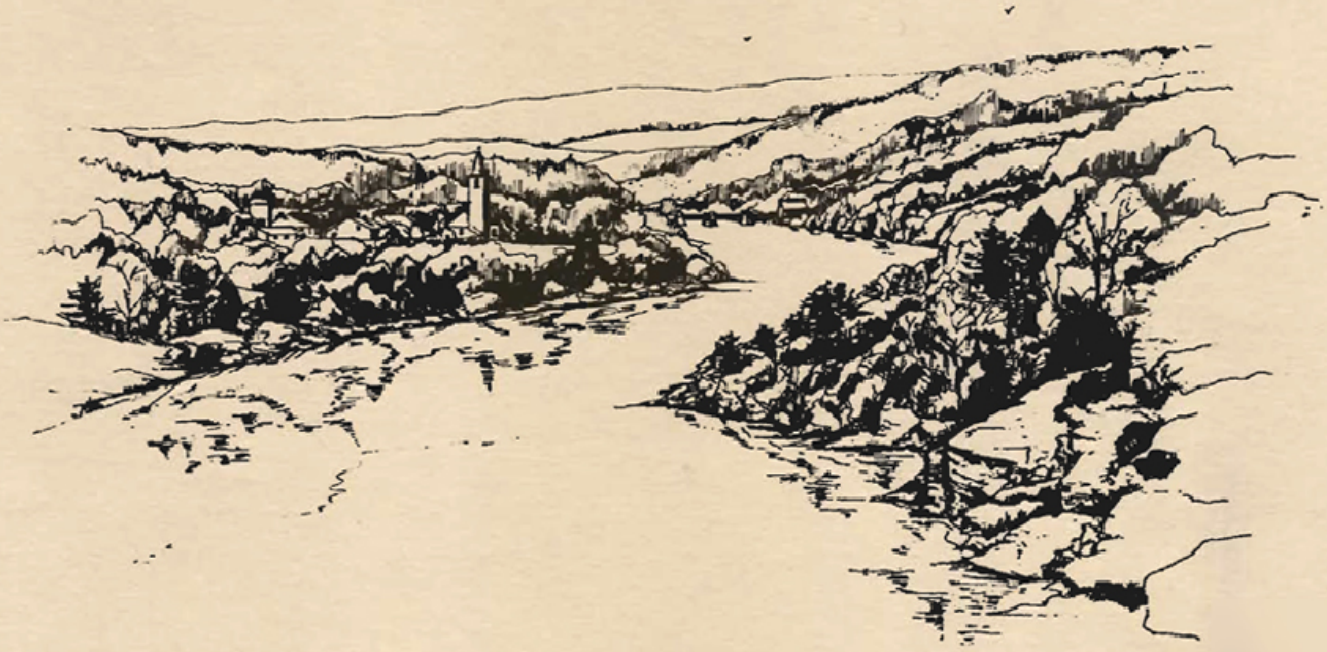
Final River Management Plan

# UPPER DELAWARE SCENIC AND RECREATIONAL RIVER

New York and Pennsylvania



Prepare by the Conference of Upper Delaware Townships
in cooperation with the National Park Service

November 1986

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**New York and Pennsylvania**

**Prepared by the**

**Conference of Upper Delaware Townships**

**In Cooperation with the**

**Commonwealth of Pennsylvania;**
**State of New York;**
**Delaware River Basin Commission;**
**National Park Service;**
**and the**
**Upper Delaware Citizens Advisory Council**

**November, 1986**

# *EXECUTIVE SUMMARY*

## Background

Although 32 million people live within a 150 mile radius of the Upper Delaware River, the area possesses outstanding natural and cultural resources. To acknowledge this, the Congress, in 1978, designated 73.4 miles of the Upper Delaware River as part of the National Wild and Scenic Rivers System. The designation covers the river segment beginning at the confluence of the east and west branches of the river at Hancock, New York, and extends downstream to Railroad Bridge No.2. in the vicinity of Mill Rift, Pennsylvania. The Wild and Scenic Risers Act states that the river must be protected in its free-flowing condition and that it must be managed for the benefit and enjoyment of present and future generations.

The Upper Delaware legislation stipulates that the Secretary of the Interior (through the National Park Service), the Delaware River Basin Commission, the Citizens Advisory Council, the Commonwealth of Pennsylvania, the State of New York and the affected political subdivisions of the two States cooperate in preparing a plan to protect the river within the scope of their existing laws.

The Conference of Upper Delaware Townships, in cooperation with the Commonwealth of Pennsylvania, State of New York, the Delaware River Basin Commission, and the National Park Service has coordinated the preparation of this management plan to conserve, protect, maintain and enhance the river corridor's unique resource values and social and economic vitality. The River Management Plan is the result of that process. It is the culmination of long-term efforts by landowners and private groups, as well as the local, state and federal governments. The plan responds to the specific concerns of the people who live and own property in the area; spells out the specific roles, responsibilities and procedures which the federal government will follow: and also describes ways that existing local and state laws and authorities will be used to safeguard the Upper Delaware's resources.

The natural, physical and social character of the Upper Delaware River corridor initially shaped the legislation which first recognized the area. Not surprisingly, these characteristics have also shaped the River Management Plan. The complexity of the Upper Delaware, in terms of resources, people's attitudes, issues and jurisdictions, is the basis for a law and a plan which recognizes that the future of this area must be managed by all levels of government and the private sector working together to meet local as well as national goals. Although the plan takes its direction from the federal act, most of the actions proposed to conserve the resources of the Upper Delaware are related to the use of existing local and state land use controls and voluntary private landowner actions, consistent with local land use ordinances.

This plan has been prepared by the Conference of Upper Delaware Townships (COUP), an association formed in 1981 by the eight affected New York river towns and seven Pennsylvania river townships. The Conference organized in response to local concerns about the impact that this designation could have on the people who live, work, and own property along the river.

Two previous drafts of a management plan, initially developed by the National Park Service, were opposed by local residents at public meetings. Major concerns included over-regulation, the use of the power of eminent domain, and loss of local control. There were also specific concerns about the continued right to hunt, fish, trap, and use the river corridor. Some residents wanted to deauthorize the federal designation of the river.

COUP believed that deauthorization was an unrealistic goal and decided that a management plan for the river should be written by those most affected by its provisions. They entered into negotiations with the regional director of the National Park Service, who agreed to fund a new, local planning effort.

The National Park Service provided funds to the Conference to hire consultants to assist in preparation of this plan, and work began during the summer of 1984. The Conference formed three committees–Plan Oversight, Land Use Guidelines and Water Use Guidelines–to assist in preparation of the new plan. The membership of these committees represented local landowners and commercial interests, local government, state government, the Delaware River Basin Commission, the National Park Service, recreational interests, and local and national conservation organizations.

The draft plan was subject to public review from January 20,1986, through June 20, 1986. Four public hearings were held in June in Damascus and Shohola, Pennsylvania, and Callicoon and Port Jervis, New York. Comments were received from more than 250 interested individuals, groups, and units of government. Revision work on the draft began immediately after the close of comment and was completed early in November, 1986. In keeping with the cooperative spirit of the legislation, the members of the revision committee included the National Park Service, the Commonwealth of Pennsylvania, the State of New York, the Delaware River Basin Commission, the Citizens Advisory Council, and the participating towns. More than 400 changes were made in response to public comment.

Coordinating the work of fifteen towns, two states, federal agencies, a river basin commission, numerous landowners, public groups and a citizen's advisory committee is complex. This complexity has in past efforts led to misinterpretation between the interests in this cooperative initiative. This River Management Plan attempts to more clearly describe and clarify how the provisions of the law are to be met.

The River Management Plan will be the most important document for all future efforts and actions within the Upper Delaware area. It will provide the direction and the parameters for implementing the legislation and all actions of the participating organizations. Although the River Management Plan does not supersede the law, nor transfer or delegate the legal responsibilities of the Secretary of the Interior, it does stipulate an agreement between all levels of government for implementing the Upper Delaware River legislation.

As with any agreement, if the towns and townships fulfill their responsibilities, as stated in the plan and guidelines, the National Park Service will fulfill its responsibilities and take only those actions identified in the plan. Similarly, if the towns implement the Land and Water Use Guidelines local interests will be protected and the federal interest will be assured. Such towns would be in substantial conformance with the plan. Towns that participate in the Council will not be jeopardized by other towns that do not participate.

## Addressing Public Concerns: The River Management Plan's Response

The River Management Plan reflects the ideas, viewpoints and needs of the people of the Upper Delaware River area. Extensive local participation has made it possible to develop a plan and guidelines that address the concerns of area residents while satisfying the national interest.

Widespread concern that the concerns of the local community had not been heard during the preparation of the earlier plans, prompted COUP to seek public input in writing the new River Management Plan. The opinions and advice of local landowners, livery operators, river users, and community leaders were obtained. Public meetings were conducted and local officials reviewed the draft extensively prior to public release.

COUP recognized the area's intrinsic importance to its residents, as well as to the nation as a whole. Viewpoints expressed often differed, but the plan is designed to address public concerns and implement policies to ensure effective river management.

Some of the key provisions in this plan include:

1. Retaining local control of the river corridor through the establishment of an Upper Delaware Council; the Council will have primary responsibility for coordinating and overseeing the plan

2. Protection against over-regulation by using only existing local, state, and federal laws to protect the river; the plan makes it very clear that Title 36 of the Code of Federal Regulations does not apply to private lands within the corridor

3. Providing landowners with protections against the use of eminent domain by implementing a multi-step process that must be followed before eminent domain may be used; this process safeguards against the arbitrary use of eminent domain and ensures that eminent domain may only be used as a last resort for proposed developments that would harm the river

4. Emphasizing the need to maintain the local economy and tax base through the use of alternatives to fee title land acquisition

5. Limiting the total amount of NPS land acquisition for management purposes to not more than 124 acres on a willing seller-willing buyer basis only

6. Revision of the plan and guidelines to ensure continuation of such traditional activities as recreation, hunting, fishing, trapping, timbering, and agriculture

7. Providing the towns with alternatives and flexibility allowing them to meet the guidelines in their own way

## The Upper Delaware Council

Desire for a cooperative arrangement was repeatedly expressed through two public opinion surveys, "key person" interviews and in the planning process itself. In response to this, the plan proposes the formation of an Upper Delaware Council. The Council, formed under existing New York and Pennsylvania intergovernmental cooperation laws, will be the agency responsible for coordinating the management plan.

The twenty member Council will have twenty members if all potential members agree to participate in the plan: the fifteen towns and townships that border the river, the State of New York, the Commonwealth of Pennsylvania, the National Park Service, the Delaware River Basin Commission, and the Upper Delaware Citizens Advisory Council in an ex officio capacity. Upper Delaware Council proceedings will operate on a one member, one vote basis. Local influence is clearly mandated. Sixteen members represent local interests.

All actions of the members of the Council, including the National Park Service and the Department of the Interior, will be consistent with this plan.

Proposed Council responsibilities include reviewing, analyzing, and making recommendations to the Secretary as to whether local laws, plans, and ordinances are in substantial conformance with the Land and Water Use Guidelines, and monitoring land acquisition and the use of eminent domain. The reviews and recommendations of the Upper Delaware Council, the River Management Plan, and the Landand Water Use Guidelines shall be used in making such determinations. If the recommendations of the Council are consistent with the plan and the guidelines, the Secretary will accept those recommendations and will not take actions inconsistent with the plan.

The intent of the Council is to retain local control, alleviate the threat of eminent domain and excessive land acquisition, and protect the river through the cooperative efforts of local individuals, governments, and state and federal agencies.

Concerns about over-regulation of private lands are addressed by the plan. In managing the river the Council will serve to coordinate the activities of existing local, state and federal authorities. This does not give the Council authority to override decisions made by local governments. For example, the plan specifies that the National Park Service will not engage in licensing concessionaires to operate commercial ventures in the river corridor. Rather, the Council provides the basis for a cooperative framework of all the interests with legal responsibility for the water or land areas of the Upper Delaware River corridor. Derails on the structure, function, and general responsibilities of the Council may be found in the section entitled Management Structure.

## Land Acquisition Guidelines and Eminent Domain Restrictions

Two areas of concern to the Council in implementing policies to best manage the Upper Delaware Scenic and Recreational River corridor are land acquisition and the use of eminent domain. The following represent the plan's approach to addressing these issues. Again, residents' concerns for local involvement and accountability are provided through this process.

### **Land** Acquisition

All proposed land acquisition for recreation facility development and administration is discussed in the land-based facilities section of the management plan. Federal acquisition is strictly limited to a total of not more than **124** acres of land. Acquisition must be on a willing seller-willing buyer basis, in a manner consistent with the River Management Plan. All proposals will be reviewed by the affected local governments and must be consistent with local plans and ordinances, as well as with the general policy established by the Council for such acquisition.

## Use of Eminent Domain

The plan provides protection against the use of the powers of eminent domain. The Council plays an important role in ensuring those protections

The Upper Delaware Council will have the primary responsibility for the coordination of the management plan. To ensure this, the River Management Plan recommends that the Secretary of the Interior contract with the Council for the review of local laws, plans and ordinances. Although the Secretary may not commit himself in advance to decline exercise his right to review, he can accept the recommendations of the Council. If the recommendations of the Council are consistent with the plan and guidelines the Secretary will accept them and will not take actions counter to recommendations of the Council.

Under the proposed plan, the following restrictions will apply to the use of eminent domain by the Secretary of the Interior:

1. Existing residential, commercial, recreational, forestry, agricultural and other traditional land uses within the boundary will not be subject to the use of eminent domain by the National Park Service

2. Eminent domain will not be used by the National Park Service for any tract within the river corridor boundary of any town or township bordering the designated segment of the Upper Delaware, provided that the town or township adopts those parts of the River Management Plan and the Land and Water Use Guidelines relating to the towns.

3. Eminent domain shall not be used unless the following conditions occur, in order:

   a. After recommendation by the Council, a town has been found not to be in substantial conformance with the town related sections of the River Management Plan.

   b. A new land use is proposed that will pose a "clear and direct threat" to an area required for the protection and conservation of the objectives of the Upper Delaware Scenic and Recreational River Act. The National Park Service will make the determination of such threats, after consultation with the other members of the Council.

   These new land uses, which constitute a clear and direct threat, are limited to those incompatible with or counter to the substance of the River Management Plan and the principles and objectives of the Land and Water Use Guidelines.

   c. The Council, the Citizens Advisory Council, the town, or state has had an opportunity to alleviate the "clear and direct threat."

   d. The National Park Service has determined that the area in question could not be protected by existing town, county, state or federal government laws or private actions and that eminent domain is the last resort to alleviate the threat. After such a determination has been made, the National Park Service shall report its determination and request the advice and recommendation of the Council.

4. Any lands acquired through eminent domain shall be restricted to the specific parcel or parcels within the local government unit in which the "clear and direct threat" is proposed. Under federal law, fair market value must be paid for any property so acquired.

5. Any land parcel(s) acquired through eminent domain shall be resold expeditiously subject to deed restrictions designed to ensure that the parcel is used in a manner consistent with the River Management Plan and the Land and Water Use Guidelines.

6. Any land so acquired and resold will count towards the maximum acreage authorized for acquisition under the Upper Delaware legislation.

Through this plan, eminent domain is closely monitored and subject to strict conditions. Since the majority of the Council represents local interests, it is clear that local concerns will be addressed.

## Recreation Management, Land and Water Use

Recreation management and land and water use are each addressed in the River Management Plan. Resident's rights to river access, recreation use and land and water use have been fully considered. Toward these ends, the plan proposes that the National Park Service continue its role of recreation management.

The National Park Service will submit a program for recreation management annually to the Council for review and recommendations. All such annual plans will be consistent with this plan and the guidelines. Additional National Park Service roles include membership and participation in the Council, the protection and interpretation of historical sites (contingent on consent of affected private property owners), the provision of technical assistance to members of the Council, and provision of funds, contingent upon the appropriation of funds, to assist in the operation of this plan.

Responsibility for land management is unchanged by this plan: it remains in the hands of private landowners and local governments. The River Management Plan strongly supports the continuation of such traditional land and water uses as timbering, farming, fishing, trapping, hunting and canoeing. Furthermore, it is important to stars that provisions in Title 36 of the Code of Federal Regulations do not apply to private lands in the Upper Delaware River corridor.

The Water Use Program specifically encourages the private sector to provide needed recreational facilities to accommodate the strong desire, voiced by residents, to conserve river resources and prevent overdevelopment along the river. The River Management Plan will protect, for residents and visitors of both present and future generations, the values for which the Upper Delaware was designated as a Scenic and Recreational River.

Conserving water resources is addressed in the Water Resources section. It recommends river flows sufficient to improve water quality and aquatic ecosystem and the opportunities for recreational uses and it requires that water quality be maintained or improved and that proper monitoring take place. The Wild and Scenic Rivers Act does not permit the construction of dams, diversions, ice breaking devices, or channel modifications on any flowing water bodies within the boundary area: nor does it permit groundwater withdrawal programs to augment river flows. This section also calls upon the National Park Service to play the strongest possible role in seeking the cleanup of the hazardous waste dump in the Town of Tusten.

The Fish and wildlife section of this plan states that hunting, fishing, trapping and the taking of eels by the use of eel weirs will continue in accordance with existing state and federal laws and regulations. The plan calls for habitat improvement programs on existing publicly owned lands, and it improves the coordination among all parties sharing an interest in fish and wildlife resource management.

The Cultural Resources section of this plan proposes that an active program to conserve and interpret the corridor's historical, archeological and architectural resources be carried out primarily by the National Park Service with the guidance and recommendations of the Council. This program will be consistent with this River Management Plan. The orientation of the plan is toward private action, volunteerism, and coordination of existing organizations concerned about the protection of cultural resources. However, it does propose specific management strategies for thirteen sites, and it advocates the establishment of a valley heritage museum.

## Land and Water Use Guidelines

The plans for managing land and water uses are known as the Land and Water Use Guidelines. These have been written to meet several important local needs that were not met in earlier plan drafts.

The guidelines recognize the important role and contributions of local governments in land management and apply to the relevant activities of county, state, and federal agencies. Furthermore, the guidelines now relate directly to the objectives of the National Wild and Scenic Rivers Act and will serve as the basis for conformance review. The Council will contract with the Secretary for the review of local plans, laws and ordinances, and for monitoring land uses.

The provisions in the land use section of the guidelines seek to protect water quality, preserve natural features, provide for recreational uses, provide for the continuation of agriculture, conserve river resources, and maintain existing land use patterns. They do not limit the rights of owners to maintain lawfully established uses They do not limit rights to fish, hunt, trap or harvest eels on any lands or waters (subject to property owner approval), nor do they require a change in the existing laws and programs which regulate these uses. They do not limit the continuation of lawfully existing agricultural, forestry or mining operations, nor do they impose any restrictions other than the continuation of existing state and local laws, whatsoever on farming Furthermore, the guidelines do not limit the return of property and property uses damaged as a result of disaster to conditions existing prior to such disaster.

The water use portion of the Land and Water Use Guidelines, together with the water use section of this plan, provide an overall framework for managing the uses of the waters of the Upper Delaware River. The guidelines focus on managing the river through educating and informing the public, as well as through the strict enforcement of existing laws and regulations. The portion of the guidelines relating to water use are contained in Section IV of the Land and Water Use Guidelines.

## Project Boundary

A project boundary has been drawn to define that area in which there is a national interest. It further identifies those lands that should be protected in a manner consistent with the Land and Water Use Guidelines by the towns and townships as part of the overall cooperative management framework.

The maps were prepared according to a set of consistently applied topographic and hydrologic standards to meet the valley-wide concept approved by Congress. The boundary area encompasses those adjacent lands from which runoff drains directly into the river and tributary drainages upstream to the first prominent topographic feature (ridge line, peak, or promontory). At no point does the proposed boundary extend beyond the legislative boundary. Total acreage within the project boundary amounts to 55,574.5 acres.

## Management Actions in Non-Participating Towns

The plan recognizes that each town will have the option of joining the Upper Delaware Council. Those towns which choose to join will be provided all of the assurances and benefits of the plan with respect to certain key provisions and authorities in Section 704.

The River Management Plan clearly contemplates, and is predicated upon, local land use authorities, local discretion, and local land use enforcement. Participation on the Council will effectively insure the maximum retention of this authority by providing town governments a strong voice in the decision-making required by Section 704.

Alternately, a town may elect not to join the Council. In such a case, the key decisions in Section 704 will be accomplished solely by the National Park Service with no provision for effective local input (although the National Park Service may request the advice of the Council or a non-participating town may request the assistance of the Council). If a town elects not to participate, it will have decided not to avail itself of the benefits and assurances that have been provided to Council members, including the provisions for maximum local input into decisions within that town or within the corridor, related to Section 704.

Membership on the Council is an ongoing, voluntary activity of its members. A non-participating town may decide, at a later date, to join the Council.

More specifically, in non-participating towns:

1. The National Park Service will review the laws, plans, and ordinances of a non-participating town. This will be done by the National Park Service or by a memorandum of agreement or contract with other levels of government having authority in the river corridor. The National Park Service will not contract with the Council for such reviews in a non-member town.

2. The National Park Service will monitor the enforcement of town laws, plans, and ordinances. This will be done by the National Park Service or by memorandum of agreement or contract with other levels of government having authority in the river corridor. The National Park Service will not contract with the Council for the monitoring of such enforcement in a non-member town.

3. Section 704 funds for planning and related purposes will not be made available to non-participating towns.

4. The National Park Service will reserve the right in non-participating towns to acquire the balance of its acquisition authority in Section 704 (d) (to a total of 1,350 acres).

5. In non-participating towns the only restrictions on the use of eminent domain shall be those contained in Section 704 (e) (4), as determined solely by the National Park Service. The resale provision in this plan may not apply to any lands so acquired in non-participating towns.

6. The River Management Plan provides Council town members with the opportunity to comment on and effect changes in the plans and programs of the National Park Service in the valley or in that town, including programs involving river recreation management, lands owned or leased by the National Park Service, the allocation of law enforcement and trash removal funds, and technical assistance. Non-members may not be afforded the same opportunities to effect changes in, and with respect to, National Park Service programs, subject solely to the discretion of the National Park Service.

7. Council financial and planning assistance to its members can not be provided to non-participating towns, including financial aid for legal assistance, planning, and advisory services.

This plan provides numerous incentives for towns to join the Upper Delaware Council, principal among them being the opportunity for effective local input into the decisions called for in Section 704. Towns which choose not to join the Council, a voluntary intergovernmental partnership, will lose that opportunity.

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# *BACKGROUND AND INTRODUCTION*

## Overview

The Upper Delaware River is one of only four river segments in the Northeastern United States to have been designated as a component of the National Wild and Scenic Rivers System. To receive such recognition, a river and its surrounding environment must possess resources of outstanding quality, including scenic, recreational, geologic, fish and wildlife, historic and cultural resources.

The Delaware River is the only major river along the North Atlantic coast that remains undammed along its main stem, although its flow is controlled by several tributary dams. Since the early part of this century, the construction of dams for hydropower and flood control has altered the flow of most major Eastern rivers, including the Penobscot and the Kennebec in Maine, the Merrimack, the Connecticut, the Hudson, and the Susquehanna. The high water quality of the Upper Delaware (attributable to the rural, sparsely settled nature of the region) is also an important resource, which has prompted the Pennsylvania Department of Environmental Resources to designate the watershed above the Delaware Water Gap as a special protection area. Also, under requirements of the New York State Health Law, the City of New York has enacted special regulations to protect the Delaware River watershed above all of its reservoirs.

The Upper Delaware Scenic and Recreational River extends some 73.3 river miles from the confluence of the East and West branches of the Delaware River downstream from Hancock, New York, to Railroad Bridge No.2, near Cherry Island and Mill Rift, Pennsylvania. It forms the border between the states of New York and Pennsylvania in this vicinity.

Five counties and fifteen towns and townships border the river. The two Pennsylvania counties are Wayne and Pike; the three New York Counties are Delaware, Sullivan, and Orange. The seven Pennsylvania townships, proceeding downstream, are Buckingham, Manchester, Damascus, and Berlin (Wayne County), and Lackawaxen, Shohola and Westfall (Pike County). The eight New York towns, proceeding downstream, are Hancock (Delaware County), Fremont, Delaware, Cochecton, Tusten, Highland, and Lumberland (Sullivan County), and Deerpark (Orange County).

The highly scenic quality of the Upper Delaware Valley has been recognized as significant within the Northeastern United States. The landscape within the river corridor is characterized by gently rolling hills with elevations from 500 to 2,000 feet above sea level. The uplands remain largely forested, settled primarily by scattered hunting clubs, single-family and vacation homes. The valley floor is more densely settled with farmland, rural settlements and river towns. The high quality of the Upper Delaware Valley landscape results from the contrast of farmland and villages on the linear valley floors and the forested hills that surround the valley. This rural landscape is readily accessible to approximately 31,750,000 people who live within 150-mile radius of the river. Indeed, it is these scenic qualities and the avid use of this river by urban recreation-seekers that are among the reasons the river was added by Congress to the National Wild and Scenic Rivers System.

## Natural Resources

### Geology

The Upper Delaware River lies within the Appalachian Plateau physiographic province and Catskill physiographic section. The area's rolling hills vary in elevation from 800 to 2,000 feet and are characterized as a series of indistinct and irregular escarpments. Relief is generally between 300 and 500 feet, although it ranges to 700 feet in a few locations.

A marked diversity of unique landforms exist throughout the river corridor. The Delaware River Gorge has been identified by the Pennsylvania Bureau of Topographic and Geologic Survey as one of the outstanding scenic geologic features in the state. The gorge begins above Matamoras and runs north throughout most of the river segment, ranging between two and three thousand feet in width.

Geologic processes left many economically valuable deposits, including bluestone, sand and gravel, shale, and peat. The parent materials for most of the soils within the river corridor have been accumulated largely through glacial action and deposited as till or outwash from receding glaciers. Red and gray sandstone, siltstone, and shale are primary contributors to the soils.

### Forests

The valley of the Upper Delaware is also noted for its northern hardwoods which support a thriving industry. These hardwood forests produce thousands of cubic feet of veneer logs, sawlogs, millwood, and pulpwood each year. They are also the resource base for a lucrative and growing recreation industry, the habitat for a variety of game animals and other wildlife, and a protective cover for this watershed which serves many local towns.

### Air Quality

The excellent air quality found in the Upper Delaware Valley contributes to the area's overall quality of life and to the recreational opportunities found there. Air quality in the river corridor meets all Environmental Protection Agency standards, except or, rare occasions when those for photochemical oxidants, generally caused by automobile emissions, may be exceeded. Acid precipitation is also known to occur in the valley as it does throughout the Eastern states.

## Water Quality

High water quality, the presence of cold water releases and its free-flowing character all give the Upper Delaware some of the most important fisheries habitat in the Northeast. The Upper Delaware's consistently high water quality provides habitat to diverse and well-balanced biological communities. The upper segment of the river is also unique among large rivers in the East due to its relatively cold temperatures. Since 1967, when large volumes of cold water were first released from the Cannonsville Reservoir, the New York Sate Department of Environmental Conservation reclassified approximately 27 miles of river between Hancock and Callicoon as a coldwater fishery. This stretch supports an abundant population of rainbow trout and brown trout, offering some of the finest trout fishing in the Northeast. The 50 miles of warmwater fishery between Callicoon and Port Jervis offers habitat to many species including sunfish, eel, bass, and walleye.

Certain tributaries to the river are vitally important fishery areas. These tributaries, although not specifically recognized in the Cpper Delaware legislation or included within the proposed river boundary area, are biologically important to the fishery values of the main stream of the river. Specifically, many of these streams, which have been legislatively or administratively recognized by the State of New York or the Commonwealth of Pennsylvania, provide spawning habitat for trout and other species.

### New York Tributaries

A number of tributary streams of the Upper Delaware River have been determined by New York's Department of Environmental Conservation to be fishery areas which have a direct relationship to the values of the designated river area. All New York tributaries that are currently classified C(t) or higher, or are so reclassified in the future, are recognized as having this direct relationship. The major tributaries now in this category are:

1. Basket Creek - upstream to the confluence of the East and North Branches
2. Hankins Creek - upstream to the impassable barrier at Mileses
3. Callicoon Creek - upstream to the confluence of the East and North Branches
4. Mongaup River - upstream to the impassable barrier at the Rio Dam

### Pennsylvania Tributaries

All tributaries on the Pennsylvania side of the river have been designated as "exceptional value," "high quality," or "coldwater fishery" by the Commonwealth of Pennsylvania under the state Clean Streams Law. This designation, designed to improve water quality and habitat, permits no degradation of exceptional value streams. It also permits no degradation of high quality, coldwater fishery streams, unless overriding social and economic justification/benefits exist.

### Wildlife

The Upper Delaware River corridor contains diverse habitats that support abundant wildlife populations. In addition to the dense forest cover (from *50%* to *75%* of the corridor), farming practices have introduced new pioneer plant species and have provided pasture grasses and crops that enhance the wildlife food supply. Of the fifty species of mammals observed in the corridor, the white-tailed deer is a principal wildlife resource. The valley provides habitat for the river otter, once abundant throughout Pennsylvania. About *70%* of the state's remaining otter population is now though: to reside in the basin. Wildlife biologists believe that Pike County, Pennsylvania, has one of the highest Eastern Black Bear populations in the state. Other animals of note in the corridor include bobcats, coyotes, and wild turkey.

As part of the Atlantic Flyway, the corridor hosts large numbers of waterfowl and waterbirds in the wooded riverside habitats. Approximately 200 species of birds have been identified within the corridor, including the federally endangered bald eagle, which winters in the Delaware watershed. According to wildlife biologists, the highest concentration of eagle wintering areas in New York is found in this watershed.

### Threatened and Endangered Species

The Upper Delaware River corridor is habitat to several threatened and endangered species, including the bald eagle which winters in the area. The Pennsylvania office of The Nature Conservancy has identified several rare plant species along the Pennsylvania side of the river. These species are considered potential candidates for state designation, a register that will be officially released in 1986. The plants proposed for designation as rare are the sand cherry *(Prunus pumila)*, the thread rush *(Juncus filiformus)*, and the roseroot stonecrop *(Seedum rosea)*. The roseroot stonecrop has only been observed on one additional site in the state. The plant proposed for designation as an endangered species is the miner's lettuce *(Montia chamissio)*. The river corridor is the only location in the state of Pennsylvania where this plant has been observed.

The New York Natural Heritage Program is conducting a two year study of rare plants and exemplary natural communities within the proposed river corridor boundaries on the New York side of the Upper Delaware River. The final report for this study will be available in February 1987. Preliminary findings indicate the presence of four species considered rare in New York: Great Saint John's wort *(Hypericum pyramidatum)*, prostrate sand cherry *(Prunus pumila* var. *depressa)*, river birch *(Betula nigra)*, and sand plain gerardia ***(Agalinis setacea)***. The study will identify human use impacts within the proposed river corridor boundaries.

## Recreational Resources

### Hunting and Trapping

The Upper Delaware Valley offers some of the best hunting and trapping opportunities in Pennsylvania and New York. Wildlife biologists recognize the river valley as an excellent hunting area because its combination of diverse habitats produces abundant wildlife populations. Large tracts owned by hunting clubs contribute to this healthy population. New York's Delaware County had the second highest deer harvest in the state in 1983, and the highest turkey harvest in the spring of 1984. Hunting and trapping also substantially contribute to the economy of the area.

