

## Wild and Scenic River Studies in New Hampshire and New England

by Jamie Fosburgh

The northeastern portion of the United States is blessed with an outstanding and diverse complement of rivers and streams. There are great rivers such as the Connecticut and Merrimack, and there are a plethora of intimate streams, and everything in-between. For centuries, these waterways have fueled both the region's development and its human spirit. They have met needs ranging from the solely utilitarian (water supply, hydropower, waste assimilation, transportation) to the purely recreational and aesthetic, and, in the process, have been celebrated for each and all uses equally.

Concerns over the ability of the National Wild and Scenic River System to embrace this type of diverse heritage is a part of the reason why so few New England rivers have been recognized and protected under the

System. Beginning with its name, the National Wild and Scenic Rivers System has been associated with large, pristine rivers managed by the federal government as park units and dominated by federal lands, and this is in fact the case on many western rivers which are included in the System, and which are dominated by federal lands.

This perception of the System does not leave much room for the New England multiple use river, dominated by private lands and with cultural and economic values on a par with natural and recreational ones.

But, perceptions do change, and the System is designed with ample flexibility to accommodate all types of rivers. Through an early, and now widely perceived as successful, New England style Wild and Scenic River designation on the upper Delaware River, and

more recently through a successful study and designation on the Wildcat River in Jackson, NH, the Wild and Scenic Rivers program has increasingly demonstrated its ability to adapt to local needs and desires, and to the particulars of New England rivers. Just a few weeks ago the final approvals were cast for a Wild and Scenic designation and locally-based management plan on the Farmington River in Connecticut. In Massachusetts, residents along the Concord, Sudbury, and Assabet Rivers

### The Study Process

Communities work in partnership with the National Park Service, state officials, and other participants in Wild and Scenic River Studies to study river resources and set a clear direction for future river management. This process is worked through with all of the important players at the table - local, state, and federal governmental bodies, as well as citizens, riparian landowners, and interested/

### THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

The National Wild and Scenic Rivers System was established by the Wild and Scenic Rivers Act of 1968. It is our nation's mechanism for recognizing and protecting a select sampling of free flowing rivers. To qualify for inclusion a river must be free-flowing and support two or more outstanding natural, cultural, or recreational resource features.

are delving into river values and management in a Wild and Scenic Study partnership with the National Park Service. And currently, New Hampshire communities are in various stages of participation with the National Park Service on segments of the Lamprey and Merrimack Rivers, and have recently completed a Study of the Pemigewasset River. Communities along all of these New England rivers have turned toward Wild and Scenic River Studies in an attempt to meet needs, and deal with resource management controversies, that are beyond the grasp of local and even state governmental bodies. Subsequent Wild and Scenic designation is pursued where communities and study partners desire the continued protections of the Wild and Scenic Rivers program to achieve long-term management goals.

For example, on the Wildcat River in Jackson, NH, the community sought both a study and eventual designation based largely on a desire to protect the free-flowing river from hydroelectric damming. The study period placed a temporary stay on the dam, and provided resources and expert assistance in developing and implementing a comprehensive river conservation plan. At the end of the study period the community voted unanimously to support Wild and Scenic designation as a part of their comprehensive plan, and thereby permanently protect the free-flow of the river - an outcome that would otherwise have been beyond the scope of their authority.

On the Farmington River in Connecticut, the issue beyond local control related to proposed water diversions to feed Hartford's growing thirst. The study period allowed for detailed and professional consideration of this and associated resource issues, and resulted in the development of a comprehensive river conservation plan. Votes in favor of designation as a part of the plan have been cast by all of the communities which had been threatened by the withdrawals (upstream communities in Massachusetts opted out of designation based on both the lack in imminent threat and unfounded fears spread by "Wise Use" affiliates), and appropriate legislation will soon be introduced in Congress.

involved private organizations.

Each river is different, and each has its own blend of natural and cultural resources to be concerned about. Each also has its own unique resource management context, often including specific areas of conflict, as well as special areas of unrealized opportunity. The Wild and Scenic Study period offers a focused time to explore the particulars of each river. The Park Service recognizes and embraces this diversity, and comes to each new river and new study with an open mind about where and how to focus study resources.

The final stage of the study process is to pull together a management plan based upon the results and findings of the study. For New England style rivers, the plans are built around local and state level implementation, utilizing existing authorities and processes. Designation as a federally protected Wild and Scenic River is looked at as an option to achieve federal consistency with the plan and its goals, and to fill any other gaps that could not be resolved otherwise. The decision to recommend designation or not is made through an assessment of specific river resources and the importance of the potential federal Wild and Scenic provisions in the context of the overall river management plan. In addition, it is the policy of the Park Service to require a clear demonstration of local support (generally Town Meeting vote, or endorsement by the governing body) before a designation will be formally recommended.

### Limits of Federal Protection

Wild and Scenic River designation, and the Act upon which it is based, can only protect a river from federal agency actions and decisions. Since federal actions are generally beyond the influence of either state or local governments, and because federal agencies have substantial jurisdiction over navigable waterways of the United States, these protections can be critical to successful river conservation efforts. But they represent only one piece of the river conservation pie.

