat. 915; Pub. L. 96-487, title VI, § 606(b), Dec. 2, 1980, 94 Stat. 2416.)

REFERENCES IN TEXT

The United States mineral leasing laws, referred to in text, have been defined in sections 505, 530, and

¹So in original. Probably should be "of".

541e of Title 30, Mineral Lands and Mining, to mean acts Oct. 20, 1914, ch. 330, 38 Stat. 741; Feb. 25, 1920, ch. 85, 41 Stat. 437; Apr. 17, 1926, ch. 158, 44 Stat. 301; and Feb. 7, 1927, ch. 66, 44 Stat. 1057. The act of Oct. 20, 1914, was repealed by Pub. L. 86-252, § 1, Sept. 9, 1959, 73 Stat. 490. The act of Feb. 25, 1920, is popularly known as the Mineral Lands Leasing Act and also as the Mineral Leasing Act of 1920 and is classified principally to chapter 3A (§ 181 et seq.) of Title 30. The act of Apr. 17, 1926, is classified generally to subchapter VIII (§ 271 et seq.) of chapter 3A of Title 30. The act of Feb. 7, 1927, is classified principally to subchapter IX (§ 281 et seq.) of chapter 3A of Title 30. For complete classification of these Acts to the Code, see Tables.

AMENDMENTS

1980—Subsec. (b). Pub. L. 96-487 inserted provision withdrawing, subject to valid existing rights, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel or both sides of the river segments referred to in section 1276(a)(77) through (88) of this title, from all forms of appropriations under the mining laws and operation of the mineral leasing laws during the periods specified in section 1278(b) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1285b of this title.

§ 1281. Administration

(a) **Public use and enjoyment of components; protection of features; management plans**

Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its esthetic, scenic, historic, archeologic, and scientific features. Management plans for any such component may establish varying degrees of intensity for its protection and development, based on the special attributes of the area.

(b) **Wilderness areas**

Any portion of a component of the national wild and scenic rivers system that is within the national wilderness preservation system, as established by or pursuant to the Wilderness Act [16 U.S.C. 1131 et seq.], shall be subject to the provisions of both the Wilderness Act and this chapter with respect to preservation of such river and its immediate environment, and in case of conflict between the provisions of the Wilderness Act and this chapter the more restrictive provisions shall apply.

(c) **Areas administered by National Park Service and Fish and Wildlife Service**

Any component of the national wild and scenic rivers system that is administered by the Secretary of the Interior through the National Park Service shall become a part of the national park system, and any such component that is administered by the Secretary through the Fish and Wildlife Service shall become a part of the national wildlife refuge system. The lands

involved shall be subject to the provisions of this chapter and the Acts under which the national park system or national wildlife system, as the case may be, is administered, and in case of conflict between the provisions of this chapter and such Acts, the more restrictive provisions shall apply. The Secretary of the Interior, in his administration of any component of the national wild and scenic rivers system, may utilize such general statutory authorities relating to areas of the national park system and such general statutory authorities otherwise available to him for recreation and preservation purposes and for the conservation and management of natural resources as he deems appropriate to carry out the purposes of this chapter.

(d) Statutory authorities relating to national forests

The Secretary of Agriculture, in his administration of any component of the national wild and scenic rivers system area, may utilize the general statutory authorities relating to the national forests in such manner as he deems appropriate to carry out the purposes of this chapter.

(e) Cooperative agreements with State and local governments

The Federal agency charged with the administration of any component of the national wild and scenic rivers system may enter into written cooperative agreements with the Governor of a State, the head of any State agency, or the appropriate official of a political subdivision of a State for State or local governmental participation in the administration of the component. The States and their political subdivisions shall be encouraged to cooperate in the planning and administration of components of the system which include or adjoin State- or county-owned lands.

(Pub. L. 90-542, § 10, Oct. 2, 1968, 82 Stat. 916.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsec. (a), is Pub. L. 88-577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The Acts under which the national park system and the national wildlife system are administered, referred to in subsec. (c), are classified generally to this title.

CODIFICATION

The first reference to the Wilderness Act in subsec. (b) was in the original a reference to the Act of September 3, 1964 (78 Stat. 890).

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Interior and Secretary or other official in Department of Agriculture under this chapter to Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1278 of this title.

MANAGEMENT OF SEGMENT OF SALMON RIVER DESIGNATED AS COMPONENT OF WILD AND SCENIC RIVER SYSTEM LOCATED WITHIN RIVER OF NO RETURN WILDERNESS OR GOSPEL-HUMP WILDERNESS

Pub. L. 96-312, § 9(b), July 23, 1980, 94 Stat. 953, provided: "That segment of the main Salmon River desig-

nated as a component of the Wild and Scenic Rivers System by this Act [see section 1274(a)(24) of this title], which lies within the River of No Return Wilderness or the Gospel-Hump Wilderness designated by Public Law 95-237 [Pub. L. 95-237, § 4, Feb. 24, 1978, 92 Stat. 43], shall be managed under the provisions of the Wild and Scenic Rivers Act, as amended [this chapter], and the regulations promulgated pursuant thereto, notwithstanding section 10(b) of the Wild and Scenic Rivers Act [subsec. (b) of this section] or any provisions of the Wilderness Act (section 1131 et seq. of this title) to the contrary."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1274 of this title.

*** § 1282. Assistance to State and local projects**

(a) Assistance of Secretary of the Interior

The Secretary of the Interior shall encourage and assist the States to consider, in formulating and carrying out their comprehensive statewide outdoor recreation plans and proposals for financing assistance for State and local projects submitted pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) [16 U.S.C. 4601-4 et seq.], needs and opportunities for establishing State and local wild, scenic and recreational areas. He shall also, in accordance with the authority contained in the Act of May 28, 1963 (77 Stat. 49) [16 U.S.C. 4601 et seq.], provide technical assistance and advice to, and cooperate with, States, political subdivisions, and private interests, including nonprofit organizations, with respect to establishing such wild, scenic and recreational river areas.

(b) Assistance of Secretaries of Agriculture and Health and Human Services

The Secretaries of Agriculture and of Health and Human Services shall likewise, in accordance with the authority vested in them assist, advise, and cooperate with State and local agencies and private interests with respect to establishing such wild, scenic and recreational river areas.

(Pub. L. 90-542, § 11, Oct. 2, 1968, 82 Stat. 916; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

REFERENCES IN TEXT

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (a), is Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 4601-4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4601-4 of this title and Tables.

The Act of May 28, 1963, referred to in subsec. (a), is Pub. L. 88-29, May 28, 1963, 77 Stat. 49, as amended, which is classified generally to part A (§ 4601 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Tables.

CHANGE OF NAME

"Health and Human Services" was substituted for "Health, Education, and Welfare" in subsec. (b) pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

§ 1283. Management policies

(a) Action of Secretaries and heads of agencies: cooperative agreements

The Secretary of the Interior, the Secretary of Agriculture, and the head of any other Federal department or agency having jurisdiction over any lands which include, border upon, or are adjacent to, any river included within the National Wild and Scenic Rivers System or under consideration for such inclusion, in accordance with section 1273(a)(ii), 1274(a), or 1276(a) of this title, shall take such action respecting management policies, regulations, contracts, plans, affecting such lands, following November 10, 1978, as may be necessary to protect such rivers in accordance with the purposes of this chapter. Such Secretary or other department or agency head shall, where appropriate, enter into written cooperative agreements with the appropriate State or local official for the planning, administration, and management of Federal lands which are within the boundaries of any rivers for which approval has been granted under section 1273(a)(ii) of this title. Particular attention shall be given to scheduled timber harvesting, road construction, and similar activities which might be contrary to the purposes of this chapter.

(b) Existing rights, privileges, and contracts affecting Federal lands

Nothing in this section shall be construed to abrogate any existing rights, privileges, or contracts affecting Federal lands held by any private party without consent of said party.

(c) Water pollution

The head of any agency administering a component of the national wild and scenic rivers system shall cooperate with the Secretary of the Interior and with the appropriate State water pollution control agencies for the purpose of eliminating or diminishing the pollution of waters of the river.

(Pub. L. 90-542, § 12, Oct. 2, 1968, 82 Stat. 917; Pub. L. 95-625, title VII, § 762, Nov. 10, 1978, 92 Stat. 3533.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-625 substituted provision for action to be taken by the Secretaries and heads of agencies for prior provision for review by such officials, made the provision applicable to rivers included within the System, included references to rivers covered in sections 1273(a)(ii) and 1274(a) of this title, and required cooperative agreements with appropriate State or local officials for planning, administration, and management of Federal lands within boundaries of rivers approved under section 1273(a)(ii) of this title.

TRANSFER OF FUNCTIONS

For transfer of certain enforcement functions of Secretary or other official in Department of Interior and Secretary or other official in Department of Agriculture under this chapter to Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, see Transfer of Functions note set out under section 1278 of this title.

§ 1284. Existing State jurisdiction and responsibilities

(a) Fish and wildlife

Nothing in this chapter shall affect the jurisdiction or responsibilities of the States with respect to fish and wildlife. Hunting and fishing shall be permitted on lands and waters administered as parts of the system under applicable State and Federal laws and regulations unless, in the case of hunting, those lands or waters are within a national park or monument. The administering Secretary may, however, designate zones where, and establish periods when, no hunting is permitted for reasons of public safety, administration, or public use and enjoyment and shall issue appropriate regulations after consultation with the wildlife agency of the State or States affected.

(b) Compensation for water rights

The jurisdiction of the States and the United States over waters of any stream included in a national wild, scenic or recreation river area shall be determined by established principles of law. Under the provisions of this chapter, any taking by the United States of a water right which is vested under either State or Federal law at the time such river is included in the national wild and scenic rivers system shall entitle the owner thereof to just compensation. Nothing in this chapter shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(c) Reservation of waters for other purposes or in unnecessary quantities prohibited

Designation of any stream or portion thereof as a national wild, scenic or recreational river area shall not be construed as a reservation of the waters of such streams for purposes other than those specified in this chapter, or in quantities greater than necessary to accomplish these purposes.

(d) State jurisdiction over included streams

The jurisdiction of the States over waters of any stream included in a national wild, scenic or recreational river area shall be unaffected by this chapter to the extent that such jurisdiction may be exercised without impairing the purposes of this chapter or its administration.

(e) Interstate compacts

Nothing contained in this chapter shall be construed to alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States which contain any portion of the national wild and scenic rivers system.

(f) Rights of access to streams

Nothing in this chapter shall affect existing rights of any State, including the right of access, with respect to the beds of navigable streams, tributaries, or rivers (or segments thereof) located in a national wild, scenic or recreational river area.

(g) Easements and rights-of-way

The Secretary of the Interior or the Secretary of Agriculture, as the case may be, may

grant easements and rights-of-way upon, over, under, across, or through any component of the national wild and scenic rivers system in accordance with the laws applicable to the national park system and the national forest system, respectively: *Provided*, That any conditions precedent to granting such easements and rights-of-way shall be related to the policy and purpose of this chapter.

(Pub. L. 90-542, § 13, Oct. 2, 1968, 82 Stat. 917.)

§ 1285. Claim and allowance of charitable deduction for contribution or gift of easement

The claim and allowance of the value of an easement as a charitable contribution under section 170 of title 26, or as a gift under section 2522 of said title shall constitute an agreement by the donor on behalf of himself, his heirs, and assigns that, if the terms of the instrument creating the easement are violated, the donee or the United States may acquire the servient estate at its fair market value as of the time the easement was donated minus the value of the easement claimed and allowed as a charitable contribution or gift.

(Pub. L. 90-542, § 14, Oct. 2, 1968, 82 Stat. 918.)

§ 1285a. Lease of Federal lands

(a) Authority of Secretary; restrictive covenants

Where appropriate in the discretion of the Secretary, he may lease federally owned land (or any interest therein) which is within the boundaries of any component of the National Wild and Scenic Rivers System and which has been acquired by the Secretary under this chapter. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this chapter.

(b) Offer to prior owner

Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land immediately before its acquisition by the United States.

(Pub. L. 90-542, § 14A, as added Pub. L. 95-625, title VII, § 764, Nov. 10, 1978, 92 Stat. 3534.)

§ 1285b. Establishment of boundaries for certain component rivers in Alaska; withdrawal of minerals

Notwithstanding any other provision to the contrary in sections 1274 and 1280 of this title, with respect to components of the National Wild and Scenic Rivers System in Alaska designated by paragraphs (38) through (50) of section 1274(a) of this title —

(1) the boundary of each such river shall include an average of not more than six hundred and forty acres per mile on both sides of the river. Such boundary shall not include any lands owned by the State or a political subdivision of the State nor shall such boundary extend around any private lands adjoining the river in such manner as to surround or effectively surround such private lands; and

(2) the withdrawal made by paragraph (iii) of section 1280(a) of this title shall apply to the minerals in Federal lands which constitute the bed or bank or are situated within

one-half mile of the bank of any river designated a wild river by the Alaska National Interest Lands Conservation Act.

(Pub. L. 90-542, § 15, as added Pub. L. 96-487, title VI, § 606(a), Dec. 2, 1980, 94 Stat. 2416.)

REFERENCES IN TEXT

The Alaska National Interest Lands Conservation Act, referred to in par. (2), is Pub. L. 96-487, Dec. 2, 1980, 94 Stat. 2371, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

§ 1286. Definitions

As used in this chapter, the term—

(a) "River" means a flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes.

(b) "Free-flowing", as applied to any river or section of a river, means existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence, however, of low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the national wild and scenic rivers system shall not automatically bar its consideration for such inclusion: *Provided*, That this shall not be construed to authorize, intend, or encourage future construction of such structures within components of the national wild and scenic rivers system.

(c) "Scenic easement" means the right to control the use of land (including the air space above such land) within the authorized boundaries of a component of the wild and scenic rivers system, for the purpose of protecting the natural qualities of a designated wild, scenic or recreational river area, but such control shall not affect, without the owner's consent, any regular use exercised prior to the acquisition of the easement.

(Pub. L. 90-542, § 16, formerly § 15, Oct. 2, 1968, 82 Stat. 918; Pub. L. 93-279, § 1(c), May 10, 1974, 88 Stat. 123; renumbered Pub. L. 96-487, title VI, § 606(a), Dec. 2, 1980, 94 Stat. 2416.)

AMENDMENTS

1974—Subsec. (c). Pub. L. 93-279 substituted "within the authorized boundaries of a component of the wild and scenic rivers system, for the purpose of protecting the natural qualities of a designated wild, scenic or recreational river area" for "for the purposes of protecting the scenic view from the river".

§ 1287. Authorization of appropriations

There are hereby authorized to be appropriated, including such sums as have heretofore been appropriated, the following amounts for land acquisition for each of the rivers (described in section 1274(a) of this title):

Clearwater, Middle Fork, Idaho, \$2,909,800;
Eleven Point, Missouri, \$10,407,000;
Feather Middle Fork, California, \$3,935,700;
Rio Grande, New Mexico, \$253,000;
Rogue, Oregon, \$15,147,000;
St. Croix, Minnesota and Wisconsin, \$21,769,000;
Salmon Middle Fork, Idaho, \$1,837,000;
Wolf, Wisconsin, \$142,150.