## Fishing

The Upper Delaware is recognized by sportsmen and fisheries biologists as one of the finest fishing rivers in the northeastern United States. The Upper Delaware offers opportunities for both cold and warmwater fishing and provides a high quality fishing experience in close proximity to major metropolitan areas. According to the 1976 New York Angler Survey, the Upper Delaware is one of the five most heavily fished river areas in the state. In 1982, it was estimated that there were nearly 60,000 angler days for the river area between Hancock and Port Jervis. (Sheppard, 1983) Since 1978, the estimated fishing days in the 27 mile reach between Hancock and Calicoon have increased by ninety percent, while the 36 mile reach between Narrowsburg and Port Jervis has experienced an increase of 205 percent. The annual economic value of recreational fishing to the Upper Delaware area has been estimated at nearly *$5,000,000.* (Sheppard. 1983).

Fisheries biologists from Pennsylvania and New York recognize the upper segment of the river as one of the foremost trophy trout streams in the Northeast. Depending on the time of year and volume of cold water releases from tributary reservoirs, this significant trout fishery ranges between the hamlets of Hancock and Callicoon. Trout and other fish have been subjected periodically to extreme changes in flows and water temperature due to sudden changes in the release schedules of the upstream reservoirs. American eels are found throughout the corridor, sustaining one of the finest commercial eel fisheries in the world during the fall, when mature eels return to the sea to spawn.

The Upper Delaware also provides key spawning and nursery habitat for the American shad along its entire length. The Delaware is the only natural shad river in the Northeast (from Maine to West Virginia) that is sufficiently free of man-made barriers and industrial pollution to allow passage of these migratory fish to their upper reach spawning habitats. Up to 500,000 shad migrate to the upper reaches annually. This number is expected to increase substantially upon completion of several new sewage treatment plants in the Philadelphia area. The most important spawning occurs above the Delaware Water Gap, with nursery areas at or downstream of spawning grounds due to the downstream dispersal of young shad. The most important nursery areas are located from Belvedere to Hancock and up into the East Branch, and centered near Tusten and Lordville. The shad spawning period runs from mid-April through June. From Port Jervis up into the East Branch the peak of the spawning period usually occurs in June due to the slower warming waters.

## Canoeing and Rafting

The Upper Delaware is one of the most outstanding canoeing rivers in the Northeast. The designated river section is canoeable throughout its entire length and boasts a total elevation differential of 460 feet, better than six feet per mile, although it is much steeper in some reaches. Boating experts have stated that the combination of proximity to major metropolitan areas, high visual quality, and consistent flows due to upstream dam releases make the Upper Delaware one of the finest recreational canoeing rivers in the Northeast. The number of rafting trips on the river has been increasing in recent years.

Data on river use throughout the United States is incomplete, but many boating experts agree that the Upper Delaware receives more recreational canoeing use than any other river in the Northeast, and that it is certainly one of the most popular canoeing rivers in the country. The New York State Department of Environmental Conservation estimated that for the period from 1978 to 1982, the annual number of boating trips on the Upper Delaware ranged between a low of 20,500 trips in 1979, and a high of over 59,000 trips in 1980. In 1982, the economic value of recreational boating activities on the river was estimated to be $12.7 million.

## Cultural, Historical and Archeological Resources

The Upper Delaware Valley is rich in structures and sites that reflect its history and cultural development, although the full potential of many of these structures has yet to be explored. Prehistoric archeological sites, historic architecture, and historic engineering and industrial sites are all abundant in the valley.

The Roebling Bridge, formerly an aqueduct that was part of the Delaware and Hudson Canal, was designated a component of the Delaware and Hudson Canal National Historic Landmark in 1968, the highest designation of national significance that a structure can receive. Designed by John Roebling, creator of the Brooklyn Bridge, the aqueduct is his earliest surviving suspension bridge and may be the oldest cable suspension bridge in the world that survives intact. The aqueduct was also designated by the American Society of Civil Engineers as a national historic civil engineering landmark in 1973.

Much of the Delaware and Hudson Canal corridor is lined with the remains of structures related to canal operations--bridges, locks, aqueducts, dams and related buildings, which provide a record of the complex infrastructure of nineteenth century canal transport. Several canal segments outside the river corridor have been listed on the National Register of Historic Places, and two segments within the corridor, between Sparrow Bush and Mongaup and between Pond Eddy and Barryville, are also considered eligible for nomination.

Three historic buildings in the river corridor, the Arlington Hotel and the Kirk House in Narrowsburg, and the Zane Grey House in Lackawaxen, were recently listed on the National Register of Historic Places. The Zane Grey House is a large "eclectic style" home occupied by the popular author of Western novels between 1905 and 1918. It now contains a private museum and is leased in part for office space by the National Park Service. The Arlington Hotel, built in 1894, is the focal point of Narrowsburg's commercial district and is considered significant for its association with the early economic and social history of the river valley. It is currently being restored by its present owners, the Delaware Valley Arts Alliance.

The Kirk House is a small "high style" Greek Revival house originally built around 1840, and "modernized" with a stucco exterior around 1920. This exterior is considered an exceptional example of vernacular architectural design in stucco.

Many other structures in the Upper Delaware Valley are considered of potential historic significance. The Cultural Resource Survey of 1983, carried out by the State University of New York at Binghamton for the National Park Service, identified 73 individual structures in the river corridor with potential historic significance, 24 of which were particularly noteworthy. The New York State Office of Parks, Recreation, and Historic Preservation is currently working with the National Park Service to inventory the historic resources of Delaware and Sullivan Counties, with the ultimate aim of delineating a Multiple Resource Area which may include small historic districts in five hamlets as well as 50-100 individual sites.

Several important historic archeological sites (where few or no structures are left standing) are also found in the river valley. The Cultural Resource Survey identified several sites which illustrate the history of small-scale rural hydropowered industry in the Northeast, including the Stockport settlement in Buckingham Township and the Ten Mile River settlement in Tusten, the second oldest settlement in the river valley.

Kilgour Spur, in the Town of Hancock, and Pond Eddy and Parker's Glen, in Shohola Township, are sites where some structures and remnants still exist that illustrate the bluestone quarrying industry once so important in the valley. The Cultural Resource Survey inventoried 86 such historic archeological sites.

Although only preliminary survey work has been done on the prehistoric archeological resources of the river corridor, a number of sites are considered of potential significance. The Cultural Resource Survey identified 437 sites where artifacts had been found or observations were made. These sites were identified through a field survey of a portion of the valley's floodplain, a literature review, and interviews with local informants. At least 18 of these sites are considered worthy of more detailed investigations, and one of the 18, the Dunn site in Hancock, has been determined eligible for the National Register. Archeological work of a limited scope has been done at Tusten Flats, the Ten Mile River rock shelter, and Minisink Battleground.

## Settlement History

The settlement history of the Upper Delaware is long and varied and marked by changing climatic and economic conditions. American Indian populations may have lived along the banks of the Upper Delaware as early as 15,000 B.C., although it is likely that continued habitation may not have occurred until 6,000 B.C. or later. The Woodland Indian culture, dating from 1,000 B.C., was the first to practice agriculture, and they gave way to the Minsi Indian culture, the group first encountered by Dutch traders as early as about 1614 A.D.

Swedish settlers were reported to have made their way as far north as Cochecton by 1630, but more substantial settlements did not spring up until the 1730's. That group of people known as Connecticut Yankees and a few Dutch settlers were the main arrivals to the area during the late 18th and early 19th centuries, and they were followed by the Irish, who helped build the D & H Canal and Erie Railroad, and by the Germans, who came to farm the land. The typical new arrival during the twentieth century has been the urban resident looking for green space and a better quality of life. There are no reliable estimates of population in the river corridor, but approximately *3,000* individuals own property in the river corridor today, two-thirds of them with out-of-valley addresses.

Economically, the area has ridden the waves of transportation development and the extraction of natural resources. The construction of the Newburgh-Cochecton Turnpike around 1800 was the first of the main roads to traverse the area, and it was followed by the Delaware and Hudson Canal, completed in 1828. The Eric Railroad began operations through the Upper Delaware Valley in 1851, and the final major transportation route, New York Highway 97, was completed in 1940.

Timber rafting began in the 1760's, developing into a focal point of the local economy after the Revolution. During the peak years in the mid-29th century, over 50% million board feet of pine and hemlock were shipped down river annually. It was not until the early twentieth century, when easily marketable forests had been logged, that the industry declined and died. From the 1850's until the 1880's, tanneries were major industries in the valley, but they ceased to operate after the hemlock groves they used to obtain tannin were largely cut over. Quarrying operations took the place of the tanneries, and rock such as bluestone was shipped in large quantities to places such as New York City and Jersey City for streets and curbs. The industry has changed, but it is still viable.

Agricultural land is an important economic resource within the river corridor. Historically, agriculture played a large role in the settlement and economic development of the river corridor, but in recent decades much of the farmland has returned to forested condition. Areas of fertile, well-drained silt and sandy loan: soils support good cropland and pastureland. Dairy and field crops are important elements of farm production in the river valley. There are at present approximately two thousand acres under cultivation.

Tourism became a major economic resource, in the 1870's, when the railroad began bringing city dwellers to the country. Boarding houses, hotels, and resorts sprang up during this period, and one resort in particular hosted over 100,000 visitors during its peak years. This industry began to wither during the Depression, but it has slowly been replaced by campers, hikers, fishermen, hunters, and canoeists. The National Park Service reports that over 162,000 visitors used the river in 1984, somewhat down from the peak use year in 1981.

## Legislative and Planning History

The Upper Delaware River was one of the original twenty-seven rivers designated for study upon passage of the Wild and Scenic Rivers Act by Congress in 1968 (P.L. 90-542, 16 U.S.C. 1271). Early interest in protecting the river was voiced by riparian landowners who were concerned with law enforcement, trespassing, vandalism, and littering problems along the river. Concern was also voiced by environmental groups and recreationists regarding similar problems, overuse and abuse of the river, and problems with river safety. An intergovernmental study team led by the Bureau of Outdoor Recreation (BOR) began its evaluations in 1969, and a draft river qualification study that proposed five different management options and a draft environmental impact statement were released in February 1974.

A controversy arose between the study team and local residents over the level of federal land acquisition, resulting in a substantial redefinition of the study's recommendations concerning the boundary, land acquisition, and local involvement in the river's management. Further drafts were produced in October 1974, before a river study and a final environmental impact statement were released in July 1976.

A proposal for designation as a Scenic and Recreational River was included in a Presidential environmental message to Congress dated May 10, 1977. The proposed designation was the subject of Congressional hearings during 1977 and 1978, before the river was added to the Wild and Scenic Rivers System by its inclusion in the Parks and Recreation Act of 1978 (P.L95-625, 16 U.S.C.1274).

The legislation for management of the Upper Delaware is quite different from the provisions guiding most other segments of the system that arc managed by the National Park Service. Other National Park Service rivers are often typified by substantial federal ownership, and in most cases, the agency already has a legislative mandate for other management strategies, such as national parks or national recreation areas, nearby.

The Upper Delaware legislation limits the National Park Service role primarily to that of recreation manager, minor landowner, and assistant to local governments in resource protection.

In a broader context, the legislation sets forth a management strategy much closer to that originally envisioned by the Wild and Scenic Rivers Act. The Act designed the program to have minimal reliance on acquisition and facilities development, and to establish viable working relationships with state and local governments.

The Upper Delaware legislation specified that the Secretary of the Interior implement interim management programs during the time Land and Water Use Guidelines and a River Management Plan were being written. The National Park Service, the Secretary's designee, began interim management in 1979. An intergovernmental planning team was established in June 1980 to begin preparation of the guidelines and management plan.

The Land and Water Use Guidelines were published in the Federal Register on September 11, 1981. A draft River Management Plan and environmental impact statement were widely circulated for public review in October 1982, and public hearings were subsequently held in November of that year.

The hearings and comments to the plan were highly critical of the proposal, causing the draft to be substantially rewritten. This revised draft management plan was circulated for limited review in October, 1983. Local opposition to the plan continued to grow and a series of public meetings were held later that year. The outcry generated in these meetings caused the Conference of Upper Delaware Townships, an association of the fifteen river towns, and the Regional Director of the National Park Service to mutually agree to redraft the management plan. The agreement was made to reinforce the partnership in river management called for in the authorizing legislation, and to allay the many concerns that local residents had concerning the extent of federal land acquisition and the intrusion of federal regulations into the lives of residents. Work on the revised plan began in August 1984. The draft plan was released in January 1986 followed in April by a new draft environmental impact statement. Four public hearings were held to receive comment on the plan in June 1986. Revision of the draft plan was completed in November 1986.

In spite of efforts by the National Park Service and the Conference of Upper Delaware Townships to fully address legitimate local concerns, some local interests have continued to oppose the plan and the enabling legislation. However, numerous statements of support for the planning effort have been voiced in landowner opinion surveys and in public comment to the draft plan.

## Key Elements of the Wild and Scenic Rivers Act

The purpose of the National Wild and Scenic Rivers Act is to protect certain select rivers and their immediate environments in their free-flowing condition for the benefit and enjoyment of present and future generations. To qualify for this protection, these rivers must be free-flowing, relatively undeveloped, and possess one or more outstanding values, based upon scenic, recreational, geologic, fish and wildlife, historic, cultural, and other similar characteristics. Congress further declared that the national policy would be to complement the national policy of dam and other construction on key streams in favor of a policy that would preserve other rivers in their free-flowing condition. By November 1986, 72 river segments in 27 states totaling about 7,365 miles had become part of the National Wild and Scenic Rivers System.

The National Wild and Scenic Rivers Act is very different from other federal land protection legislation particularly for those rivers with such a high percentage of privately owned riparian property. Its purpose and intent is to encourage cooperative arrangements in river protection efforts by making the best practical use of existing state and local statutes and ordinances such as state fish and game laws, local zoning, and state water pollution control regulations. The general provisions of the Act limit the full fee title acquisition of lands or interests in lands to 100 acres per river mile, and it prohibits the use of eminent domain for fee title acquisition in the event that more than fifty percent of the land in the corridor is already in federal ownership. These figures have been further reduced in the legislation enacted for management of the Upper Delaware. This sharp limitation on acquisition makes it necessary for public land management agencies such as the National Park Service and the U. S. Forest Service to use existing legal authorities to protect designated rivers and their immediate environments.

Potential candidates for designation must first be approved for study by Congress. The study, to be undertaken by a designated federal agency, must establish certain facts: whether the river and its immediate environment exhibits one or more outstandingly remarkable attributes (as described above): the river's suitability for designation; what agency will manage the river, the level of partnership to be expected of state and local agencies; the costs of management to the federal government; and what options for other use of the river, and its resources, may be foreclosed by designation.

If the river is found to be qualified and suitable for designation, the study report makes such recommendations, circulates it for public review and comment, and forwards the report to the appropriate House and Senate Committees for action.

To become a component of the National Wild and Scenic Rivers System, a bill must be introduced which would designate the river. The bill must be given hearings, approved by both the House and Senate Committees, approved by the full House and Senate memberships, and signed by the President before the river is added to the system. Upon designation, a management plan and environmental impact statement must be prepared based on the Wild and Scenic Rivers Act, the study report, and whatever special provisions were included in the legislation designating the particular river segment. The management plan and environmental impact statement must be circulated for public review and comment, reviewed by the House and Senate committees, and approved by the Secretary of the Interior before it is fully implemented.

## The Upper Delaware River Legislation

Rivers are added to the National Wild and Scenic Rivers System by amending the original legislation (P.L. 90-542, as amended). The legislation which designated the Upper Delaware as a Scenic and Recreational River is known as the National Parks and Recreation Act of 1978 (Section 704(c) of P.L. 95-625). The Upper Delaware was the nineteenth river to be so protected by Congress. In addition to amending Section 3(a) of the Wild and Scenic Rivers Act, certain additional requirements were added to the designation in order to clarify Congressional intent and to guide in the preparation of the River Management Plan. These are known as special statutory provisions.

The Special Provisions for the Upper Delaware added several requirements to be met by the River Management Plan. Guidelines for the management of land and water use must be published in the Federal Register. The National Park Service must submit a plan for management of the river to Congress. The plan is to be done in cooperation with the states, the counties, the towns, the Citizens Advisory Council, and the Delaware River Basin Commission. The plan must include the following:

1. A map showing detailed final landward boundaries, the upper and lower termini of the corridor, and the specific segments of the river classified as scenic and recreational

2. A program for the management of existing and future land and water use, including the application of available management techniques

3. An analysis of the economic and environmental costs and benefits of implementing the management plan, including any impact of the plan upon the revenues and costs of local governments

4. A program providing for coordinated implementation and administration of the plan, with assignment of responsibilities to the appropriate governmental unit at the federal, state, regional and local levels

5. Such other recommendations or provisions as shall be deemed appropriate

The legislation authorizes the Secretary of the Interior to implement interim management guidelines to protect the river during the planning process.

It requires full public participation in the management process and authorizes the Secretary to provide technical assistance to the states and local governments to assist in complying with the management plan.

It places limits on federal land acquisition. The legislation authorizes the acquisition of 450 acres of land, and an additional 1,000 acres if the management plan so recommends. It also authorizes that an additional acreage of not more than 100 acres per river mile clearly and directly required for protection of the river and its immediate environment can be acquired in any town or township which does not conform with the management plan.

The legislation requires that the Secretary review relevant local plans, laws and ordinances in order to determine whether they substantially conform with the River Management Plan and the Land and Water Use Guidelines. It also authorizes the Secretary to enter into contracts with the states, the counties, or the towns and townships to assist in this conformance review.

The legislation also creates, for a period of ten years, a Citizens Advisory Council whose responsibility is to encourage maximum public participation in the development and implementation of the River Management Plan. Membership on the committee is set at seventeen, to be appointed as follows: one to be appointed by the Secretary of Interior: two members to be appointed by the Governor of New York: two members to be appointed by the Governor of Pennsylvania; two members from each of the New York counties of Orange, Sullivan, and Delaware, to be appointed by the Secretary from a list of nominees proposed by each county legislature; and three members from each of the Pennsylvania counties of Wayne and Pike, to be appointed by the Secretary of Interior from a list of nominees proposed by each county commission. At least one of the appointees from each county must be a resident of one of the towns or townships abutting the river.

Finally, the legislation enables the Secretary to provide financial assistance, contingent upon funding appropriations, directly to affected states, and their political subdivisions, to aid in planning, local law enforcement, and the removal of solid waste from the river corridor.

## Required Documentation

A number of documents are required to satisfy state and federal legal and policy requirements before management planning of this project is completed.

Land and Water Use Guidelines were approved and were published in the Federal Register in 1981. They are in effect until the Land and Water use Guidelines included in this plan are finalized and published in the Federal Register. These new guidelines are a flexible set of planning goals, objectives, and measures designed to guide all levels of government in making decisions which affect the land and water resources within the river corridor. The specific requirements of the Land and Water Use Guidelines are built into this plan to provide continuity and consistency.

The River Management Plan is designed to give the managing agencies and the public specific directives for carrying out the management requirements contained in the enabling legislation. Its purpose is to implement the legislation. All affected federal, state, and local agencies have been required to act in a manner consistent with the legislation since 1978. The management plan defines the specific actions needed to manage the river in accordance with the Act in the future.

The Special Provisions require that a boundary map be prepared as one component of the overall River Management Plan, as discussed above. The original boundary provided for in the legislation, encompassing *85,560* acres, has been in effect since 1978. That boundary is proposed for modification in this plan. An environmental impact statement and economic analysis were also prepared in conjunction with the management plan.

The Special Provisions also state that the final plan will be submitted to the Governors of Pennsylvania and New York. Upon approval by the Secretary of the Interior, notice of it will be published in the Federal Register, but it will not become effective until ninety days after it has been forwarded to the appropriate House and Senate Commitees of the Congress.

**A** land protection plan, an administrative document required by the Department of the Interior and the National Park Service, must be prepared to ascertain that all appropriate alternatives to federal land acquisition have been considered prior to the use of fee title acquisition. Since the intent of the language which designated the Upper Delaware is to minimize federal acquisition, the land protection plan is built into the River Management Plan to eliminate unnecessary documentation. Therefore, this management plan satisfies the requirements for a land protection plan.

## Planning Goals

In response to its challenge to redraft a management plan for the Upper Delaware River, the Conference of Upper Delaware Townships formed three advisory committees. The committees were responsible for developing a draft plan and revising the Land and Water Use Guidelines. Among those represented on the committees were landowner groups, river associations, county planning offices, the National Park Service, the State of New York and the Commonwealth of Pennsylvania, the Delaware River Basin Commission, environmental groups, historical and cultural organizations, sportsmens' clubs and business organizations, town governments, canoeing and rafting businesses, the Citizens Advisory Council, and others.

These are the goals of this River Management Plan:

1. Protect and maintain the unique scenic, cultural, and natural qualities of the Upper Delaware River corridor, including its rare and endangered plant and animal species and rare natural habitats

2. Maintain and enhance the corridor's social and economic vitality and its diversity, consistent with efforts to protect the recognized values of the river corridor

3. Conserve the resources of the Upper Delaware primarily through the use of existing local and state land use controls and voluntary private landowner actions consistent with local land use ordinances

4. Protect private property rights, and allow for the use and enjoyment of the river corridor by both year-round and seasonal residents

5. Provide for planned growth, consistent with local ordinances, to ensure optimum use of existing public services, while maintaining and conserving the essential character of the river valley

6. Maintain and improve fisheries and wildlife habitat to ensure the continued public enjoyment of hunting, fishing and trapping, consistent with state laws

7. Foster a public recognition of the Upper Delaware River Valley as a place with its own identity, continuing history, and a destiny to be shaped by its residents

8. Provide for the continued public use and enjoyment of a full range of recreational activities, as is compatible with the other goals

9. Encourage maximum local government official, private landowner, private group and citizen involvement in the management of the Upper Delaware

10. Develop and implement an interim plan for the protection of public health and safety due to the presence of a toxic landfill located adjacent to the river in the Town of Tusten, and advocate the prompt cleanup and removal of its contents

# *JURISDICTION*

## Overview

The purpose of this section is to clarify the areas of responsibility of each participating government in the management of the Upper Delaware River.

The core of the management approach set forth in the Upper Delaware legislation is the effective application of existing management authorities in order to protect the resources of the river corridor. This plan calls for the development of a cooperative management agency, the Upper Delaware Council, to oversee implementation of the plan. This cooperative approach, in both plan development and implementation, makes it unique among all the rivers managed under the National Wild and Scenic Rivers Act.

Specific responsibilities are assigned to the states of New York and Pennsylvania, the five affected counties, the fifteen affected towns and townships, the Delaware River Basin Commission, the National Park Service, and the Citizens Advisory Council. Specific responsibilities involving joint actions by the participating members are assigned to the Upper Delaware Council. The plan minimizes the imposition of new programs and regulations in the river corridor: opting instead to seek proper enforcement of existing federal, state, and local laws. While the final authority and responsibility for administering and enforcing the plan rests with the Secretary of the Interior, the plan places specific restrictions on unilateral decision-making by the Secretary in order to maximize the use of existing state and local prerogatives. Upon final approval by the Secretary and completion of the review by Congress, the plan becomes binding on the Department of the Interior. The National Park Serviced has no authority on private lands, and therefore cannot impose any federal regulations on private lands within the river corridor.

## Upper Delaware Scenic and Recreational River

The Upper Delaware River was included by Congress as a component of the National Wild and Scenic Rivers System, under the provisions of the Wild and Scenic Rivers Act and the Special Provisions for the Upper Delaware River under the 1978 National Parks and Recreation Act.

Congressionally designated areas such as the Upper Delaware are established for specific purposes as described in the enacting legislation. **Therefore, the Upper Delaware Scenic and Recreational River is not a national park.** Congress, during the past century has legislatively recognized 300 areas for their significant natural, historic, and recreational values. These areas have been given different titles to reflect different resources and management purposes. These include national scenic and recreational rivers, national historic sites, national memorials, national preserves, national seashores, national lakeshores, national recreation areas, and national parks. The directives for management of those areas are specified in the legislation establishing each.

Over the years Congress has attempted to create a "system" of these areas to help ensure their conservation and future use. One specific Congressional action was the passage of the General Authorities Act of 1970, categorizing all existing and future designated areas into a National Park System. This term is a general title encompassing over twenty different management titles. Although each of the 300 areas is within the National Park System, this general title does not mean an area is to be managed as a national park. Management decisions for each unit in the "system" are guided by the area's enabling legislation, and the specific plans developed for that area.

## Specific Jurisdictions

### Upper Delaware Council

The Upper Delaware Council will be the entity for coordinating the implementation of the Upper Delaware River Management Plan. The Council shall carry out the responsibilities assigned to it by contract or memorandum of agreement, consistent with its creation under the intergovernmental cooperation laws of New York and Pennsylvania. It shall also carry out those responsibilities assigned to it by contract or memorandum of agreement with the Secretary of Interior for the purpose of implementing this plan. If the towns, townships and the Council agree to carry out the provisions of the plan and the guidelines, the Department of the Interior and the National Park Service shall be consistent with the plan in their actions and will uphold their duties under the contract or memorandum of agreement.

The Council shall carry out its responsibilities to ensure comprehensive and coordinated management of the Upper Delaware River.

### Towns and Townships

The fifteen river towns will retain all rights and powers vested with them. Their primary role will be to prepare and implement local land use ordinances, to participate in program administration, and to fully participate in the Upper Delaware Council.

### Counties

Under the Management Plan, the five counties will continue to enforce county laws, maintain county roads and bridges, and exercise traditional powers vested with them, in furtherance of this plan. Among the counties' existing programs and services are their planning agencies. The planning departments have the staff and capability to provide professional planning technical assistance to the members of the Council.

### Commonwealth of Pennsylvania and State of New York

The Upper Delaware management plan does not propose an expansion in state powers. Rather, state laws and regulations will be coordinated within state government and with those of the managing partners through the Upper Delaware Council to ensure effective implementation of the plan.

The States share jurisdiction with the federal government for the following purposes:

1. With the Environmental Protection Agency for pollution control, although authority for enforcing pollution laws has been delegated to the States
2. With the U.S. Fish and Wildlife Service for migratory flyway management
3. With the U.S. Coast Guard for enforcement of navigation laws on the river
4. With the U.S. Army Corps of Engineers for permitting activities related to obstructions to navigation under Section 10 of the Rivers and Harbors Act of 1899, and for permitting activities related to dredge-and-fill activities in wetlands under Section 404 of the Clean Water Act

5. With the Federal Energy Regulatory Commission, for the licensing activities associated with the construction and operation of hydroelectric generating facilities.

## Delaware River Basin Commission

Jurisdiction of the Delaware River Basin Commission within the Delaware River drainage area is established by the 1961 Interstate/Federal Compact (PL 87-328).

Under terms of the Compact, the Commission is involved in planning, development, management, and protection of the water and related land resources of the four-state (New York, Pennsylvania, New Jersey, Delaware) river basin. Areas of responsibility include: water supply, water quality, water conservation, water storage projects, drought contingencies, flood-loss reduction, water-based recreation, fisheries, flow maintenance, and hydroelectric power generation. The Commission reviews specific proposed water-related development projects in various categories which meet minimum requirements established by the Commission's Administrative Manual, Part II, Rules of Practice and Procedure. In addition, the Commission may review any project referred by a signatory state or federal agency to the Commission.

Upper Delaware Scenic and Recreational River legislation was reviewed by the Commission for consistency with its Comprehensive Plan, as required by the Delaware River Basin Compact. After a public hearing on July 26, 1978, the Commission included the provisions of the Scenic and Recreational River designation in its Comprehensive Plan (Commission Docket D-78-51 CP). Pursuant to this docket item and Section 3.8 of the Compact, upon acceptance of the final River Management Plan by the Secretary of Interior and the governors of New York and Pennsylvania, the Commission will consider the entire plan to determine what supportive actions to take under the terms of the Compact, including possible designation of the River Management Plan as part of the Commission's Comprehensive Plan.

## Citizens Advisory Council

The Upper Delaware Citizens Advisory Council will continue its functions and powers as authorized by the Upper Delaware Scenic and Recreational River legislation.

## National Park Service

The commerce clause of the U.S. Constitution gives the federal government the authority to regulate certain interstate resources, such as water and air. The National Park Service shares jurisdiction with the states for activities in and on the river relating to recreational use. This jurisdiction does not apply to the bottom of the river or land areas in the Upper Delaware River corridor. The National Park Service also has proprietary jurisdiction over lands and structures which the agency owns and leases.

Federal regulations governing activities by the National Park Service have limited applicability within the Upper Delaware River corridor. Particular regulations covering National Park Service activities are included in Title 36 of the Code of Federal Regulations. These regulations apply on the surface of the river and on lands owned or leased by the agency. They do not apply to private lands in the river corridor.

# *MANAGEMENT STRUCTURE*

## Overview

The purpose of this section is to describe the cooperative approach to be used for the management of the Upper Delaware Scenic and Recreational River. The section is divided into three parts: the legal basis for cooperative management, the description of the management framework, and the listing of the specific responsibilities of each member of the cooperative body.

The Special Provisions [P.L. 95-625, Section 704(b) to 704(j)] for the designation of the Upper Delaware as a Scenic and Recreational Rive: specify that a cooperative arrangement of governments and the private sector be developed to manage the river corridor, and that the plan be submitted to the Secretary of the Interior for consideration and approval. The legislation outlines a program for cooperation and coordination between government agencies at the federal, state, regional, and local levels. To help these agencies fully implement the cooperative management system envisioned by the Act designating the Upper Delaware, an Upper Delaware Council will be formed.

Consistent with the Act, participating governments may be the eight New York towns bordering the river (Hancock, Fremont, Delaware, Cochecton, Tusten, Highland, Lumberland, and Deerpark); the seven Pennsylvania townships bordering the river (Buckingham, Manchester, Damascus, Lackawaxen, Shohola, Berlin, and Westfall); the State of New York designee, the Department of Environmental Conservation; the Commonwealth of Pennsylvania designee, the Department of Environmental Resources; the Delaware River Basin Commission; and the Secretary of the Interior's designee, the National Park Service.

## Upper Delaware Council: Authority for Establishment

The Council will be established under seven existing legal authorities governing the affected towns and townships, the States of New York and Pennsylvania and their political subdivisions, the Delaware River Basin Commission, and the federal government:

1. The Special Provisions for the Upper Delaware Scenic and Recreational River authorize the Secretary of the Interior to enter into cooperative agreements with the states and their political subdivisions to review local land management plans, to monitor the enforcement of these plans, to provide proper law enforcement within the project boundary, and to remove and dispose of solid waste within the river corridor.

2. Article 3.9 of the Delaware River Basin Commission Compact empowers the Commission to "promote and aid the coordination of the activities and programs of federal, state, municipal, and private agencies concerned with water resources in the basin." The Upper Delaware Scenic and Recreational River designation is also included in the Delaware River Basin Commission Comprehensive Plan by action of the Commission (D-78-51 CP) on July 26,1978

3. Article 9, Section 5 of the Pennsylvania Constitution permits "a municipality (to) cooperate or agree in the exercise of any function, power or responsibility with, or delegate or transfer any function, power or responsibility to, one or more other governmental units including other municipalities or districts, the federal government, any other state or its governmental units, or any newly created governmental unit." This section is implemented in the law by the Intergovernmental Cooperation Act (53 P.S. Sections 483-485(1972), which states: "Two or more municipalities in this Commonwealth may jointly cooperate, [with] a municipality or municipalities located in any other state, in the exercise or in the performance of their respective governmental functions, powers or responsibilities."

4. The Secretary of the Pennsylvania Department of Environmental Resources is authorized under Section 8 of the Pennsylvania Scenic Rivers Act (Act 283 of December 5, 1972, as amended by Act 110 of 1982) to enter into written cooperative agreements for joint federal-state administration of Pennsylvania rivers that are components of any national scenic rivers system.