For example, the federal government cannot regulate water allocation decisions (constitutionally reserved for the states)

## Wild and Scenic Rivers Around New England



*Proposed water withdrawals from the Concord River in Massachusetts (above left) threatened extensive marshland wildlife habitat, including habitat of the Great Meadows National Wildlife Refuge.*



*Proposed water withdrawals threatened recreation (tubers above right and canoeists below) and fish in the Farmington River in Connecticut. A comprehensive management plan has been adopted thru the Wild and Scenic Study to protect these waters.*



## The Wild and Scenic Lamprey River



*Bass trout and bass draw anglers to the Lamprey River.*



*Canoists enjoy scenic, summering canoeing on the Lamprey River, with Class II and Class III white water in early spring.*



*People share the remarkably unspoiled Lamprey River with many species of wildlife, including the beaver who dropped this tree.*

and it cannot regulate management or zoning of private lands (also constitutionally reserved for the states and their political subdivisions). Therefore, comprehensive river conservation must be a partnership effort, with most day-to-day management decisions in the hands of the state and local communities and riparian landowners.

Management of private upland areas adjacent to rivers is one of the most important and sensitive issues involved in river conservation.

anti-environmental groups from spreading a maze of rumors and accusations to the contrary. Such persistent and false accusations undoubtedly played a significant role in community decisions against Wild and Scenic designation on the Pemigewasset River in NH, and the Massachusetts portion of the Farmington. Among other things, they spread rumors and quotes based on the federal regulations for federally owned lands within National Parks, claiming that these were the real

### FEDERAL PROTECTION/LOCAL MANAGEMENT

New England style rivers (i.e. dominated by non-federal lands) located in the System receive strong federal protection from dams and other projects. However, they are not permitted to be sponsored by federal agencies. Such projects would therefore be beyond the ability of local or state government to control. Day-to-day management of the river, however, remains in the hands of existing state and local government authorities. Roles and responsibilities of all of the principal parties are clearly laid out as a part of a management plan developed during the Study period.

vention. It is also an area totally beyond the scope of federal jurisdiction, with or without Wild and Scenic River status. The only thing that the federal government can do to control private lands management is to purchase such lands (or easements on them) at appraised fair market value.

#### Anti-Environmental Attacks

This simple fact has not prevented

rules that would be imposed on riverfront landowners after designation. They claimed that all businesses within riparian communities would need federal permits to operate, that the federal government would set speed limits on all adjacent roads and highways, that ownership of firearms and the right to hunt would be taken away, and so on, and so on.

The sheer volume of attack and the constant need to be on the defensive has made countering such abuse difficult at best. It is

not lost upon the organizers of such attacks that, by responding to them, the Park Service lends legitimacy to their outrageous statements.

Another, particularly destructive goal of their tactics is to destroy the critical study partnerships, around which our studies are based, by creating a contentious, "us vs. them" atmosphere. The goal is to equate the Park Service's presence generically with a distant federal bureaucracy, and even worse,

with all interested and affected parties at government, private, and individual levels. Such partnerships produce strong, broadly supported plans for river management that are based upon the best available resource information, and upon a wide range of perspectives.

Wild and Scenic designation can be an important component of such comprehensive river management. Through designation, shared river management goals can be given

### WILD AND SCENIC PROTECTIONS

Provisions of the Wild and Scenic Rivers Act prevent any federal agency from taking or otherwise assisting with actions which would have a "direct and adverse" impact upon the river. Hydroelectric dams and diversions are essentially prohibited. These protections are in place temporarily during the study process, and become permanent for designated rivers.

one which is a pawn of a powerful environmental elitist/extremist lobby. That's an easy "them" to attack as compared with the realities of local Wild and Scenic policies which are being explored at the request of local communities and in full partnership with them.

#### Conclusion

It is the policy of the National Park Service to pursue Wild and Scenic River studies in as close cooperation as possible

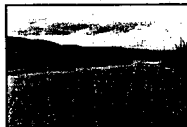
teeth and recognition to an extent not otherwise possible, but whatever the ultimate decision, the study process, partnerships, and resource investigations present an outstanding opportunity to make the most of important natural and cultural river values.

Janie Fosburg is the National Park Service Project Manager of the Merrimack and Lamprey Wild and Scenic River Studies, 15 State Street, Boston, MA 02109, (617) 223-5131.

## The Wild and Scenic Merrimack River



*The historic Sewall's Falls branched dam on the Merrimack River in Concord. A proposal to build a larger dam downstream of this site threatened anadromous fish restoration plans, agriculture and historic and archeological sites.*



*Prime agricultural bottomlands along the Merrimack River. National Park Service Wild and Scenic Flagships embrace this important use as an "outstanding resource value".*



*Canoists on the upper Merrimack in Boscowand Canterbury. The steeple of Boscowand's First Congregational Church rises in the background.*