(Pub. L. 90-542, § 17, formerly § 16, Oct. 2, 1968, 82 Stat. 918; Pub. L. 93-279, § 1(d), May 10, 1974, 88 Stat. 123; Pub. L. 94-273, § 2(11), Apr. 21, 1976, 90 Stat. 375; Pub. L. 95-625, title VII, §§ 751-754, 763(c), Nov. 10, 1978, 92 Stat. 3532, 3533; renumbered Pub. L. 96-487, title VI, § 606(a), Dec. 2, 1980, 94 Stat. 2416.)

AMENDMENTS

1978—Pub. L. 95-625, §§ 751-754, 763(c), increased appropriations authorization for the following rivers, substituting for:

Eleven Point, \$10,407,000 for \$4,906,500;

Rogue, \$15,147,000 for \$12,447,200;

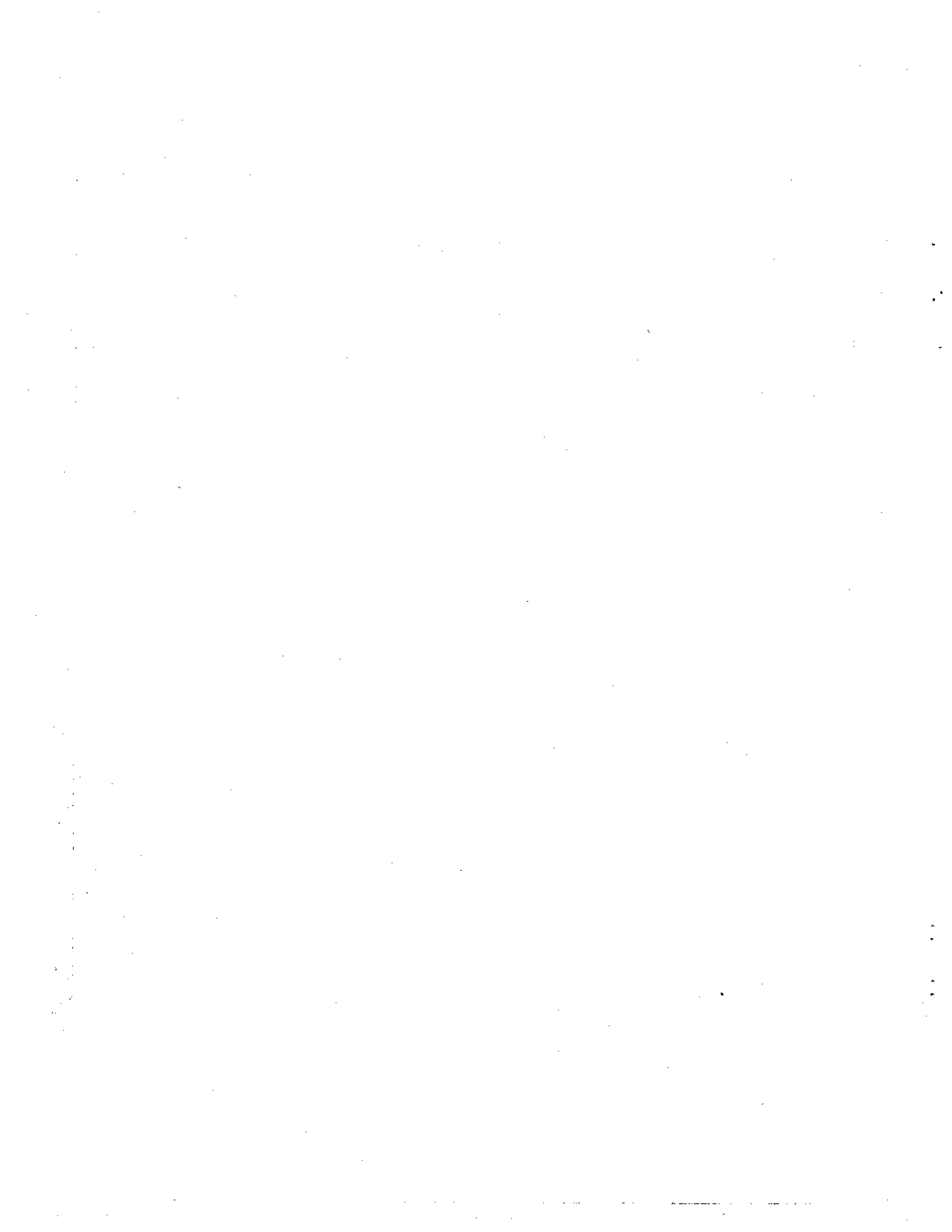
Saint Croix, \$21,769,000 for \$11,768,550; and

Salmon, \$1,837,000 for \$1,237,100; and

struck out subsec. (a) designation and subsec. (b) provision for expiration of authority to make authorized appropriations on Sept. 30, 1979.

1976—Subsec. (b), Pub. L. 94-273 substituted "September" for "June".

1974—Pub. L. 93-279 added subsecs. (a) and (b). Former unlettered provisions authorizing appropriation of amounts up to \$17,000,000 for the acquisition of lands and interests in land, were stricken.



ADDENDUM 3

NATIONAL WILD AND SCENIC RIVERS SYSTEM:
FINAL REVISED GUIDELINES FOR ELIGIBILITY, CLASSIFICATION
AND MANAGEMENT OF RIVER AREAS

DEPARTMENT OF THE INTERIOR

Office of the Secretary

National Park Service

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Forest Service

National Wild and Scenic Rivers System; Final Revised Guidelines for Eligibility, Classification and Management of River Areas

AGENCY: National Park Service and Office of the Secretary, Interior; Forest Service and Office of the Secretary, USDA.

ACTION: Publication of final revised guidelines.

FOR FURTHER INFORMATION CONTACT: Bob Brockwehl (NPS), 202/272-3566, William R. Snyder (USFS), 202/382-8014.

SUPPLEMENTARY INFORMATION:

Guidelines for the study of potential national wild and scenic rivers and management of designated rivers were first issued jointly by the Department of Agriculture and the Department of the Interior in 1970. On January 28, 1981 draft revised guidelines were published in the Federal Register for public comment (Vol. 46, No. 18, pp. 9148-9158). The document which follows was prepared after consideration of 50 letters of comment received from other Federal agencies, State governments, private industry, citizens' groups and individuals. Major comments and responses are summarized below. Many of the comments received were not addressed because they related to aspects of the wild and scenic rivers program beyond the scope of these guidelines. (See Preface of the revised guidelines.)

Comments and Responses

Comment: The definition of the term outstandingly remarkable value is too vague and too liberal. Too many rivers will be eligible for designation, unreasonably constraining economic development of natural resources. *Response:* Balancing of the need for protection versus development of each river area will be considered by the Congress in deciding whether or not to designate the river area. A determination that a particular river is eligible for designation does not necessarily imply that designation is the best use of the river in terms of the national interest.

Comment: The guidelines give inadequate emphasis to public

involvement in the study process.

Response: Public involvement is sufficiently addressed in the context of environmental statements or assessments prepared in the study process.

Comment: The guidelines do not make sufficiently clear which of the management principles apply to private lands. *Response:* The guidelines may be unclear to the general reader in this respect. The management principles are to be implemented throughout each river area to the fullest extent possible under the managing agency's general statutory authorities and other existing Federal, State and local laws, including zoning ordinances where available. Some management principles obviously apply only to Federal lands within the river area. For instance, the Wild and Scenic Rivers Act does not open private lands to public recreation. Management principles may apply to private lands only to the extent required by other laws such as local zoning and air and water pollution regulations.

Comment: Restriction of timber harvest to selective harvest techniques is unnecessarily limiting from both the timber production and the natural resource preservation standpoints. *Response:* The guidelines have been amended in accordance with this comment.

Comment: Specific guidance contained in the 1970 guideline with respect to the granting of rights-of-way for transmission lines is omitted from the revised draft guidelines. *Response:* The subsection on rights-of-way has been amended in accordance with this comment.

Comment: A protected study area extending one half mile from each bank of the river is excessive when the final boundaries of a river area must average no more than one quarter mile from each bank (320 acres per mile). *Response:* The half-mile figure was intended to ensure that all areas likely to be included within the boundaries of a designated river area would be considered in the study process. Setting a study boundary based on the "visual corridor" concept was considered but rejected. The one-quarter-mile figure was finally selected to avoid unnecessary limitations on resource developments. Some developments which may be initiated beyond the one-quarter-mile boundary during the study period might be affected in the future if the area under development is included in the boundaries of the river area designated by Congress.

Comment: Evaluation of the study area in its existing condition for classification purposes does not allow

for the fact that a forest area growing in relatively natural condition at the time of the study may be scheduled for clearcutting at some future date. The classification process should allow for authorized and scheduled future uses which could change the condition and, thus, the classification of the river area. *Response:* The guidelines have been amended to permit consideration of alternative classifications for the river area where authorized future uses could alter classification.

The following additional changes were made in response to suggestions from the reviewing public or from reviewers within the responsible agencies.

- Unnecessary definitions were deleted.
- Quotations and paraphrases of the Wild and Scenic River Act (including the whole of Section II—Policy) were eliminated as much as possible. Instead, the guidelines will reference the appropriate sections of the Act where necessary.
- The entire subsection titled "Findings and Recommendations" and portions of the subsection titled "General Management Principles" were deleted and their content was placed in other appropriate sections.

Additional copies of the guidelines, the Wild and Scenic Rivers Act, as amended, and further information on the National Wild and Scenic Rivers System may be obtained from: National Park Service, Rivers and Trails Division (780), 440 G Street, N.W., Washington, D.C. 20243.

Dated: July 12, 1982.

G. Roy Arnett,

Assistant Secretary for Fish and Wildlife and Parks (Interior).

Dated: August 26, 1982.

Douglas W. MacCleery,

Deputy Assistant Secretary for Natural Resources and Environment (Agriculture).

Department of Agriculture

Department of the Interior

National Wild and Scenic Rivers System
Guidelines for Eligibility, Classification and Management of River Areas.

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Appendix

The Wild and Scenic Rivers Act (Pub. L. 90-542 as amended through Pub. L. 96-487)

Preface

The National Wild and Scenic Rivers System

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 preamble of the Act states:

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 dam 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.

Addition of Rivers to the System

The Wild and Scenic Rivers Act provides two methods for adding a river to the National Wild and Scenic Rivers System. The first method is by an act of Congress. Congress can designate a river directly or it can authorize a river for study as a potential wild, scenic or recreational river. Upon completion of a study conducted by the Department of the Interior or the Department of Agriculture, a study report is prepared

and transmitted to the President who, in turn, forwards it with his recommendations to Congress for action.

The second method for inclusion of a river in the national system is through the authority granted to the Secretary of the Interior in section 2(a)(ii) of the Act. Upon application by the Governor or Governors of the State or States involved, the Secretary can designate a river as a component of the national system provided that the river has been designated as a wild, scenic or recreational river by or pursuant to an act of the legislature of the State or States through which it flows to be permanently administered as a wild, scenic, or recreational river by an agency or political subdivision of the State or States concerned.

To be eligible for inclusion in the system through either method, rivers must meet certain criteria set forth in section 2(b) of the Act. Procedures for proposing State-administered rivers for designation have been issued by the Department of the Interior.

The Guidelines

Subsequent to enactment of the Wild and Scenic Rivers Act in October 1968, the Departments of Agriculture and the Interior initiated studies of twenty-seven rivers which the Act authorized for study as potential additions to the National Wild and Scenic Rivers System. As these studies progressed, it became evident that specific requirements of the Act concerning the evaluation, classification and management of these rivers were subject to differing interpretations within and between the two departments.

It was therefore agreed that a uniform evaluation and management approach should be formulated for use by the two departments, and through a cooperative effort, *Guidelines for Evaluating Wild, Scenic and Recreational River Areas Proposed for Inclusion in the National Wild and Scenic Rivers System Under Section 2, Public Law 90-542* was prepared and promulgated in February 1970.

The guidelines not only provide guidance for the congressionally mandated studies under section 5(a) of the Act, but are also useful for evaluations conducted by water resource development agencies under section 5(d) and for States applying for inclusion of State-designated rivers in the national system.

Revision of the Guidelines

While these guidelines were effective throughout a decade, it became clear

that revision was necessary to incorporate changes identified through use and to reflect requirements of new laws and regulations. Therefore, on August 2, 1979, the President directed his Environmental Message that "the Secretary of Agriculture and the Secretary of the Interior shall jointly revise their guidelines for evaluating wild, scenic and recreational rivers to ensure consideration of river ecosystems and to shorten the time currently used to study rivers for designation."

This revision of the guidelines has been prepared in response to the President's 1979 directive and includes:

- Clarification of the fact that free-flowing rivers which contain outstandingly remarkable ecological values are eligible for addition to the national system.
- Clarification of the fact that free-flowing river segments in or near urban areas that possess outstandingly remarkable values are eligible for addition to the national system.
- Elimination of the 25-mile minimum length guideline.
- Revision of the definition of sufficient river flow or volume of water in the river. Sufficient flow was not defined in the Act and the definition in the existing guidelines was unnecessarily limiting.
- Revised water quality guidelines to allow inclusion in the system of rivers where restoration to high water quality is planned.
- A revised section on management of designated river areas.
- A study schedule to accelerate completion of the river studies authorized by Congress.

Section I—Definitions

The following definitions are provided for the purpose of these guidelines only:

Act: The Wild and Scenic Rivers Act

Carrying capacity: The quantity of recreation use which an area can sustain without adverse impact on the outstandingly remarkable values and free-flowing character of the river area, the quality of recreation experience, and public health and safety.

Classification criteria: Criteria specified in Section 2(b) of the Act for determining the classification (wild, scenic or recreational) of eligible river segments.

Classification: The process of determining which of the classes outlined in section 2(b) of the Act (wild, scenic, or recreational) best fit the river or its various segments.

Component: A river area designated as a unit of the National Wild and Scenic Rivers System.

Designation: Inclusion of a river area in the national system either by act of Congress or by authority of the Secretary of the Interior.

Development: Any manmade structure or modification of the natural or existing river environment.

Eligibility: Qualification of a river for inclusion in the national system through determination that it is free-flowing and with its adjacent land area possesses at least one outstandingly remarkable value.

Flow: The volume of water in a river passing a given point in a given period of time, usually expressed in terms of cubic feet per second or cubic meters per second.

Impoundment: A body of water formed by any manmade structure.

Management plan: The detailed development plan required under section 4(b) of the Act which states the boundaries and classification of the river area, and presents a plan for its public use, development and administration.

Primary contact recreation: Activities in which there is prolonged and intimate contact with the water, (e.g., swimming, water skiing, surfing, kayaking, "tubing," and wading or dabbling by children).

River cover: For a river study, that portion of a river authorized by Congress for study and its immediate environment comprising an area extending at least one-quarter mile from each bank. For designated rivers, the river and adjacent land within the authorized boundaries.

Secondary contact recreation: Activities in which contact with the water is either incidental or accidental, (e.g., boating, fishing and limited contact with water incident to shoreline activities).

Study agency: The agency within the Department of Agriculture or the Department of the Interior delegated the responsibility for a wild and scenic river study.