5. New York's Intergovernmental Cooperation Act (General Municipal Law, Section 119-m et seq. (1977)) authorizes the State's political subdivisions "to enter into...agreements for the performance among themselves–of their respective functions–or for the provision of a joint service–(to include the) joint performance or exercise of any function or power which each of the (subdivisions) has–by any other–law."

6. New York's Interlocal Agreement Act (General Municipal Law, Section 460 et seq. (1974)) authorizes any public agency in the State to enter into interlocal agreements with any public agency or agencies of any other state, or states, in order to exchange, furnish or provide services, personnel, facilities, equipment or any other property or resources for a variety of purposes such as garbage collection and disposal, refuse collection and disposal, and municipal planning services.

7. The Commissioner of the New York Department of Environmental Conservation is authorized to cooperate with the Secretary of the Interior in the study of national scenic rivers in New York, under the New York State Wild and Scenic Rivers System Act (Title *27,* Article 15 of the Environmental Conservation Law).

## Purpose of the Council

The purpose of the Upper Delaware Council is to ensure the effective implementation of the plan and oversee its administration on a continuing basis, utilizing the existing authority of its members who will work together in the cooperative fashion envisioned by P. L. 90-542 as amended by Section 704 of P. L. 95-625. The Council must be the driving force behind this plan; it must maintain an active presence in the river valley, and it must be the primary entity through which local, state, and federal agencies resolve their differences and agree upon joint actions affecting the river valley.

## The Upper Delaware Council: Rules of Operation

### Membership of Upper Delaware Council

The Upper Delaware Council will have twenty members, if all potential members agree to participate in the plan: the Towns of Hancock, Fremont, Delaware, Cochecton, Tusten, Highland, Lumberland, and Deerpark, in the State of New York; the Townships of Lackawaxen, Berlin, Buckingham, Damascus, Manchester, Shohola, and Westfall, in the Commonwealth of Pennsylvania; the states of Pennsylvania and New York; the National Park Service; the Delaware River Basin Commission; and the Upper Delaware Citizens Advisory Council (serving in an ex officio capacity). Each member, except for the Citizens Advisory Council, will have one vote on the Council.

### Formation of the Council

The Council will be formed by participating local, regional, state, and federal agencies and the Citizens Advisory Council within the applicable laws through the approval of an interagency/intergovernmental agreement. Consistent with the provision of this agreement, the Council shall develop and enact such bylaws as may be necessary to its operation. The schedule for plan implementation is included in the Cost and Phasing Appendix to this plan.

### Selection of Representatives to the Council

Each member will appoint one person, plus an alternate, to represent the interests of the member during all proceedings of the Council. The representative will serve at the will of the member institution.

### Officers

The Council will have three officers: chair, vice-chair, and secretary-treasurer. The bylaws adopted by the Council will delineate the duties of the officers.

### Selection of Officers

Officers will be chosen from among the Council's member towns and townships. The method of selection will be as defined in bylaws developed and adopted by the membership.

### Terms of Officers

Officers will serve one-year terms and will not be eligible for re-election until all other towns represented have also had the opportunity to serve in that office.

### Meetings of the Council

The Council will hold regular meetings and will provide advance public notice of business to be conducted at such meetings.

One more than half the membership will constitute a quorum for transacting business, provided there are present at least one more than half the town members.

The Council will adhere to established standards for open meetings and open records.

## Reimbursement of Council Members

Where permitted by law, local governments shall be reimbursed by the Council for the expenses incurred in their participation on the Council. Federal and state officials will not receive reimbursement from the Council, since it is expected that their participation will be part of their jobs. The rates for reimbursement shall be determined in the Council by-laws and shall be consistent with compensation laws in New York and Pennsylvania.

Each participating town may seek reimbursement from the Council for compensation paid to the town's representative for Council business. The rate of compensation will be determined by each town, consistent with applicable laws, but it will not exceed compensation paid by each town to its Supervisor (Sew York) or Chairman of the Board of Supervisors (Pennsylvania).

## Administration

The Council may accept grants, contracts, or other revenues for planning, legal assistance, and other services necessary for the coordination and management of the Upper Delaware as a Scenic and Recreational River. The Council may also enter into cooperative agreements, sue and be sued, and carry liability insurance.

The Council may contract for professional, legal, and clerical services to assist in carrying out its responsibilities under the River Management Plan. The specific services needed are listed in the Cost and Phasing Appendix.

Upon approval by the members, the Council may contract for all joint services permitted by the intergovernmental cooperation laws of New York and Pennsylvania.

## Legal Assistance and Liability Coverage for the Council and Participating Local Governments

The plan provides for financial support for legal support and liability coverage for the Council, for its local representatives in carrying out the Council's assigned duties. This same support also applies to participating local governments and public officials from those governments. Limitations on this coverage are as follows:

1. Legal support may be used only for actions directly involved with carrying out the assignments identified in this plan that relate to the Upper Delaware Scenic and Recreational River area.

2. Legal support will be provided for defense against challenges to the legality of local plans, laws, and ordinances prepared to meet the requirements and guidelines stipulated by this legislation (also note limitations identified in item 1 above).

3. Legal advice may be obtained to assist in substantial conformance and project reviews at the local level, and the review of proposed state and federal actions that directly affect the river corridor.

4. Pursuant to this agreement, the plan authorizes the Council to secure legal representation for Council activities and for plan-related local government actions.

5. Public official liability coverage will be made available to the Council, Council representatives, and participating local government officials.

This support will not be provided for purely local actions unrelated to the River Management Plan and the Land and Water Use Guidelines

## Funding the Upper Delaware Council

The Council will require funding in order to contract for services and expertise, administrative operations, planning, technical and legal assistance, and other assistance as may be necessary to carry out its responsibilities. As is the situation with all agencies involved, funding is dependent upon appropriation by the appropriate federal, state, or local legislative body. It may receive its funding from the following, but funding is not necessarily limited to these sources:

Direct Contributions

1. The National Park Service, through a line-item appropriation within the Department of Interior's budget for the Upper Delaware Scenic and Recreational River, contingent upon the appropriation of funds by Congress

2. The Commonwealth of Pennsylvania, through a line-item appropriation and subject to the appropriation of such funds by the legislature; funds for planning purposes may be secured from the Commonwealth's Land and Water Conservation Fund allocation and made available through the Scenic Rivers Program

3. The State of New York, through a line-item appropriation and subject to the appropriation of such funds by the State Legislature; funds for planning purposes may be secured from the State's Land and Water Conservation Fund allocation and made available through the Office of Parks, Recreation and Historic Preservation

4. The Delaware River Basin Commission, with special funding provided by state or federal sources for specific purposes in accordance with Commission responsibilities under the Compact, or by grant or contract for which the Commission may be eligible related to functions or responsibilities of the Upper Delaware Council

In-Kind Assistance

In-kind assistance takes the form of non-cash contributions to the implementation of the river management plan. Sources include, but are not limited to, the following:

1. The fifteen river towns and townships, the contribution consisting of in-kind services including, but not limited to, the preparation and enforcement of ordinances, laws, and plans required for the protection of the Upper Delaware

2. The five directly affected counties, the contribution consisting of services including, but not limited to, the provision of existing services, technical assistance in planning and reviews, and similar actions

3. The Delaware River Basin Commission, the contribution consisting of monitoring activities regarding water quality, river-related permits, and water resources development

Contract for Services

The Upper Delaware legislation requires that the Secretary review all relevant local plans, laws and ordinanced to determine whether they substantially conform to the approved River Management Plan. In addition, the law requires that the Secretary determine the adequacy of enforcement of such plans, laws, and ordinances including, but not limited to, the review of building permits and zoning variances granted by local governments, and amendments to local laws and ordinances.

To facilitate the administration of the Upper Delaware legislation, the Secretary of the Interior 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, ordinances, amendments, variances and for monitoring the enforcement by local governments having jurisdiction over the area to which the River Management Plan applies.

To ensure that the Upper Delaware Council will have the primary responsibility for coordinating and overseeing the implementation of the River Management Plan and that the Council will be a true cooperative effort, the plan recommends that the Secretary contract with the Council for the review of local laws, plans, and ordinances, and the enforcement of each. Under this contract the Council may also subcontract for these services with the directly affected counties. Although the Secretary's legislative duties related to the review of local zoning may not be delegated to the Management Council, and he may not commit himself in advance to decline to exercise his review, he can accept the advice and recommendations of the Council. As long as the Council's actions are consistent with the plan and the guidelines, the National Park Service and the Secretary would not need to enforce the plan on their own or take actions inconsistent with the plan or the Council's recommendations.

The purpose of this section is to outline the intent cf a number of agreements, proposed to be developed between the Secretary of the Interiorand the Council, to contract for professional services to assist in implementing the following actions proposed in the River Management Plan:

1. The review of all relevant local plans, laws, and ordinances for the purpose of recommending to the Secretary whether such local plans, laws, and ordinances substantially conform to the River Management Plan

2. The annual review of the adequacy of the enforcement of such plans

3. The preparation of an annual report to the Secretary of the Interior and the Council membership regarding the effectiveness of the management plan implementation

4. The review, coordination and leadership for all aspects of plan implementation

5. The maintenance of all permanent and current records of the plan, development approvals, letters of interpretation, meeting records, transcripts, minutes and other information related to plan preparation and implementation

The Secretary agrees to contract with the Council for the services previously described on a five-year basis. The cooperative agreement for the Council should not be up for renewal at the same time as the Citizens Advisory Council charter. All services provided by the Council shall be consistent with the approved River Management Plan, the Upper Delaware River legislation and the applicable provisions of the National Wild and Scenic Rivers Act. The proposed contract, renewed contingent upon the availability of Congressionally appropriated funds, shall be automatically renewed, provided that the responsibilities assigned to the Council in this River Management Plan are adequately implemented, and the general responsibilities specified in the Special Provisions for the Upper Delaware are upheld.

## Functions of the Upper Delaware Council

The Council will serve as the coordinating agency to insure timely and cooperative implementation and oversee continuing administration of the plan.

The Council's general functions will include, but need not be limited to, the following:

1. Coordinate the management of the river and the river corridor with the responsible agencies; use its powers as a forum to secure enforcement of existing laws and ordinances which affect the resources of the river and the river corridor; and serve as an intermediary in resolving landowner concerns, management issues, and conflicts

2. By contract to the Secretary, review relevant local plans, laws, and ordinances and for monitoring the enforcement of these ordinances by the towns and townships and to so advise the Secretary as to its reviews and recommendations; in conjunction with this function, the Council may request the Secretary's approval of a cooperative agreement under which the Department of the Interior would provide professional services to the Council, as may be necessary for the Council's review and monitoring activities

3. Serve as an intermediary minimizing the need for the use of full fee title acquisition by any governmental agency, by seeking the advice of the affected town or township, and others as appropriate; and by making recommendations to the affected property owner, the agency proposing such purchase, and others, to explore and utilize other feasible alternatives to such purchase

4. Oversee plan implementation through the review of town and township relevant plans, laws, and ordinances for their consistency with the Land and Water Use Guidelines, the Wild and Scenic Rivers Act and the Special Provisions for the Upper Delaware, and make recommendations regarding town and township compliance, noncompliance, or compliance with recommended modifications

5. Review proposed town or agency actions affecting the river and river corridor for their consistency with P.L. 95-625 and the management plan

6. Make recommendations to individuals, the towns and townships, states, the Secretary, the Delaware River Basin Commission, and appropriate others, regarding proposed actions which may affect the designated river corridor

7. Make recommendations to the National Park Service concerning contracting for law enforcement, trash removal, or other purposes required to implement the plan

8. The Council may review and make recommendations on the annual work program for the preservation of natural, cultural, and archeological resources. The program will be submitted to the Council for implementation primarily by the National Park Service. All such annual programs will be consistent with this Plan and the Guidelines. The Council may also make recommendations concerning funding through existing federal and state programs for preservation, research, or establishment of a museum.

9. The Council will guide and make recommendations on the annual work program for river recreation management. This program, to be carried out primarily by the National Park Service with the guidance and recommendations of the Council, includes the licensing of commercial livery operations and all other water use management activities described in the Water Use Program. However, management of hunting, fishing, trapping, and the use of eel weirs will continue under existing state and federal laws. This program must be consistent with the River Management Plan. The work program will be submitted annually to the Council.

10. The Council may, upon request, provide technical river-related assistance to the towns and townships, landowners, and others as appropriate; assistance may include, but need not be limited to, financial aid, legal aid, planning, and advisory services.

11. Review projects, and encourage intergovernmental review of projects, that would have an impact on the river corridor requiring review under the New York State Environmental Quality Review Act or requiring federal environmental review under the National Environmental Policy Act

12. Make recommendations to federal and state agencies that own or lease lands that are either within, adjacent, or contiguous to the river corridor, concerning the management of such lands in a manner consistent with this plan; such recommendations shall be consistent with the views of the town or township within which such lands are located

13. Actions as necessary to assure the continued operation of the Citizens Advisory Council after its scheduled date of termination in 1989

14. Undertake other functions, consistent with applicable state and federal regulations, as may be agreed upon by the members

## Specific Management Responsibilities

Implementation of the River Management Plan will be coordinated through the Upper Delaware Council. Participating governments will attend meetings of the Council to discuss a proposed management action, alternatives to an action, and to seek the advice and recommendations of the Council and its individual members. Any action(s) so discussed would fall under the provisions of the project revision section of the plan. The types of development which require review under the River Management Plan and the Land and Water Use Guidelines are identified in the Land Management Program. Any agency proposing an action will consider carefully the concerns of the town(s), the county(ies) and state(s) that will be affected by the proposed action.

## Management Responsibilities of the Upper Delaware Council

### Project Review and Determination of Substantial Conformance

The Upper Delaware Council will review the towns' relevant laws, plans, and ordinances to make recommendations regarding the substantial conformance with the Upper Delaware legislation, the River Management Plan, and the Land and Water Use Guidelines. The Council will also monitor the enforcement of those plans, laws, and ordinances. This will be done under a cooperative agreement entered into with the Secretary of the Interior, under the authority of Section 704(e)(3) of P.L. 95-625, the Special Provisions for management of the Upper Delaware. Procedural and technical criteria will be established by the Council to provide a framework suitable to accomplish this task. There are five parts to this review process:

1. The determination of substantial conformance (Recommendations to be made by the Council with final determination by the National Park Service)

2. The review of ordinance amendments

3. The review of significant projects

4. The review of challenges and variances

5. The review of enforcement programs

### Plan Implementation and Evaluation

The Council will review, coordinate, and provide direction for all aspects of plan implementation. Primary attention will focus on the assigned responsibilities, as described elsewhere in this plan, of each of the members. The Council will work with the States of New York and Pennsylvania, the Delaware River Basin Commission, and the National Park Service in the preparation of annual reports describing the agencies' activities and program proposals for the following year.

The River Management Plan will undergo a thorough evaluation after twenty years. Neither the legislation designating the river nor the requirement for a management plan will expire at that time. The purpose of this requirement is to allow the plan to adapt to changing conditions and community needs, however, it may be automatically renewed if no major changes are necessary.

### Plan Revision

In certain situations it may become apparent, following the approval of the River Management Plan, that a certain action or group of closely related actions called for in the plan cannot, or should not, be implemented or that they should be modified. It is also possible that an essential action needed in the future may not be included in the River Management Plan.

If a revision is needed, or a new action is required to meet management needs, the River Management Plan can be amended. An amendment to the plan would essentially deal with a single issue that can be addressed without requiring revision of other parts of the plan.

The River Management Plan and the Land and Water Use Guidelines may be amended only through the same procedures by which they were originally approved, thus requiring the same public involvement, consultation and legal compliances that were required as part of the original planning process.

The plan should undergo review at least every five years, although the Council may determine by majority vote that some revisions are sufficiently critical to warrant more frequent reviews. Petitions for amendments may be submitted to the Council by any of its members at any time. Any such submission shall include all information which the Council determines to be appropriate for full and proper consideration of the proposed amendment. The consideration of amendments to the plan shall be made by the Council.

Specifically, an amendment to the River Management Plan requires:

1. Clear definition of the issue or problem to be addressed

2. Adequate documentation and analysis of information about the issue or problem

3. Identification and analysis of alternative actions to address the problem or issue, including the selection of a proposed action

4. Recommendation of the majority of the members of the Upper Delaware Council

5. Review by the Citizens Advisory Council

6. Preparation of an environmental impact statement or assessment to identify the impacts of the proposal and other alternatives

7. Two or more public hearings in each of the directly affected states

8. Approval by the Secretary of Interior

9. Publication in the Federal Register

10. Submission to the appropriate committees of the House of Representatives and the Senate for a ninety day review

Minor Amendments

There may be need at various times to make minor or technical changes to the River Management Plan that do not substantively change the intent or standards defined in the plan. Such changes may be incorporated into the plan under the following conditions and procedures:

1. There is clear definition of the issue or problem to be addressed.

2. Adequate documentation and analysis of information about the issue or problem is presented.

3. Identification and analysis of alternative actions has been done to address the problem or issue, including the selection of a proposed action.

4. The proposed amendment must be consistent with the intent of the river management plan, the land and water use guidelines and the Wild and Scenic River Act.

5. The proposed amendment will be advertised publicly in accordance with the standards defined in this section.

6. The proposed amendment will be read at the meeting of the Council following the advertisement, following which oral and written comment will be received from the public.

7. The vote by Council membership will taken the following month, with a unanimous vote in support of the amendment by all members of the Council being necessary for it to be adopted.

8. Any proposed amendment not meeting these requirements must follow the regular plan revision procedure.

Notification and Reports

The Council will publish notice 10 days in advance, in at least two newspapers with general circulation within the river corridor, of a11 Council meetings and business to be transacted at such meetings.

The Council shall report annually to the Secretary of the Interior, the membership, and the Citizens Advisory Council regarding the effectiveness of the implementation of the management plan.

The report shall include a review of the following:

1. Conformance of relevant local plans, laws, and ordinances and their enforcement with the Land and Water Guidelines and River Management Plan

2 Public and private projects, whether planned or underway, which may have a significant impact on the river or the river corridor

3. Actions taken or considered by the Council, including the passage or consideration of minor amendments to the plan, in carrying out its project review responsibilities and in the performance of its other coordinating functions

4. Letters of interpretation issued by the Council to clarify any provisions of the Management Plan

5. Letters of interpretation, requested by the Council from any members, clarifying the meaning of existing authorities related to the management plan

6. Other items appropriate to the report

More frequent reports may be issued at the discretion of the Council.

## Management Responsibilities of the Towns and Townships

The eight New York towns and the seven Pennsylvania townships serve an important management role along the Upper Delaware. Their greatest responsibility lies in implementing and enforcing comprehensive plans and zoning ordinances to manage land uses within the river corridor in a way that is not detrimental to the purposes for which the river was designated. Implementation of the town-related sections of the plan are subject to the availability of funds. Responsibilities of federal agencies under this plan will not revert to local governments in the event that funding is not available to those federal agencies.

The following are the specific responsibilities of the local governments for management of the Upper Delaware:

1. Participation as voting members on the Upper Delaware Council

   a) The representative of each New York town will be a town board member or an individual appointed by and reporting to the town board, serving at the pleasure of the board

   b) The representative of each Pennsylvania township will a member of the board of supervisors or an individual appointed by and reporting to the board, serving at the pleasure of the board

   c) One alternate from each New York town and each Pennsylvania township may be chosen in the manner described in (a) and (b)

2. The opportunity to participate, on a rotating basis, as officers of the Upper Delaware Council

3. The implementation and enforcement of comprehensive plans and land use regulations and management techniques for protection of the land and water resources of the river and the river corridor (The implementation of comprehensive plans is very important in relation to zoning ordinances; in New York State law, however, a number of Delaware River towns have adopted zoning ordinances but do not have comprehensive plans on which they are based; this is inconsistent with state law and could jeopardize the legality of the entire zoning ordinance)

4. The implementation and enforcement of ordinances prohibiting the disposal of solid and toxic wastes

5. The implementation and enforcement of ordinances restricting floodplain development

6. Where contracts for the removal of solid waste from the river corridor or the provision of law enforcement along the river have been entered into between the National Park Service and the river towns and townships, those services will be provided

7. Consideration of the appointment of park and recreation boards to coordinate the development, management, and maintenance of recreation facilities related to the river corridor for local residents and, where desired, for visitors, with the object of minimizing conflicts between the two groups; such boards may seek technical and financial assistance from state and federal agencies

8. Consideration of the establishment, by New York towns, of conservation commissions to assist in implementation of the management plan; these commissions are eligible for up to 50% State aid for their operation

9. Adherence by the New York towns to the State Environmental Quality Review Act with respect to their proposed actions including funding or regulatory approval

**Management Responsibilities of the Counties**

Five counties are affected by the Upper Delaware River designation: Wayne and Pike in Pennsylvania; Delaware, Sullivan, and Orange in New York. While the counties have no formal representation on the Council, they do have the following important responsibilities for assuring the successful implementation of the management plan:

1. The county planning offices should continue to provide technical assistance including, but not limited to, technical assistance for local planning and zoning

2. The counties should continue to enforce all existing laws and ordinances within their purview as they may pertain to the Upper Delaware

3. The counties should bring management and enforcement problems to the attention of the participating governments by notifying the Upper Delaware Council

4. The New York county sheriffs should enforce the State boating laws; recent legislation enables New York counties and towns to receive up to 75% State aid for enforcing boating laws and up to 90% for related equipment

5. The counties should enforce state and local soil conservation laws, except where such responsibilities have been specifically assigned to another agency

6. The counties should encourage landowners to become county conservation district cooperators

7. Sullivan County, New York should continue to manage the Minisink Battlefield and Fort Delaware historical sites

**Management Responsibilities of the States**

The States of Pennsylvania and New York have many responsibilities for the management of resources along the Upper Delaware River.

Pennsylvania

The Commonwealth of Pennsylvania draws its authority for participation in the management plan from the Special Provisions for the Upper Delaware River and from Section 8 of the Pennsylvania Scenic Rivers Act, which authorizes the Secretary of Environmental Resources to enter into agreements with the federal government for joint management of Pennsylvania components of the national scenic river system. The primary responsibility of the Commonwealth of Pennsylvania is to continue the administration and enforcement of its laws on the river and in the corridor area. By Executive Order, through Memoranda of Agreement or Memoranda of Understanding with the Council, Pennsylvania should develop and approve a state policy to assure that all existing legal, regulatory, funding, and administrative mechanisms and programs are consistent with and supportive of the management plan. Emphasis should focus upon, but not be limited to, the following programs and actions:

1. Participation as a voting member on the Upper Delaware Council: its representative will be the Secretary of Environmental Resources or his her designee; the representative will also serve as contact person for other state agencies affected by the management plan; an alternate member may be selected by the same method

2. Adoption of the approved River Management Plan as a component of the Pennsylvania Statewide Comprehensive Outdoor Recreation Plan and provision of financial assistance to the Council or the townships for the implementation and maintenance of the plan, pending the availability of funds

3. Continued administration and enforcement of fish management, boating laws, and relevant pollution control laws by the Fish Commission

4. Continued administration and enforcement of game and wildlife laws by the Game Commission

5. Continued vigorous promotion of its cooperative farm and forest game management program by the Game Commission

6. Continued administration and enforcement of water quality laws and regulations; timber mining, and hazardous waste control laws; dams and encroachment permits, submerged lands and water allocation permits; and solid waste control laws by the Department of Environmental Resources

7. Continued management of wildlife by the Game Commission, forest land by the Department of Environmental Resources, and fishing access sites by the Fish Commission

8. Continued assistance, from the Department of Environmental Resources and the Department of Community Affairs, in the development, management and maintenance of needed recreational facilities such as river rest areas or camping facilities: this should be done in concert with the private sector, non-profit groups or other governmental entities, where consistent with local ordinances and with the concurrence of the local township government in which such facilities are proposed to be located

9. Provision of technical and legal assistance to the Council and to local governments through existing programs of the Department of Community Affairs and the Department of Environmental Resources

10. Continued maintenance of state highways and bridges by the Department of Transportation and the Joint Interstate Bridge Commission

11. Continued assistance in the preservation of historical and archeological sites by the Historical and Museum Commission

12. Continued administration and enforcement of wetland and floodplain laws by the Department of Environmental Resources and the Department of Community Affairs

13. Continued enforcement of erosion and sedimentation conservation programs by the Department of Environmental Resources

14. Consideration by the Economic Development Committee of the Governor's Cabinet of actions or policies which could be taken to support economic development within the Upper Delaware River area, and coordination of any such actions or policies with local officials and the Upper Delaware Council

15. Consideration by the Pennsylvania Rural Issues Task Force of actions or policies which could be taken to support agricultural and rural development within the Upper Delaware River area, and coordination of any such actions or policies with local officials and the Upper Delaware Council

16. Notification by the Public Utility Commission to the Upper Delaware Council, the Federal Energy Regulatory Commission, and the Delaware River Basin Commission concerning any utility development proposals that may have potential impacts on the river or the river corridor

17. Notification of the townships and the Council by the Department of Transportation before evaluating sites for potential scenic road pulloffs and similar actions

New York

The State of New York draws its specific authority for involvement in the management plan in part from the Wild and Scenic Rivers Act and its Special Provisions for the Upper Delaware River. Although the Upper Delaware is not a state-designated wild and scenic river, the State's Wild and Scenic Rivers Act specifically authorizes the Department of Environmental Conservation to cooperate with federal agencies involved in national wild and scenic rivers located in the state. New York's basic responsibility for the Upper Delaware involves the continued administration and enforcement of its existing laws. By Executive Order, through Memoranda of Agreement or Memoranda of Understanding with the Council, New York should develop and approve a state policy to assure that all existing legal, regulatory, funding, and administrative mechanisms and programs are consistent with and supportive of the management plan. Emphasis should focus upon, but not be limited to, the following tasks:

1. Participation as a voting member on the Upper Delaware Council; its representative will be the Commissioner of the Department of Environmental Conservation or his/her designee; the representative will also serve as the contact point for all other state agencies affected by the management plan; an alternate member may be selected by the same method

2. Adoption of the approved River Management Plan as a component of the New York Statewide Comprehensive Outdoor Recreation Plan and provision, subject to the appropriation of funds by the Governor and the Legislature, of financial assistance to the Council or the towns for the implementation and maintenance of the plan

3. Continued administration and enforcement of fish and wildlife laws by the Department of Environmental Conservation

4. Continued administration and enforcement of water quality laws by the Department of Environmental Conservation

5. Continued administration and enforcement of hazardous waste control and solid waste management laws by the Department of Environmental Conservation

6. Continued protection of water and administration and enforcement of wetland and floodplain laws by the Department of Environmental Conservation

7. Continued implementation of the State Environmental Quality Review Act by the Department of Environmental Conservation

8. Continued administration and enforcement of mining laws by the Department of Environmental Conservation

9. Continued implementation of agricultural land protection programs by the Department of Agriculture and Markets

10. Continued administration of soil and water conservation programs by the Department of Agriculture and Markets

11. Continued administration of state forestry laws

12. Continued management and ownership of state forest preserve land and Department of Environmental Conservation river access sites

13. Provision of advice and technical assistance regarding cultural and historic preservation by the Office of Parks, Recreation, and Historic Preservation

14. The continued maintenance of state highways and bridges within the river corridor by the Department of Transportation and the Joint Interstate Bridge Commission special concern should be given to controlling the growth of vegetation which is obstructing views of the river, particularly along Route 97 in the lower half of the corridor, and repairing and repainting deteriorating guard rails also along that stretch

15. Continued monitoring by the Department of Agriculture and Markets of project impacts on farmland, in cooperation with the Upper Delaware Council

16. Provision of legal and technical assistance to the Council and to affected local governments through existing state programs of the Departments of State, Commerce, and Environmental Conservation

17. Continued assistance to the counties and municipalities for the enforcement of the state boating laws

18. Consideration by the Governor's Task Force on Rural Development of actions or policies which could be taken to support agricultural and rural development within the Upper Delaware area, and coordination of any such actions or policies with local officials and the Upper Delaware Council

19. Consideration by the Governor's Task Force on Economic Development of actions or policies which could be taken to support economic development within the Upper Delaware area, and coordination of any such actions or policies with local officials and the Upper Delaware Council

20. Consideration by the Tourism Development Program of actions or policies which could be taken to support tourism opportunities in the Upper Delaware area, and coordination of any such actions or policies with local officials and the Upper Delaware Council

21. Notification by the Public Service Commission to the Upper Delaware Council, the Federal Energy Regulatory Commission, and the Delaware River Basin Commission concerning any utility development proposals that may have potential impacts on the river or the river corridor

22. Notification to the towns and the Council by the Department of Transportation before evaluating sites for potential scenic road pulloffs and similar actions

23. Continued review by the Department of Health of realty subdivision actions in Sullivan and Delaware Counties; and continued review of similar activities in Orange County by the Orange County Department of Health

24. Continued administration and enforcement of all other of its existing laws as they may apply to the Upper Delaware River corridor

**Management Responsibilities of the Delaware River Basin Commission**

The Delaware River Basin Commission is empowered to participate in the Upper Delaware Council as the agency charged with the responsibility of carrying out the terms of the Delaware River Basin Compact, a federal-interstate agreement signed by the federal government, and the States of New York, Pennsylvania, Delaware and New Jersey. Its purpose is to act for and be responsible to the five parties in the planning, development, and control of water resources in the Delaware River Basin. Based on these responsibilities, the Commission was designated under the Special Provisions for the Upper Delaware as a Scenic and Recreational River as a full partner in the cooperative intergovernmental planning effort.

The responsibilities of the Delaware River Basin Commission within the designated Upper Delaware Scenic and Recreational River segment are:

1. Participation as a voting member in the Upper Delaware Council to assure full use of its authorities; the representative is the Executive Director or designee

2. Determination of those features of the approved management plan which should be considered by the Commission for, and thereby provided the legal protection afforded by, inclusion in the Commission's Comprehensive Plan for the Delaware River Basin

3. Continued administration and enforcement of existing regulatory responsibilities, in cooperation with the Upper Delaware Council, on matters affecting the designated Upper Delaware Scenic and Recreational River segment

4. Development and approval of a policy to assure that all of its existing legal, regulatory, funding, and administrative mechanisms and programs are consistent with and supportive of the management plan

As part of the above, any project subject to review by the Delaware River Basin Commission will be evaluated as to whether it will have a substantial effect on the water resources of the designated river segment and, if so, whether it will impair or conflict with the Commission's Comprehensive Plan.