Study report: The report on the suitability or nonsuitability of a study area for inclusion in the national system, which section 4(a) requires the Secretary of Agriculture, or the Secretary of the Interior, or both jointly prepare and submit to the President. The President transmits the report with his recommendation to the Congress.

Study team: A team of professionals from interested local, State and Federal agencies invited by the study agency and participating in the study.

Section II—The River Study

The Study Process

Section 4(a) mandates that all rivers designated as potential additions to the system in section 5(a) be studied as to their suitability for inclusion in the system:

The Secretary of the Interior or, where national forest lands are involved, the Secretary of Agriculture or, in appropriate cases, the two Secretaries jointly shall study and submit to the President reports on the suitability or nonsuitability for addition to the national wild and scenic rivers system of rivers which are designated herein or hereafter by the Congress as potential additions to such system. The President shall report to the Congress his recommendations and proposals with respect to the designation of each such river or section thereof under this Act.

The purpose of a wild and scenic river study is to provide information upon which the President can base his recommendation and Congress can make a decision. Procedures for developing the necessary information and preparing the study report may vary depending on the agency which conducts the study, but generally will include the steps shown on Table 1, Accelerated Study Schedule.

Wild and scenic river studies will comply with all applicable statutes and executive orders, which may include the following: the National Environmental Policy Act (Pub. L. 91-190), the National Historic Preservation Act (Pub. L. 89-665), the Endangered Species Act (Pub. L. 91-205), the Fish and Wildlife Coordination Act (Pub. L. 85-264), the Water Resources Planning Act (Pub. L. 89-30), the Floodplain and Wetlands Executive Orders (E.O. 11980 and E.O. 11990), the National Forest Management Act of 1976 (Pub. L. 94-588), the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579), the Wild and Scenic Rivers Act (Pub. L. 90-542, as amended), and any rules and regulations issued and pursuant thereto.

The Study Report

Each river study report will be a concise presentation of the information required in sections 4(a) and 5(c) of the Act as augmented by the Council on Environmental Quality regulations implementing the procedural provisions of the National Environmental Policy Act (40 CFR Parts 1500-1508).

Section 4(a):

Each report, including maps and illustrations, shall show among other things the area included within the report, the characteristics which do or do not make the area a worthy addition to the system, the current status of land ownership and use in the area, the reasonably foreseeable potential

uses of the land and water which would be enhanced, foreclosed or curtailed if the area were included in the national wild and scenic rivers system; the Federal agency (which in the case of a river which is wholly or substantially within a national forest, shall be the Department of Agriculture) by which it is proposed the area should be added to the system, be administered; the extent to which it is proposed that such administration, including the costs thereof, be shared by State and local agencies; and the estimated cost to the United States of acquiring necessary lands and interests in land and of administering the area, should it be added to the system.

In addition, section 5(c) requires that

The study of any of said rivers shall include a determination of the degree to which the State or its political subdivisions might participate in the preservation and administration of the river should it be proposed for inclusion in the national wild and scenic rivers system.

Study reports may be combined with draft and final environmental impact statements (EIS) as permitted by § 1500.4 of the Council on Environmental Quality regulations. Study reports will be reviewed by other Federal agencies, states and the public as required by section 4(b) of the Wild and Scenic Rivers Act. Each of the following subsections describe the way in which the information is generated, analyzed and presented in the report.

Description of the River Area

Each report will contain a description of the area included in the study. The study area will cover, as a minimum, an area extending the length of the river segment authorized for study and extending in width one-quarter mile from each bank of the river.

Adjacent river areas beyond one-quarter mile from each river bank may be studied if their inclusion would facilitate management of the resources of the river area. For example, there may be important historic, archeological or ecological resource areas which may extend beyond the boundaries of the mandated study area, but could be better managed by inclusion in the river area. Also, management of the river area may be facilitated by extension to include established or available access points not included in the study.

For the purposes of study and determining eligibility and classification, the river area may be divided into segments.

The description of the river area will identify the outstandingly remarkable values and the extent of man's activity in the river environment to provide a clear basis for findings of eligibility and classification. While only one

outstandingly remarkable value is necessary for eligibility, the study report should carefully document all values of the river area.

In addition to the information required by Sections 4(a) and 5(c) of the Act, this section of the report will describe any existing zoning ordinances or other provisions of law governing land use in the study area.

If the study report and the environmental impact statement are combined, the same chapter may describe both the river area and the affected environment. For EIS purposes and for general information, a brief description of the regional setting will also be included.

Determination of Eligibility

Each report will contain a determination as to the eligibility of all portions of the authorized study area.

Section 2(b) of the Act states that "a river area eligible to be included in the system is a free-flowing stream and the related adjacent land area that possesses one or more of the values referred to in section 1, subsection (b) of this Act." The terms "river" and "free-flowing" are defined in section 16 of the act.

In reading and applying the criteria for eligibility, the following points are relevant:

- The fact that a river segment may flow between large impoundments will not necessarily preclude its designation. Such segments may qualify if conditions within the segment meet the criteria.
- Rivers or river segments in or near urban areas that possess outstandingly remarkable values may qualify. Only one outstandingly remarkable value is needed for eligibility.
- In addition to the specific values listed in Section 1(b) of the Act, other similar values, such as ecological, if outstandingly remarkable, can justify inclusion of a river in the national system.
- The determination of whether a river area contains "outstandingly remarkable" values is a professional judgment on the part of the study team. The basis for the judgment will be documented in the study report.
- There are no specific requirements concerning the length or the flow of an eligible river segment. A river segment is of sufficient length if, when managed as a wild, scenic or recreational river area, the outstandingly remarkable values are protected. Flows are sufficient if they sustain or complement the

outstandingly remarkable values for which the river would be designated.

Classification

Study reports will indicate the potential classification which best fits each eligible river segment as viewed in its existing condition. Section 2(b) of the Act states that rivers which are found eligible and included in the National Wild and Scenic Rivers Systems shall be classified as one of the following:

(1) 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.

These criteria are interpreted as follows:

a. "Free of impoundments." Wild river areas shall be free of impoundments.

b. "Generally inaccessible except by trail." Wild river areas will not contain roads, railroads, or other provisions for vehicular travel within the river area. The existence of a few inconspicuous roads leading to the boundary of the river area at the time of study will not necessarily bar wild river classification.

c. "Watersheds or shorelines essentially primitive." Wild river areas will show little or no evidence of human activity. Shorelines and watersheds within the river area should be essentially free of structures including such things as buildings, pipelines, powerlines, dams, pumps, generators, diversion works, rip-rap and other modifications of the waterway or adjacent land within the river corridor. The existence of a few inconspicuous structures, particularly those of historic or cultural value, at the time of study need not bar wild classification.

A limited amount of domestic livestock grazing or hay production may be considered "essentially primitive." There should be no row crops or ongoing timber harvest and the river area should show little or no evidence of past logging activities.

d. "Waters unpolluted." The water quality of a wild river will meet or exceed Federal criteria or federally approved State standards for aesthetics, for propagation of fish and wildlife normally adapted to the habitat of the stream, and for primary contact recreation except where exceeded by natural conditions.

(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.

These criteria are interpreted as follows:

a. "Free of impoundments." Scenic river areas will be free of impoundments.

b. "Shorelines or watersheds still largely primitive." To qualify for scenic classification, the rivers segment's shorelines and immediate environment should not show substantial evidence of human activity. The portion of the watershed within the boundary of the scenic river may have some discernible existing development. "Largely primitive" means that the shorelines and the immediate river environment still present an overall natural character, but that in places land may be developed for agricultural purposes. Row crops would be considered as meeting the test of "largely primitive," as would timber harvest and other resource use, providing such activity is accomplished without a substantial adverse effect on the natural appearance of the river or its immediate environment.

c. "Shorelines largely undeveloped" means that any structures or concentration of structures must be limited to relatively short reaches of the total area under consideration for designation as a scenic river area.

d. "Accessible in places by road" means that roads may reach the river area and occasionally bridge the river. The presence of short stretches of conspicuous or longer stretches of inconspicuous and well-screened roads or railroads will not necessarily preclude scenic river designation. In addition to the physical and scenic relationship of the free-flowing river area to roads or railroads, consideration should be given to the type of use for which such roads or railroads were constructed and the type of use which would occur within the proposed scenic river area.

(3) 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.

These criteria are interpreted as follows:

a. "Readily accessible by road or railroad." River areas classified as recreational may contain existing parallel roads or railroads in close proximity to one or both banks of the river as well as bridge crossings and roads fording or ending at the river.

b. "Some development along their shorelines." Lands may have been developed for the full range of agricultural and forestry uses, may show evidence of past and ongoing timber

harvest, and may include some residential, commercial or similar development.

c. "Some impoundment or diversion in the past." There may be some existing impoundments, diversions and other modifications of the waterway having an impact on the river area. Existing low dams, diversion works, rip-rap and other minor structures will not bar recreational classification, provided the waterway remains generally natural and riverine in appearance.

The classification criteria are summarized in Table 2, appended to these guidelines.

There are several points which all participants and observers of the study process should bear in mind when reading and applying the classification criteria:

- It is important to understand each criterion, but it is more important to understand their collective intent. Each river segment and its immediate environment should be considered as a unit. The basis for classification is the degree of naturalness, or stated negatively, the degree of evidence of man's activity in the river area. The most natural rivers will be classified wild; those somewhat less natural, scenic, and those least natural, recreational.
- Generally, only conditions within the river area determine classification; however, occasionally conditions outside the river area, such as developments which could impact air and water quality, noise levels or scenic views within the river area, may influence classification.
- For the purpose of classification, a river area may be divided into segments. Each segment, considered as a whole, will conform to one of the classifications. In segmenting the river the study team should take into account the management strategies necessary to administer the entire river area and should avoid excessive segmentation.
- The Wild and Scenic Rivers Act provides no specific guidance on water quality for scenic and recreational rivers. However, the Clean Water Act has made it a national goal that all waters of the United States be made fishable and swimmable, and provides the legal means for upgrading water quality in any river which would otherwise be suitable for inclusion in the system. Therefore, rivers will not necessarily be excluded from the system because of poor water quality at the time study, provided a water quality improvement plan exists or is being

developed in compliance with applicable State and Federal laws.

- Although each classification permits certain existing development, the criteria do not imply that additional inconsistent development is permitted in the future.
- The classification criteria provide uniform guidance for professional judgment, but they are not absolutes. It is not possible to formulate criteria so as to mechanically or automatically classify river areas. Therefore, there may occasionally be exceptions to some of the criteria. For example, if the study team finds that strict application of the statutory classification criteria would not provide the most appropriate classification for a specific river segment, the study report may recommend for congressional consideration an exception to the classification criteria.

Analysis of the Alternatives

To provide for decisionmaking and to satisfy the requirements of the National Environmental Policy Act, study reports will include an analysis of alternatives. The study team will develop an array of alternative plans encompassing all reasonable proposals for use of the river area including uses which may be incompatible with designation of the river area as a component of the national system. Where appropriate, alternative plans for the river area may be based on, but not limited to:

- Alternative managing agencies for the river area;
- Alternative protective measures other than national designation;
- Alternative uses of the area incompatible with designation as a component of the national system; and
- Alternative classifications for the river area. Occasionally there may be authorized but not yet constructed projects, which if constructed would alter the classification of the river area. In such cases, alternatives may be presented to permit consideration of the river area as it would be classified both with and without the authorized project. Authorized projects may include approved land management plans prepared by a Federal land management agency under its statutory authorities.

The study report will present at least one alternative plan calling for national designation through either Congressional or Secretarial designation of all eligible segments of the congressionally authorized study area.

If the study team finds a segment ineligible for designation as a

component of the National Wild and Scenic Rivers System, but still worthy of protection, alternatives for State, local or private preservation may be presented, as well as protection under other Federal programs.

If areas adjacent to the study area have been studied and found eligible, the report may present alternatives which incorporate such areas into the river area proposed for designation. Such expansion of the original study area either in length or in width may be desirable to preserve and facilitate management of river ecosystems, historic or archeological areas or other special areas.

Section III—Management

Wild and scenic rivers shall be managed with plans prepared in accordance with the requirements of the Act, other applicable laws, and the following general management principles. Management plans will state General principles for any land acquisition which may be necessary; the kinds and amounts of public use which the river area can sustain without impact to the values for which it was designated; and specific management measures which will be used to implement the management objectives for each of the various river segments and protect esthetic, scenic, historic, archeologic and scientific features.

If the classification or classifications determined in the management plan differ from those stated in the study report, the management plan will describe the changes in the existing condition of the river area or other considerations which required the change in classification.

General Management Principles

Section 10(a) states.

Each component of the national wild and scenic rivers system shall be administered in such a manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its esthetic, scenic, historic, archeologic, and scientific features. Management plans for any such component may establish varying degrees of intensity for its protection and development on the special attributes of the area.

This section is interpreted as stating a nondegradation and enhancement policy for all designated river areas, regardless of classification. Each component will be managed to protect and enhance the values for which the river was designated, while providing for public

recreation and resource uses which do not adversely impact or degrade those values. Specific management strategies will vary according to classification but will always be designed to protect and enhance the values of the river area. Land uses and developments on private lands within the river area which were in existence when the river was designated may be permitted to continue. New land uses must be evaluated for their compatibility with the purposes of the Act.

The management principles which follow stem from section 10(a). Managing agencies will implement these principles to the fullest extent possible under their general statutory authorities and existing Federal, State and local laws. Because of these limitations, however, implementation of the principles may differ among and within components of the system depending on whether the land areas involved are federally, State, locally or privately owned.

Carrying Capacity. Studies will be made during preparation of the management plan and periodically thereafter to determine the quantity and mixture of recreation and other public use which can be permitted without adverse impact on the resource values of the river area. Management of the river area can then be planned accordingly.

Public Use and Access. Public use will be regulated and distributed where necessary to protect and enhance (by allowing natural recovery where resources have been damaged) the resource values of the river area. Public use may be controlled by limiting access to the river, by issuing permits, or by other means available to the managing agency through its general statutory authorities.

Basic Facilities. The managing agency may provide basic facilities to absorb user impacts on the resource. Wild river areas will contain only the basic minimum facilities in keeping with the "essentially primitive" nature of the area. If facilities such as toilets and refuse containers are necessary, they will generally be located at access points or at a sufficient distance from the river bank to minimize their intrusive impact. In scenic and

recreational river areas, simple comfort and convenience facilities such as toilets, shelters, fireplaces, picnic tables and refuse containers are appropriate. These, when placed within the river area, will be judiciously located to protect the values of popular areas from the impacts of public use.

Major Facilities. Major public use facilities such as developed campgrounds, major visitor centers and administrative headquarters will, where feasible, be located outside the river area. If such facilities are necessary to provide for public use and/or to protect the river resource, and location outside the river area is infeasible, such facilities may be located within the river area provided they do not have an adverse effect on the values for which the river area was designated.

Motorized Travel. Motorized travel on land or water is generally permitted in wild, scenic and recreational river areas, but will be restricted or prohibited where necessary to protect the values for which the river area was designated.

Agricultural and Forestry Practices. Agricultural and forestry practices should be similar in nature and intensity to those present in the area at the time of designation. Generally, uses more intensive than grazing and hay production are incompatible with wild river classification. Rowcrop production and timber harvest may be practice in recreational and scenic river areas. Recreational river areas may contain an even larger range of agricultural and forestry uses. Timber harvest in any river area will be conducted so as to avoid adverse impacts on the river area values.