**Management Responsibilities of the Secretary of Interior**

The National Park Service will represent the Secretary of the Interior in managing the Upper Delaware. The National Park Service will coordinate with the Council, and all of its activities will be consistent with this plan. The specific responsibilities of the Department of the Interior are:

1. Management of lands, structures, and property owned and/or leased by the National Park Service, and administration of its other management responsibilities, in a manner consistent with the Special Provisions for the Upper Delaware and the Wild and Scenic Rivers Act; in administering its responsibilities the National Park Service will consider recommendations made to it by the Upper Delaware Council

2. Provision of cultural and natural resources interpretation, boating and safety programs, and visitor protection services on the water surface for the public

3. Participation as a voting member of the Upper Delaware Council

4. Development of a contract or memorandum of agreement with the Upper Delaware Council for professional services required for the review of local plans, laws, and ordinances with respect to the Land and Water Use Guidelines and the River Management Plan, and monitoring the enforcement of those plans, laws and ordinances

5. Contracting with river towns and townships for local law enforcement assistance and the collection and disposal of solid waste

6. Assignment, subject to appropriations, at the request of and to the Council, of such professional technical staff to assist in carrying out the management plan; such staff assistance, to be provided by the Department of Interior on a non-reimbursable basis and subject to the appropriation of funds, shall comprise the equivalent of up to two full-time positions annually and may include personnel detailed from any Interior agency. Services may include, but need not be limited to, legal, grants, planning, and administrative expertise

7. Provision, at the Council's request, of technical assistance to the states, the counties, and the towns to enable them to develop and implement programs compatible with the management plan

8. Consideration of the advice of the Council while carrying out existing National Environmental Policy Act review requirements under the River Management Plan of proposed federal, state, regional and local projects

9. Strongly support the provision of legal assistance to the Council and the participating towns to assist in implementing the plan and to defend against plan-related challenges to local laws, plans,and ordinances

10. Provision of financial assistance, pending the availability of funds, to river towns and townships to prepare or revise local comprehensive plans and land use ordinances

11. Provision of funding, pending the availability of funds, for adequately staffing and operating the Upper Delaware Council

12. Preparation, on an annual basis, of a program for managing recreational use on the Upper Delaware River and cultural resources within the river corridor, to be submitted to the Council for its review and comment

13. Pending the availability of funds, enter into written agreements with local rescue squads, ambulance services, or fire departments for river rescues and river-related emergencies that take place in or along the designated section of the Upper Delaware Scenic and Recreational River; the terms of such agreements, including cost reimbursement, will be negotiated between the National Park Service and the cooperator

The National Park Service will not license commercial vendors in the river corridor for concession services.

**Responsibilities of Other Federal Agencies**

The Wild and Scenic Rivers Act requires any federal agency proposing, conducting, supporting, or regulating significant activities directly affecting the Upper Delaware River corridor to take the following actions:

1. To inform the Secretary of any proceedings, studies or other activities within their jurisdiction that may affect the river, before such activities are commenced or resumed

2. No department or agency of the United States may assist by loan, grant, license, or otherwise in the construction of any water resources project that would have an adverse impact on the values for which the Upper Delaware River was designated

Responsibilities of the Upper Delaware Citizens Advisory Council

The Special Statutory Provisions for the Upper Delaware mandated the formation of the Upper Delaware Citizens Advisory Council. The membership of the Advisory Council is set at seventeen: one named by the Secretary of the Interior, two named by the Governor of New York, two named by the Governor of Pennsylvania, two each by the Secretary of Interior to be selected from a list of nominees proposed by the three New York counties, and three each by the Secretary of Interior to be selected from a list of nominees proposed by the two Pennsylvania counties.

The Upper Delaware Citizens Advisory Council has the following responsibilities under the plan:

1. Encourage maximum public involvement in the development and implementation of the plans and programs enacted under the legislation

2. Participate in the development of the Land and Water Use Guidelines

3. Participate in the development and approval of the management plan

4. Upon completion of the River Management Plan, report, not less than once each year, to the Secretary of Interior and the Governors of New York and Pennsylvania, its recommendations, if any, for improvement of the programs authorized under the Act, or the programs of other agencies which may relate to the Upper Delaware River corridor

5. Continue to conduct public forums and seminars on relevant river corridor issues, such as fish and wildlife management and cultural resources preservation

6. Act as a clearinghouse, in cooperation with the Upper Delaware Heritage Alliance, for information relating to the preservation and reconstruction of cultural resource sites

7. Act as a forum to hear individual concerns or grievances about the management plan or its implementation

## Management Actions in Non-Participating Towns

The plan recognizes that each town will have the option of joining the Upper Delaware Council. Those towns which choose to join will be provided all of the assurances and benefits of the plan with respect to certain key provisions and authorities in Section 704.

The River Management Plan clearly contemplates, and is predicated upon, local land use authorities, local discretion, and local land use enforcement. Participation on the Council will effectively insure the maximum retention of this authority by providing town governments a strong voice in the decision-making required by Section 704.

Alternately, a town may elect not to join the Council. In such a case, the key decisions in Section 704 will be accomplished solely by the National Park Service with no provision for effective local input (although the National Park Service may request the advice of the Council or a non-participating town may request the assistance of the Council). If a town elects not to participate, it will have decided not to avail itself of the benefits and assurances that have been provided to Council members, including the provisions for maximum local input into decisions within that town or within the corridor.

Membership on the Council is an ongoing, voluntary activity of its members. A non-participating town may decide, at a later date, to join the Council.

More specifically, in non-participating towns:

1. The National Park Service will review the laws, plans, and ordinances of a non-participating town. This will be done by the National Park Service or by a memorandum of agreement or contract with other levels of government having authority in the river corridor. The National Park Service will not contract with the Council for such reviews in a non-member town.

2. The National Park Service will monitor the enforcement of town laws, plans, and ordinances. This will be done by the National Park Service or by memorandum of agreement or contract with other levels of government having authority in the river corridor. The National Park Service will not contract with the Council for the monitoring of such enforcement in a non-member town.

3. Section 704 funds for planning and related purposes will not be made available to non-participating towns.

4. The National Park Service will reserve the right in non-participating towns to acquire the balance of its acquisition authority in Section 704 (d) (to a total of 1,450 acres).

5. In non-participating towns the only restrictions on the use of eminent domain shall be those contained in Section 704 (e) (4), as determined solely by the National Park Service. The resale provision in this plan may not apply to any lands so acquired in non-participating towns.

6. The River Management Plan provides Council town members with the opportunity to comment on and effect changes in the plans and programs of the National Park Service in the valley or in that town, including programs involving river recreation management, lands owned or leased by the National Park Service, the allocation of law enforcement and trash removal funds, and technical assistance. Non-members may not be afforded the same opportunities to effect changes in, and with respect to, National Park Service programs, subject solely to the discretion of the National Park Service.

7. Council financial and planning assistance to its members can not be provided to non-participating towns, including financial aid for legal assistance, planning, and advisory services.

This plan provides numerous incentives for towns to join the Upper Delaware Council, principal among them being the opportunity for effective local input into the decisions called for in Section 704. Towns which choose not to join the Council, a voluntary intergovernmental partnership, will lose that opportunity.

# *LAND MANAGEMENT PROGRAM*

## Overview

This River Management Plan provides for a unique cooperative management arrangement among landowners and local, state, interstate, and federal agencies in the implementation of the Upper Delaware legislative and planning goals. It applies only within the final landward boundaries of the Upper Delaware Scenic and Recreational River corridor.

This River Management Plan meets the intent of Congress by protecting the qualities for which the Upper Delaware was designated a Scenic and Recreational River. This plan also satisfies federal requirements for land protection plans. Which stress the use of alternatives to fee title acquisition of land, that were enacted by the National Park Service in 1983 in response to concerns over federal land acquisition policies.

**A** distinguishing characteristic of the Upper Delaware valley is the overwhelming amount of corridor lands in private ownership. The continuation of this private ownership is encouraged by both the Wild and Scenic Rivers Act [Section 1277) and the Special Statutory Provisions for the Upper Delaware River,[Section 704(d)] which specifically limit the amount of land that may be acquired by the Secretary. Recognizing this exceptional feature of private ownership while satisfying the legislative mandate to protect the "essential qualities" of the river corridor necessarily requires employing a variety of land protection methods. This section highlights the specific approaches which will be used to accomplish this protection.

## Objectives

The objectives of this section are:

1. Develop procedures to determine the conformance of local plans, laws, and ordinances with the Land and Water Use Guidelines and the River Management Plan

2. Develop procedures to review significant development proposals and to monitor enforcement programs

3. Define a set of alternatives to fee title acquisition that can be implemented by private interests, local governments, the states, and the National Park Service, and which depend particularly on existing local and state laws

4. Define procedures for the National Park Service to acquire land for recreation sites, visitor contract facilities, and administrative purposes

5. Define procedures to be used when the National Park Service, as a last resort, acquires land through the use of eminent domain

## Specific Management Responsibilities

The resources of the Upper Delaware will be protected and managed primarily through the use of existing federal, state, and local authorities.

Congress, in designating the Upper Delaware as a unit of the National Wild and Scenic Rivers System, recognized that the river corridor possesses certain outstanding natural and cultural characteristics which should be protected for the benefit of present and future generations. The corridor has retained those characteristics through the actions of its citizens and landowners. Because of this and a desire for a limited federal role, Congress directed the Department of the Interior to develop a cooperative approach to the management of the area. This approach continues to rely principally on the actions of local governments and citizens to protect the resources of the corridor. There is also a significant role for the state of New York and the Commonwealth of Pennsylvania.

Local and state governments have broad responsibilities and many authorities which can be used to protect the river corridor's resources. All federal, state, and local agencies are obliged to be consistent in their decision-making with the 1981 Land and Water Use Guidelines within the boundary established by the Special Provisions for the Upper Delaware in 1978 (These guidelines will be replaced in their entirety by the Land and Water Use Guidelines included in this plan). Several towns have already implemented zoning and subdivision ordinances and similar measures, which in addition to meeting local needs, often do exactly what Congress intended when it enacted the Upper Delaware legislation. Other towns are considering the use of such devices. In addition, both states administer several programs, having a direct bearing on land use, which can and should be used to achieve the goals of the Upper Delaware legislation. In Pennsylvania, these include erosion and sedimentation regulations, and extensive sewage planning requirements. New York has a wetlands protection program and state environmental quality review requirements.

Leaving land use decisions in the hands of local governments is the most important step in building a cooperative working arrangement among all levels of government. The programs of state governments can complement these local efforts at land use regulation. In many cases, these programs provide the opportunity to achieve the objectives of Congress without having to invent new approaches or institute added regulations. Because new regulations are sometimes required, however, and for the purpose of judging the adequacy of existing regulations and programs, Congress required the Secretary of the Interior to develop "guidelines for land and water use measures." These are the Land and Water Use Guidelines included in this plan.

The basic purpose of the Land and Water Use Guidelines is to encourage a cooperative approach to land use decisions by all the various agencies, at all levels of jurisdiction, within the Upper Delaware River corridor. The guidelines define six principles to be met by participating governments in carrying out the requirements of the Upper Delaware legislation:

1. Maintain the high water quality found in the Upper Delaware River

2. Provide for the protection of the health, safety, and welfare of residents and visitors; and provide for the protection and preservation of natural resources

3. Provide for recreational and other public uses while protecting the Upper Delaware River as a natural resource

4. Provide for the continuation of agricultural and forestry uses

5. Conserve river area resources

6. Maintain existing patterns of land use and ownership

The federal role is to manage the recreational use of the river, to represent the federal interest in the protection of the area, and to assist local and state governments in meeting the objectives of the River Management Plan and the Land and Water Use Guidelines; it is not to supersede the role of state or local governments or to impose regulations on them. Rather, the federal role is a cooperative one, working with local governments.

The Land and Water Use Guidelines provide direction for all cooperating governments—local, state, and federal—to determine: (1) the land and water uses which are clearly appropriate in the corridor, (2) the uses which might, with conditions, be deemed appropriate, and (3) the uses which might pose a threat to the resources of the corridor, and hence are inappropriate. Local governments which adopt land use regulations based on the guidelines will be deemed to be in "substantial conformance" with them and will often benefit in this determination by programs already being implemented by state and federal agencies.

The Land and Water Use Guidelines will be implemented through the use of existing legal authorities; therefore, the guidelines have been revised within the framework of those authorities now granted to local and state governments. The guidelines are not intended to require any local government to take actions which might be inconsistent with, or contrary to its own laws or to require local governments to assume any of the existing responsibilities of state or federal agencies.

Summarizing, the purposes of the Land and Water Use Guidelines are to:

1. Protect the health, safety, and welfare of river corridor residents

2. Protect and enhance the unique characteristics of the Upper Delaware River corridor

3. Protect, encourage, and promote the continuation of existing traditional land and water uses

4. Identify those future land uses which are appropriate; would be appropriate with conditions; and would not be appropriate

5. Identify standards, regulations, and types of programs, which substantially conform to the guidelines, and therefore might be applied by local governments

6. Encourage local governments to conform to these guidelines

7. Assure that the actions of all levels of government—local, state, and federal contribute to true cooperative management of the Upper Delaware; establish that these actions are consistent with the River Management Plan, the Special Provisions for the Upper Delaware, and the National Wild and Scenic Rivers Act

## Upper Delaware Council

The Upper Delaware Council will have the responsibility of reviewing local plans, laws, and ordinances to make the recommendations regarding conformance with the Land and Water Use Guidelines and the River Management Plan. This section defines the five parts of this review process. They are: (1) the recommendations regarding substantial conformance; (2) the review of ordinance amendments; (3) the review of significant projects; (4) the review of challenges and variances; and (5) the review of enforcement programs.

The review process will be carried out by the Upper Delaware Council under a cooperative agreement entered into with the Secretary of the Interior.

### Recommendations Regardine Substantial Conformance

The Upper Delaware Council will review the towns' laws, plans, and ordinances to make recommendations to the Secretary regarding their substantial conformance with the Upper Delaware legislation, the River Management Plan, and the Land and Water Use Guidelines. Substantial conformance shall be conformance, with respect to the list of compatible, conditional, and incompatible new land uses contained in the Land and Water Use Guidelines, and with the substance of both the River Management Plan and each of the principles and objectives set out in the guidelines. The Secretary of the Interior will consider the Council's recommendations in making the final determination of substantial conformance.

This review shall be made no later than one year following the date of approval of the River Management Plan. A second review of a town, not already determined to be in substantial conformance, shall be made two years following the approval of the River Management Plan. Thereafter, review opportunities shall be made available once every six months for towns that so request.

Until and unless a local government has requested a new evaluation of substantial conformance, the results of the initial review(s) shall serve as the basis for the Secretary's exercise of the authority to acquire land in fee title or in partial interest, subject to the limitations of the Upper Delaware legislation. However, more failure to adopt laws, plans, or ordinances substantially conforming to the guidelines shall not be justification for exercising this authority unless there exists a clear and direct threat of development (an approved or likely to be approved use) counter to the objectives of the Land and Water Use Guidelines. In such instances, the authority to acquire interests in lands shall be restricted to those affected lands.

Moreover, the affected town shall first be afforded a 45-day period to remedy the situation itself or bring its laws, ordinances, and plans into conformance in a way which will alleviate the threat. No action shall be taken by the Secretary without the advice and recommendations of the Council.

The Council shall make its recommendations regarding substantial conformance with the River Management Plan and the Lana and Water Use Guidelines regarding a town's ordinances based on the full range of laws, ordinances, plans, programs, and regulations of entities such as counties, states, and the Delaware River Basin Commission in place within the locality, offered by the town as evidence.

The Council may consider many factors in conducting this review, including the practical importance of any particular guideline objective to a town or township's efforts to come into substantial conformance.

The Council shall, prior to making the recommendation that a town is not in substantial conformance, provide the affected town with an opportunity to explain why it should not be so held, offer evidence of mitigating factors, or make changes to conform.

Review of Ordinance Amendments

There are three types of ordinance amendments which are typically enacted by local governments. These include: (1) technical amendments to correct errors or oversights in printed documents; (2) curative amendments which involve a landowner's challenge to a zoning ordinance; and (3) amendments which involve revisions of wording or standards to accomplish a major or minor policy change. Technical amendments should not be subject to individual review by the Council, although a general review might be made of a number of such amendments as part of the enforcement oversight process. Curative amendments are unique to Pennsylvania and are, in reality, court-type challenges which should be evaluated in the same manner as variances and other challenges.

Amendments which involve changes of policy will be subjected to the same review procedure as those specified above for ordinances. Included within this category are changes to one or more of the zoning district boundaries within the corridor, the permitted uses within the river area, or standards which are designed to meet (or given as evidence of meeting) the objectives of the Land and Water Use Guidelines. All amendments of provisions which cause a town to be determined to be in substantial conformance will be cause for a re-evaluation of such substantial conformance status insofar as the amendments would affect it.

Amendments to ordinance provisions not given as evidence of substantial conformance should not be subject to formal review. The Council will monitor all amendments as a part of the enforcement program and for the purpose of ascertaining what effects they may have on relevant provisions. It will be the Council's responsibility to establish the system for being notified of such amendments.

Review of Significant Projects

Individual development projects, which taken alone, could result in clear and direct threats on the river corridor will be reviewed by the Upper Delaware Council so that it may determine whether there are any significant threats. The Council will identify projects through a combination of a legal notice monitoring program and cooperative agreements with counties and towns for the sharing of application data.

Two classes of projects will be reviewed by the Council within those towns not yet determined to be in substantial conformance. Only Class II projects will be individually reviewed in those towns whose plans, ordinances, and local laws have been determined to substantially conform to the guidelines. It should be noted that Class I and Class II projects are to be reviewed, not flatly prohibited. Those classes of projects are described below:

A. Class I Projects

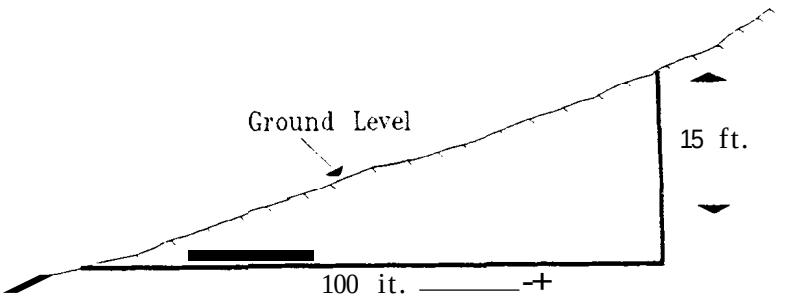
1. Subdivisions and single-family residential buildings or developments of five or more lots or equivalent dwelling units

2. Multi-family residential units

3. Subdivisions involving construction of new roads and other improvements

4. Non-agricultural or non-residential projects, including new uses and the expansion or change of existing uses, outside of hamlets

5. Projects or developments, within the river corridor, other than single-family residential subdivisions, involving the use of more than 20 acres or clearing for building purposes of more than 10% of a lot or lots on slopes greater than 15% in grade




Note: 15% slope is calculated as 15 vertical feet per 100 horizontal feet

Depiction of 15% Slope

6. Subdivisions (other than land transfers for lot improvement purposes) involving lots of less than 2 acres in size

7. Off-premises advertising signs, excluding land posting notices

8 Projects involving construction or improvements within 100 feet of the high water mark of the river or exceeding 35 feet in height, excluding agricultural and related structures.

B. Class II Projects

1. Projects subject to conditional use, special use permits, and site plan review procedures under local ordinances or which, if approved, would take a town out of substantial conformance with the guidelines

2. Subdivisions of 25 or more lots within the river corridor

3. River related recreational use projects

4. Projects involving stream discharge of sewage effluent or the use of central sewage or water services

5. Projects involving facilities in the river corridor to be constructed or operated by governmental agencies

Reviews will include a careful and thorough consideration of impacts on the river corridor using the guidelines as a basis for evaluation. The Council will also have the responsibility to inform and make recommendations to affected governments and individuals in instances where a town does not or is not able to reject or modify a development proposal which represents a clear and direct threat to the river corridor.

It should be clarified that the Council has no authority to review development projects prior to their formal submission to the relevant township agencies, and that the Council's review and recommendations must be accomplished within the 45-day period required under the Special Provisions for the Upper Delaware. The Council's review will start at the same time as that of the affected municipal agency(ies), and the town or township will not have to await the input of the Council before making its decision.

Generally, project reviews within towns whose ordinances do not yet substantially conform will be for purposes of identifying all potential threats early enough in the development process in order for the town, the Upper Delaware Council, or the Secretary of the Interior to take remedial action. Reviews within substantially conforming towns will be directed toward recommending, as part of a site plan review process, measures which will improve a development proposal and protect the river corridor. Local ordinances and decisions that are required to bring towns or townships into compliance with state law shall not be grounds for a finding of non-conformance.

Review of Challenges and Variances

There are, under both New York and Pennsylvania law, various challenges which landowners or other interested parties can make with respect to ordinance provisions. Landowners may be entitled to variances of such provisions in cases of hardship. Zoning variances and ordinance challenges are initially processed by Zoning Boards of Appeal (Zoning Hearing Boards in Pennsylvania). These boards are separate and distinct legal entities. Town governments' abilities, therefore, to control such matters are usually limited to appearances as "friends of the court" or aggrieved parties.

Accordingly, the Upper Delaware Council will monitor all legal challenges and requests for variances to determine if an appearance by the Council is appropriate. It will be the Council's responsibility to establish the system by which it will receive variance applications from the towns and townships. The following types of variances will be reviewed by the Council:

1. Variances which would involve properties bordering on the river

2. Variances with regard to allowable uses
3. Variances which would directly vary the standards for more than one lot, dwelling unit, or equivalent dwelling unit

*3.* Variances which would reduce a development standard by more than 30% to accommodate a project

*5.* Variances proposed in connection with a Class II project

The Council will review all such variance requests on a timely basis. The Council will also generally monitor other variances issued (both of a zoning and non-zoning nature) as part of the enforcement oversight process.

Nothing in the guidelines is intended to prevent a town from providing for variances from the requirements contained in its land use ordinances. In Pennsylvania, variances are generally granted because of unique physical conditions or circumstances relating to lot size or shape, or unusual topography peculiar to a particular lot. Which would deprive the owner of the reasonable use of his or her property if they had to conform to the requirements of the local ordinance. In New York there are two distinct types of variances as delineated by numerous court decisions, area variances and use variances. (See Land and Water Use Guidelines section on variances and challenges; see also definitions)

In considering variance requests, towns must—by law—balance the hardship of the property owner against any impacts which granting the variznce would have on the public health, safety and welfare. This balancing will consider the impacts on the River and consistency with the objectives of these guidelines.

Pursuant to Section 704, the Secretary reserves the authority to prevent incompatible land uses, including any provided by a use variance. With respect to area variances, the Secretary--while he may not decline in advance to exercise his authorities will not acquire land under the power of eminent domain in situations in which the area variance has been properly granted under existing state law and has been approved by a Zoning Board of Appeals in New York, or a Zoning Hearing Board in Pennsylvania, or upheld in a court of competent jurisdiction, and where the area variance does not constitute an action incompatible with the purposes of the plan and guidelines.

In general, area variances do not have the potential to constitute clear and direct threats to the river corridor because they would be granted for compatible land uses based upon the unique characteristics or circumstances of a property (as opposed to use variances for incompatible uses).

Review of Enforcement Programs

Upon request, the Upper Delaware Council will provide information to the towns and townships explaining aspects of the plan and the guidelines. Particular attention should be paid to explaining what substantial conformance is and how it relates to the legislation, the plan, the guidelines, and to local plans, laws, and ordinances.

Communities whose laws, plans and ordinances substantially conform to the guidelines will be subject to less project review by the Upper Delaware Council. Consequently, enforcement of those ordinances is a key to the success of the land use management program. The Council, therefore, shall make an annual review of each town's enforcement program within the river corridor area by examining building permits issued, variances granted, and any patterns of ordinances amendments or project approvals which may have a bearing on the purposes for which the Upper Delaware was designated a Scenic and Recreational River. Most importantly, the Council should examine the pattern of actual land use changes which have occurred as compared to the Land and Water Use Guidelines and the towns' ordinances.

If the Council finds that a substantially conforming ordinance(s) is not being adequately enforced, it shall notify the town and make appropriate recommendations for correction of the problems which have occurred. It shall also offer to provide the town such legal and technical assistance as may be required to effectively resolve the problem No later than six months following any such notification (but not before the town has had sufficient opportunity to respond), the Council shall make a follow-up evaluation to ascertain if the situation has been corrected. In the even: it has not, the Council shall notify the Secretary of the Interior, making such recommendations as are provided for in the River Management Plan. Nothing herein, however, shall be construed as limiting the Council's right to notify the Secretary of the Interior earlier if the lack of enforcement of a provision(s) is likely to result in a clear and direct threat to a particular property.

None of the above review responsibilities will apply to lands outside the river corridor, and nothing herein should be construed as imposing requirements or suggesting authority for making recommendations regarding a town's land use management program outside the river corridor.

### Review National Park Service Land Acquisition Activities

The Council will monitor and review acquisition procedures used by the National Park Service to provide assurances to local communities that the plan is being properly implemented and to insure expeditious resale of any lands acquired by the National Park Service under the eminent domain provisions described later in this section.

## Towns and Townships

The adoption and enforcement of local plans, laws, and ordinances which relate to the protection of river corridor resources will be the backbone of the River Management Plan. These local actions will be reviewed by the Upper Delaware Council to determine whether they "substantially conform" with the Land and Water Use Guidelines.

The Land and Water Use Guidelines are intended to be standards for the fifteen towns and townships to use in the development or modification of their relevant plans, laws, and ordinances to carry out the purposes of this River Management Plan.

The Land and Water Use Guidelines establish a program designed to permit each unit of local government to meet the overlying principles and objectives in its own way. Criteria are established for lot size, building setback and height, slope ratio, sign restrictions, soil conservation, septic systems, solid and toxic wastes sites, radioactive waste disposal sites, floodplains, ground cover, junkyards, feedlots, timber harvesting, mining, utility locations, oil and gas transmission lines, vegetative screening, impoundments, water withdrawals, highway locations, water and sewer projects, agricultural land protection, campgrounds and recreational vehicle parks, and historic districts.

**A** town(ship) may request reconsideration directly by the National Park Service of recommendations made by the Council in the course of its review of the town's substantial conformance, review of ordinance amendments, review of significant projects, review of challenges and variances, or review of enforcement programs.

## Intergovernmental Responsibilities

When several layers of government and many agencies participate in river management programs, the complexity of the operation may increase. However, this complexity can be useful when it promotes the cooperative use of diverse resources and authorities to provide for more comprehensive river management.

The plan proposes that cooperative agreements, memoranda of understanding and other instruments be used to focus inter-agency efforts on river management.

## Commonwealth of Pennsylvania

Several Pennsylvania statutory and regulatory authorities are applicable to the Upper Delaware. Those of particular significance include state water quality certification, (NPDES) permits, fish and wildlife management laws, endangered and threatened species laws and agreements, forest management laws, mining regulations, solid waste disposal regulations, hazardous waste facility siting regulations, and pipeline and transmission line siting regulations. In addition, the Commonwealth is also subject to the standards set forth in the Land and Water Use Guidelines, insofar as they are applicable and consistent with state law.

Detailed management responsibilities for water quality, fish and wildlife, and endangered and threatened species are described in other sections of this plan.

The plan recommends that the Commonwealth of Pennsylvania adopt a state policy to ensure that all state management activities, programs, and reviews be conducted in a manner consistent with, and supportive of, the Upper Delaware legislation and the Plan.

## State of New York

The State of New York administers a large number of programs which have a direct effect on the resources of the Upper Delaware. These state programs address stream protection, water quality certification, freshwater wetlands protection, fish and wildlife management, threatened and endangered species protection, mining, state environmental quality review, solid waste disposal, hazardous waste disposal, pipeline and transmission line siting, and agricultural land(s) protection. In addition, the State is also subject to the standards set forth in the Land and Water Use Guidelines, insofar as they are applicable and consistent with state law.

Permit application reviews are undertaken for mining, hazardous waste, solid waste, utility rights-of-way, and in New York, the items listed in the previous paragraph. Under the State Environmental Quality Review Act, no agency involved in an action shall carry out, fund or approve the action until it has complied with the provisions of the Act.

The River Management Plan recommends that the State of New York adopt an Executive Order, signed by the Governor, to ensure that all state management activities, programs, and reviews be conducted in a manner consistent with, and supportive of, the Upper Delaware legislation and the River Management Plan.

### Delaware River Basin Commission

Jurisdiction of the Delaware River Basin Commission within the Delaware River drainage area is established by the 1961 Interstate/Federal Compact (P.L. 87-238).The Commission has permitting authority over projects in wetlands, floodplains, and the river, and over utility projects such as transmission lines over recreation areas.

### Citizens Advisory Council

The responsibilities of the Upper Delaware Citizens Advisory Council are as follows:

1. The Upper Delaware Citizens Advisory Council should sponsor annual public forums to present status reports on: land acquisition programs, interest in additional acquisition, project review procedures, community conservancies, and other issues of concern to valley residents and others.

2. The Citizens Advisory Council should seek the cooperation of the states, the National Park Service, and interested organizations for the presentation of this information.

### National Park Service

The National Park Service shares jurisdiction with the states for activities in and on the river relating to recreational use. This jurisdiction does not apply to the bottom of the river or land areas in the Upper Delaware River corridor. The National Park Service also has proprietary jurisdiction over lands and structures a which the agency owns or leases.

The agency will play a key role in the protection and management of the Upper Delaware River corridor. Its primary management responsibilities will be in the areas of river recreation, cultural resources preservation, the interpretation of natural and cultural features, visitor education, and public information. In addition, it will coordinate its program closely with the Upper Delaware Council and its member governments.

The National Park Service has the authority under this plan to acquire lands in certain instances, or, a willing seller - willing buyer basis,. not more than 124 acres, for river recreation and emergency access points, visitor contact facilities, ranger stations, a headquarters complex, parking facilities adjacent to Roebling's Delaware Aqueduct Bridge, the Zane Grey House, and for environmental protection. The Upper Delaware legislation also gives the agency the authority to provide interpretation of cultural resources, and to provide funding and technical assistance to the directly affected states and their political subdivisions for the preparation of relevant laws, plans, and ordinances required for these local units of governments to substantially conform with the objectives of the legislation.

Project Review Responsibilities of the National Park Service

The National Park Service representative to the Council will be an active participant in the review of all proposed projects coming before the Council. It will be the responsibility of the Service's representative to identify, in consultation and cooperation with other Council members, any project which would be, or has the potential to be, a clear and direct threat to valley resources or which, if approved by town government, would mean that the town would not be enforcing its laws, plans, and ordinances consistent with the plan and guidelines. Upon such a finding by the National Park Service representative, he/she shall immediately notify the Council membership, which in turn will notify the affected town, and the Secretary or his delegated designee. This notification shall occur within 21 days of the Council receiving the project for review.

Project reviews within towns whose ordinances do not yet substantially conform will be for purposes of identifying all potential threats early enough in the development process in order for the town, the Upper Delaware Council, or the Secretary of the Interior to take remedial action. Reviews within substantially conforming towns will be directed toward recommending, as part of a site plan and subdivision review process, measures which will improve a development proposal and protect the river corridor. During the project review period, the Council will seek to protect the corridor resources and to assure consistency between any proposed project and this plan and guidelines.

In those instances in which an affected town and the Secretary's designee have been notified, with the 21-day period, that a proposed project may pose a clear and direct threat to valley resources, the Council will seek in concert with the town to take mitigative action as defined in this section. When this has been accomplished, the Council will inform the Secretary and the affected town.

During the review period, the Council may request a determination from the Secretary or his designee stating whether a project is a clear and direct threat to valley resources, or, if approved by the town, whether the Secretary has determined that the town is not enforcing its laws, plans, and ordinances in a manner consistent with the plan and guidelines. The Council will immediately notify the affected town that it has requested a determination from the Secretary.

The Secretary will notify the Council as to the results of his review within 45 days from the date he/she receives a request from the Council.

## Use of Alternatives to Fee Title Acquisition

The River Management Plan has focused on options to maximize the use of existing authorities and alternatives to fee title acquisition. The fee title acquisition alternatives considered most practical for use in the management of the Upper Delaware include: the establishment and enforcement of local land use plans and ordinances, leases, exchanges, purchase-sellback, and conservation easements. These alternatives will be used only to mitigate the need for fee title acquisition when a land use is proposed that poses a "clear and direct threat" (see glossary for definition) to the river, although in a few instances, the landowner may prefer an outright sale of property.

### A. Leases

Leases are agreements, typically between a landowner and a tenant, that allow the tenant to use the landowner's property for a specified period. A lease can involve only partial rights to property use, for example covering only access, water, or timber.

Leases can allow resource managing agencies to have access to, or specific use of, land at a significantly lower initial cost than outright acquisition. Lease arrangements could be useful where owners do not need full use of the land and are willing to permit other uses. Leases are especially suitable for making land available for periodic special events or for recreational activities. Leasing also leaves land in private ownership and on local tax rolls.

### B. Exchanges

Agencies may acquire land or interests in land by trading land or interests already under their jurisdiction. Land trades between federal agencies are usually considered to be transfers. Trades of private land for federally owned land are usually defined as exchanges.

Exchanges may be for equal values, or values can be equalized by payment of cash. The Federal Land Policy and Management Act of 1976 (FLPMA) authorizes exchanges involving public lands and provides that cash equalization payments cannot exceed 25 percent of the total value of the lands transferred out of federal ownership. FLPMA also requires that the exchange be in the "public interest" considering federal land management as well as needs of state and local people, recreation, wildlife, minerals, and other values. Other requirements under FLPMA include consistency with agency mission and land use plans as well as findings of equal nonmonetary values including physical and esthetic qualities. The National Park Service may only use land for exchange which lies in the same state as the property being acquired.

### C. Purchase-Sellback

Agencies have traditionally acquired partial interest in land through the acquisition of easements, that is, by directly acquiring specific property rights. Other approaches, however, are available for obtaining specified rights from the owner of a property. A member agency or jurisdiction could purchase the land in fee, attach the desired restrictions to the deed (that is, reserve certain exclusive rights), and then resell the restricted land. This approach, known as purchase-sellback, is appropriate if the original owner either does not wish to continue to own the land with restrictions or, for some other reason, wishes to sell the land.

This approach has advantages in meeting landowner needs for cash while at the same time retaining in public ownership only those rights needed to meet management objectives. Purchase-sellback also assures that the government leaves the property owner only with those rights specified in the deed.

D. Conservation Easements

Conservation easements result in a restriction on the deed which is binding on future owners for the length of time specified in the easement. Changes in the restrictions can be made only with the agreement of all parties to the original contract: the landowner, the governmental agency, or other party holding the easement, and in many cases, a local governmental body or a non-profit land conservation trust. Because of the difficulty of making unwarranted changes in the future, the acquisition of easements is considered to be more permanent than other protection tools which do not involve interests in land.

Easements are most useful when a private owner desires to continue uses that are compatible with public management objectives for land. For example, owners wishing to continue farming operations may find an easement allowing for public access to a shoreline or restricting intense residential development preferable to selling all of their interest in the land. However, in some cases a landowner may prefer an outright sale of land.

Easements are referred to as "positive" easements if they convey legal interests in the land to others which permit certain specified uses. Often, positive easements provide for limited public use of the land. Easements may also be "negative." In such cases, the owner conveys his rights to do things with the land. Often with negative easements, the owner conveys his rights to develop the land in the future. Negative easements are usually for the purpose of protecting and ensuring current uses of the lands into the future, while the owner retains basic property rights. If conservation easements are used on the Upper Delaware, they would most likely be "negative" easements.

E. Use of Voluntary Private Actions

The creative use of voluntary actions by individual citizens, associations, and organizations is proposed to assist in the implementation of a comprehensive approach to river management. Use of such actions may also mitigate the need for fee-title acquisition when a land use is proposed that poses a "clear and direct threat" to the river. Some of the recommended voluntary private actions which should be used for river protection are described below.

F. Negotiation and Mediation

Negotiation is a voluntary process that allows disputing parties to confer and exchange viewpoints, with the ultimate goal of attaining resolution of the problem. The results may be total consensus, when all issues are resolved, or partial consensus.

Mediation is a part of the negotiation process that helps parties reach an agreement. Because negotiation and mediation are entered into voluntarily, the disputing parties wield complete control over the discussion agenda and retain the right to withdraw from the process at any time. Once a complete or partial consensus is reached, the agreement represents a contract that is subject to monitoring and enforcement by the parties who sign it. Independent mediators and facilitators carry no ultimate binding authority to resolve the dispute(s), even though their roles are often critical to achieving a settlement.

Whenever a dispute arises between a private landowner and a federal or state agency, negotiation or mediation of the dispute will be encouraged. The Upper Delaware Council or the Citizens Advisory Council may be called on to facilitate any such mediation or negotiation.

G. Mitigation

Prior to acquisition of land or interests in land, the Upper Delaware Council, through its member agencies, will use existing state and federal laws to mitigate the negative impact of acquisition.

H. Use of Land Trusts

Land trusts can provide effective alternatives to fee title acquisition by government agencies in the river corridor. They are able to conserve important lands and still permit these properties to remain part of the local tax base. The private sector can offer landowners a cost-effective and non-governmental approach to land conservation which can generate greater local involvement in the protection of significant lands and cultural resources.

Land conservancy trusts are charitable non-profit conservation organizations, exempt from federal taxes under section 501(c)(3) of the Internal Revenue Code.

Private trusts use a variety of approaches to land conservation. Some of the possible alternatives for implementing a voluntary, private sector approach to land conservation are the use of existing trusts or the formation of a new trust for the Upper Delaware River.

Several land trusts have expressed an interest in assisting with land conservation efforts along the Upper Delaware. There are several advantages to working with an existing land trust. The trust will have had experience working with local governments and private landowners, and will probably have a revolving fund for financing land acquisition activities. Some trusts also have special funds set aside to pay for management fees on lands where interests or partial interests are held. These organizations typically pay local property taxes, or payments in lieu of taxes, in states where exempted from local taxes.

Use of an established conservancy trust could be an appropriate short-term strategy for private land conservation in the Upper Delaware River corridor. The Upper Delaware Council and the National Park Service could certify a land trust to work in the area to help develop management agreements with private landowners.

Another recommended alternative is the formation of a locally based conservancy trust. Such a trust could also play a role in the protection of the corridor's cultural resources. This may be useful if there is local interest in developing a more comprehensive approach to natural and cultural resource conservation in the river corridor.

Such a trust could be an offshoot of the Upper Delaware Council or an independent entity. Depending on how the organizational bylaws are written, private trusts can be organized to have a very open decision-making process (through a board of directors) or a more closed process. The mission and objectives of trusts may be either broadly or narrowly defined, again depending on the interests of the directors. However, any such trust should encourage preservation of the local tax base through its programs and actions.

I. Landowner Certificate of Compatibility Program

A voluntary landowner participation program will be offered by the Council and the National Park Service in order to accomplish the following two purposes:

1. Promote the use of land within the river corridor in a manner consistent with the River Management Plan

2. Provide the individual landowner with guaranteed protection from the involuntary purchase of his/her property by the Secretary of the Interior, or his/her agents

Any private property owner of record, whose property is located within the designated river corridor, is eligible to participate in the program.

The program purposes would be documented in a letter from the Secretary of the Interior to the participating landowner. It would provide protection against involuntary purchase if the landowner confines to use his/her property in a manner consistent with the adopted River Management Plan and the Land and Water Use Guidelines. The details of the Voluntary Landowner Compatibility Program should be developed by the Council, working with its member agencies and units of government and provided through a written agreement between the landowner and the National Park Service.

Use of Acquisition Authority

Recognizing the unique, cooperative governmental arrangements to be agreed to under the River Management Plan and the lead role of the Upper Delaware Council, the limitations and policies which follow will apply to the use of acquisition authorities of the Secretary of the Interior.

A. Limitations on Acquisition

The Upper Delaware legislation limits the authority to acquire land. The legislation permits the Secretary to acquire by purchase, donation, or other means 450 acres in fee or in partial interests in land, although this plan proposes that not more than 124 acres will meet the legislation's objectives. The Special Provisions for the Upper Delaware also permit an additional 1,000 acres to be acquired in fee, or in interests in land, if so approved and provided for in the River Management Plan. The plan finds that such additional acquisition is unnecessary, therefore, no additional acquisition is provided.

The Upper Delaware legislation authorizes the Secretary to acquire lands in addition to the limitations cited above, if, and only if, the Secretary finds a town's land use ordinances "not to be in conformance with the guidelines or the management plan," or that they "are not being enforced in such a manner as will carry out the purpose of this section" (from the Upper Delaware. Special Provisions). This acquisition is limited only to the land within the town or towns which fail to conform, and is further limited only to acreage clearly and directly required for the management and protection of the river. In any case, this acquisition of land or interests in land is limited to the 100 acres per river mile provision that is permitted by the generic provisions of the Act. For the Upper Delaware this would be a maximum of 7,340 acres (73.4 river miles x 100 acres per mile).

B. Acquisition of Lands for Recreation Facility Development and Administration

Any land acquisition for recreation facility development and administration, as described in the Facilities section of this plan, will take place only under the following conditions:

1. On a willing seller - willing buyer basis only

2. In a manner consistent with the River Management Plan

3. Upon review by the affected local government and consistent with local land use plans and ordinances

4. In a manner consistent with the policies of the Upper Delaware Council, the purpose being to encourage only the use of willing buyer - willing seller agreements but not to stand in the way of such negotiations

The amount of land that may be acquired for recreation facilities or administrator, is restricted to not more than 124 acres.

C. Restrictions on the Use of Eminent Domain Authority

The Upper Delaware River legislation includes provisions which emphasize that the river corridor is to be conserved and protected primarily through the use of existing local and state land and water use controls. The legislation, which is specific to the Upper Delaware and different from other Wild and Scenic River areas, places limits on the amount and types of lands which may be acquired by the federal government. These restrictions on acquisition were intended to ensure that the River Management Plan and all future government actions would be sensitive to the desires of landowners to keep their property; local government officials to maintain "local home rule"; public and private interests concerned about maintaining the area's tax base: and the importance of private river-related businesses to the area's economy. Neither Congress, in its designation of the Upper Delaware, or the River Management Plan view the acquisition of private property as a primary way to meet the intent of the law.

The Upper Delaware legislation specifies two ways by which lands may be acquired by the federal government. Section 704(d) authorizes the Secretary to purchase land and interests in land for access, development sites and the preservation of scenic qualities. The plan proposes that these purchases be restricted to not more than 124 acres and done on a willing seller-willing buyer basis.

Section 704(e)(4) of the Upper Delaware legislation authorizes the Secretary to purchase additional lands in the event that local plans, laws, and ordinances are found to be inadequate to protect the resource values of the area and carry out the intent of the law. The provisions of Section 704(e)(4), and the power they give the Secretary, are the single greatest concern to the landowners and local officials of the Upper Delaware area. Specifically, these interests are concerned that this power of eminent domain will be used arbitrarily by the Department of the Interior and the National Park Service.

A major portion of the river management planning process focused on the need to greatly clarify and describe under what situations eminent domain may be used. The plan identifies the role that the proposed Council has in reviewing and recommending eminent domain, and it clarifies what the specific agreement is for the use of this authority.

The River Management Plan recognizes that the Secretary of the Interior cannot legally transfer or delegate his authorities; however, he can agree to the specific procedures for carrying out the law. The intent of the following section is to develop an "agreement" to provide that if the towns and townships agree to carry out the provisions of the River Management Plan and the Land and Water Use Guidelines, the Department of the Interior and the National Park Service will be consistent with the plan in their actions in the area. This procedure for the use of the Secretary's eminent domain authority is intended to eliminate the indiscriminate use of eminent domain and to avoid future misinterpretations.

The River Management Plan stipulates that the Department and the Service will not exercise its eminent domain authority except as a last resort in the event that significant resources are threatened and when all other local, state and federal government and private sector alternatives are unable to conserve those resource values.

The following restrictions will apply to the use of the power of eminent domain by the Secretary of the Interior:

1. Existing residential, commercial, recreational, forestry, agricultural, and other traditional uses within the boundary will not be subject to the use of eminent domain by the National Park Service.

2. Eminent domain will not be used by the National Park Service for any tract within the river corridor boundary of any town or township bordering the designated segment of the Upper Delaware, provided that the town or township adopts those parts of the River Management Plan and the Land and Water Use Guidelines relating to the towns.

3. Eminent domain shall not be used unless each of the following conditions occur, in order:

   a. After recommendation has been made by the Council, a town has been found not to be in substantial conformance with the town-related sections of the River Management Plan.

   b. A new land use is proposed that will pose a "clear and direct threat" to an area required for the protection and conservation of the objectives of the Upper Delaware National Scenic and Recreational River Act. The National Park Service will make the determinations of such threats, after consultation with the other members of the Council.

These new land uses, which constitute a clear and direct threat, are limited to those incompatible with or counter to the substance of the River Management Plan and the principles and objectives of the Land and Water Use Guidelines.

c. The Council, the Citizens Advisory Council, the town, or state has had an opportunity to alleviate the "clear and direct threat."

d. The National Park Service has determined that the area in question could not be protected by existing town, county, state or federal government laws or private actions and that eminent domain is the last resort to alleviate the threat. After such a determination has been made, the National Park Service shall report its determination and request the advice and recommendations of the Council.

4. Any lands acquired through eminent domain shall be restricted to the specific parcel or parcels within the local government unit in which the "clear and direct threat" is proposed. Under federal law, fair market value must be paid for any property so acquired.

5. Any land parcel(s) that is acquired through eminent domain shall be resold expeditiously subject to deed restrictions designed to ensure that the parcel will be used in a manner which is consistent with the River Management Plan and the Land and Water Use Guidelines.

6. Any land so acquired and resold will count towards the maximum acreage authorized for acquisition under the Upper Delaware legislation.

# *PROJECT BOUNDARY AND RIVER CLASSIFICATION*

## Overview

The Wild and Scenic Rivers Act clearly states that the river and its immediate environment must be protected for the benefit and enjoyment of present and future generations. The immediate environment is identified by boundaries located at the upper and lower ends of the river, the terminal boundaries, and the boundaries drawn roughly parallel to the river, the landward or lateral boundaries, according to its wild, scenic or recreational nature. These classifications are established for the purpose of defining appropriate management for each segment. Congress has already approved scenic and recreational classifications for the river, and therefore, no segment is classified as wild.

This section describes the terminal and landward boundaries and the criteria that were used to define them. It also defines the segments classified as scenic and recreational.

Section 704(c) of the Special Statutory Provisions for the Upper Delaware establishes the authority for the development of detailed terminal and landward boundaries, to extend along 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 Mill Rift, Pennsylvania, as depicted on the boundary map entitled "The Upper Delaware Scenic and Recreational River," dated April 1978.

## Objectives

The landward and terminal boundaries were established to satisfy the resource protection requirements set forth in the Wild and Scenic Rivers Act and in the Special Statutory Provisions for the Upper Delaware. The objectives to be met by this plan are:

1. Set the terminal boundaries as they are specifically defined in the Special Statutory Provisions

2. Set the landward boundaries in such a way that the natural, visual and cultural resources of the river are protected

3. Set the landward boundaries in such a way that complements the resource management criteria set forth in the Land and Water Use Guidelines for the Upper Delaware River

4. Make adjustments where necessary to the proposed line to conform to easily understandable and definable natural and manmade features and property lines

5. Identify the scenic and recreational river segments

## Description of the Boundary

The boundary encompasses those land and water areas necessary to meet the objectives of the Upper Delaware legislation and the National Wild and Scenic Rivers Act. The intent of the boundary under the Act is to identify the area to be conserved in order to protect the free-flowing condition and outstanding "scenic, recreational, geologic, fish, wildlife, historic, cultural, water quality, and other similar values" of the river and its immediate environment. The boundary will protect the river and its immediate environment to the extent that the Land and Water Use Guidelines are integrated into relevant local laws, plans and ordinances and are enforced, and to the extent that relevant county, state and federal laws are enforced.

In 1978 Congress, as part of the Upper Delaware River legislation, approved a boundary which encompassed approximately 86,000 acres. This boundary, in place at the present time, is based on natural, physical and scenic criteria and embodies the concept of "valleywide" or "ridge-to-ridge" conservation. Federal, state, and local agencies are required at present to be consistent with the legislation in their actions within this boundary. Congress also provided that the River Management Plan could modify the 1978 line and recommend a detailed landward boundary. The total acreage within the boundary is approximately 55,574.5 acres.

### Landward Boundaries

The landward boundaries were identified through the inventory and analysis of various river and valley-related natural, physical and cultural resources. The resources which have been included in the boundary have a direct hydrologic and topographic relationship to the river. These areas are the land resources which are most important to the river and where development has the most potential for directly affecting the Upper Delaware.

The key resource characteristics which define the principle of valley-wide conservation, and the landward boundary, are hydrology and topography. One of the outstanding values for which the Upper Delaware River is recognized is its high water quality. In planning to conserve this water quality, it must be recognized that the river and adjacent lands function as a single hydrologic system. Water quantity and quality are both affected by the water that flows into the river, either in tributary streams or directly from the surrounding slopes. This surface runoff can also be a major source of pollutants: sediments and organic wastes from residential development, construction sites, roads and farmland, all run downhill and are eventually deposited in the river. Drainage patterns influence the amount and concentration of this surface runoff. In general, the farther that water flows before reaching the river, the more opportunity there is for dilution of sediment and other pollutants. Therefore, the most critical, vulnerable areas are those that drain directly into the river.

These lands, referred to as direct drainage areas, are generally found in areas of steep slopes, which also increases their vulnerability to soil erosion. All direct drainage areas are included within the boundary, which follows the ridges that mark their highest points.

Direct drainage areas border the river for much of its length, but are periodically interrupted by the valleys of perennial tributary streams. Although these perennial streams greatly influence the water quality and quantity of the Upper Delaware, Congress did not intend that the landward boundary include these streams in their entirety. The principle adhered to in addressing tributary areas is that the Upper Delaware River valley is a recognizable, topographically definable landform, which includes portions of its tributary valleys. Therefore the boundary was drawn across these tributary valleys at the nearest recognizable high point closest to each stream. These points may be ridge tops, peaks or topographic promontories.

The modified boundary represents a reduction in acreage from the present boundary. Although the basis for the 1978 legislation clearly was "ridge-to-ridge" protection, there were several major errors on the maps done at that time. The present changes results from the use of the direct drainage method of defining "ridge-to-ridge" and from more accurate and precise topographic mapping of the Upper Delaware valley from "ridge-to-ridge." The landward sides of the direct drainage areas are the ridge lines of the Upper Delaware River valley, and the entire modified boundary line constitutes the valley topographic unit.

The modified boundary is consistent with the "ridge-to-ridge" concept of the 1978 legislation. It is a topographic and hydrologic boundary line which includes all of those resources which most directly relate to the river itself.

To summarize, the landward boundaries are based on the consistent application of three criteria. They are the direct drainage criterion described above, the technique used to cross direct tributaries, and an outside limit, the legislative boundary. In no circumstance does the present boundary go beyond the line described by the 1978 enabling legislation.

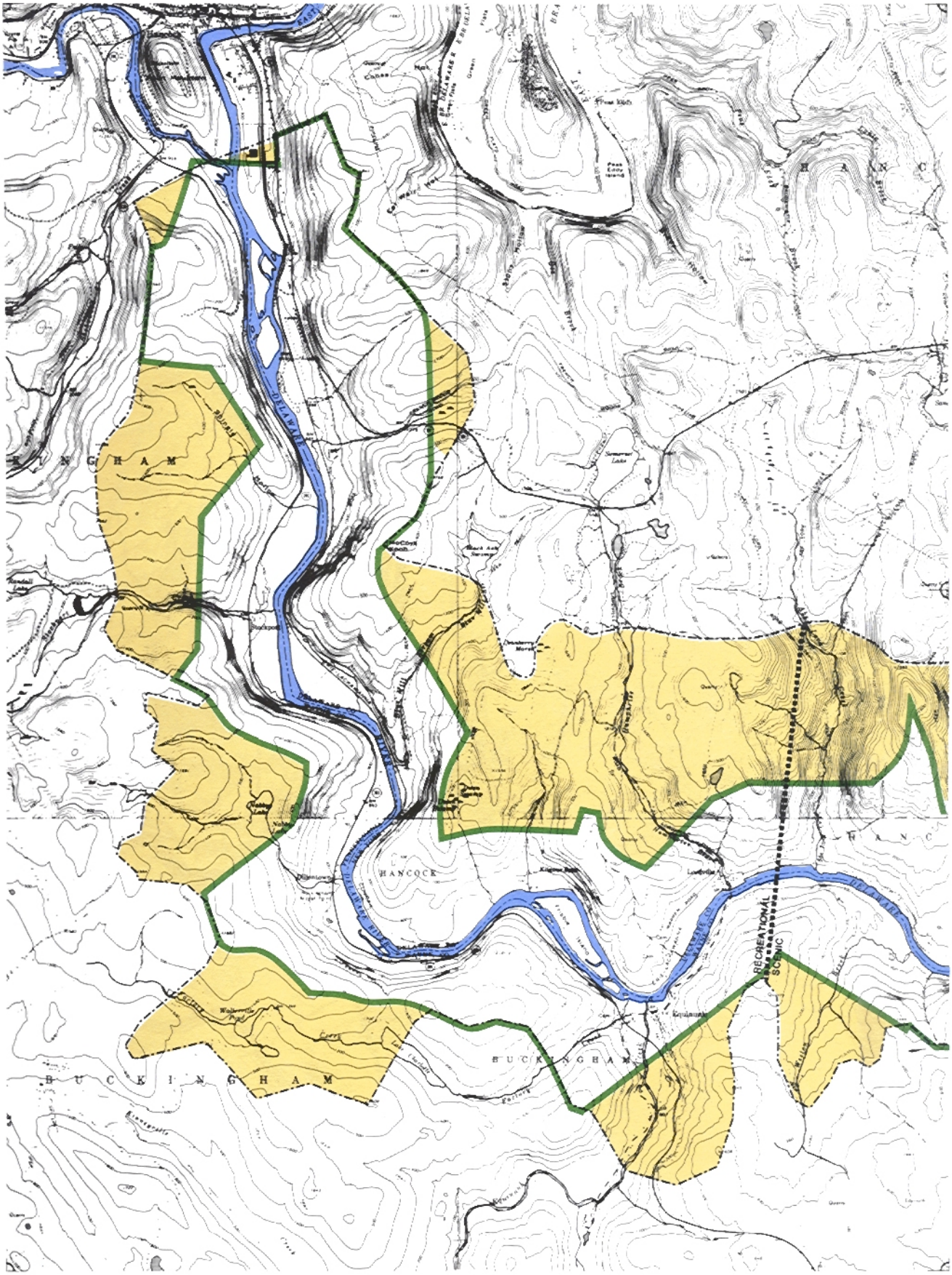
## Terminal Boundaries

The upper and lower boundaries are generally the same, as described in the 1978 Upper Delaware legislation. The upper terminus is at the confluence of the east and west branches of the Delaware at the base of Point Mountain. On the Pennsylvania side, the boundary remains downstream of the West Branch, cutting straight across the mainstem to a point intersecting the legislative boundary slightly north of its intersection with PA Route 191, from which point it proceeds downstream to a ridgetop intersecting the legislative boundary. On the New York side, the boundary runs due east to a point intersecting State Route 97, then north along the highway to its point of intersection with the legislative boundary, and then through a swale along the legislative boundary to the landward boundary atop a ridegeline.

The lower terminus is at Conrail railroad bridge number 2, slightly downstream from Cherry Island, in the vicinity of Mill Rift, Pennsylvania and Sparrowbush, New York. On the Pennsylvania side, the boundary runs along the railroad right-of-way upstream to the Columbia Gas Transmission Corporation pipeline, then along the upstream edge of the pipeline right-of-way to its intersection with the landward boundary. On the New York side, the boundary runs along the railroad right-of-way upstream to its intersection with the Delaware and Hudson Canal remnants, then along the canal berm wall to its intersection with the Columbia Gas Transmission Corporation pipeline, then along the upstream edge of the pipeline right-of-way to its intersection with the landward boundary.

## Hamlet Area Boundaries

Twenty hamlet areas have been identified during the preparation of the Land and Water Use Guidelines. They are Hancock, Lordville, Long Eddy, Hankins, Callicoon, Cochecton, Narrowsburg, Minisink Ford, Barryville, Pond Eddy, Hillside, Mongaup, Sparrowbush, Equinunk, Damascus, Milanville, Masthope, Lackawaxen, Shohola, and Mill Rift. Some extend to both sides of the river as occurs at Callicoon and Lackawaxen. These areas are generally marked on the boundary map. Hamlet boundaries will be defined by the towns and townships in concert with their normal planning procedures, and they will be refined during the preparation of relevant local laws, plans and ordinances, and during the review to determine substantial conformance.




# UPPER DELAWARE SCENIC AND RECREATIONAL RIVER

DELAWARE RIVER

EXISTING BOUNDARY

PROPOSED REVISION

DELETED AREA

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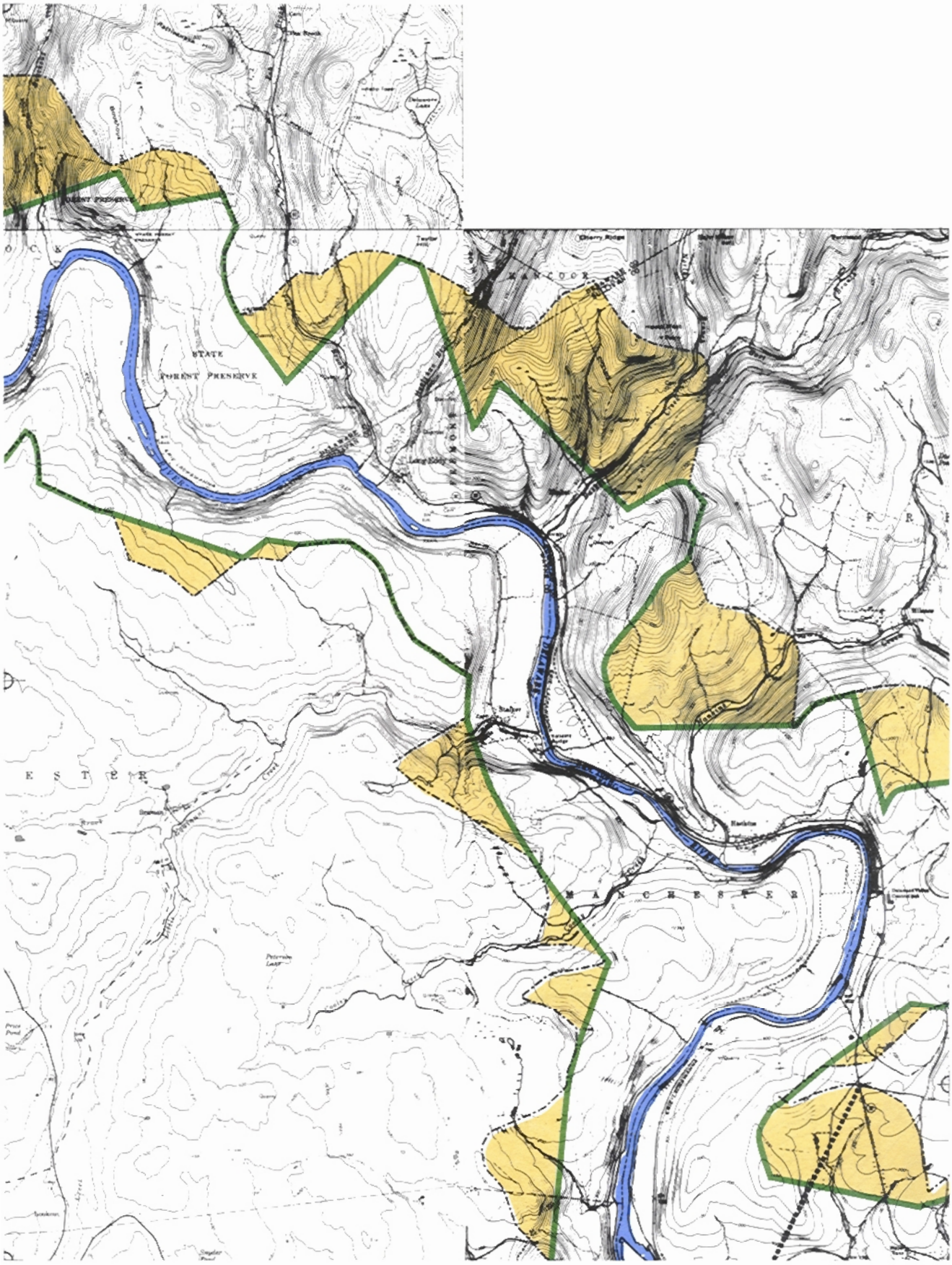


# UPPER DELAWARE SCENIC AND RECREATIONAL RIVER

DELAWARE RIVER
EXISTING BOUNDARY
PROPOSED REVISION
DELETED AREA

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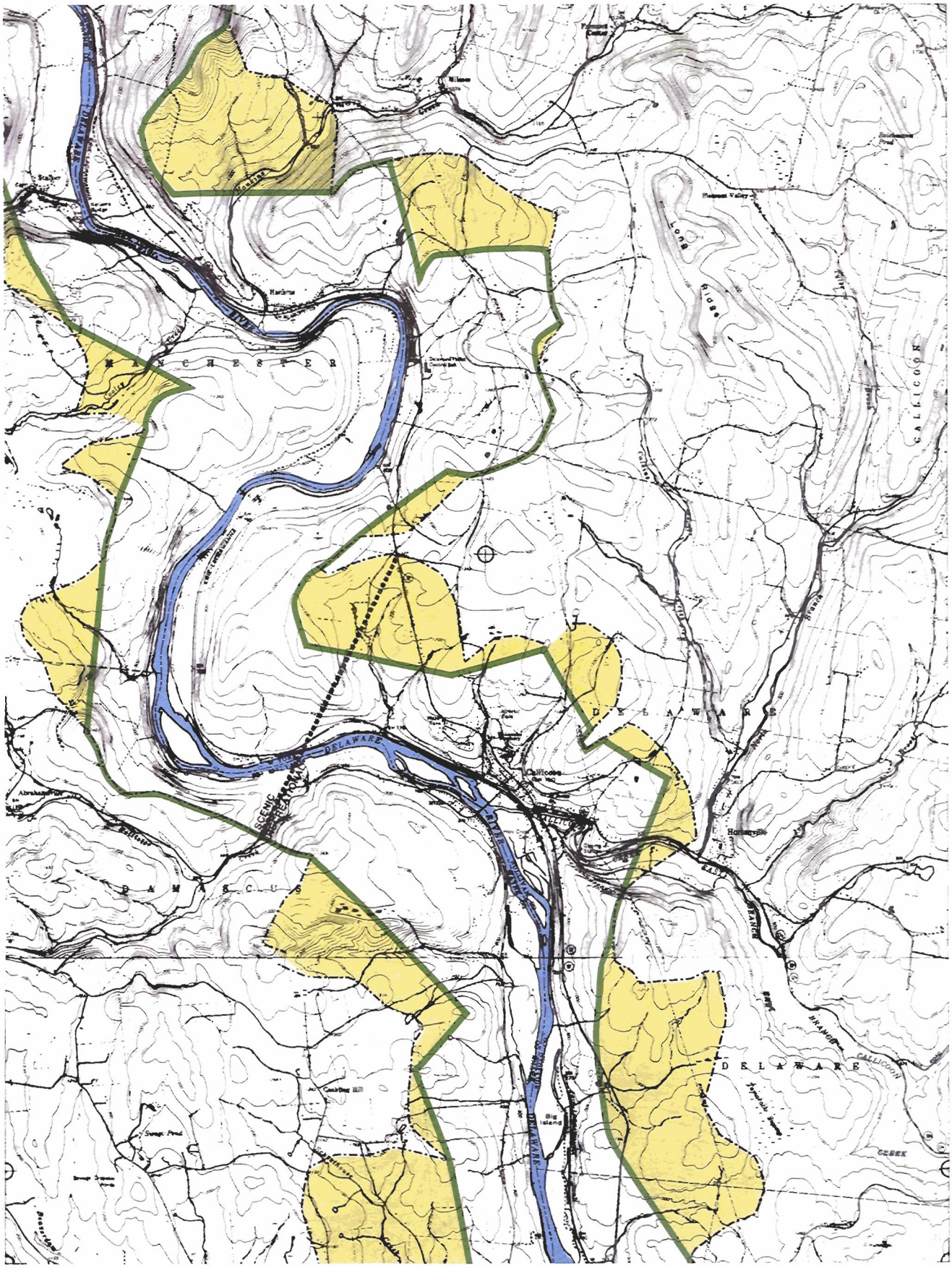