Other Resource Management Practices. Resource management practices will be limited to those which are necessary for protection, conservation, rehabilitation or enhancement of the river area resources. Such features as trail bridges, fences, water bars and drainage ditches, flow measurement devices and other minor structures or management practices are permitted when compatible with the classification of the river area and provided that the area remains natural in appearance and the practices or structures harmonize with the

surrounding environment.

Water Quality. Consistent with the Clean Water Act, water quality in wild scenic and recreational river areas will be maintained or, where necessary, improved to levels which meet Federal criteria or federally approved State standards for aesthetics and fish and wildlife propagation. River managers will work with local authorities to abate activities within the river area which are degrading or would degrade existing water quality.

Additional management principles stem from other sections of the Act as follows:

Land Acquisition: Section 8
Water Resource Development: Section 7
Mining: Section 9
Management of Adjacent Federal Land: Section 12(a)
Hunting and Fishing: Section 13(a)
Water Rights: Section 13(b)-(f)
Rights-of-Way: Section 13(g)

The following policies are consistent with and supplement the management principles stated in the Act:

Land Use Controls. Existing patterns of land use and ownership should be maintained, provided they remain consistent with the purposes of the Act. Where land use controls are necessary to protect river area values, the managing agency will utilize a full range of land-use control measures including zoning, easements and fee acquisition.

Rights-of-Way. In the absence of reasonable alternative routes, new public utility rights-of-way on Federal lands affecting a Wild and Scenic River area or study area will be permitted. Where new rights-of-way are unavoidable, locations and construction techniques will be selected to minimize adverse effects on scenic, recreational, fish and wildlife and other values of the river area.

Other legislation applicable to the various managing agencies may also apply to wild and scenic river areas. Where conflicts exist between the provisions of the Wild and Scenic River Act and other acts applicable to lands within the system, the more restrictive provisions providing for protection of the river values shall apply.

TABLE 1.
ACCELERATED STUDY SCHEDULE
MONTHS

River Study Tasks	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
1. Organize study team Prepare study plan Public information meetings Scope critical issues	█																													
2. Resource Inventories (a) Study Andry. Locations (b) River eligibility and classification evalu. (c) Literature search (d) Other agency contacts (e) Resource maps		█	█	█	█	█																								
3. Develop alternative (a) Prepare alternatives display (b) Public meetings on findings and alternat. (c) Analyze Public Input (d) Evaluate alternatives							█	█	█	█																				
4. Complete Preliminary Report/DEIS																														
5. Review of Draft (a) Internal Review (b) Revise preliminary as needed (c) Prepare camera ready copy (d) Print Draft Report/EIS (e) Distribute for 90-day review (f) Public meetings or formal hearings during review											█	█	█	█	█	█	█													
6. Analyze Review Input Revise draft as needed. Internal Review																		█	█	█										
7. Print Final Report																					█	█	█	█						
8. Secretary's decision and transmittal of report w/ recommendations to OMB																						█	█	█						
9. Executive review and transmittal to the Congress																														

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This schedule does not take into account the possibility of delays due to Congressional concern, interagency or intradepartmental concerns or other possible outside influences that cannot be planned for.

TABLE 2.

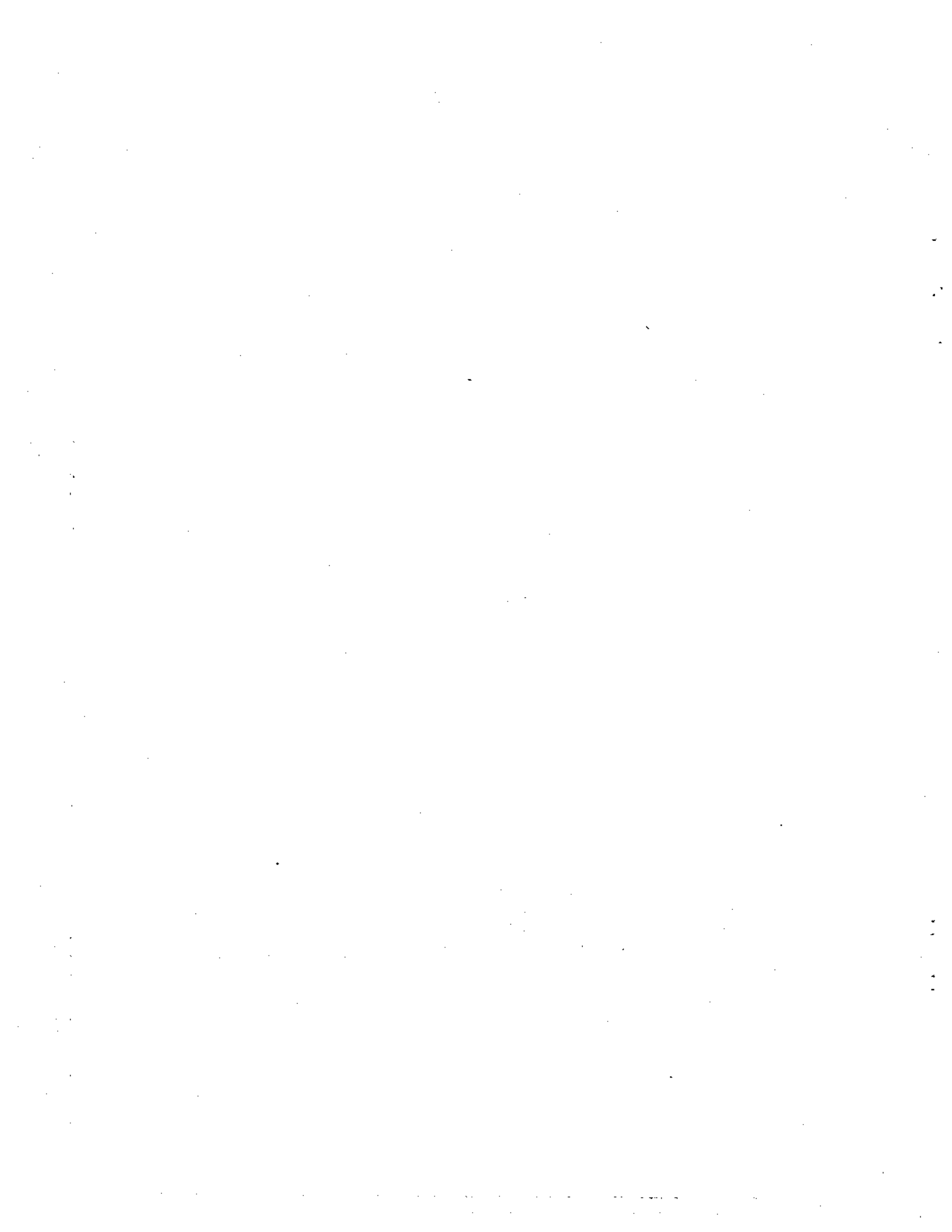
CLASSIFICATION CRITERIA FOR WILD, SCENIC AND RECREATIONAL RIVER AREAS *

ATTRIBUTE	WILD	SCENIC	RECREATIONAL
Water Resources Development	Free of impoundment.	Free of impoundment.	Some existing impoundment or diversion. The existence of low dams, diversions or other modifications of the waterway is acceptable, provided the waterway remains generally natural and riverine in appearance.
Shoreline Development	Essentially primitive. Little or no evidence of human activity. The presence of a few inconspicuous structures, particularly those of historic or cultural value, is acceptable. A limited amount of domestic livestock grazing or hay production is acceptable. Little or no evidence of past timber harvest. No ongoing timber harvest.	Largely primitive and undeveloped. No substantial evidence of human activity. The presence of small communities or dispersed dwellings or farm structures is acceptable. The presence of grazing, hay production or row crops is acceptable. Evidence of past or ongoing timber harvest is acceptable, provided the forest appears natural from the riverbank.	Some development. Substantial evidence of human activity. The presence of extensive residential development and a few commercial structures is acceptable. Lands may have been developed for the full range of agricultural and forestry uses. May show evidence of past and ongoing timber harvest.
Accessibility	Generally inaccessible except by trail. No roads, railroads or other provision for vehicular travel within the river area. A few existing roads leading to the boundary of the river area is acceptable.	Accessible in places by road. Roads may occasionally reach or bridge the river. The existence of short stretches of conspicuous or longer stretches of inconspicuous roads or railroads is acceptable.	Readily accessible by road or railroad. The existence of parallel roads or railroads on one or both banks as well as bridge crossings and other river access points is acceptable.
Water Quality	Meets or exceeds Federal criteria or Federally approved State standards for aesthetics, for propagation of fish and wildlife normally adapted to the habitat of the river, and for primary contact recreation (swimming) except where exceeded by natural conditions.	No criteria prescribed by the Wild and Scenic Rivers Act. The Federal Water Pollution Control Act Amendments of 1972 have made it a national goal that all waters of the United States be made fishable and swimmable. Therefore, rivers will not be precluded from scenic or recreational classification because of poor water quality at the time of their study, provided a water quality improvement plan exists or is being developed in compliance with applicable Federal and State laws.	

* Table to be used only in conjunction with text.

ADDENDUM 4

RESOLUTION BY GOVERNOR AND CABINET



RESOLUTION

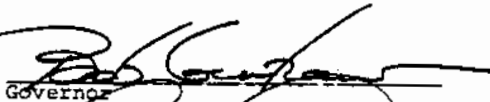
WHEREAS the Governor and Cabinet sitting as Head of the Department of Natural Resources have considered a Loxahatchee River Wild and Scenic Rivers Study and draft Environmental Impact Statement prepared by the United States Department of the Interior; and

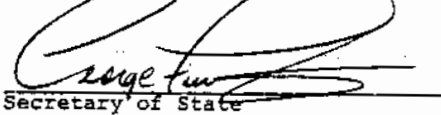
WHEREAS the Department of the Interior has concluded that a 7.5-mile segment of the Loxahatchee River in Palm Beach and Martin Counties meets the criteria for inclusion in the National Wild and Scenic Rivers System; and

WHEREAS it would be in the best interest of the State to preserve and, to the maximum degree possible, enhance this exceptional resource:

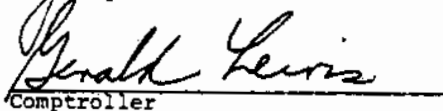
NOW, THEREFORE, BE IT RESOLVED that the Governor and Cabinet sitting as Head of the State of Florida Department of Natural Resources do hereby endorse in concept the inclusion of the identified 7.5-mile segment of the Loxahatchee River in the National Wild and Scenic Rivers System, and do direct the Department of Natural Resources staff, in concert with affected state, federal, regional, and local agencies, to develop a management plan which satisfies federal requirements for including the Loxahatchee River in the National Wild and Scenic Rivers System. The principal goals of the plan will be to preserve and enhance the river's unique natural values, restore the river's historical hydrologic regime, and reverse deleterious saltwater intrusion into the river. The staff is further directed to submit the plan to the Board for final consideration.

Adopted this 11th day of January, 1983,
by the Governor and the Cabinet of the State of Florida as
Head of the State of Florida Department of Natural Resources.


Governor

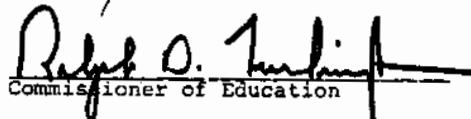

Secretary of State


Attorney General


Comptroller


Treasurer


Commissioner of Agriculture


Commissioner of Education



ADDENDUM 5

MANAGEMENT PROCEDURES FOR
ARCHAEOLOGICAL AND HISTORIC SITES AND PROPERTIES
ON STATE-OWNED OR CONTROLLED LANDS



MANAGEMENT PROCEDURES FOR
ARCHAEOLOGICAL AND HISTORIC SITES AND PROPERTIES
ON STATE - OWNED OR CONTROLLED LANDS

Prepared by

Florida Department of State
Division of Archives, History and Records Management

A. GENERAL DISCUSSION

Archaeological and historic sites have several essential characteristics which must be recognized in a management program.

First of all, they are a finite and non-renewable resource. Once destroyed, presently existing resources, including buildings, structures, shipwreck remains, archaeological sites and other objects of antiquity cannot be renewed or revived. Today, sites in the State of Florida are being destroyed by all kinds of land development, looting by "treasure hunters," erosion and to a minor extent even by well-intentioned professional scientific research (e.g., archaeological excavation). Measures must be taken to ensure that some of these resources will be preserved for future study and appreciation.

Secondly, sites are unique because individually they represent the tangible remains of events which occurred at a specific time and place.

Thirdly, while sites uniquely reflect localized events, these events and the origin of particular sites are related to conditions and events in other times and places. Sites can be understood properly only in relation to their natural surroundings and the activities of inhabitants of other sites. Managers must be aware of this "systemic" character of historic and archaeological sites. Also, it should be recognized that archaeological sites are time capsules not just for cultural history. They preserve traces of past biotic communities, climate, and other elements of environment that may be of interest to other scientific disciplines.

Finally, sites, particularly archaeological ones, are very fragile, because their significance derives not only from the individual artifacts within them, but equally from the spatial arrangement of those artifacts in both horizontal and vertical planes. When archaeologists excavate, they recover not merely objects, but also a record of the positions of these objects in relation to one another and their containing matrix (e.g., soil strata). Much information is sacrificed if the so-called "context" of archaeological objects is destroyed or not recovered and this is what archaeologists are most concerned about when a site is threatened with destruction or damage; the artifacts

themselves can be recovered even after a site is heavily disturbed, but the context - the vertical and horizontal relationships - cannot. Historic structures also contain a wealth of cultural (socio-economic) data which can be lost if historically sensitive maintenance, restoration or rehabilitation procedures are not implemented, or if they are demolished or extensively altered without appropriate documentation.

B. STATUTORY AUTHORITY

Chapter 253, Florida Statutes ("State Lands") directs the preparation of "single-use" or "multiple-use" land management plans for all state-owned lands and state-owned sovereignty submerged lands. In this document, Section 253.034(4) specifically requires that "all management plans, whether for single-use or multiple-use properties, shall specifically describe how the managing agency plans to identify, locate, protect and preserve, or otherwise use fragile non-renewable resources, such as archaeological and historic sites, as well as other fragile resources..."

Chapter 267, F.S. is the primary historic preservation authority of the state.

Section 267.061(1) states:

(a) It is hereby declared to be the public policy of the state to protect and preserve historic sites and properties, buildings, artifacts, treasure trove, and objects of antiquity which have scientific or historical value or are of interest to the public, including, but not limited to, monuments, memorials, fossil deposits, Indian habitations, ceremonial sites, abandoned settlements, caves, sunken or abandoned ships, historical sites and properties and buildings or objects, or any part thereof, relating to the history, government and culture of the state.

(b) It is further declared to be the public policy of the state that all treasure trove, artifacts, and such objects having intrinsic or historical and archaeological value which have been abandoned on state-owned lands or state-owned sovereignty submerged lands shall belong to the state with the title thereto vested in the Division of Archives, History and Records Management of the Department of State for the purposes of administration and protection.