# UPPER DELAWARE SCENIC AND RECREATIONAL RIVER

DELAWARE RIVER

EXISTING BOUNDARY

PROPOSED REVISION

DELETED AREA

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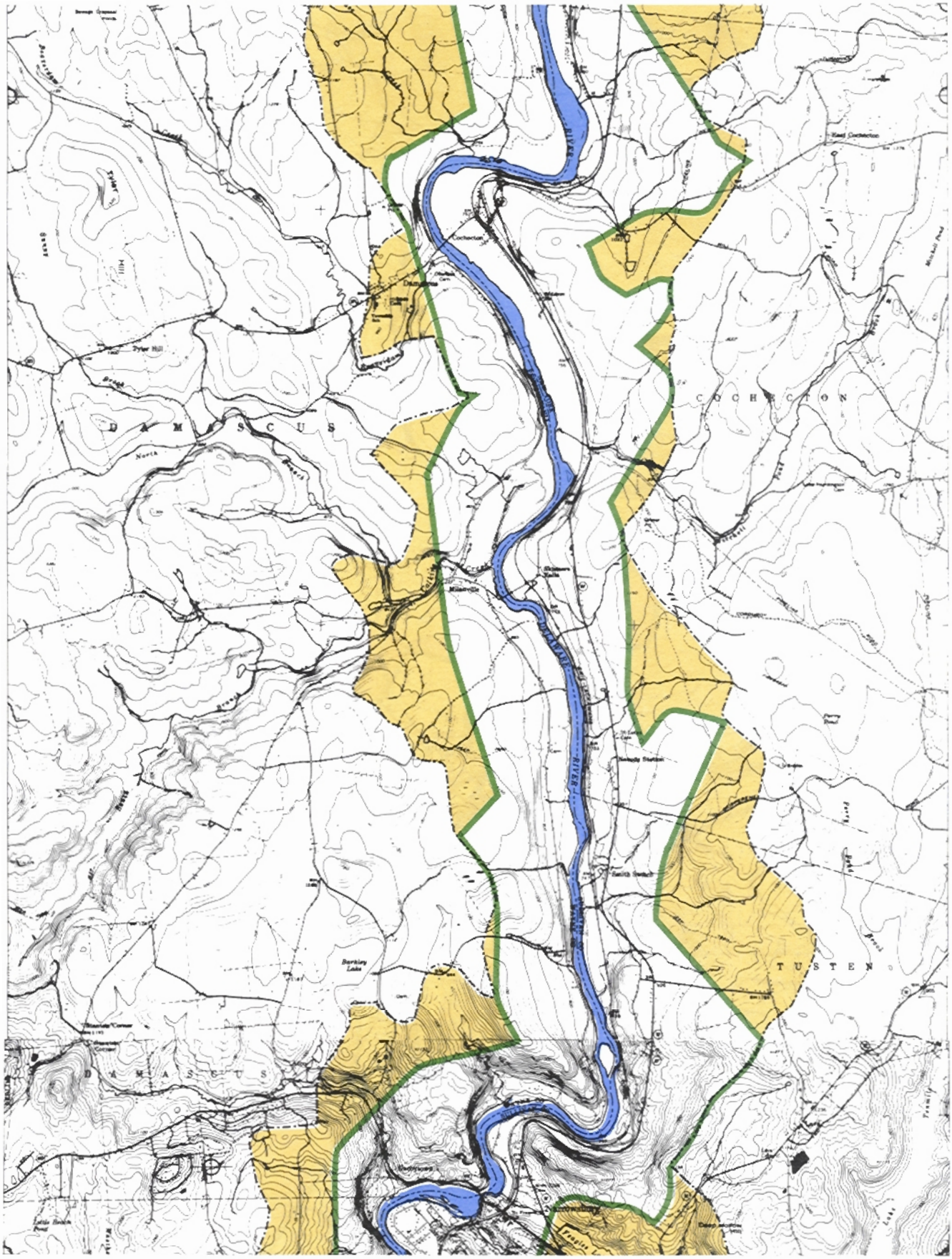


# UPPER DELAWARE SCENIC AND RECREATIONAL RIVER

DELAWARE RIVER
EXISTING BOUNDARY
PROPOSED REVISION
DELETED AREA

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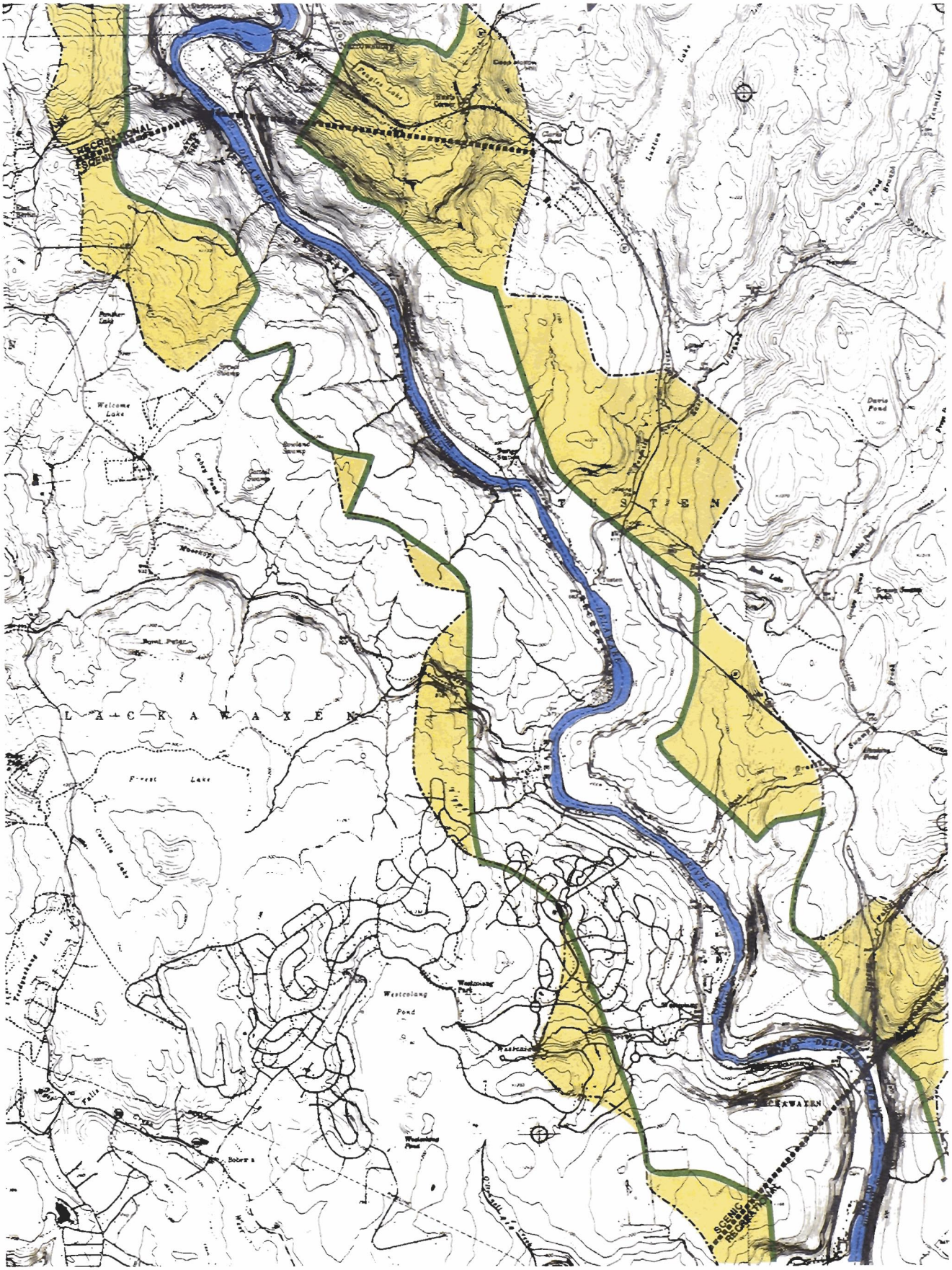


# UPPER DELAWARE SCENIC AND RECREATIONAL RIVER

DELAWARE RIVER

EXISTING BOUNDARY

PROPOSED REVISION

DELETED AREA

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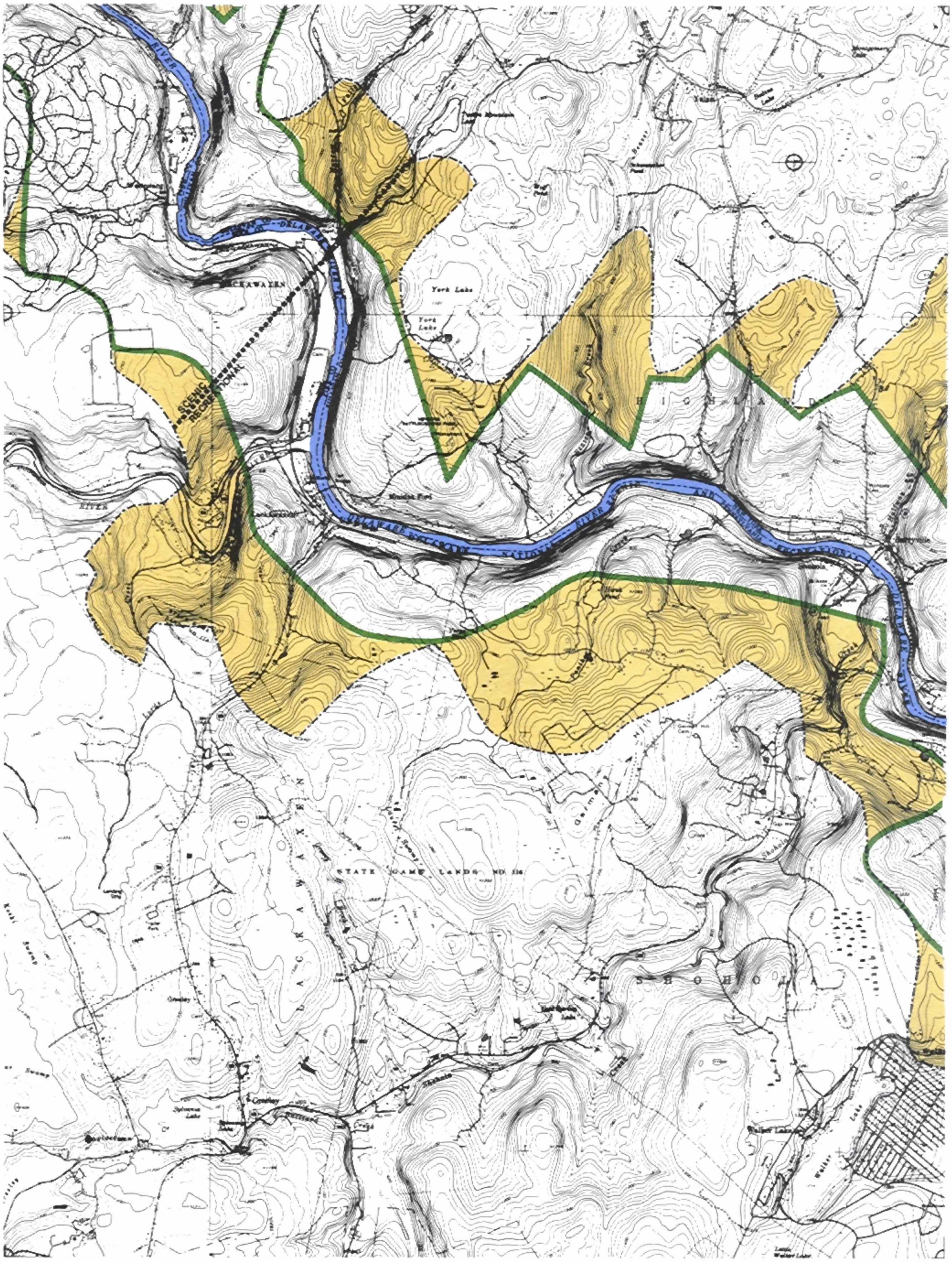
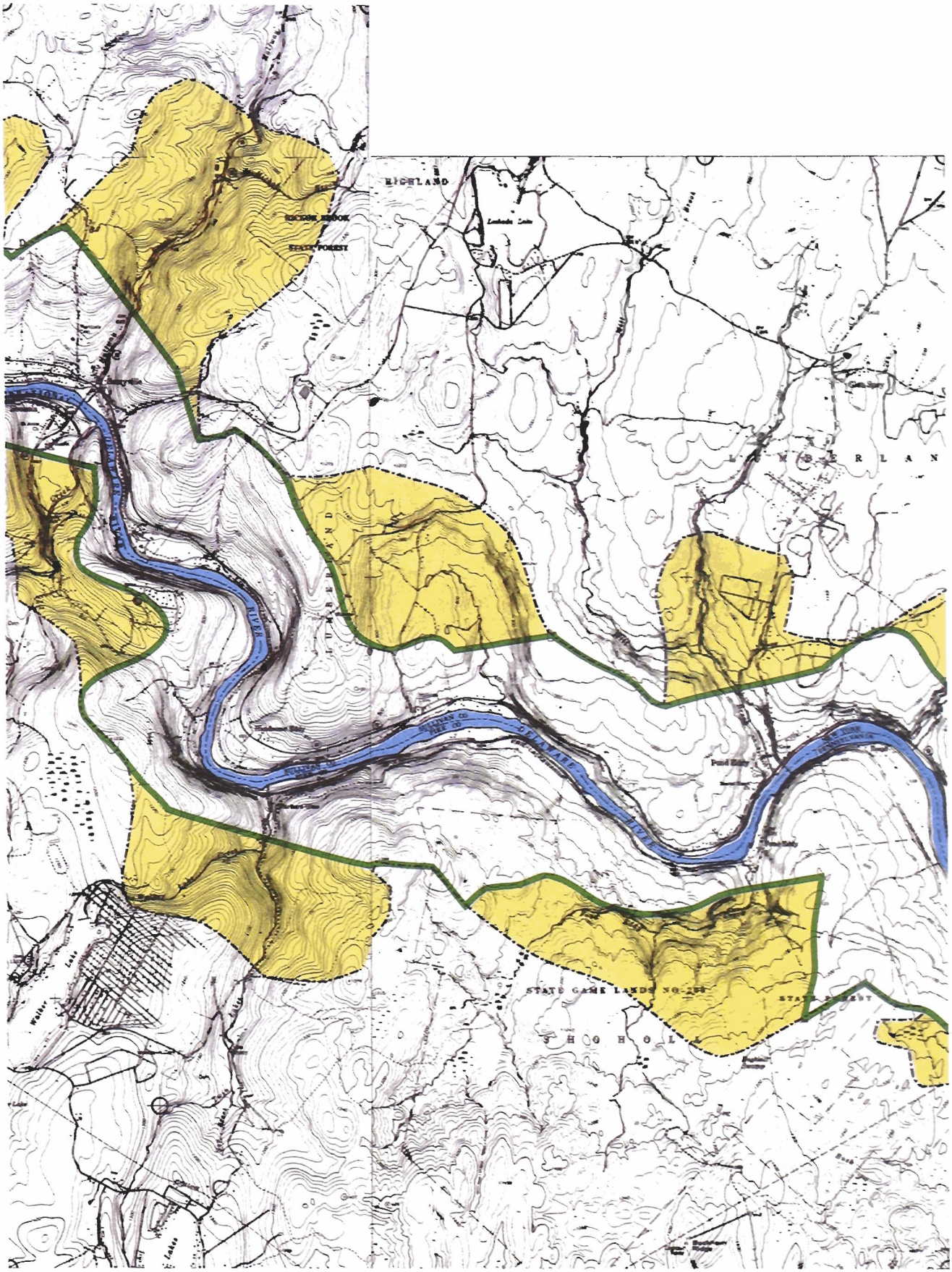



# UPPER DELAWARE SCENIC AND RECREATIONAL RIVER

DELAWARE RIVER
EXISTING BOUNDARY
PROPOSED REVISION
DELETED AREA

1/2 0 1M




# UPPER DELAWARE SCENIC AND RECREATIONAL RIVER

DELAWARERIVER

EXISTING BOUNDARY

PROPOSED REVISION

DELETED AREA

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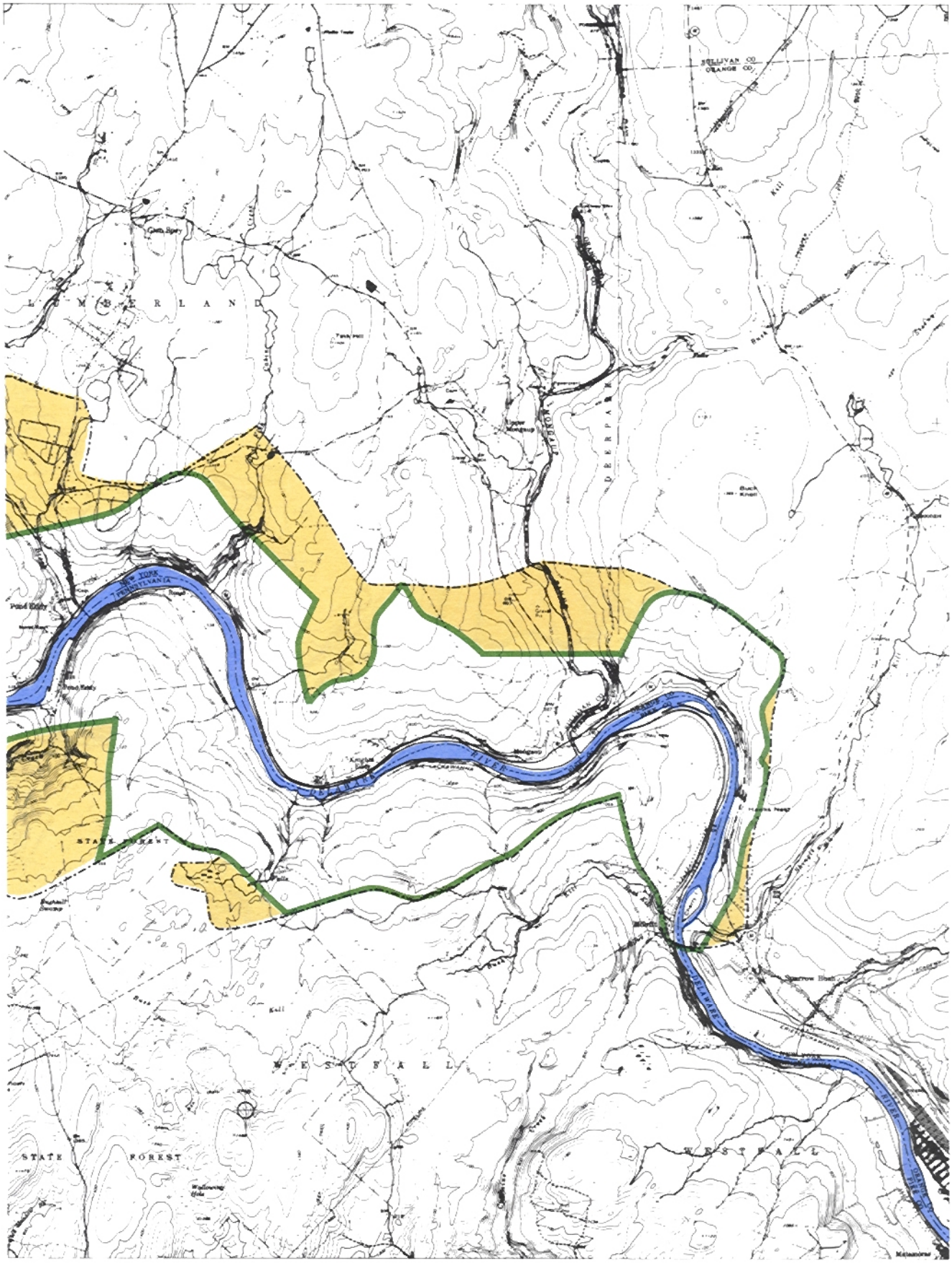



# UPPER DELAWARE SCENIC AND RECREATIONAL RIVER

DELAWARE RIVER

EXISTING BOUNDARY

PROPOSED REVISION

DELETED AREA

1/2 0 1 M

### Boundary Identification

The Council shall file a map and narrative description of the boundary with each town or township in which a portion of the Upper Delaware Scenic and Recreational River is located, within two years after the final approval of the River Management Plan. The Council shall also provide a map and narrative description of the boundary to all other affected local and state governments and federal agencies within this same time period. In the event that a local, state or federal government agency or landowner is unable to locate the exact location of the final boundary, or the location of the boundary is disputed, the affected town or township may request the Council to more precisely locate the exact location of the boundary line through the use of a topographic survey, on-site inspection, or other means as appropriate. Survey and mapping costs incurred in connection with the boundary, the management plan, or the guidelines will be funded by the National Park Service, pending the availability of funds.

### Boundary Revisions

If a revision to the boundary, due to a technical error in the application of the criteria for establishment of the boundary, is required after the plan is approved, the Council may recommend to the Secretary of the Interior that the boundary should be amended. Any change to the final boundary must describe the modifications proposed and the reason(s) for recommending the changes.

The procedure for revising the boundary is the same as the procedure described in the Management Structure section of this plan. Any revision is subject to public hearings, public comment, assessment of environmental impact, review and approval by the Secretary, and review by Congress. All review procedures for any proposed changes to the boundary are identical to those required for the River Management Plan.

### Boundary Adjustments

The Special Provisions of the Upper Delaware legislation require that the detailed final landward boundaries be established in the River Management Plan. The existing boundary shown in the draft River Management Plan may be revised, prior to final adoption by the cooperating government agencies, if a technical error in the application of the approved methodology is found to exist.

The proposed boundary line may be adjusted to coincide with existing property lines, cultural resource features (such as public roads), and government boundaries, provided that such an adjustment is consistent with the method.

## River Classification

The river classifications as required under the Wild and Scenic Rivers Act are the same as those identified in the boundary map described in the 1978 Upper Delaware legislation. The river was classified into Scenic and Recreational segments based on the land use and river conditions and landscape qualities that existed at the time of classification (mid-1970's). The corridor must now be managed in an appropriate manner. The criteria defined below for scenic and recreational river segments are implemented in the plan through the Land and Water Use Guidelines.

## **Scenic** River Segments

A river is classified as scenic under the Wild and Scenic Rivers Act if it meets the following conditions:

1. It is free of impoundments
2. It shows no substantial evidence of human activity
3. Roads and railroads either occasionally intersect the river or stretches of roads are generally inconspicuous
4. The view of the riverbank is essentially natural, even though there is evidence of past or ongoing timber harvesting
5. Agricultural activities are essentially limited to hay production, grazing and row cropping
6. Human communities are essentially limited to dispersed structures or small communities

Two segments are classified as scenic on the Upper Delaware. The northern segment is about 16 miles long and begins about 1/2 mile south of the Lordville Bridge in the Town of Hancock, New York. It extends downstream to a point upstream of Callicoon, in the Town of Delaware, New York. Specifically, the upstream begins at a point where the landward New York boundary intersects with Abe Lord Creek and extends across the river to the Pennsylvania landward boundary. The lower boundary extends from the point where the Pennsylvania landward boundary intersects Legislative Route 63027 across the river to the point where it intersects the New York landward boundary.

The southern scenic segment is 9.5 miles long and extends from a point below the hamlet of Narrowsburg downstream to the municipal boundary between the Towns of Tusten and Highland, New York. The northern boundary of this section begins at a point on the lateral boundary in Berlin Township, Pennsylvania: and extends across the river to a point intersecting the New York landward boundary and the 1,000 feet elevation line. The southern boundary of this section extends from the intersection of the Tusten-Highland municipal line and the landward boundary along the municipal boundary to the river and then to a point where the Pennsylvania landward boundary intersects the 1,160 feet elevation mark in Lackawaxen Township.

## **Recreational River Segments**

River segments are designated as recreational if they meet the following conditions:

1. The river maintains a generally natural appearance, even if there exists small impoundments, diversions, or other modifications (although no new impoundments are permitted)
2. Existing development is limited to residential development and some commercial activity
3. There may be evidence of past or ongoing timber harvesting

4. A full range of agricultural and forestry uses may be present

5. Parallel roads or railroads may be present along the shoreline

6. There may be substantial signs of ongoing human activity

There are three segments classified as recreational on the Upper Delaware. The northernmost extends from the upper terminus downstream to the northern boundary of the uppermost scenic river segment. The middle recreational segment runs from a point above Callicoon downstream to a point below Narrowsburg, New York (the segment between the two scenic river segments). The lower recreational river segment extends downstream from the intersection of the Tusten-Highland municipal boundary and the river downstream to the lower terminus.

# *WATER RESOURCES MANAGEMENT*

## Overview

The purpose of this section is to make recommendations to those involved in managing the water resources of the Upper Delaware River. Discussion focuses on three areas of water resources management: water flows, water quality, and water resources development.

Water flows in the Upper Delaware Scenic and Recreational River are substantially modified by the Cannonsville and Pepacton Reservoirs located above the confluence of the Delaware's West and East Branches in New York. River flows are also influenced by discharges from Pennsylvania Power and Light's Lake Wallenpaupack hydroelectric facility on the Lackawaxen River in Pennsylvania and from the Orange and Rockland Utilities hydroelectric facility on the Mongaup River in New York.

Diversions of water from the Cannonsville, Neversink, and Pepacton New York City water supply reservoirs, and compensating downstream releases are controlled by the amended Supreme Court Decree (N.J. v. N.Y., 347 US 995, 1954), and provisions of the Delaware River Basin Compact. Under the Decree, a minimum basic rate of flow of 1750 cubic feet per second must be maintained at the U.S. Geological Survey gauging station at Montague, New Jersey, under the supervision of a River Master appointed by the Supreme Court. This represents a daily average at Montague but does not exclude the possibility of extremely variable flows on specific stream reaches, including portions of the Upper Delaware. On some occasions, especially during drought, variable flows and associated rapid temperature fluctuations will adversely affect aquatic ecosystems. Economically important traditional recreation activities would also be adversely affected during these occasions. Flow release schedules that are responsive to these concerns are essential if the values for which the river was designated as a Scenic and Recreational River are to be preserved.

In general, water quality on the Upper Delaware River is uniformly good to excellent. Its clean waters support outstanding coldwater and warmwater fisheries. Maintenance of this quality is necessary for the full enjoyment of the river by valley residents and river recreationists. Furthermore, protection of water quality on rivers such as the Upper Delaware is a primary purpose of the Wild and Scenic Rivers Act.

Upper Delaware River water quality is managed by state and interstate water laws under a nondegradation policy as required under the federal Clean Water Act. Interstate water law is embodied in the Delaware River Basin Compact (U.S. PL 87-328) and the Water Code of the Delaware River Basin. Article 5 of the compact authorizes the establishment of interstate water quality standards and pollution control policy, and provides enforcement authority. The Water Code includes the basinwide policies and water quality standards as part of the Commission's Compact-mandated Comprehensive Plan, the legally binding framework for water resources planning and management in the Delaware River Basin. The Commission's Rules of Practice and Procedure set forth the procedures that the Commission uses in screening projects or activities for compatibility with the Comprehensive Plan. The Water Code and Rules are codified in the Code of Federal Regulations 18 CFR Parts 400-430.

Water resources development includes the construction of dams, water conduits, or other structures that interfere with the free-flowing nature of the Upper Delaware River. Section 7 of the National Wild and Scenic Rivers Act prohibits such construction. Water resources development on tributaries is restricted to those developments that do not invade the area or unreasonably diminish the values for which the river was designated.

## Objectives

This management plan has the following objectives with regard to the management of water flows, water quality, and water resources development

1. Advocate flow release schedules from tributary reservoirs adequate to protect or improve water quality and aquatic ecosystems, in order to conserve and enhance the values that qualified the Upper Delaware as a Scenic and Recreational River

2. Maintain or improve the existing quality of the water in the Upper Delaware River

3. Upgrade Upper Delaware water quality monitoring so that conditions throughout the river corridor will be assessed at regular intervals

3. Prohibit water resources development on the main stem of the Upper Delaware Scenic and Recreational River. Prohibited developments shall include ice booms and the use of groundwater withdrawals to augment river flows

5. Ensure that water resources development on tributaries of the Upper Delaware River do not invade the area or unreasonably diminish the resource values for which the river was designated

## Specific Management Responsibilities

### Upper Delaware Council

The Upper Delaware Council's responsibilities with respect to water flows, water quality, and water resources development are as follows:

1. The Upper Delaware Council will make recommendations to the states, the Delaware River Basin Commission, and the federal government concerning water releases and flows. Possible areas of concern to the Council should include safety, extreme variations in water temperature and water levels, and the maintenance and improvement of flows and water quality for aquatic habitat and recreational uses. The Council will work to ensure that all decisions affecting water flows shall fully consider the values that qualified the Upper Delaware as a Scenic and Recreational River.

2. The Upper Delaware Council will make recommendations to the states and the Delaware River Basin Commission concerning water quality, including identification of pollution sources, water quality monitoring, and water quality-related facilities such as hazardous waste sites, sewage treatment plant operations, or other concerns. Specific attention should be given to the clean-up of a toxic landfill located in the Town of Tusten. In particular, the members of the Council should develop and implement an interim program to reduce threats to public health and safety caused by this landfill. The Citizens Advisory Council should continue to hold forums on this problem to draw attention to it and to seek recommendations for interim measures to reduce the landfill's impact on the resources of the corridor.

3. The Upper Delaware Council will review proposed water resources development projects on Upper Delaware River tributaries. The Council will make recommendations to the states, the Delaware River Basin Commission, and the federal government concerning project consistency with the Wild and Scenic Rivers Act and this plan.

## Intergovernmental **Responsibilities**

Intergovernmental water resources management responsibilities are:

1. The Upper Delaware Council will work cooperatively with the Delaware River Basin Commission and the States of Pennsylvania and New York, and New York City to address water flow issues relevant to protecting and maintaining the integrity of the Upper Delaware as a designated Scenic and Recreational River. Specifically, the states and the Delaware River Basin Commission should consider the possible revision of existing flow regimes to provide additional enhancement during good hydrologic conditions and needed protection of aquatic ecosystems during drought warning and drought storage conditions.

2. The Upper Delaware Council will work cooperatively with The States of New York and Pennsylvania, the National Park Service, and the Delaware River Basin Commission to augment existing water quality monitoring programs.

3. Due to the national importance of the Delaware River, the Environmental Protection Agency and the State of New York should raise the priority level of the landfill in Tusten on their clean-up lists.

## New York and Pennsylvania

The water resources management responsibilities of the State of New York and the Commonwealth of Pennsylvania under this plan are as follows:

1. The States of Pennsylvania and New York shall notify the Council about policy changes, permit applications, or other actions that may affect water flows on the Upper Delaware River.

2. The States shall continue to enforce existing water quality and pollution abatement laws through the Pennsylvania Department of Environmental Resources and the New York Department of Environmental Conservation.

3. The States shall play a more active role in identifying and cleaning up landfill sites, within the river corridor, as needed for protection of public health and safety.

4. Pennsylvania should continue to enforce water pollution standards applicable to the Upper Delaware River and its tributaries through their Migratory, Cold and Warm Water Fishery and Special Protection Waters status (Chapter 95.1 of the Pennsylvania Department of Environmental Resources Rules and Regulations).

5. The State of New York should continue to administer and improve its conservation releases program in order to enhance the quality of the river.

## Delaware River Basin Commission

The water resources management responsibilities of the Delaware River Basin Commission under this plan are:

1. The Delaware River Basin Commission will provide information about policy changes, permit applications, changes in Delaware River Basin Commission regulations, or other actions that may affect water flows on the Upper Delaware.

2. The Delaware River Basin Commission will provide copies of the weekly River Master Report to the Council upon request. Public record flow data from the USGS gauging stations on the Upper Delaware River will also be provided upon request.

3. The Delaware River Basin Commission will continue to administer pollution control policies and enforce interstate water quality standards in accordance with its Comprehensive Plan and Rules of Practice and Procedure.

4. The Delaware River Basin Commission will continue its annual summer limnological studies and water quality data gathering efforts in cooperation with the National Park Service with the objectives of determining water quality problems, providing baseline water quality data for future assessments ceeded to assure that degradation of the designated river is not occurring, and providing water quality documentation to the National Park Service.

## National Park Service

The water resources management responsibilities of the National Park Service (subject to Congressional appropriations) under this plan are:

1. The National Park Service shall, at the request of the Council, initiate additional studies as necessary to investigate the effects of water flows on aquatic ecosystems and other river resources.

2. Adequate, corridor-wide water quality monitoring is necessary in order to identify problems and develop programs to eliminate existing and potential sources of water pollution. The National Park Service shall, in consultation with the Management Council, provide technical assistance to assess water quality throughout the river corridor at regular intervals by augmenting existing state and Delaware River Basin Commission water quality monitoring programs. Appropriate monitoring will include chemical analyses, and sampling for coliform bacteria and bottom organisms. The National Park Service will provide water quality data to the Council upon request.

3. The National Park Service shall inform the Council of any recommendation far authorization, request for appropriation, or request for licensing by, or to, any federal agency that may affect the Upper Delaware Scenic and Recreational River.

4. The National Park Service shall take a strong leadership position and undertake all actions possible to reduce or eliminate the threat to water quality and public health caused by the existence of the toxic landfill in the Town of Tusten

5. The National Park Service shall monitor the effects of the Tusten landfill on fish and wildlife populations.

## Citizens Advisory Council

The responsibilities of the Upper Delaware Citizens Advisory Council are as follows:

1. The Upper Delaware Citizens Advisory Council should sponsor annual public forums to present status reports on: water quality; water flows; resource management activities; changes, if any, in applicable state regulations; and other issues of concern to valley residents and others.

2. The Citizens Advisory Council should seek the cooperation of the states, the National Park Service, the Delaware River Basin Commission, and interested organizations for the presentation of this information.

# *FISHERIES AND WILDLIFE*

## Overview

Fish and wildlife populations have thrived in the Upper Delaware River corridor. This is due in part to traditional land management practices by valley residents that result in abundant and diverse habitats. Such practices include timbering and farming. Healthy wildlife populations are also supported by substantial areas of land owned by private sportsmens' clubs, by the states as forest and game lands, and by others who manage lands specifically for wildlife production.

The Upper Delaware itself supports an outstanding cold and warm water fishery. It is currently used by both sport and commercial fishermen. Much of the existing public land along the Upper Delaware is maintained by the states for multiple use resource management and is available for public hunting and the raking of fur bearers, consistent with applicable state laws. The states have primary legal responsibility for the management of fish and wildlife throughout the river corridor.

Unlike the statutory policy and management objectives for a national park, both the National Wild and Scenic Rivers Act and the Upper Delaware legislation formally recognize hunting and fishing use(s) of land and water resources **as** a public benefit. The Special Provisions for the Upper Delaware provide that nothing in Section 704 shall be construed as limiting the rights to hunt and fish on any of the lands or waters within the Upper Delaware River. Further, nothing in this plan shall be construed as preventing a private owner from leasing hunting and fishing rights, as long as the lease is in conformance with state regulations.

The National Park Service is supporting legislation for the Upper Delaware and other national wild and scenic rivers under its management to clarify that trapping is a permitted use under the National Wild and Scenic Rivers Act.

Consistent with the objectives of the Upper Delaware legislation and a solicitor's opinion (contained in a letter from the Director of the Mid-Atlantic Regional Office of the National Park Service) regarding the applicability of 36 CFR (Code of Federal Regulations), the National Park Service has determined the following:

L Nothing in 36 CFR will apply to private lands.

2 The National Park Service will not be imposing additional regulations regarding hunting, fishing or trapping.

3. The commercial taking of eels by eel weirs or other traditional methods may continue in accordance with state laws and regulations.

4. The National Park Service will definitely not seek from the states any jurisdiction to regulate activities over private lands.

## Objectives

The management strategy for fish and wildlife in the Upper Delaware River corridor will be one of partnership and cooperation among the members of the Upper Delaware Council. The management objectives are:

1. Ensure the continued public use and enjoyment of the traditional and historical use(s) of the public lands and waters of the river corridor for hunting, fishing, trapping and commercial taking of eels and bait, as well as for non-consumptive uses such as camping, hiking, and photography

2. Encourage the continued ownership of, and management by, landowners and private groups of lands for wildlife production, hunting, fishing, and trapping; such management is consistent with this management plan and the Upper Delaware legislation

3. Continue the use of sound forest management practices such as the harvesting of timber, since it is vital to the perpetuation of healthy wildlife populations as well as for the maintenance of successional forest cover types which enhance the essential scenic quality of the river corridor

4. Continue and strive to improve the vital conservation releases program as well as other sound management practices to conserve the fishery's quality and integrity

## Specific Management Responsibilities

In order to maintain and improve the fish and wildlife resource of the Upper Delaware, and to provide for the continued public use and enjoyment of these resources, the following specific management responsibilities are defined:

### Upper Delaware Council

The management responsibilities of the Upper Delaware Council are:

1. At the request of the states, the Council will assist in the coordination of fish and wildlife management activities in the Upper Delaware River corridor.

2. The Council will, through its members, coordinate with the Delaware River Basin Fish and Wildlife Management Cooperative, or an appropriate subgroup thereof. The Cooperative was formed to address fishery management issues within the Delaware River basin. This body is composed of representatives from fish and wildlife agencies in New York, Pennsylvania, New Jersey, and Delaware, as well as the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. The Delaware River Basin Commission participates in the cooperative as an observer.

3. The Council will keep itself informed about activities by the states in the Upper Delaware River corridor which deal with fish and wildlife.

### Intergovernmental Responsibilities

The intergovernmental responsibilities are as follows:

1. Public hunting, trapping, and fishing will be continued, consistent with applicable existing state and federal laws and regulations. For example, the Endangered Species Act, 16 U.S.C. section 1538m forbids the taking, transportation, sale, barter, etc. of any endangered or threatened species, and the Migratory Bird Treaty Act, 16 U.S.C. section 703, forbids the taking possession, shipment or sale of migratory birds. Enforcement of laws such as these will continue under the River Management Plan.

2. Public land managing agencies will cooperate in the development of a wildlife habitat improvement plan for public lands under their control, with the exception of State owned public land in the Town of Hancock which is a Forest Preserve, and will be maintained as "forever wild", as required by Article Fourteen of the New York State constitution.

3. Government agencies, in consultation with the Council, should generate a comprehensive data base in order to develop an optimum fisheries management program for the Upper Delaware River. Information to be gathered may include, but need not be limited to, water quality and flow data, estimates of the size and condition of fishery stocks, and the results of creel counts and angler use surveys.

4. A subgroup of the existing Delaware River Basin Fish and Wildlife Management Cooperative should be established to focus on fisher); matters of the Upper Delaware from Hancock to Port Jervis. This subgroup should meet within the Upper Delaware River valley.

## Citizens Advisory Council

The responsibilities of the Upper Delaware Citizens Advisory Council are as follows:

1. The Upper Delaware Citizens Advisory Council should sponsor annual public forums to present status reports on: fisheries and wildlife research findings; resource management activities; changes, if any, in applicable state regulations; and other issues of concern to valley residents, sportsmen, and others.

2 The Citizens Advisory Council should seek the cooperation of the states, the National Park Service, the Delaware River Basin Commission, and interested organizations for the presentation of this information.

## Pennsylvania and New York

The responsibilities of the States of New York and Pennsylvania are:

1. Consistent with state laws and regulations, the commercial or noncommercial taking of bait, eels and other fishery through traditional methods will be continued.

2 Monies collected as fines for violations of state game, fish, and boating laws will continue to be deposited in the appropriate state accounts.

3. The states and sportsmens'organizations will cooperate on hunter education programs to encourage responsible use of public lands and respect for private lands within the Upper Delaware River valley.

## National **Park Service**

The National Park Service's responsibilities are:

1. The National Park Service will consult with the states, the Delaware River Basin Commission, the Delaware River Basin Fish and Wildlife Management Cooperative or an appropriate subgroup thereof, and the Upper Delaware Council prior to initiating any fish and wildlife research project, or implementing any plan, program, or regulation which may affect the distribution, numbers, species, or public use of fisheries and wildlife found within the Upper Delaware River corridor. Such consultation will involve submission of all plans, data, objectives, and programs to the subject research or management proposal.

2. The National Park Service will cooperate with the states in the enforcement of applicable game, fish, and boating laws on the river surface and on land owned or leased by the National Park Service.

3. The National Park Service will, in consultation with the Council, participate with other governmental agencies to protect water resources with respect to fisheries.

4. In areas administered by the National Park Service, where the agency has proprietary jurisdiction, and where these areas are open to public hunting, trapping, and/or fishing, the National Park Service shall permit the continued harvesting of fur bearers, game, and fish in accordance with applicable existing state and federal laws and regulations.

5. Because most of the lands within the boundary are privately owned, the National Park Service shall not seek concurrent jurisdiction from the states.

6. The National Park Service will notify the Council and the Citizens Advisory Council of any changes to the Code of Federal Regulations that may affect the Upper Delaware Scenic and Recreational River.

# *THREATENED AND ENDANGERED SPECIES*

## Overview

The Endangered Species Act of 1973 (15 USC 1531 et seq.), requires federal agencies to protect federally listed threatened or endangered species and habitats critical to their survival.

No federally listed threatened or endangered plant or animal species are permanent residents in the river corridor. There are several threatened or endangered species that visit the area, including the endangered bald eagle and the American peregrine falcon. The river corridor also contains a number of rare plant and animal species listed under state programs.

The major area of concentration in New York for the bald eagle is centered in Sullivan County, outside the river corridor. The area near the reservoirs associated with the lower Mongaup River and the Upper Delaware River supports up to fifty bald eagles between November and March each year and is one of the most significant bald eagle wintering areas in the northeast United States. The general Hawks Nest area also provides non-nesting habitat for the bald eagle. The corridor is also used regularly during the summer months by eagles from the south, probably nesting in Florida. No bald eagle nests occur with the river corridor, the area is used exclusively for non-nesting survival activities.

Private or public proposals for the Mongaup River and Delaware River confluence and the general Hawks Nest area will provide for the protection of bald eagle habitat through land use control measures and coordination with state and federal wildlife management programs.

Both New York and Pennsylvania are authorized by law to maintain endangered and threatened species lists. In New York, the agency having responsibility for endangered species identification and protection is the Department of Environmental Conservation. In Pennsylvania, the Department of Environmental Resources is responsible for habitat; the Game Commission for birds and mammals and the Fish Commission for fish, reptiles and amphibians.

## Objectives

The objective of the threatened and endangered species section is to identify and protect rare, threatened, and endangered species within the river corridor.

## Specific Management Responsibilities

### Upper Delaware Council

The townships, the States of New York and Pennsylvania, the Delaware River Basin Commission, and the National Park Service will work cooperatively through the Management Council to identify and protect endangered species and habitat within the river corridor. The members will inform the Council of their respective protection programs and efforts through their Council representative.

## New York and Pennsylvania

### Vegetation

Several species of plants known to occur along the Upper Delaware are considered to be potential candidates for state designation as threatened or endangered species in Pennsylvania. These include Chamassio's miner's-lettuce *(Montia chomassio),* the prostrate sand cherry *(Prunus Pumila* var. *depressa),* checkered rattlesnake plantain, *(Goodyera tesselata),* prickly pear cactus *(Opuntia humi fusa)* and roseroot stonecrop *(Sedum rosea).*

Four species occurring along the Upper Delaware are considered rare in New York: Great Saint John's wort *(Hypericum ascyron),* prostrate sand cherry *(Prunus pumila* var. *depressa),* river birch *(Betula* ***nigra),*** and sand plain gerardia *(Agalinis setacea).* These species are considered candidates for state designation, although no action has been taken.

### Wildlife

The timber rattlesnake is listed as threatened by the State of New York. The Department of Environmental Conservation has identified several locations in the river corridor as being critical habitat for the timber rattlesnake.

## National Park Service

The following are the management responsibilities of the National Park Service with regard to endangered species:

1. Protect any threatened or endangered species and associated critical habitats under its jurisdiction

2. For lands within the corridor not under direct National Park Service ownership or jurisdiction, seek to coordinate federal programs with those sponsored by the state agencies having natural resource responsibilities for the identification and protection of threatened and endangered species

3. Consult with the United States Fish and Wildlife Service and the National Marine Fisheries Service on a project-by-project basis to achieve compliance with Section 7 of the Endangered Species Act before a proposed project enters the design phase

## Citizens Advisory Council

The Citizens Advisory Council should sponsor educational forums on threatened and endangered species.

# *UNIQUE LAND RESOURCES*

## Overview

The Upper Delaware River is the most outstanding remaining example of a free-flowing, relatively undeveloped river in its section of the Appalachian Plateau physiographic region. There is a marked diversity of unique landforms throughout the river corridor. The Delaware River Gorge has been identified by the Pennsylvania Bureau of Topographic and Geologic Survey as one of the outstanding scenic geologic features in the state. The gorge begins above Matamoras and runs north throughout most of the river segment, ranging between two and three thousand feet in width. A series of river-cut promontories within the gorge contrast with the gently rolling hills of the regional landscape; Hawk's Nest is the largest and most significant of these rock outcrops. Between Long Eddy and an area north of Equinunk, several river meanders are found which are significant within this physiographic section.

Unique land resources such as the rock promontories and waterfalls of the Upper Delaware River corridor are examples of the important geological features of a river valley which the Wild and Scenic Rivers Act is required to protect. Section 1271 of the Wild and Scenic Rivers Act provides the authority for protecting important natural features.

## Objectives

The following objectives must be met in order to conserve the unique landforms and geological features of the Upper Delaware River corridor:

1. Undertake a study of the river corridor to identify the landforms in the river corridor that have national, regional, state, and local significance

2. Develop and implement a plan to provide interpretation for the public of the most significant landscape features identified

3. Undertake these management objectives only with the approval of private property owners where private lands are involved

## Specific Management Responsibilities

### Upper Delaware Council

The Upper Delaware Council will coordinate the development of the program to protect and interpret the unique landforms of the Upper Delaware River corridor. In particular, it will make recommendations to the appropriate federal, state, or local agency concerning the means to be used for interpretation or management of identified sites. It will also encourage the towns and townships to adopt special management provisions within their relevant laws, plans, and ordinances to assure the conservation of these sites.

### Towns and Townships

The towns and townships are encouraged to assist in the landforms study by providing information regarding important local landscape features such as waterfalls, rock outcroppings, and rock shelters, and by suggesting ways in which these sites may be managed and interpreted, if appropriate.

The towns and townships may adopt management provisions where appropriate within their relevant laws, plans, and ordinances to assure the conservation of these identified unique landforms.

### Pennsylvania and New York

The two states, in consultation with the Council, will assist in the protection of unique landscape features by providing relevant information to the National Park Service and the Council during the study. Where sites identified are located on state-owned lands, the states will provide consistent management and interpretation of these sites, as may be appropriate.

### National Park Service

The National Park Service, in cooperation with the Council, will undertake the study of unique landforms. It will coordinate with the Council to develop a program for the protection and interpretation of the sites identified. Interpretation of unique landscape features by the National Park Service will be done in a manner consistent with the protection and interpretation plan developed by the Council.

### Citizens Advisory Council

The Upper Delaware Citizens Advisory Council will conduct public forums on the nature and extent of unique landscape features in the river corridor, and it may make recommendations to the Council regarding techniques to be used for their management and protection.

# *CULTURAL RESOURCES MANAGEMENT*

## Overview

The National Wild and Scenic Rivers Act specifically requires that cultural resource features identified in designated river corridors be protected and enhanced. Cultural resources are the "tangible and intangible aspects of cultural systems, living and dead, that are valued by a given culture or contain information about that culture." In the Upper Delaware corridor, such aspects include human history archeological sites, industrial remnants, and architectural features. It also includes the people who live in the corridor, their settlements, their commerce, and their agriculture.

Cultural resources management in the United States is usually accomplished through a partnership of property owners, public interest groups, and government agencies. Entities at the local, state, and national levels all have important roles to play. This plan recognizes that such a partnership must be developed in order to protect the cultural resources– historical, architectural, and archeological–in the Upper Delaware River corridor.

Because several properties within the Upper Delaware river corridor are included in or eligible for the National Register of Historic Places, they are entitled to the protection afforded by Section 106 of the National Historic Preservation Act and its supporting regulations, as promulgated by the Advisory Council on Historic Preservation.

## Objectives

The management strategy for the protection and enhancement of cultural resources will be one of partnership and cooperation among the members of the Upper Delaware Council and the private sector. The strategy recognizes that almost all of the cultural sites in the Upper Delaware are privately owned, and all proposals for management and use of these sites must be cooperatively planned with the individual owners. The management objectives will be as follows:

1. Foster a widespread preservation ethic in the Upper Delaware Valley

2. Upgrade the management efforts of state and local governments, and the private sector by drawing upon the resources and technical expertise of the National Park Service and the Upper Delaware Council

3. Assure compliance by state and federal agencies with relevant federal and state historic preservation laws, regulations, and policies that may affect the river corridor

4. Identify and secure appropriate management for several specific resources in the valley

This strategy reflects the limited federal investment in the acquisition and rehabilitation of historic, archeological, and architectural features, while at the same time it intensifies the need to use private funds and innovative management techniques to protect these resources.

## Specific Management Responsibilities

### Upper Delaware Council

The Upper Delaware Council will coordinate the cultural resources management activities of its members, with full recognition being given, however, to the particular expertise and resources that the National Park Service has in this area of management. In particular, the Council will provide coordination and assist local governments, the states of New York and Pennsylvania: and the National Park Service in implementing assigned management activities. The Council will also work with the National Park Service to secure compliance by state and federal agencies with the existing laws, regulations, and policies for the protection of historical, archeological, and architectural resources, and with responsibilities indicated by this cultural resources management plan, when projects that may affect the river corridor are under consideration.

### Towns and Townships

The fifteen towns and townships will play important roles in the preservation of the valley's cultural resources. Specifically, the responsibilities of the towns and townships are:

1. Consider forming cultural resource commissions, as has the Town of Highland, historic districts for preservation and reconstruction, as has the hamlet of Callicoon, and encourage the use of tax incentives as a means of preserving properties of historic importance

2. Request funds or technical assistance from the states of Pennsylvania and New York, the appropriate counties, and the National Park Service for planning the management of historic sites, conducting resources inventories, and establishing historic districts, as well as the preparation of the necessary documentation for nominations to the National Register of Historic Places

3. Work closely with the Council and the National Park Service, acting as a conduit for information and referral on the status of cultural resources planning

### Pennsylvania and New York

The Pennsylvania Historical and Museum Commission and the New York Office of Parks, Recreation, and Historic Preservation will play an important role in the protection of the Upper Delaware's cultural resources. They will have the following responsibilities:

1. The Pennsylvania Historical and Museum Commission and the New York Office of Parks, Recreation, and Historic Preservation will, upon request, provide information, assistance, and guidance to the towns and townships in the management of historic sites, resources inventories, and historic districts. They will provide advice and technical assistance regarding the management of cultural resources to private landowners, organizations and local governments within the river corridor; and coordinate their work with the Upper Delaware Council, as appropriate.

2. The state historic preservation officers (SHPO's) will assist in the identification of properties that could be listed on the State historic register and qualify for restoration or rehabilitation funding, or tax act certification.

3. The SHPO's, at the request of property owners, local governments and organizations, or the National Park Service, or by their own initiative, will assist in the preparation of documentation, the evaluation of possible nominations, the preparation of necessary inventories, and the processing of nominations for the inclusion of properties on the National Register of Historic Places. Necessary deadlines and other time constraints will be respected.

4. The SHOP's will continue to ensure that the plan promotes acceptable historic preservation goals and objectives by participating in planning for the Upper Delaware through consultations and onsite inspection- in the river corridor; subsequent implementation will be carried out in accordance with this plan and the "NPS-28 Cultural Resource Management Guideline."

5. The states of Pennsylvania and New York and their designated offices will encourage, participate in, and evaluate the adequacy of comprehensive and long range studies to document the history of the region and to form the basis for future management planning.

**National Park Service**

The National Park Service will play an active role in the preservation and interpretation of the valley's cultural resources. Requests for funding are contingent upon the appropriation of funds by Congress. In coordinating its cultural resources program through the Upper Delaware Council, the NPS' responsibilities will be:

1. Provide to the community, upon request from the Council or local governments, technical assistance and information on preservation techniques and relevant legislation

2. Fund, from available appropriations, as requested through planning contracts with local governments, the identification and evaluation of historic buildings, sites, structures, districts, and objects and the protection of significant properties; and fund planning contracts, as requested, for the development of local land use, building, and site design plans for the protection of historic resources

3. Pursue funding for the preservation of historic, archeological, and architectural resources from both government and private sources

4. Provide advice to private property owners upon request regarding the preservation of income-producing or potentially income-producing properties through adaptive uses and the availability of federal rehabilitation tax incentives

5. Provide public programs to encourage appreciation of cultural and archeological resources, and conduct workshops and outreach programs to encourage landowners to act as archeological advocates, and to participate in research projects and existing preservation programs

6. Safeguard sensitive archeological reference material and permit its use only for scientific purposes; present such material in interpretive programs in a way that informs the public but does not jeopardize the resources

7. Work through the Upper Delaware Council to assure consistency with the terms of the National Historic Preservation Act of 1966, as amended; the National Environmental Policy Act of 1969; and other appropriate state laws

8. Publish, or assist in the publication of, a guide to the cultural, architectural and natural resources of the river corridor, aimed at resident or visitor sightseers, that is sensitive to private property owners' wishes and the inherent limitations of each site

9. Participate in the management of specific cultural resource sites according to agreements with the Council, member governments, and private owners

10. Recognize that the communities, their residents, and their commerce are integral parts of the corridor's heritage

11. Seek comment from the Advisory Council for Historic Preservation puissuant to Section 106 of the National Historic Preservation Act in the event it becomes necessary to deviate from the River Management Plan in ways that would adversely affect historic properties or deviate from the guidelines defined in the "NPS-28 Cultural Resource Management Guideline"

## Upper Delaware Citizens Advisory Council

The Citizens Advisory Council, in cooperation with the Upper Delaware Heritage Alliance, will conduct cultural resource seminars and act as a clearinghouse for valley cultural resource preservation and restoration.

## Private Sector

The private sector has several management opportunities under this cooperative management plan. Private sector responsibilities may include:

1. Continue to assist in cultural resource survey work and basic research on a cooperative or contract basis with government agencies

2. Provide input for the preparation of river corridor resource guide books

3. Owners of cultural resources sites in the river corridor should consider plans for protection and rehabilitation by coordinating their interests with the agencies and organizations undertaking cultural resources management in the area.

4. The long-term care of artifacts resulting from archeological work on private land will be privately held through voluntary agreements allowing for public access for research and interpretation

## Private Non-Profit Organizations

Private non-profit organizations will play an important role in the protection and interpretation of the river corridor's cultural resources. Recommended responsibilities include:

1. Historical societies and cultural organizations, such as the Upper Delaware Heritage Alliance, should provide public programs and publications.

2. The private sector should explore the feasibility of establishing a valley-wide historical trust in order to attract funds for the management of cultural resources, to improve educational programs, and to act as a recipient of facade easements and conservation easements in areas not already served by such organizations: private organizations must be sensitive to the local tax base and private landowner economic goals.

## Management of Key Sites

As the federal purchase and management of cultural resource sites will be quite limited, voluntary agreements will be used by the National Park Service, participating local governments, private groups, and private property owners for the protection of cultural resources. It is further noted that failure to execute cooperative agreements for these sites means that no management action will be pursued, since as these agreements are of a voluntary nature only. The following list of cultural resource sites will not be acquired (except for the Zane Grey House and the Roebling Bridge), rather, the guiding management strategy will be to match the management of these individual sites with the most appropriate existing program for cultural resource management.

On the New York side of the river corridor, 214 historic sites have been inventoried. It is anticipated that as many as five historic districts and fifty individual sites may be eligible for the National Register of Historic Places within a multiple resource area nomination for the Upper Delaware (New York). These individual sites will be pursued only with the permission of the affected property owners and will not in any way affect the property owner's right to manage and dispose of the property.

The Old Kirk House and the Arlington Hotel at Narrowsburg, the Zane Grey House at Lackawaxen and the remains of the Delaware and Hudson Canal are currently listed on the National Register.

Careful attention will be given to the archeological and historic nature of any properties owned by the National Park Service. NPS-28 Cultural Resource Management Guidelines will be applied to all sites owned by the National Park Service. There will be scrupulous compliance with regulations relating to cultural resources management of property owned by federal or state agencies, complying with the Archeological Resources Protection Act of 1979 and the National Historic Preservation Act of 1966.

Several historic bridges lie within the river corridor. Roebling's Delaware Aqueduct is listed in the Historic American Engineering Record. Bridges such as the Ten Mile River Stone Arch Bridge and the Hankins Stone Arch Bridge, and any others not already listed, should be recognized as locally important historic structures and should be submitted for evaluation of eligibility to the National Register of Historic Places (Except for Roebling's Delaware Aqueduct, which, as part of the Delaware and Hudson Canal National Historic Landmark, is already on the National Register of Historic Places).

## Roebling's **Delaware** Aqueduct **Bridge**

The National Park Service owns the Roebling's Delaware Aqueduct Bridge and the former toll house associated with it. It is listed on the National Register of Historic Places as part of the Delaware and Hudson Canal National Historic Landmark. National Register documentation is being submitted by the National Park Service–the aqueduct as part of the nationally significant landmark; the toll house as a locally significant structure postdating the canal period. The aqueduct is currently closed to all but foot traffic, although it has been stabilized from further deterioration and partially restored. Repair of the suspension cables, piers, and overall structure began in 1985. More extensive structural rehabilitation and restoration beginning in 1986 will accomplish the objective of reopening the aqueduct to light vehicular traffic and emergency vehicles, without substantially altering its historic and architectural integrity. Following its reopening, Lackawaxen township has agreed to handle snow plowing and cindering during the winter. The New York Department of Transportation has agreed to study a design for entrance to the bridge from New York Highway 97.

The National Park Service, in cooperation with the Upper Delaware Council, will continue to provide interpretation of the toll house, the bridge, and its builder, engineer John A. Roebling, through the use of exhibits, signs, and other programs. The agency will also continue to tell the story of the Delaware and Hudson Canal at this site. The National Park Service may also enter into various cooperative agreements with local governments and historical groups to guarantee the preservation of the toll house.

## Zane Grey House

The Zane Grey House is located in Lackawaxen Township, near the Roebling Bridge. Named after its author-owner, it is listed on the National Register of Historic Places. Privately owned, it is currently being operated as a museum of the author's memorabilia, while part of the building is leased for office space in an arrangement with the National Park Service.

The owner is actively seeking a buyer committed to maintaining the building and the collection in its present location. The National Park Service will work with the Upper Delaware Council and others to develop some means to protect and restore the structure and to preserve the museum collection with the building. Potential techniques include donation or purchase of a facade easement, adaptive re-use for multiple purposes, and rehabilitation using the tax advantages offered by the Economic Recovery Tax Act. The owners may also request technical assistance from the National Park Service. As a last resort, if the property or the collection is threatened with destruction or removal, the National Park Service, with the approval of the owner, will acquire this site in order to protect and manage it.

## Fort Delaware

Fort Delaware, in New York's Town of Tusten, should continue to be managed and owned by Sullivan County.

## Minisink Battleground

Minisink Battleground, located in New York's Town of Highland near the Roebling Bridge, should continue to be managed and owned by Sullivan County.

### Callicoon Railroad **Depot**

The Callicoon Railroad Depot in New York's Town of Delaware, the last such structure in the river valley, is owned by Conrail, a publicly owned corporation. The railroad company presently wishes either to demolish the building or to donate it and have it moved from its present location. However, Callicoon has plans underway to form a local historical district as well as a downtown improvement area. Town residents favor acquisition of the depot and its reuse as a commercial establishment on its present site.

The depot should be preserved and adaptively re-used at its present location.

### Delaware and Hudson Canal

The National Park Service, in consultation with the Upper Delaware Council, will explore the use of voluntary agreements with property owners who have intact notable features of the Delaware and Hudson Canal on-site. Public programs, signs, and maintenance will be the management focal points. Deteriorated sites will receive management limited to stabilization, clearing of vegetation, and debris removal.

Canal lock #72, in the immediate area of the Delaware Aqueduct in New York, should be preserved as a unique example of canal construction. This may be accomplished by purchase from a willing-seller, lease, or cooperative agreement. The National Park Service and the Upper Delaware Council will encourage joint cooperative action of historical societies and all levels of government to assure continuing management should the site be purchased or leased.

### Valley **Heritage Museum**

An Upper Delaware Valley Heritage Museum should be established as a comprehensive valley-wide museum, making use of strong private sector initiatives in its development. Establishment of this museum should be coordinated with existing local historical societies.

### **Arlington Hotel**

The Arlington Hotel in Narrowsburg is a nineteenth century Italianate hotel building listed on the National Register of Historic Places. Currently owned by **a** local non-profit cultural organization, it is operated as the Delaware Arts Center. Because of its central location in the river corridor, the National Park Service will continue to lease space in this building for its Information Center.

### St. Joseph's **Seminary**

St. Joseph's Seminary in Callicoon is the largest complex of native bluestone buildings in the river valley, and seminary should be preserved. One of its buildings is an architecturally significant Romanesque chapel. The seminary is currently owned by the U. S. Department of Labor for operation as a Job Corps Center. The Department of Labor should consider nominating the structure to the National and State Register of Historic Places.

## Lackawaxen Aqueduct Abutment

The Lackawaxen Aqueduct Abutment includes the remains of Roebling's aqueduct over the Lackawaxen River. As part of the interpretation of the Delaware and Hudson Canal, brush cutting should be done on a voluntary basis.

## Congregational Church and Graveyard

The Congregational Church and graveyard in Barryville has been maintained and preserved by a private owner. Upon request of the property owner, a voluntary cooperative agreement should be entered into by the owner and the National Park Service to assure the site's preservation.

## Tusten Settlement Church

Upon request of the property owner, the First Baptist Church and cemetery in the Town of Tusten should be protected by means of voluntary cooperative agreement between the landowner and the National Park Service. The agreement should ensure that historical qualities are preserved.