Section 267.061(2)(c) charges the Division of Archives, History and Records Management (DAHRM) with encouraging and promoting the acquisition, preservation, restoration, and operation of historic sites and properties by other agencies provided that the Division has determined that there exists historical authenticity and a feasible means of providing for the acquisition, preservation,

restoration, or operation of such property and the property has been approved for such purpose by the DAHRM.

Section 267.12 authorizes the Division to establish procedures for the granting of research permits for archaeological and historic site survey or excavation on state-owned or controlled lands, while Section 267.13 establishes penalties for the conduct of such work without first obtaining written permission from the Division. The Rules of the Department of State, Division of Archives, History and Records Management, for research permits for archaeological sites of significance are contained in Chapter 1A-32, F.A.C.

C. MANAGEMENT POLICY

The choice of a management policy for archaeological and historic sites within state-owned or controlled lands obviously depends upon a detailed evaluation of the characteristics and conditions of the individual sites and groups of sites within those tracts. This includes an interpretation of the historical significance (or potential significance) of these sites, in terms of social and political factors, as well as environmental factors. Furthermore, for historic structures architectural significance must be considered.

Sites on privately owned lands are especially vulnerable to destruction, since often times the economic incentives for preservation are low compared to other uses of the land areas involved. Hence, sites in public ownership have a magnified importance, since they are the ones with the best chance of survival over the long run. This is particularly true of sites which are state-owned or controlled, where the basis is to provide for land uses that are minimally destructive of resource values.

It should be noted that while many archaeological and historic sites are already recorded within state-owned or controlled lands, the majority of the uplands area and nearly all of the inundated areas have not been surveyed to locate and assess the significance of such resources. The known sites are, thus, only an incomplete sample of the actual resources - i.e., the number, density, distribution, age, character and condition of archaeological and historic sites - on these tracts. Unfortunately, the lack of specific knowledge of the actual resources prevents formulation of any sort of detailed management or use plan involving decisions about the relative historic value of individual sites. For this reason, a generalized policy of conservation is recommended until the resources have been better addressed.

The generalized management policy recommended by the DAHRM includes the following:

1. State land managers shall coordinate all planned activities involving known archaeological or historic sites or potential site areas closely with the DAHRM in order to prevent any kind of disturbance to significant archaeological or historic sites that may exist on the tract. Under 267.061(1)(b), F.S., DAHRM is vested with title to archaeological and historic resources abandoned on state lands and is responsible for administration and protection of such resources. Under 267.13(1), F.S., it is illegal to destroy or otherwise alter sites on state lands without a permit from DAHRM. Thus, other managing (or permitting) agencies shall coordinate their plans with DAHRM at a sufficiently early stage to preclude inadvertent damage or destruction to known or potentially occurring presently unknown archaeological and historic sites.
2. Since the actual resources are so poorly known, the potential impact of the managing agency's activities on historic and archaeological sites may not be immediately apparent. Special field survey for such sites may be required to identify the potential endangerment as a result of a particular management or permitting activity. The DAHRM will perform surveys, as its resources permit, to aid the planning of other state agencies in their management activities, but may upon occasion require funding support. This would be especially necessary in the case of activities contemplating ground disturbance over large areas, an unexpected occurrence in view of the purpose of the state-owned or controlled lands. It should be noted, however, that in most instances DAHRM's knowledge of known and expected site distribution is such that actual field surveys may not be necessary, and the project may be reviewed by submitting a project location map (preferably a 7.5 minute U.S.G.S. Quadrangle map or portion thereof) and project descriptive data.
3. In the case of known significant sites, the managing agency will generally be expected to alter their management or development plans as necessary, or else make special provisions so as not to disturb or damage such sites.
4. If in the course of management activities, or as a result of development or the permitting of dredge activities, it is determined that valuable historic or archaeological sites will be damaged or destroyed, DAHRM reserves the right, pursuant to 267.061(1)(b), F.S., to require salvage measures to mitigate the destructive impact of such activities on such sites.

Such salvage measures would be accomplished before DAHRM would grant permission for site destruction; and, the funding needed to implement salvage measures would be the responsibility of the managing agency planning the site destructive activity.

5. For the near future, excavation of archaeological sites is discouraged. There are many endangered sites in Florida (on both private and other public lands) in need of excavation because of the threat of development. Those within state-owned or controlled lands should be left undisturbed for the present - with particular attention devoted to preventing site looting by "treasure hunters". On the other hand, the archaeological and historic survey of these tracts is encouraged in order to build an inventory of the resources present, and to assess their scientific research potential and historic or architectural significance.
6. The cooperation of the land managers in reporting sites to the DAHRM that their field personnel may discover is encouraged. The DAHRM will help inform field personnel from other resource managing agencies about the characteristics and appearance of sites. The DAHRM will also provide to other agencies archaeological and historical summaries of the known and potentially occurring resources so that information may be incorporated into management plans and public awareness programs (See Management Implementation).
7. Any discovery of instances of looting or unauthorized destruction of sites will be reported to the agent for the Board of Trustees of the Internal Improvement Trust Fund and the DAHRM so that appropriate action may be initiated. Any state agent with law enforcement authority observing individuals or groups clearly and incontrovertibly vandalizing, looting or destroying archaeological or historic sites within state-owned or controlled lands without demonstrable permission from the DAHRM will make arrest and detain those individuals or groups under the provisions of Sections 267.13, 901.15, 901.21 and related statutory authority pertaining to such illegal activities on state-owned or controlled lands. County Sheriff's officers are urged to assist in efforts to stop and/or prevent site looting and destruction.

In addition to the above management policy for archaeological and historic sites on state-owned land, special attention must be given to those properties listed in the National Register of Historic Places and other significant buildings. The DAHRM recommends that the Secretary of the Interior's Standards for Rehabilitation of historic buildings be followed for such sites.

The following general standards apply to all treatments undertaken on historically significant properties.

1. Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.
2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible, and should not be undertaken without advance consultation with DAHRM.
3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations which have no historical basis and which seek to create an earlier appearance shall be discouraged.
4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve archaeological resources, both prehistoric and historic, affected by, or adjacent to, any project.
9. Contemporary design for alterations and additions to existing properties is permissible when such alterations and additions do not destroy significant

historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property neighborhood or environment.

10. Whenever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the original structure would be unimpaired. (The Secretary of the Interior's Standards for Rehabilitation).

The DAHRM staff are available for technical assistance for any of the above listed topics.

D. MANAGEMENT IMPLEMENTATION

As noted earlier, Chapter 253.034(4) states that "all management plans, whether for single-use or multiple-use properties, shall specifically describe how the managing agency plans to identify, locate, protect and preserve, or otherwise use fragile non-renewable resources, such as archaeological and historic sites..." The following guidelines should help to fulfill that requirement.

1. All land managing agencies should contact the DAHRM and send U.S.G.S. 7.5 minute quad maps or equivalent outlining the boundaries of their various properties.
2. DAHRM will in turn send site locations and descriptions for known archaeological and historic sites.
3. DAHRM will forward maps showing areas of high archaeological and historic site probability within the subject tract.
4. DAHRM will send archaeological field recording forms and historic field recording forms.
5. Land managers will update information on recorded sites.
6. Land managers will supply the DAHRM with new information as available on previously unrecorded sites which their staff may locate. The following details the kind of information DAHRM wishes to obtain from any new sites which the land managers may report.

A. Historic Sites

- (1) Type of structure (dwelling, church, factory, etc.).
- (2) Building placement (detached, row, etc.).

- (3) General characteristics: (include photographs if possible) overall shape of plan (rectangle, "L" "T" "H" "U", etc.); number of stories; number of vertical divisions or bays; construction materials (brick, frame, stone, etc.); wall finish (kind of bond, coursing, shingle, etc.); roof shape.
- (4) Specific features including location, number and appearance of:
 - porches
 - windows
 - doors
 - chimneys
 - dormers
- (5) Important decorative elements.
- (6) Interior features contributing to the character of the building.
- (7) Number, type, and location of outbuildings, as well as dates.
- (8) Notation if property has been moved.
- (9) Notation of known alterations to building.

B. Archaeological Sites

- (1) Site location.
 - (2) Site type (midden, burial mound, artifact scatter, building rubble, etc.).
 - (3) Threats to site (deterioration, vandalism, etc.)
 - (4) Site size (acreage, sq. meters, etc.).
 - (5) Artifacts observed on ground surface (pottery, bone, glass, etc.).
 - (6) Description of surrounding environment.
7. No land disturbing activities should be undertaken in areas of known archaeological or historic sites or areas of high site probability without prior review by the DAHRM early in planning stages.
 8. Ground disturbing activities may proceed elsewhere but land managers should stop disturbance in the immediate vicinity of artifact finds and notify DAHRM if previously unknown archaeological or historic remains are uncovered.

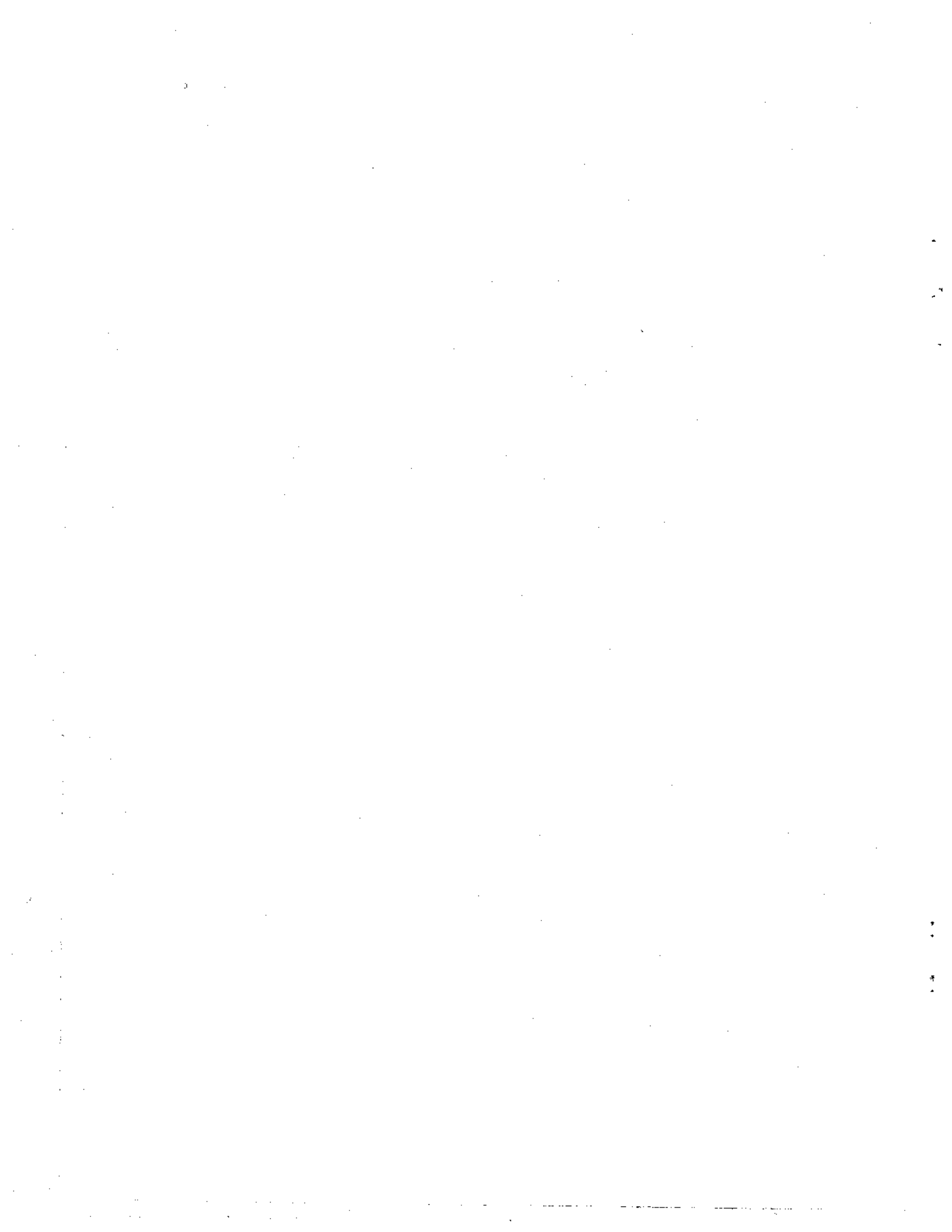
9. Excavation and collection of archaeological and historic sites on state lands without a permit from DAHRM is a violation of state law and should be reported to a law enforcement officer. The use of metal detectors should be prohibited on known sites except when authorized in a 1A-32, FAC research permit from DAHRM.
10. Interpretation and visitation which will increase public understanding and enjoyment of archaeological and historic sites is strongly encouraged.
11. Development of interpretive programs including trails, signage, kiosks, and exhibits is encouraged and should be coordinated with DAHRM.
12. Artifacts found or collected on state lands are by law the property of DAHRM. Land managers should contact DAHRM whenever such material is found so that arrangements may be made for recording and conservation. This material, if taken to Tallahassee, can be returned for public display on a long term loan.

E. ADMINISTERING AGENCY

Questions relating to the treatment of archaeological and historic resources on state lands may be directed to:

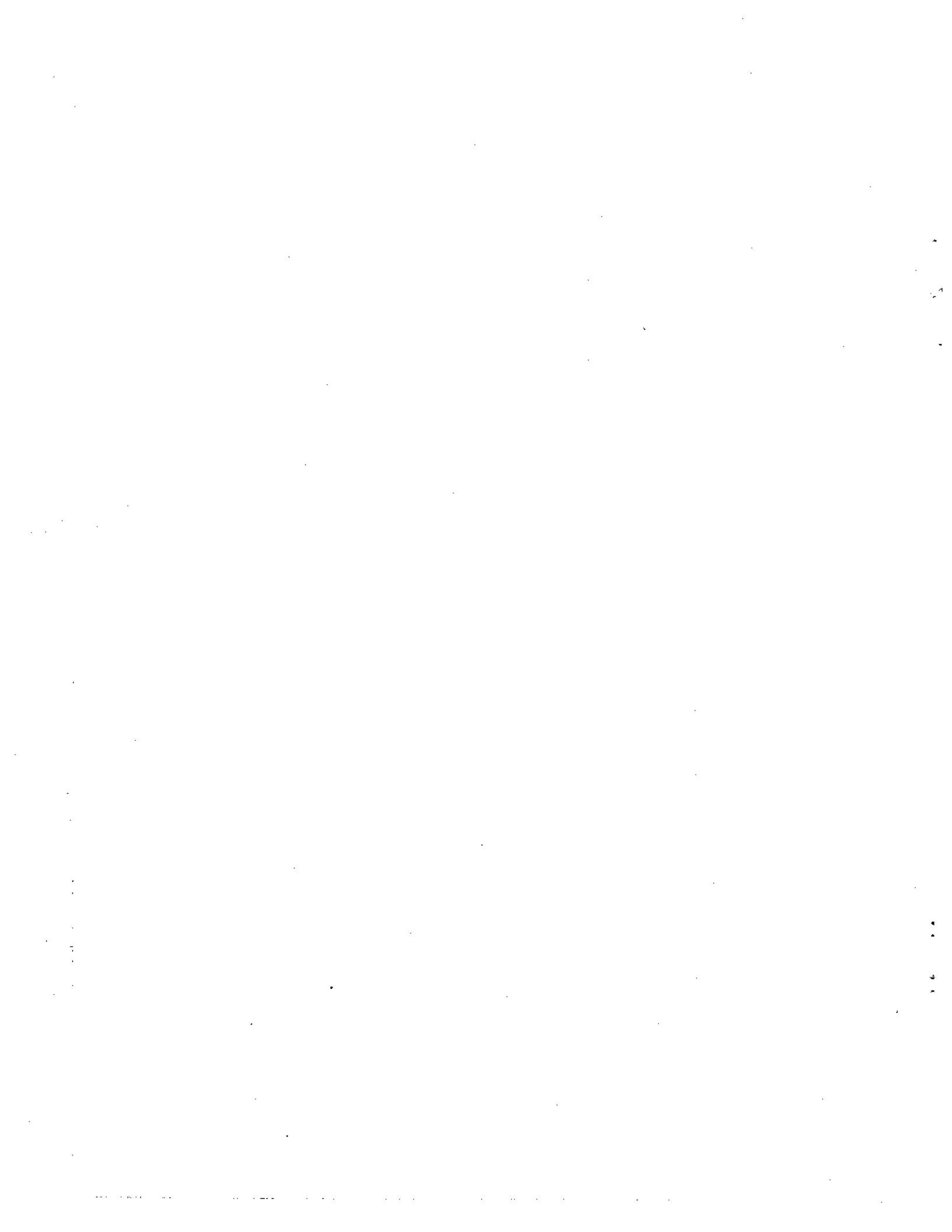
Chief
Bureau of Historic Preservation
Division of Archives, History and Records Management
The Capitol
Tallahassee, Florida 32301-8020
Telephone (904) 487-2333

Chief
Bureau of Archaeological Research
Division of Archives, History and Records Management
The Capitol
Tallahassee, Florida 32301-8020
Telephone (904) 487-2333



ADDENDUM 6

CHAPTER 16D-2, FLORIDA ADMINISTRATIVE CODE
RULES OF THE DEPARTMENT OF NATURAL RESOURCES
DIVISION OF RECREATION AND PARKS
OPERATION OF DIVISION RECREATION AREAS AND FACILITIES



**RULES
OF THE
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF RECREATION AND PARKS
CHAPTER 16D-2
OPERATION OF DIVISION RECREATION
AREAS AND FACILITIES**

(This Chapter 16D-2 is a complete
revision and renumbering of the former
Chapter 16D-1)

16D-2.01	Definitions
16D-2.02	Vehicles and Traffic
16D-2.03	Park Property
16D-2.04	Recreation Activities
16D-2.05	Camping and Cabins
16D-2.06	Nuisances
16D-2.07	Behavior
16D-2.08	Merchandising, Advertising, and Signs
16D-2.09	Sanitation
16D-2.10	Miscellaneous
16D-2.11	John Pennkamp Coral Reef State Park

16D-2.01 Definitions. For the purposes of this chapter, the following words have the meaning indicated:

(1) State parks — All real property in the State of Florida under the jurisdiction of the Florida Department of Natural Resources, Division of Recreation and Parks or which may come under its jurisdiction. Included are all properties within the Division jurisdiction, regardless of the extent of development or the designation by which a specific property may be titled. Among the designations are state park, state recreation area, state archaeological site, state historic site, state geological site, state botanical site, state preserve, state garden, state museum, state reserve, estuarine sanctuary.

(2) Division — The Division of Recreation and Parks, Department of Natural Resources, State of Florida.

(3) Director — The Director of the Division of Recreation and Parks, Department of Natural Resources.

(4) Park manager — The person in charge of any park area and its activities and to whom all subordinate park personnel of that park are responsible. The manager is responsible, through a chain of command, to the Division Director.

(5) Park personnel — All persons employed by the Division or under contract to it and assigned to perform official duties within parks.

(6) Park law enforcement officer — The Director and qualified park personnel possess powers as law enforcement officers under Section 258.024, Florida Statutes, including the authority to make arrests without warrants for the violation of any state law committed in their presence occurring on park property.

(7) Person — Any individual, child, firm, association, joint adventure, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, and all other groups or combinations.

(8) Vehicle — Any wheeled conveyance (except a baby carriage or invalid wheelchair) for the transportation of persons or material whether (1) powered or drawn by

motor as an automobile, truck, bus, motorcycle, scooter, minibike, or trail bike; (2) or animal-drawn as a carriage, wagon, or cart; (3) or any rider-propelled bicycle or tricycle; (4) or any trailer in tow of any size, kind, or description. Excluded from restrictions on a general class of vehicles are those conveyances established within parks by the Division.

(9) Parking areas — Any designated part of any park road or area contiguous thereto set apart for the standing or stationing of any vehicle.

(10) Park roads — All surfaced areas either paved or unpaved designated for vehicular traffic. All other traffic ways are classified as a form of trail or path.

(11) Bathing beach, bathing area, or swimming area — Any beach or pool designated as such by the Division in any park, including the actual sand beach, if any, and the adjoining land and waters used for bathing and swimming.

(12) Carrying capacity — The established number of persons, vehicles, or watercraft permitted within a state park or designated portion of a state park at one time without damaging the resource.

(13) Watercraft — Any motorized, paddle-propelled or wind-driven means of water-related transportation within a state park.

(14) Draft — The vertical measurement of any watercraft, from the waterline to the lowest point on that craft.

(15) Coral reef communities — Those communities, such as hardbottom associations, patch reefs and outer coral reef formations.

Specific Authority 370.021, 258.011 FS. Law Implemented 258.004 FS. History—Formerly 16D-1.01. Revised 9-15-75. Amended 12-29-80, 7-8-85.

16D-2.02 Vehicles and Traffic.

(1) State Law.

(a) All applicable provisions of the Florida Statutes and the Florida Administrative Code regulating the equipment and operation of vehicles on Florida roadways will be enforced in all parks.

(b) Supplementary rules in this chapter provide regulations applicable to parks.

(c) Section 316.272, Florida Statutes, prescribes minimum exhaust systems for motor vehicles to prevent noise. Additionally, park managers may direct the cessation of operation of any motor vehicle which creates an offensive noise to other park patrons.

(2) Traffic Control. Authorized law enforcement officers and park personnel shall direct traffic as needed in parks and on roadways adjacent thereto in accordance with state law, provisions of this chapter, and applicable

instructions based on existing conditions. All persons shall comply with lawful orders, signals, and direction of such officers and personnel. All persons shall observe and comply with posted traffic signs.

(3) **Speed of Vehicles in Parks.** No person shall drive a vehicle at a speed greater than is reasonable or prudent, having due regard for the surface, width and condition of paving and the traffic thereon, particularly when near children or bicyclists. Speed shall not exceed 25 miles per hour, and at the more congested centers and near park buildings, beaches, and picnic and play areas, it shall not exceed 15 miles per hour.

(4) **Restriction to Roads.** No person shall drive any vehicle on any area except designated roadways, parking areas, or other such areas as may be indicated by the Division.

(5) **Parking.**

(a) All vehicles shall be parked only in established parking areas or in such other areas and at such times as the Division may designate, except as hereinafter specified otherwise.

(b) Full parking on roadways is prohibited. In the event of breakdown, or to observe a natural scenic feature, drivers may park vehicles temporarily off the right side of the roadways. Automobiles may be parked in such a manner for the minimum time necessary to complete repairs or to view the natural feature. No stopping or parking is permitted even briefly on the left side of any roadway.

(c) Parking at any established parking area shall be in compliance with markings thereon and instructions of park personnel who may be present.

(d) Parking is prohibited in any zone designated and marked "NO PARKING" or otherwise marked for restricted use except briefly for the expeditious loading or unloading of passengers or freight, and in no case in excess of five minutes for passengers and ten minutes for freight.

(e) No vehicle shall be left standing or parked at night without lights visible for a minimum of two hundred feet from both front and rear, except in established parking areas.

(f) Double parking of any vehicle at any time on any roadway or parking area is prohibited.

(6) **Through Highways.** Where a road traverses a park and is available for public use at all times, such road shall be open to all through traffic permitted on any county or state road, but such through traffic shall conform to posted traffic regulations. Vehicles otherwise not permitted to operate in parks shall not stop therein except in emergency, whereupon park personnel must be promptly notified.

(7) **Trucks.** No vehicles used for carrying freight or merchandise for sale shall, unless traversing the park on a through highway, enter any park or use park roads except by authorization from the Division. Exceptions are occasions when the vehicle is used for previously approved work in the park and when an empty vehicle not for hire is used solely at the time for transporting persons to a park for recreational purposes.

(8) **Public Carriers.** No person shall drive within any park, except on a through highway, any automobile, bus, or other vehicle carrying fare-paying passengers without first securing a permit from the Division and paying all applicable fees.

(9) **Soliciting Rides or Fares.** No pedestrian shall solicit a ride from any driver nor shall any driver of any

vehicle solicit riders for money or other considerations.

(10) **Bicycles.**

(a) Bicycles shall be ridden on designated bicycle trails or park roads only. They may be pushed by hand over open spaces, such as lawns or beaches, or paved areas reserved for pedestrian use. Bicycles shall be neither ridden or pushed along designated nature trails or footpaths.

(b) Bicycles shall be ridden on roads as near as possible to the right edge of the pavement or curb. When in groups, bicyclists shall ride in single file. At all times bicyclists shall operate their vehicles with regard for the safety of others, signal all turns, pass to the left of any vehicle they are overtaking and to the right of any vehicles they may meet.

(c) No bicycle shall be used to carry more persons at one time than the number for which it is equipped.

(d) Every bicycle ridden after sunset and before sunrise shall be equipped with a lamp on the front exhibiting a white light visible from a distance of at least five hundred feet and a lamp or reflector on the rear exhibiting a red light visible from a distance of five hundred feet.

(e) Where provided, bicycle racks must be used for parking of bicycles. Bicycles shall not be chained and locked to trees or park structures or placed so as to obstruct pedestrian or vehicular movement.

(11) **Park Entrance Rules and User Fees.**

(a) **Entering State Park Property.** Entering or leaving any state park property except through the designated entrance points (except in emergency cases) is prohibited. No person may enter a state park property for the purpose of using the resources or facilities therein without paying the appropriate fee, if any, in effect at the time for that park property.

1. A full stop shall be made at entrance station when entering a state park.

2. Anyone who for any reason fails or refuses to pay the established fee shall become indebted to the Division in the amount of the fee due, and such indebtedness shall become a lien upon the vehicle that such person is operating.

3. Admission fees may be waived by authorized park personnel for representatives of any government agency and for salesmen, tradesmen or other individuals engaged in official business with the park and who present proper identification. Admission fees may also be waived for: (1) children under six years of age; (2) patients of Florida State Mental Institutions and clients of the Department of Health and Rehabilitative Services, Division of Youth Services, and other institutions which are fully funded by federal, state, or local government, when such patients and/or clients are part of an organized group or program under the sponsorship and supervision of their respective institutions or parent agencies; and (3) Florida school groups, including vocational schools, colleges and universities, accompanied by one or more teachers, and bearing a letter from the school principal, professor or other appropriate official, certifying that the park visit is related to a specific school curriculum and is for educational purposes rather than a purely recreational outing. The Division may also offer reduced camping fees in under-utilized parks during certain periods to Florida citizens who are at least 65 years of age.

(b) **User Fees.** The Division has established reasonable user fees for the use of park facilities which are:

STATE PARK USER FEES

ITEM	FEE
General admission	\$.47 per person
General admission — Ichetucknee Springs (May 1 — September 30)	\$.95 per person south ent. 1.90 per person north ent.
Vehicle Surcharge (optional-discretionary)	\$.95 per vehicle
Annual family auto entrance permit (admits family members and guest — up to six persons maximum)	\$ 25.00 per year
Annual individual entrance permit (admits permit holder only)	\$ 10.00 per year
Admission for special events (optional-discretionary)	\$ 1.90 to 5.00 per person
Campsite fee (4 persons)	\$ 6.00 to 10.00 per day
Extra person (max. 8 persons per site)	\$ 1.00 per person
Senior Citizens camping permit (reduced rate) (Florida residents only in designated areas)	\$ 3.00 per day
Annual family camping permit (Florida residents only — max. 4 persons)	\$150.00 per year
Surcharge — coastal areas as designated	\$ 2.00 per site per day
Surcharge — Florida Keys	\$ 4.00 per site per day
Other camping related fees	\$ 1.00 to 5.00 per day
Organized group camps	\$ 2.00 to 4.00 per person per day
Ranger guided camping trip	\$ 5.00 to 10.00 per person per day
Primitive camp areas	\$ 1.00 to 1.50 per person per day
Cabin rentals	\$ 35.00 to 100.00 per day
Primitive cabins	\$ 8.00 to 20.00 per day
Facility rentals	\$ 10.00 to 100.00 per day
Special use permits	\$ 10.00 to 500.00 per permit
Boat dockage, launching and rental	\$.95 to 12.00 per day
Walking tours	\$.47 to 2.85 per person
Nonwalking tours	\$.47 to 5.70 per person

Specific Authority 370.021, 258.011 FS. Law Implemented 258.014 FS.
History—Formerly 16D-1.02. Revised 9-15-75, Amended 10-1-81, 3-13-83,
7-8-85.

16D-2.03 Park Property.

(1) Objective. All state parks have been established for the protection and preservation of their natural features or historic significance and for public use and enjoyment of the areas and facilities. The objective of these rules is to provide maximum public use consistent with the preservation of the natural features and historic value.

(2) Buildings and Facilities. No person shall willfully mark, deface, damage, displace, remove, or tamper with any park buildings, facilities, bridges, tables, benches, fireplaces, railing, paving or paving materials, water lines or other utilities, permanent or temporary signs, placards or notices, monuments, stakes, posts, boundary markers, or other structures, equipment, or park property.

(3) Climbing on Property. No person shall climb or clamber on or over any building, facilities, structures, historic ruins, or natural features.

(4) Fires. No person shall ignite or attempt to ignite any fire against or on any vegetation or park structures,

except in designated fireplaces or grills. No person shall dispose of burning matches, smoking materials or other inflammable items within any park except in designated receptacles. Ecological burning shall be conducted by the Division where appropriate for the restoration, maintenance and preservation of certain plant communities.

(5) Removal or Destruction of Property and Natural Features. No person shall destroy, injure, deface, mar, move, dig, harmfully disturb or remove from any park area or the waters thereof any soil, sand, gravel, rocks, stones, minerals, marine plants or animals, artifacts, or other materials. No person shall cut, carve, injure, mutilate, move, displace, or break off any water bottom formation or growth. Nor shall any person possess, break off, or in any way damage any stalactites, stalagmites or other cave formations. No rope, wire, or other contrivance whether permanent or temporary, shall be attached to any natural feature or property within a park.

(6) Plant Life.

(a) All plant life, terrestrial, aquatic, and aerial, is the property of the State of Florida. No person shall cut, carve, or damage the bark, or break off limbs or branches

or mutilate in any way, or pick the flowers or seeds of any plant or tree. Nor shall any person dig in or otherwise disturb grass areas or in any other way impair the natural condition of any area; nor shall any person place debris or materials of any kind on or about any tree or plant or attach any rope or wire thereto.

(b) No person shall transplant or remove any plant life from any park, except as provided in Paragraph (9) below.

(c) No person shall tie or hitch any animal to a tree or plant.

(d) Section 370.041, Florida Statutes prohibits the cutting of sea oats (*Uniola paniculata*) on any public lands. Further possession of sea oats on any property under the jurisdiction of the Division is prohibited. The purpose of these restrictions is to prevent beach erosion by preserving natural vegetative cover to bind the sand.

(e) Timbering and grazing — Reserves and Sanctuaries. Timber harvesting and cattle grazing within reserves and sanctuaries may be undertaken for the purpose of implementing approved resource management practices. These activities will be under reserve or sanctuary management supervision and in accordance with state land management policies and management plans adopted by the Governor and Cabinet, that permit "multiple-use" consumptive resource activities where they are compatible with management goals and consistent with Section 253.034 F.S. and Paragraph 16D-2.03(10) and all future amendments.

(7) Animal Life.

(a) No person shall possess, molest, harm, frighten, kill, trap, hunt, chase, capture, shoot or throw missiles at any mammal, bird, reptile or amphibian except as provided for in paragraph (d) below; nor shall he remove the eggs, nest or young of any mammal, bird, reptile, or amphibian; nor shall he collect, remove, possess, give away, sell or offer to sell, or buy or offer to buy, or accept as gift, any specimen, alive or dead, of the groups of tree snails. Because of the hazards involved, the public is prohibited from killing, capturing, or molesting poisonous snakes. Park personnel only are authorized to remove poisonous snakes from public areas of parks.

(b) No person shall feed or attempt to pet any wild animal.

(c) No person shall capture, collect, or in any way harm any animal life, except fish commonly referred to as edible or game species. Collection of specimens for educational and scientific purposes is provided for in Paragraph (9) below. See Paragraph 16D-2.04(4) below.

(d) Hunting and fishing in reserves and sanctuaries may be allowed where substantial fish and wildlife habitat and resources exist. Management activities which maintain a natural diversity of plant and animal species will be encouraged. All fishing and hunting will be in accordance with paragraphs 16D-2.04(3) and (4)(a). Hunting is prohibited in all state parks, state recreation areas, state archaeological sites, state historic sites, state geological sites, state botanical sites, state preserves, state museums and state gardens.

(8) Introduction of Species. No person shall introduce into any park any plant or animal species by willful abandonment, negligence or for any other reason without authorization of the Division.

(9) Collection of Specimen. Collection of natural objects, including plant and animal life and minerals, for scientific and educational purposes shall be conducted in compliance with terms of written permits granted by the Division.

(10) Grazing, Grove and Agricultural permits. Although not normally considered appropriate activity for use of state park lands, grazing, groves and other limited agricultural uses may be permitted in the following cases if the Division deems appropriate:

(a) To honor established termination dates for permits already in effect on newly acquired property.

(b) For interpretation purposes.

(c) To provide incidental security and protection for unstaffed or understaffed and undeveloped property.

(d) Fees charged for permits will be established after receiving and considering only those bids which are in excess of a minimum bid acceptable by the Division, or by appraised price per acre in the immediate area for that particular activity.

(11) Apiary Permits.

(a) Since bees provide an incidental benefit in the pollination of wildflowers and cause no apparent adverse effect on park resources, apiary permits may be issued by the Division to qualified applicants under appropriate terms and conditions, except that no apiaries shall be permitted on lands occupied by bears or in designated wilderness preserves. Fees charged will be pursuant to fee schedules adopted by either Legislative action, action by the Governor and Cabinet or by the Division of State Lands, for all properties leased to various State Departments and Agencies.

(12) Construction Activity.

(a) No person, firm or corporation shall commence or conduct any construction activities upon any land or water areas under the jurisdiction of the Division, unless express written permission is granted.

(b) Any construction activity conducted without Division authorization is prohibited, including, but not limited to, the following: dredging, excavating, or filling operations of any kind; depositing materials of any kind on any park lands or in any park waters; erecting any building or structure; and installation of any electrical, telephone, water, sewer, or other public utility facility.

(c) The Division may, where it deems appropriate, issue permits and charge fees for authorized construction activities pertaining to allowable private uses of land and water areas under the jurisdiction of the Division. The issuance of a permit by the Division for construction activities in no way relieves the applicant of responsibility for obtaining any and all other required federal, state, county and local government permits. All permits will be processed and issued in strict accordance with the Division's permitting procedures for construction activities. The criteria for approval or denial of the permit application will include, but will not be limited to the effect of the construction activity upon the resource and interference with public recreation or navigation. The provisions of Chapter 120, Florida Administrative Procedures Act, shall be applicable to the permitting process.

(d) Information required by the Division must be submitted on prescribed application forms provided by the Division. Copies of these applications and instructions may be obtained without cost by writing or calling: Florida Department of Natural Resources, Division of Recreation and Parks, Bureau of Park Management, 3900 Commonwealth Boulevard, Tallahassee, Florida 32303. The list of forms includes "General Information for Permitting Dock and other Construction Activities on Lake Talquin State Recreation Area — Form No. DNR 46-033"; "Application for Construction Activities in The Waters of Lake Talquin State Recreation Area — Form

No. DNR 46-032" and: "Construction Permit for Lake Talquin State Recreation Area Form No. DNR 46-019". Effective date of forms 3-13-83.

(13) The Division may, by posting appropriate signs, regulate the use of food or beverages, including alcoholic beverages, or other human activities as appropriate to protect park property or the enjoyment of the park by other users.

Specific Authority 370.021, 258.011 FS. Law Implemented 258.007(3), (4) FS. History--Formerly 16D-1.03, Amended 10-20-72, Revised 9-15-75, Amended 12-29-80, 3-13-83, 7-8-85.

16D-2.04 Recreation Activities.

(1) Bathing and Swimming.

(a) No person shall swim, bathe, or wade in any waters in any park except in such waters and at such places provided therefor and in compliance with this chapter.

(b) All persons shall comply with hours posted by the Division during which use of bathing and swimming areas is permitted.

(c) Bathing beaches may be closed to the public and use thereof prohibited at any time when the Division determines that such activities are dangerous or otherwise inadvisable.

(d) No person shall erect, maintain, use, or occupy on or in any beach or bathing area any tent, shelter or structure of any kind unless there shall be an unobstructed view into such structure from at least two sides; nor shall any exterior support or brace be connected from any such structure to any other structure, stake, rock, or other object outside thereof.

(e) In every bathing area all persons shall be clothed so as to prevent any indecent exposure of the person. All bathing costumes shall conform to commonly accepted standards at all times. No person shall dress or undress on any beach, in any vehicle, rest room, or other place in any park area, except in such bathhouses or structures as may be provided by the Division for that purpose.

(f) The washing of persons or objects, with or without soaps or other cleansers, is prohibited in bathing and swimming areas and on beaches thereof.

(g) Domestic animals are prohibited on bathing beaches and in the waters of swimming areas.

(h) Use of surfboards is prohibited in swimming areas. They may be used in other areas unless specifically prohibited, and if an area is marked "SURFBOARDS ONLY", their use must be confined to that area.

(2) Boating.

(a) No person shall bring into or operate any boat, yacht, cruiser, canoe, raft, or other watercraft (except toys) regardless of means of propulsion upon any park watercourse, bay, lagoon, lake, canal, pond or slough, except at places designated by the Division for such purposes. Operations shall comply with this chapter.

(b) No watercraft shall be launched into or removed from any park waters, except at places designated for such purpose by the Division.

(c) No boat owner or operator shall use the public docks of any park for dockage or other purposes without complying with instructions of park personnel or Division concessionaire. Applicable fees for boat dockage and for park entrance by persons shall be paid.

(d) No person shall moor or anchor or tie up to the bank or any wharf, dock, tree, building or any object or structure on the bank, any boat, houseboat, barge, vessel or watercraft of any kind in waters within or contiguous to any park area within one hundred feet of the shoreline,

except when written permission is granted. This restriction does not apply to vessels of a law enforcement agency of the state or national government.

(e) All dockage, anchorage and other charges shall be paid when due.

(f) Section 371.50, Florida Statutes prohibits the operation of any vessel in a reckless manner. A person is guilty of reckless operation when he operates any vessel or manipulates any water skis, aquaplane, or similar device in willful or wanton disregard for the safety of persons or property or without due regard, caution and circumspection, or at a speed or in a manner as to endanger, or likely to endanger, life or limb or damage the property of or injure any person. Vessels shall be operated in accordance with regulations.

(g) All motorboats must be kept out of the way of sailboats, rowboats, canoes, or unmotorized vessels. Rowboats, canoes, and other hand-powered vessels must avoid sailboats. All due diligence must be used to avoid collision with other boats. No watercraft shall be operated in designated swimming areas.

(h) Every boat operated in waters of parks shall have minimum safety equipment specified in Section 371.57, Florida Statutes.

(i) No person shall consume any alcoholic beverages on any boat using public facilities in park waters.

(j) No person shall display any sign, placard, notice or commercial announcement of any kind upon any vessel while occupying dockage or mooring space. Boat concessionaires of the Division may, with written approval from the Division, display limited signs.

(k) No person other than a concessionaire of the Division shall be permitted to rent, hire, or operate for charge any kind of watercraft in any park waters. Nor shall any boat operating for hire or carrying passengers for a fee, or contemplating such, land or receive such passengers at any dock, wharf or anchorage within jurisdiction of the Division except by permit.

(l) No person operating passenger launches or excursion boats from without the parks that are for rent or hire or carrying passengers for money shall land or anchor or tie up in any park without first having applied for and received a permit from the Division. All persons operating such boats shall be subject to all Division boating rules.

(3) Fishing.

(a) Commercial fishing or the buying or selling of fish caught in any park waters is prohibited.

(b) Fishing is allowed in park waters, by any legal method, except where prohibited by the Division for that use and under the provisions of this chapter and applicable rules of the Game and Fresh Water Fish Commission or the Department of Natural Resources. Any device which is employed to remove, capture, or attempt to capture fish in any waters not declared open to fishing or any device otherwise used in violation of this chapter is declared a nuisance and may be seized and confiscated by park personnel or law enforcement officers.

(c) Paragraphs (a) and (b) above shall not apply to commercial fishing for food and bait fish in the John Pennkamp Coral Reef State Park or any offshore waters under Division jurisdiction.

(d) No person shall during normal park operating hours fish offshore from park beaches designated for swimming, bathing, and other water related recreational activities unless the park manager or his representative determines that the circumstances are such that a safety hazard or use conflict is not likely to occur. No litter, including unwanted marine life, shall be left on the

beaches. No litter, debris, or other wastes shall be thrown in park waters.

(e) Spearfishing is prohibited in all state parks.

(f) The possession and use of poisons, electrical charges, explosives, spear guns, and similar methods for the taking or killing of fish are prohibited in park waters.

(4) Hunting and Firearms. Hunting, trapping or the pursuit of wildlife is prohibited on all park property except as provided for in paragraph (a) below. No person shall use, carry or possess in any park firearms of any description, air rifles, spring guns, bows and arrows, gigs, sling shots or any other forms of weapons potentially inimical to wildlife and dangerous to human safety. Further prohibited are all instruments that can fire any kind of cartridge and any trapping devices. Shooting into park areas from beyond park boundaries is prohibited. Any device, such as above enumerated, which is employed to kill, immobilize, or capture any wildlife or any device otherwise used in violation of this chapter is declared a nuisance and may be seized and confiscated by park personnel or law enforcement officers. The Division may authorize the reduction of overpopulated wildlife species and may remove all exotic animals from parks by trapping and other necessary means for good park management purposes.

(a) Hunting — Reserves and Sanctuaries. Hunting may be permitted in reserves and sanctuaries in accordance with state land management policies adopted by the Governor and Cabinet that permit "multiple-use" consumptive resource activities where they are compatible with management goals and consistent with Section 253.034 F.S.

(5) Picnicking.

(a) No picnicking shall occur in any park areas except such as are designated for that purpose. Park personnel will regulate usage of such areas when required to prevent congestion and to secure the maximum comfort and convenience of all. Visitors shall comply with instructions given to achieve this objective.

(b) Use of the picnic area facilities including picnic shelters, individual fireplaces, tables, and benches, generally follows the rule of "first-come, first-served." However, this practice shall not preclude the Division from assigning or reserving these facilities for the use of particular persons or groups. The Division shall have authority to assess a fee for such usage.

(c) No person shall use any portion of a picnic area or of any structures therein for an unreasonable time if the facilities are crowded. The determination of what is unreasonable will be made by park personnel.

(d) To maintain cleanliness and to reduce fire hazards, each picnic party shall completely extinguish any fire and place all refuse, waste, and trash in disposal containers where provided. If there are no such containers immediately available, then refuse shall be carried away by the user of the picnic facility and disposed of elsewhere.

(c) Games. No person shall participate in any game or activity involving thrown or otherwise propelled objects except in such areas designated by the Division for such forms of recreation. Roller skating is prohibited except in areas specifically assigned for such activity.

(7) Horseback Riding. Horseback riding is forbidden in parks except in specifically designated areas where provision has been made through the establishment of bridle trails and other necessary facilities. Where so provided for and permitted, horses shall be thoroughly broken and properly restrained and ridden with due care. Horses shall not be allowed to graze or go unattended, nor shall they be hitched to any tree, plant, or rock.

(8) Skin or Scuba Diving. Skin or scuba diving is prohibited except in areas designated by the Division for that purpose.

Specific Authority 370.021, 258.011 FS. Law Implemented 258.007(2) FS. History—Formerly 16D-1.04, Revised 9-15-75, Amended 12-29-80, 7-8-85.

16D-2.05 Camping and Cabins.

(1) Camping.

(a) No person shall erect any temporary shelter, such as a tent, for the purpose of overnight camping in any park or bring into any park any movable structure or special vehicle to use or that could be used for overnight camping without, first, obtaining a proper camping permit and, second, complying with appropriate rules for each camping facility; nor shall any road or park facility be used for camping except at places designated for that purpose by the Division.

(b) Camping in park structures, in tents, or other camping devices by groups of persons under adequate supervision is permitted upon payment of the required fee and issuance of the proper permit.

(2) Cabins.

(a) Cabin renters shall not sublet the cabin to other persons without written permission from the park manager.

(b) Dogs and other pets are prohibited in cabins. Inflammable materials and equipment using combustibles shall not be taken inside a cabin. Fires shall be ignited only in indoor fireplaces or space heaters.

(c) Check-in and check-out times as indicated on the rental permit must be followed, unless deviations are granted by the park manager. Cabins must be vacated in a clean condition.

Specific Authority 370.021, 258.011 FS. Law Implemented 258.007(2) FS. History—Formerly 16D-1.04(6) and 16D-1.09, Revised 9-15-75, Amended 12-29-80, 7-8-85.

16D-2.06 Nuisances.

(1) Alcoholic Beverages. Possession and consumption of alcoholic beverages within any park during established operating hours are prohibited except in those facilities such as formal restaurants and lodges operated by concessionaires under contract. Specific approval from the Governor and Cabinet on a case-by-case basis is required for sale and consumption within such facilities.

(2) Fireworks and Explosives.

(a) Possessing, exploding, discharging, or burning within any park area or on roadways adjacent thereto of any fire crackers, rockets, or other fireworks and explosives, or any other substance which in combination with any other substance becomes an explosive are prohibited. In an emergency the discharge of distress signals and flares is permitted.

(b) Parents or guardians are responsible for violations by minors of Paragraph (a).

(3) Fortune Telling. The foretelling of futures or fortunes for money by any method within any park or on any roadway adjacent thereto is prohibited.

(4) Domestic Animals.

(a) No domestic animals shall be allowed in parks at any time except as provided herein.

(b) Dogs and other fur-bearing pets, except seeing-eye dogs and hearing-ear dogs, shall be excluded from the following places in a park; all food-service areas, all camping areas, all bathing and swimming areas including both land and water portions, park buildings, and other designated areas. Pets are permitted in nonrestricted areas if adequately restrained. Dogs must be kept at all times on leashes no longer than six feet.

Specific Authority 370.021, 258.011 FS. Law Implemented 258.007(2) FS. History—Formerly 16D-1.05, Revised 9-15-75, Amended 12-29-80, 7-8-85.

16D-2.07 Behavior.

(1) Sale and Distribution of Printed Matter.

(a) The sale or distribution of printed matter is permitted within park areas, provided a permit to do so has been issued by the manager, and provided further that the printed matter is not solely commercial advertising.

(b) Any application for such a permit shall set forth the name of the applicant; the name of the organization, if any; the date, time, duration, and location of the proposed sale or distribution; and the number of participants.

(c) The manager shall, without unreasonable delay, issue a permit on proper application unless: (1) a prior applicant for a permit for the same time and location has been made which has been or will be granted and the activities authorized by that permit do not reasonably permit multiple occupancy of the particular area; or (2) the sale or distribution will present a clear and present danger to the public health or safety; or (3) the number of persons engaged in the sale or distribution exceeds the number that can reasonably be accommodated in the particular location applied for; or (4) the location applied for has not been designated as available for the sale or distribution of printed matter; or (5) the activity would constitute a violation of an applicable law or regulation. If an applicant for a permit is denied, the applicant shall be so informed in writing, with the reason(s) for the denial clearly set forth.

(d) The manager shall designate on a map, which shall be available for inspection in the Office of the Manager, the locations within the park area that are available for the sale or distribution of printed matter. Locations may be designated as not available only if the sale or distribution of printed matter would: (1) cause injury or damage to park resources; or (2) unreasonably impair the atmosphere of peace and tranquility maintained in Division areas; or (3) unreasonably interfere with interpretive, living history, visitor services, or other program activities or with the administrative functions of the Division; or (4) substantially impair the operation of public use facilities or services of Division concessionaires or contractors.

(e) The permit may contain such conditions as are reasonably consistent with protection and use of the park area.

(f) No permit shall be issued for a period in excess of 14 consecutive days, provided that permits may be extended for like periods, upon a new application, unless another applicant has requested use of the same location and multiple occupancy of that location is not reasonably possible.

(g) Persons engaged in the sale or distribution of printed matter under this section shall not obstruct or impede pedestrians or vehicles, harass park visitors with physical contact or persistent demands, misrepresent the purposes or affiliations of those engaged in the sale or distribution, or misrepresent whether the printed matter is available without cost or donation.

(h) The sale or distribution of printed matter without a permit, or in violation of the terms or conditions of a permit is prohibited.

(i) Any permit may be revoked under any of those conditions as listed in paragraph (c) of this section, which constitute grounds for denial of a permit, or for violation of the terms and conditions of the permit. Such a revocation shall be made in writing, with the reason(s) for revocation clearly set forth, except under emergency

circumstances, when an immediate verbal revocation or suspension may be made, to be followed by written confirmation.

(2) Drunkenness and Public Nuisance. Persons in any park who are intoxicated or who conduct themselves in a disorderly, offensive, obnoxious, obscene, or profane manner are considered public nuisances and are subject to arrest and ejection from the park. Common moral decency is the criterion for determining such public nuisance. No person shall abuse the facilities of a park or disregard park rules.

(3) Gambling. No person shall engage in any form of gambling in any park.

(4) Segregation by Sex. No person over the age of five years shall enter into or loiter near any park structure or section thereof reserved and designated by the Division for exclusive use by the opposite sex.

(5) Solicitations and Petitions. No person shall solicit contributions or alms for any purpose nor shall any person circulate petitions of any kind in parks.

Specific Authority 370.021, 258.011 FS. Law Implemented 258.007(2) FS. History—Formerly 16D-1.06, Revised 9-15-75, Amended 12-29-80, 7-8-85.

16D-2.08 Merchandising, Advertising, and Signs.

(1) Merchandising. No person shall expose or offer for sale any article or material, nor shall he place any stand, cart, or vehicle for the transportation, sale or display of any such article or material within any park. The only permissible merchandising in a park is that by authorized concessionaires of the Division.

(a) The Division may advertise for sealed competitive bids for park concession agreements, and in cases involving vending machines or rental of recreational equipment, may issue operating permits after negotiating directly with a qualified vendor.

(b) Factors in determining the need for specific concession merchandising include, but are not limited to, the availability of the merchandise or service in private businesses which are convenient to the park and the probability that the Division would offer the service if funds and staff were available. In addition, concession operations may be considered which offer potential for generating revenues for state park purposes. After determining the need or desirability for a concession operation in a park, and after first offering the concession to the Division of Blind Services, pursuant to Section 413.051, Florida Statutes, the Division will seek to obtain a qualified concessionaire through advertising for sealed competitive bids or, in cases involving very small capital investments, negotiating directly with at least two qualified vendors if available. Negotiation in lieu of bidding normally will be used only for the installation of a small number of vending machines or in situations in which only one qualified vendor is available.

(c) The Division's standard concession agreement requires the concessionaire to assume the following responsibilities: (1) provide an adequate and acceptable level of service and maintain and operate the concession in a clean, safe and businesslike manner; (2) obtain and keep in force all permits and licenses necessary for the conduct of business; (3) provide public liability insurance coverage in an amount determined by the Division to protect the business and the Division against claims for personal injury, death, and property damage; (4) submit necessary accounting reports and compensation as required; (5) provide a performance bond, letter of credit from an approved Florida Bank, cash deposit, or other approved collateral to assure compliance with the concession agreement; and (6) comply with all other specific

requirements, conditions and stipulations that may be included in the concession agreement.

(2) Advertising and Publicity.

(a) No person shall use park roadways or enter any park for the purpose of announcing, displaying advertising or calling attention to any person, political party, religious institution or sect, or meeting or assembly thereof, or for the purpose of advertising any item or service for sale; nor shall displays of any form be used for such purposes; no person shall place on any public land or roadway adjacent to any park any vehicle whatsoever displaying such advertising or used for sales.

(b) No person shall distribute, display or affix to any property any printed materials advertising any event within any park or roadway adjacent thereto. Exceptions are announcements of park-sponsored or sanctioned events and gatherings and authorized signs located entirely within concession structures.

(c) No person shall make any display or exhibit of any kind or carry on any performance or do anything which will cause numbers of persons to congregate to the interference or obstruction to pedestrian and vehicular traffic or to other proper use of the park.

Specific Authority 370.021, 258.011 FS. Law Implemented 258.007(3) FS. History—Formerly 16D-1.07. Revised 9-15-75. Amended 12-29-80, 3-13-83.

16D-2.09 Sanitation.

(1) Pollution of Waters. No person shall throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or any drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may pollute the waters.

(2) Refuse and Trash. No person shall take into, dump or deposit on land of, or in waters of any park or roadway adjacent to any park refuse or trash in any form. All refuse and trash shall be disposed of properly by placing it in designated containers; if such containers are not available, persons responsible for the refuse or trash shall remove it from the park for proper disposal elsewhere.

Specific Authority 370.021, 258.011 FS. Law Implemented 258.007 FS. History—Formerly 16D-1.08. Revised 9-15-75. Amended 12-29-80.

16D-2.10 Miscellaneous.

(1) Public Utilities. Public utilities serving park property or traversing park property shall be subject to such reasonable regulations as may hereafter be adopted in the public interest to protect parks from unsightly and inconveniently located installations and facilities.

(2) Aircraft. No person operating or responsible for any aircraft, glider, balloon, parachute, or other aerial apparatus shall cause any such apparatus to take off from or land in any park except in an emergency when human life is endangered or where a designated landing facility may exist on park property. No person shall operate any kind of aerial apparatus at an altitude of less than 1,500 feet over a park or do any "stunt" flying above park property.

(3) Hours.

(a) The opening and closing hours for each park shall be posted therein. No person shall remain in any park after its closing unless by permit from the Division.

(b) The Division or park manager, in furtherance of the policy and intent of Chapter 258, F.S., may close any park or section thereof to the public at any time and for any interval of time, either temporarily or at regular and stated intervals and entirely or merely to certain uses.

(4) Photography. All commercial photography, television broadcasting, and all private photography involving special settings or structures or the performance of any person are prohibited without the issuance of an appropriate permit by the Division after approval of requested photographic arrangements and receipt of stated fees. The time and exact location within a park for photography shall be mutually satisfactory to the park manager and the permittee. All other private photography is encouraged.

(5) Lost and Found Articles. Persons shall turn in to park personnel any articles which may be found. Although the Division assumes no responsibility for search, reasonable efforts will be made by park personnel to find valuable lost property and to locate owners of found items.

(6) Reporting of Accidents. Accidents involving bodily injury, death, or damage to property shall be reported to park personnel as expeditiously as possible by persons involved or by witnesses.

Specific Authority 370.021, 258.011 FS. Law Implemented 258.007 FS. History—Formerly 16D-1.10. Revised 9-15-75. Amended 12-29-80, 7-8-85.

16D-2.11 John Pennekamp Coral Reef State Park.

(1) General. The John Pennekamp Coral Reef State Park is established for the protection of the coral reef formation and its associated marine life. These specialized rules are intended to provide maximum public use of the area consistent with the preservation of its scenic and scientific values.

(2) Removal or Destruction of Natural Features and Marine Life.

(a) No person shall destroy, injure, deface, mar, move, dig, harmfully disturb, or remove from this state park any soil, sand, gravel, rocks, stones, minerals, marine plants or animals, artifacts, or other materials. No person shall cut, carve, injure, mutilate, move, displace, or break off any bottom formation or growth. Nor shall any person impair by any means the natural beauty and usefulness of this state park. Nothing shall be attached to any coral, rock or other formation.

(b) Possession of coral (of the class Anthozoa) within this state park including its waters is prohibited by Section 258.083, Florida Statutes.

(3) Construction Activities. Unless specifically initiated by the Division, all construction activities of any kind are prohibited. No dredging, excavating, or filling operations are permitted in this state park; no materials of any kind may be deposited in or on the waters thereof. No structure of any kind shall be erected; no public service facility shall be constructed or extended into, upon or across this state park.

(4) Refuse and Pollution. No person shall dump or deposit in or on the waters of this state park any oily liquids or wastes, acids or other deleterious chemicals, bottles, broken glass, paper boxes, dirt, rubbish, waste, garbage, refuse or other debris or polluting substances.

(5) Wrecks. No person shall willfully destroy, remove, deface, displace, or tamper with any wrecks, parts of wrecks, or any cargo pertaining to such wrecks within this state park.

(6) Markers. No person shall willfully mark, deface, or injure in any way, or displace, remove, or tamper with park signs, monuments, or boundary markers.

(7) Fishing.

(a) Sport and commercial fishing with hook and line for the purpose of taking surface or bottom fish, in

accordance with the rules of the State of Florida Department of Natural Resources, is permitted within this state park.

(b) The taking of crawfish, spiny lobsters and stonecrab with traps or by hand for sport or commercial purposes, in accordance with the fishing laws of the State of Florida and with the rules of the State of Florida Department of Natural Resources, is permitted within this state park. All traps must be removed from the waters of this state park during the closed season as specified by law.

(c) Spearfishing or possession of spearfishing equipment within this state park is prohibited.

(d) The use of poisons, electric charges, and similar methods for the taking or killing of fish is prohibited in this state park.

(e) Tropical fish may be taken within this state park by hook and line only.

(f) Any device used in violation of this subsection is hereby declared a nuisance and may be seized and confiscated by authorized personnel.

(g) No fishing shall take place within 100 yards of any divers-down flag. In those instances where there is a conflict between fishing and swimming related activities, that activity commencing first shall take precedence.

(8) Skin Diving. Skin diving for photography, observation, and pleasure is permitted and encouraged.

(a) All skin diving and snorkeling activities within this state park shall comply with all established rules and safety regulations pertaining to this activity, and all divers and/or snorkelers shall display the red and white divers-down flag upon the water at all times, within 100 feet of any such activity.

(9) Collection of Specimen. Collection of natural objects, including animal and plant life and minerals, is authorized only in compliance with permits issued by the Director under provisions of Rule 16D-2.03(9), above.

(10) Operation of Watercraft.

(a) No watercraft shall be operated in such a manner as to strike or otherwise cause damage to the natural features of this state park. Except in case of emergency endangering life and property, no anchor shall be cast or dragged in such a way as to damage any reef structure.

(b) No watercraft shall be operated at a speed of greater than four miles per hour when in the vicinity of divers, sightseeing boats or fishermen.

(c) All watercraft from which diving operations are

being conducted shall fly in a conspicuous manner the red and white divers-down flag. No boat under power shall approach nearer than one hundred yards to such a boat displaying a divers-down flag except at idling speed and with great caution.

(d) Boats anchored or proceeding at slow speeds for fishing or observation shall be approached or passed at such slow speed that the wake of the approaching or passing boat does not disturb the fishing or observation boats.

(e) No person shall operate or cause to be operated any watercraft in such a manner as to endanger or annoy the occupants of his or of any other watercraft.

(f) The operation of all watercraft within this state park shall be in accordance with such state and national laws as may be applicable to the operation or navigation of watercraft on salt water.

(g) Operators of boats for hire and operators of sightseeing or observation boats shall possess such papers as may be required by the United States Coast Guard and an appropriate permit from the Division.

(h) No watercraft shall be operated in such a manner as to cause damage to any marine plant or animal life within the waters of this state park.

(11) Photography. All photography in this state park is governed by provisions of Rule 16D-2.10(4), above.

(12) Advertising or Publicity. No person shall erect or cause to be displayed within this state park any signs or notices containing any advertising or other kind of messages.

(13) Explosives and Dangerous Weapons. No person shall carry, use or possess within this state park firearms or any other projectile emitting device. The use of explosives within this state park is prohibited. None of the foregoing prohibited activity shall occur beyond the boundaries of this state park so as to affect the property and waters of this state park.

(14) Areas Closed to the Public. No person or watercraft shall enter any area of the state park that has been declared temporarily closed for research and/or resource recovery purposes. Any area declared closed for this purpose will be identified as such by the use of buoys and/or other floating devices which read "Closed". All areas within a 50 yard radius of such a device shall be considered temporarily closed to the public.

Specific Authority 370.021, 258.011 FS. Law Implemented 258.083 FS. History—Formerly 16D-1.11. Amended 10-20-72. Revised 9-15-75. Amended 12-29-80, 3-13-83, 7-8-85.