# *FACILITIES*

## Overview

**A** variety of facilities are needed in order to effectively manage the Upper Delaware as a Scenic and Recreational River. These facilities include visitor contact sites, interpretative sites for the valley's major cultural and natural features, river access sites, river rest stops, and administrative facilities. Proper operation and maintenance of these sites is also necessary.

The facilities discussed below constitute all proposed National Park Service and state-developed facilities within the river corridor. However, additional acreage may be acquired, upon amendment to the plan, for facilities, if requested by local governments upon a finding by the Council that the private sector has not been able to meet the need(s) identified in this plan. Such acquisition is subject to the restrictions on acquisition of facilities in the Land Management Program section of this River Management Plan. Such an action would also require amendment of the plan, the procedures for which are defined in the Management Structure section.

This River Management Plan discourages the development of new public facilities in the sections of the corridor classified as "Scenic." However, one site in a "Scenic" section, on the same property on which the Ten Mile River archeological site is located, is proposed for development as a river rest stop. This is proposed in order to minimize the acquisition of additional tracts of land

## Objectives

The objectives of the facilities are as follows:

1. Provide visitor contact facilities, through lease arrangements wherever possible, at dispersed sites along the river to distribute information about river use and access, interpretative sites, local laws, and the valley environment

2. Insure that any facilities developed are placed in a way that is consistent with local zoning and state regulations and do not contribute to overcrowding of the river

3. Develop a program for the interpretation of cultural and natural resource sites

4. Provide for the location of the river headquarters and ranger stations

5. Provide for recreational access and use of the river

## Specific Management Responsibilities

### Upper Delaware Council

The Upper Delaware Council has two primary responsibilities regarding the location and development of facilities:

1. Coordinate the location and development of facilities within the river corridor

2. Conduct studies or otherwise make determinations regarding the private sector's performance in addressing the identified needs for facilities within the river corridor, any such determination will be based on criteria developed jointly by the membership of the Council

## Local Governments

Sullivan County currently operates the Fort Delaware site in Narrowsburg and the Minisink Battleground Park in the town of Highland. This management should continue.

Local governments should also continue to manage, on a voluntary basis, their own public facilities in a manner consistent with the River Management Plan.

## State Governments

The State of New York owns one tract of state Forest Preserve land, north of Long Eddy, which abuts the river. The Pennsylvania Department of Environmental Resources administers the Delaware State Forest, which abuts the river. The Pennsylvania Game Commission three state game land tracts in Westfall, Shohola, and Lackawaxen townships which abut the river. The traditional uses and ownership of these state lands should continue. In the case of the Forest Preserve land in New York, it is protected as "forever wild" under Article Fourteen of the New York State Constitution and may not be developed under any circumstance. Both the Pennsylvania Fish Commission and the New York Department of Environmental Conservation should also continue operation of their existing fishing access sites, in cooperation with the National Park Service.

In addition, the Pennsylvania Department of Environmental Resources may develop one canoe-in campground site, subject to agreement with Westfall Township on matters such as siting, health and safety, and subject to the requirements set forth in the Land and Water Use Guidelines and the Water Use Program, on state forest land in Westfall Township.

## Private Sector

Owners of sites of natural and cultural interest should consider entering into voluntary cooperative agreements or such devices as may be practicable with the National Park Service, the states, or local governments for the interpretation of those sites as part of the overall plan for management of the Upper Delaware.

Designated public access sites and river rest stops should be provided in accordance with the recommendations outlined in goal #3, objective B of the water use section of this plan. These facilities will be provided largely through the use of existing public facilities and through cooperative agreements with willing liveries, campgrounds, and private landowners.

## National Park Service

The National Park Service has river recreation management, cultural resources interpretation, and administrative responsibilities along the Upper Delaware. As minimizing impact on the corridor resources is a fundamental responsibility under the law, a comprehensive system of facilities is vital. These include a headquarters complex, ranger stations, visitor contact facilities, interpretative sites, river rest stops/public access areas, fishing access points, and emergency access points.

Headauarters and Ranger Stations

The National Park Service has already located its headquarters on a two-acre site in Damascus Township. It operates two ranger stations: the north district station in Cochecton, and the south district ranger station in Shohola. The headquarters site does not currently house all of the agency's administrative, supervisory, and planning personnel. The National Park Service planning office is now located in the Zane Grey House in Lackawaxen under lease agreement with the owner. The ranger stations are presently in rented quarters, although they are away from the heavier visitor use areas where they are most needed. Specific responsibilities include the following:

1. Completion of the headquarters complex on the existing site in Damascus

2 If suitable rental properties cannot be found (there are restrictions on the amount of capital improvements a federal agency may make on leased properties), the acquisition, on a willing-seller basis only, of a tract in the Highland-Lumberland area for the location of the south district ranger station, and a tract in the Callicoon area for the location of the north district ranger station

Visitor Contact Facilities

Visitor contact facilities are those points where visitors to the area seek information about the river corridor's resources, river recreation, services, and amenities. They are the best avenues for providing visitors with information about local laws, and therefore, they are a primary means for reducing the impact of visitors on both the people and resources of the river corridor. They are also outlets for information about other areas managed wholly or partly by the National Park Service.

Visitor information centers along the Upper Delaware will take three forms: a visitor center near the southern terminus of the river at the mouth of the Mongaup River, information kiosks and other information centers stationed strategically along the river; and ranger stations, which would be used for this purpose in addition to the their normal duties in the event that visitor use created the demand for additional space. None of these facilities, nor any others proposed in this plan, will be developed as private concession operations.

Specific responsibilities are as follows:

Purchase of the necessary land near the lower terminus, on a willing-seller basis only, to construct and operate a major visitor contact facility to accommodate visitors entering the corridor from the southern end (this is the most frequently used access point); a kiosk may be used temporarily to serve as the southern contact point until this center is completed. The purpose of this unit is to educate visitors about public facilities and commercial establishments within the river corridor, and laws regarding private property, or areas managed by the National Park Service. There will be an emergency river access point on this property and a river rest stop.

2 The acquisition of land from willing-sellers for parking areas on both sides of the Roebling's Delaware Aqueduct Bridge and for an emergency river access point

3. The placement of information kiosks at several locations along the river, including Mongaup River; Ten Mile River; Lackawaxen; Damascus; Skinners Falls; Narrowsburg; and Callicoon; the selection of locations for placement of information kiosks is based on experienced use by the National Park Service and is subject to change, based on changing use patterns; the placement of kiosks is also subject to lease and maintenance agreements in some instances with the two states, as placements may be on existing state-owned fishing and public access points

4. Continued operation, as long as needed, under lease agreement with the owner of the public information center and bookstore located in the renovated Arlington Hotel in Narrowsburg

5. The production of maps and other public information materials for distribution to landowners and visitors, describing public lands available for public use, including uses which change seasonally, and noting private lands, which are not available for public use

6. Coordination with the Hancock Chamber of Commerce, which in the past has operated a kiosk in the town staffed by senior citizens, to operate a seasonal visitor information center in a storefront building

7. The use of the north and south district ranger station offices to fulfill added visitor information demands, if needed; the south district ranger station should also be considered for use as a river rest area

## Interpretative Sitcs

Interpretative sites play a major role in the public's understanding of the natural and cultural resources of an area. These sites may be diverse, ranging from walking trails through publicly owned natural areas to the management of historical sites important to the nation's history and development.

Interpretative sites may be operated by the private sector, local governments, or state and federal agencies. The emphasis in the Upper Delaware River legislation is to rely on existing programs and institutions whenever possible. The resource interpretation plan will follow this mandate.

Specific responsibilities include the following:

1. Coordination of the interpretative program with the Upper Delaware Council

2. Interpretation of the Roebling's Delaware Aqueduct Bridge

3. Interpretation of Delaware and Hudson Canal lock site #54, if the property is acquired, on a willing seller - willing buyer basis, as part of the site for the lower terminus visitor center

4. Interpretation of Delaware and Hudson Canal lock sire #72, if a suitable purchase, lease, or cooperative agreement can be arranged

5. Purchase of the Zane Grey House, a National Register site, on a willing seller - willing buyer basis, and initiation of an interpretative program, only if the structure or the museum collection on premises are threatened with loss or destruction

6. Purchase and interpretation of the Ten Mile River archeological site by the National Park Service; part of this tract will also be used as a river rest stop and as a parking area

7. Approval of voluntary cooperative agreements with private property owners or local governments for the interpretation of cultural resources in the river corridor

River Rest Stops/Public Access Areas

The water use section of the plan provides for locations along the river to be used for short-term layovers by paddlers. These are called river rest stops. They are provided at locations where there are no other alternative take-out locations. The sites are for lunch, sanitary facility, and rest purposes only. Three are proposed in this plan: on the same tract as the Ten Mile River Archeological Site, on the same tract as the South District Ranger Station, and on the same tract as the Visitor Center on the southern end of the river or on a leased riverfront tract nearby.

Public access areas are locations at which any person may launch a watercraft. The plan authorizes an investigation of problems at the Pond Eddy bridge. Parking problems, traffic tie-ups on the one-lane bridge, traffic and access problems on the Pennsylvania side, and an unsafe pedestrian crossing situation on the New York side are the problems that must be remedied in the interest of public safety. The development of a public access area at this location is a likely recommendation for this area.

Fishing Access Sites

Informal public access points for boat fishing are needed in the following areas: Knight's Eddy, Pond Eddy, Handsome Eddy, and in the vicinity of the Cedar Rapids Inn. These areas will average no more than two (2) acres, and in keeping with the provisions of the Water Use Guidelines, will be leased rather than purchased from willing-landowners. In the event that a leasing arrangement cannot be arranged, purchase of the land is provided for on a willing-seller basis. The National Park Service will undertake the development of these sites on a last resort basis only. The preferred providers of these facilities are, in order: private interests, the townships, the counties, the states, and the National Park Service. No amendment will be needed to develop these sites, if they become necessary.

Emereency River Access Points

Emergency river access points are locations reserved for use by National Park Service, other governmental, and emergency watercraft. The purpose is to have access points at strategic points to aid in river rescue. Some of these sites exist through cooperative agreements with property property owners. Three emergency access points are proposed: on the same tract as the parking lots on each side of the Roebling Delaware Aqueduct, and on the same tract as the visitor center.

Development costs for all sites proposed for acquisition or intensive management are provided in the cost and phasing appendix of the plan (Appendix C).

## Citizens Advisory Council

The responsibilities of the Upper Delaware Citizens Advisory Council are as follows:

1 The Upper Delaware Citizens Advisory Council should sponsor annual public forums to present status reports on: the adequacy of management of ail public facilities provided for under the plan, the potential need for additional facilities, and other issues of concern to valley residents, sportsmen, and others.

2 The Citizens Advisory Council should seek the cooperation of the states, the National Park Service, and interested organizations for the presentation of this information.

# *WATER USE PROGRAM*

## Overview

The Water Use Program, together with the Land and Water Use Guidelines, was developed to provide the management agencies, the public sector, and the private sector with common directions for carrying out the management requirements of the Upper Delaware legislation.

One intent of the program is to provide facilities which meet basic needs and which are, for the most part, informal, relatively small, and in keeping with the natural, scenic, and rural character of the area. It is not the intent to provide large, highly developed recreational support facilities. The purpose is to manage existing use of the river. Another intent is to protect landowners from the negative impacts of river recreational use and to continue to provide for their lawful recreational use of the river, while still ensuring continued river recreation for the public.

The Water Use Program includes the following three sections: (1) Water Use Principles and Objectives; (2) Water Use Management Program; and (3) Specific Management Responsibilities.

## Water Use Principles and Objectives

This section includes a set of planning principles, objectives, and specific recommendations designed to guide the management agencies, the public, and the private sector in making decisions which affect water use on the Upper Delaware. The goals and objectives reflect the Land and Water Use Guidelines.

**Principle A:** ***Protect the Outstanding and Highly Valued Attributes of the River for the Enjoyment of Area Residents and Visitors***

Objective 1: Maintain awareness of the need to protect the scenic, recreational, cultural, and natural qualities of the Upper Delaware.

The Upper Delaware Council must urge all levels of government, commercial outfitters, and everyone else involved to be constantly aware of the need to conserve the special qualities of the river and to fulfill their responsibilities in its conservation. All public and private decisions that affect the river must be made only after carefully considering the full effects on the river's resources.

To accomplish this, major emphasis should be placed on educating people who use the river to increase their awareness of this outstanding resource and the need to protect it. In addition, the Upper Delaware Council, through its members and in cooperation with other agencies and major organizations, should provide information and sponsor work sessions for local governments and local groups on ways to help conserve the special character of the river.

Objective 2 Maintain and, where necessary, improve present water quality.

The water of the Upper Delaware is of some of the highest quality in the entire Northeastern United States. The clarity of the river is outstanding; it is rare when the bottom is not clearly visible. The high water quality helps ensure excellent fishing and is a major factor in making the Upper Delaware such a special place. The program and specific responsibilities for protecting water quality is fully described in the Water Resources Management section of the plan.

Objective 3: Prevent riverbank erosion.

The Council should ask the U. S. Soil Conservation Service to compile an information packet and to hold workshops in the area on simple, environmentally sound, low-cost ways of stabilizing stream banks and conserving soil within the river corridor. Follow-up assistance should be directed towards the few owners of lands suffering serious problems. The Soil Conservation Service should also encourage landowners along the river to avoid disturbing existing vegetation and to plant additional trees and vegetation to prevent soil erosion. Vegetation should also be maintained along the banks of federal and state lands. Campground operators should be encouraged to regularly shift uses away from areas suffering erosion.

Objective 4: Place in operation a system to monitor the river's resources.

A resource monitoring system is described in the water use management program. This system should be further developed and implemented, under the sponsorship of the Council. This system would periodically evaluate the impacts of recreational use on the river and adjoining lands and be used to determine trends. This would help identify and predict situations where resources might become strained. Regular and adequate monitoring of water quality at regular intervals along the corridor must also be included in this monitoring system.

Principle B: ***Encourage Cooperation and Coordination among All Levels of Government.***

Objective 1: Use the Council to interpret the water use guidelines and program, develop river management policies, and recommend water use policies and guidelines.

The Upper Delaware Council will coordinate the implementation of the Land and Water Use Guidelines and the River Management Plan. The Council will have a key review and recommendation role relating to water use management decisions. The Council will use and rely on its member agencies (National Park Service, Delaware River Basin Commission, the states, the towns and townships, etc.) to carry out the water use management program activities. The specific responsibilities of the Council are listed in the final section of the Water Use Program.

Principle C: ***Provide an Enjoyable Recreational Experience***

The National Wild and Scenic Rivers Act (P.L. 90-542) states that designated rivers are to be protected for the "benefit and enjoyment" of present and future generations. This means that the Upper Delaware should be managed to provide for an enjoyable recreational experience.

Providing for an enjoyable recreational experience which avoids user overcrowding, recreational activity/landowner conflicts, and resource degradation is in everyone's interest. Adequate yet carefully located public access points, river rest stops, fishing access points, camping opportunities, and other appropriate facilities shall be provided, if they are found to be necessary.

Objective **1:** Provide an adequate number and type of basic: support facilities for all river users including public access points, river rest stops, camping areas, and fishing access points along the Upper Delaware.

In many cases, these facilities can be provided by the private sector, by local or county governments, or by state agencies, and they are encouraged to do so. Towns and townships may need to revise zoning ordinances. Other land use regulations may need to be revised to allow these recreational support facilities at appropriate locations along the river.

The National Park Service, by amendment to the plan, may consider acquiring land and developing, operating, and maintaining these types of facilities, but only under the conditions set forth in the Land Management Program section of this plan.

Additional acreage may be acquired for facilities, subject to the limitations stated above, if requested by local governments upon the finding that the private sector has been unable to meet the need for the services proposed. Such acreage may only be authorized through amendments to the River Management Plan, the process for which is defined in the management structure section of this plan.

**Objective** 2: Use objective guidelines to select appropriate locations for future recreational support facilities.

The Council, the private sector, and all levels of government should use the following guidelines to objectively select appropriate locations for any needed public access sites, river rest stops, fishing access points, and camping areas. These guidelines are meant to be reasonably flexible and are not intended to be rigid requirements.

Public Access Guidelines

1. Provide a public access area approximately every 10-12 miles along the river, except for the reaches classified as "Scenic" for which existing facilities will be used in order to maintain the unspoiled nature of the river along those stretches.

2. Continue to use existing public access areas to the river to help meet the above spacing guideline and work with the landowners to assure that these existing public access areas are properly maintained and managed as public access areas in the future. If circumstances change as to the availability of these sites, this guideline should be implemented.

3. Encourage the private sector and appropriate local public agencies to provide these facilities. For example, a livery might want to have an access area for both commercial and public use or the private sector could develop the access area and lease back to a public agency to operate and maintain.

4. Use the following criteria to determine appropriate locations for new public access areas:

a The nearest public access point should be approximately *IG-12* miles away.

b. The site should have an adequate access road.

c. The site should be physically suitable (topography, soils).

d. The site should be large enough to accommodate off-road parking.

e. The adjacent land use should be compatible with the public access point.

f. The site should be an adequate distance from a livery access point to avoid congestion.

g. The shoreline and water depth should be adequate.

h. The access point should enhance other amenities (e.g., geologic sites).

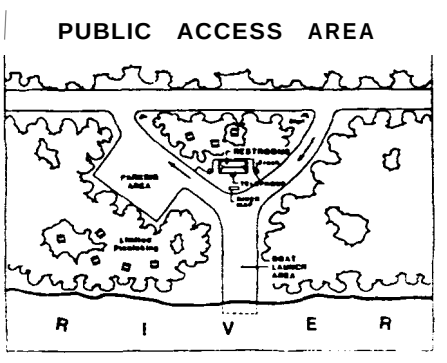
i. The owner must be willing to sell or lease.

j. The local zoning ordinance must allow a public access site at the proposed location.

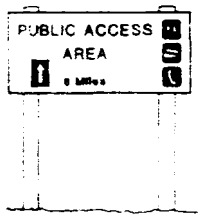
k. Special attention should be directed toward resolving the traffic, access, and public safety problem in the vicinity of Pond Eddy; the Council, in cooperation with the National Park Service, should investigate the problems of pedestrian highway crossing, parking, bridge tie-ups, and Pennsylvania side parking at this site, and make recommendations for the resolution of these difficulties.

l.Trespass, parking and traffic impacts should be addressed before such sites are approved

5. Include the following support facilities at public access areas: a parking lot, comfort station, a public telephone, a map of the river, trash containers, a boat launching area, and limited picnicking (see sketch)



6. Provide signs along the highway and along the river to locate and show direction to these public access points. These signs should be designed attractively, be standardized, and must comply with the sign provisions of local town and township zoning ordinances, as well as NY DOT and PA DOT highway standards

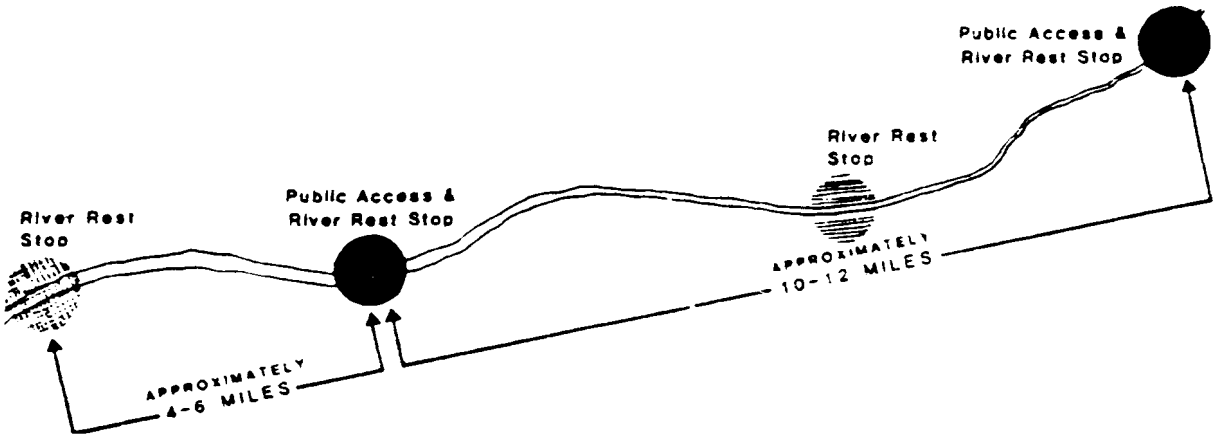



HIGHWAY MARKER

RIVER MARKER

**River Rest Stop Guidelines**

**1.** Provide an informal public river rest stop approximately every 4-6 miles along the river. (NOTE: Public access areas should double as river rest stops. So, the guideline is to provide rest stops between public access areas.)




2 Use the following criteria to help determine appropriate locations for river rest stops:

a. River rest stops (including a public access area) should be approximately 4-6 miles apart.

b. An access road should be available for maintenance, law enforcement, and emergency access only.

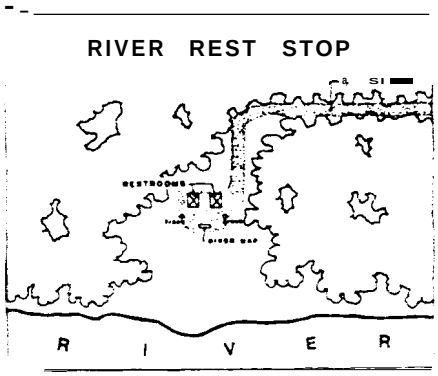
c. The site should be physically suitable (topography, soils).

d. The shoreline and water depth should be adequate.

e. The owner must be willing to sell or lease.

f. The site should offer opportunities (rocks, beach area, etc.) for informal picnicking.

3. Include the following support facilities at river rest stops: a map of the river, a comfort station and trash containers. Do not provide developed picnic areas (see sketch).




4. Provide adequate directional and location signs for these rest stops along the river. These signs should be attractively designed, be standardized, and must comply with the sign provisions of local town and township zoning ordinances, as well as NY DOT and PA DOT highway standards.

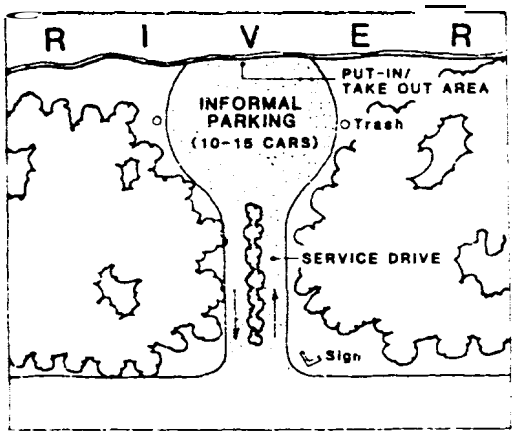
5. Use lease arrangements if practical to manage and maintain rest stops.

6. Based on the availability of existing public and private access points along the river, this plan proposes that three new river rest stops be developed in the vicinities of Ten Mile River, the Lumberland-Highland area, and Mongaup River.

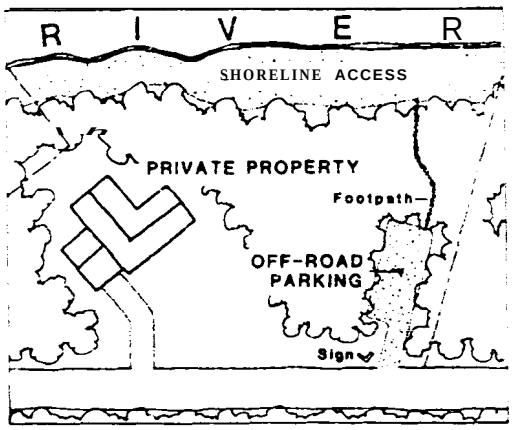
Fishing **Access** Guidelines

1. Encourage boat anglers to use public access points.

2. Provide additional informal public access points for fishing in the area of Knight's Eddy, the vicinities of Pond Eddy and Handsome Eddy and the vicinity below Cedar Rapids Inn, as well as other selected areas. These facilities may be located on either side of the river consistent with local ordinances. Use local fishing groups to identify needed locations. Sites, if improved, could be small, provide for limited off-road parking, allow for relatively easy access to shoreline, boat launching facilities, avoid heavily used pleasure boating areas, and should be leased rather than acquired by fee. As with other facilities proposed in this plan, private interests should be given the opportunity to provide these facilities first, then the towns, counties, and the states. The National Park Service should provide these sites only as a last resort.



3. Encourage landowners, on a voluntary basis, to allow fishing access over their property. Also, the Upper Delaware Council could request the New York Department of Environmental Conservation and the Pennsylvania Fish Commission to explore the potential of establishing fishing easements along the banks of the main stem of the Upper Delaware in consultation with the Council, the Citizens Advisory Council, local government and landowners. If feasible, different river sections should be included to provide the maximum amount of diverse fishing opportunities, including both rapids and pools and warm and cold water fisheries.




**Canoe-In Campground Guidelines**

The private sector may provide, operate and maintain canoe-in campgrounds. If the affected units of government find that the need for such facilities is not met by the private sector, a public or quasi-public agency may operate these camping areas on a self-sustaining basis, charging fees to cover costs.

1. These facilities should be provided in accordance with municipal zoning regulations and other applicable local and state regulations.

2. The National Park Service may provide technical assistance to help the operator design the camping area.

3. The landowner or operator should provide appropriate toilet facilities, supervision and maintenance, and be responsible for fee collection.

4. The Upper Delaware Council should review and make recommendations regarding canoe-in campground proposals to local governments.

5. The local government, in whose jurisdiction a camping area is being prepared, should use the following criteria in reviewing and determining whether to approve applications:

   a. The proposal should be consistent with the zoning ordinance

   b. The application should be consistent with applicable health requirements

c. The location should be acceptable with regard to its physical characteristics (topography, etc.)

d. The location should be in a relatively remote location, far from larger campgrounds and private residences

e. The applicant should submit a brief statement showing how the site will be supervised, managed, and maintained

f. New road access to the facility will be for purposes of service only, with user access to be by the river

6. One canoe-in campground is proposed by this plan, that on Pennsylvania state forest land in Westfall Township. The specific plans for this facility should be developed cooperatively by the Commonwealth of Pennsylvania, Westfall Township, the National Park Service, and the Council.

**Principle D:** ***Provide for a Variety of Compatible Recrearional Activities and Situations***

The Upper Delaware now provides opportunities for a variety of recreational activities and experiences. Continuing traditional recreational activities and experiences on the river is an important aspect of this program.

The potential for some conflicts between various recreational activities exists at most recreational areas. Realistically, some activities-related conflicts on the river are unavoidable. However, good river management can greatly reduce many such conflicts.

**Objective 1:** Manage the Upper Delaware primarily for the traditional recreational activities which have occurred on the river in the past.

Recreational areas and facilities on the Upper Delaware should be planned and managed in a manner which emphasizes traditional recreational activities.

**Objective 2:** Conserve the Upper Delaware fishery, which is unique and represents a national resource that cannot be replaced.

This outstanding Upper Delaware fishery should be managed consistently with applicable state laws as described in the Fisheries and Wildlife section of the management plan.

**Objective 3:** Recognize the Upper Delaware's regional setting.

The Upper Delaware Council should recognize the Upper Delaware River's regional setting when making recommendations concerning recreational use. For example, the fact that the metropolitan New York area and several other large urban areas are within a two hour drive should be a consideration when making future decisions about recreational use levels. Other factors, such as regional population characteristics, the supply of other regional recreational facilities, and regional recreational use trends should also be considered.

**Objective 3:** Make river users more aware of the need to respect others.

More and better information. interpretive programs, handouts and brochures could be directed toward educating river users and making them more aware of their role in helping to ensure that other river users have a pleasant recreational experience. River users must be educated to be more tolerant of others and to take measures to reduce conflicts. All river users must also be made aware of trespassing laws and the fact that most of the land adjacent to the river is private.

Objective 5: Design and locate recreational areas and facilities to avoid conflicting activity situations.

Some river use conflicts can be avoided by applying the following guidelines:

1. Separate day use areas (e.g., roadside picnic areas) from camping areas. The Upper Delaware Council should work with the Upper Delaware River Safety Committee, the National Canoe Safety Patrol, the commercial liveries, fishing groups, the towns. the Citizens Advisory Council, and others to develop specific techniques to minimize conflicts between:

   - fishing and pleasure boating
   - eel weirs and boating
   - canoeing/rafting and tubing (especially in areas such as Skinner's Falls)
   - swimming and other recreational activities

Principle E: ***Prevent River Recreational Accidents and Minimize Hazards***

Objective 1: Continue to use river patrols to assist in providing a safe recreational experience.

The Upper Delaware Council should encourage the National Park Service to continue to coordinate its activities on the river with the National Canoe Safety Patrol. commercial livery personnel, and others in order to patrol the river and to increase safety. The stationing if patrols at areas of high activity, such as Skinners Falls and the Mongaup, should be continued. Consideration should also be given to adding river safety patrols at other potentially hazardous areas, such as Mill Rift, Shohola Rift, and Cecar Rapids. The National Park Service should also notify eel weir operators of the need to post warning signs upstream of their weirs in order to reduce potential for river accidents.

Objective 2 Provide better emergency communications and better river information.

The National Park Service should upgrade the 24-hour telephone information system which informs callers of river temperatures and flows. Also, a commercial AM or FM radio frequency could be used to broadcast river information.

The National Park Service has an emergency telephone number in service during the recreational season. National Park Service calls are collect for river-related emergencies.

The effectiveness of this communications system should be periodically reviewed. The National Park Service should upgrade this system as needed in the future, perhaps to allow for expanded hours or to provide for an 800, toll-free, telephone number if needed. Emergency phone numbers should be posted on all public telephones in the corridor and be listed on brochures and maps.

**Objective 3:** Provide canoe safety training sessions.

The National Park Service, commercial liveries and others should be encouraged to continue to provide canoe safety training sessions. More training sessions could be offered at more locations. The National Park Service, with the advice of the Council, should also seek sponsors to offer Red Cross or other appropriate canoe training sessions to the public.

**Objective 4:** Continue to use an Upper Delaware River Safety Committee to address river safety issues.

Knowledgeable persons representing the towns and townships, National Park Service, National Canoe Safety Patrol, the Department of Environmental Conservation, canoe liveries, the Pennsylvania Fish Commission, camps, sportsmen's groups, Citizens Advisory Council, and other interested persons should serve on this committee. The committee should be used to address river safety issues and to make periodic reports and recommendations to the Council.

**Objective 5:** Continue to inform all river users about river safety precautions and how to use the equipment safely.

All river users should comply with basic safety standards for the river. Minimum safety standards should continue to be included as part of the commercial livery license. All camps should also be required to comply with safety standards and to provide adequate supervision on river trips. The Upper Delaware River Safety Committee should be requested by the Council to assist in the establishment of these safety standards for river use.

River safety standards should address matters such as hypothermia, water craft safety criteria, and other appropriate subjects identified by the Upper Delaware River Safety Committee.

**Principle F:** ***Respect and Protect Riparian Landowner Rights***

The Upper Delaware Scenic and Recreational River is unique. While it is designated and recognized as a Scenic and Recreational River, over 95 percent of the land adjacent to the river is owned (and will continue to be owned) by private landowners.

Trespassing, illegal camping, and other conflicts exist between river users and riparian landowners. These problems are real and must be resolved.

**Objective 1:** Educate and inform river users about landowner rights and river use rules and regulations.

Many river users are clearly not aware that almost all of the land along the Upper Delaware is privately owned. A major public awareness campaign should be carried out by the National Park Service with the support of the Council. All maps, brochures, and information provided to users must stress that the vast majority of the land is privately owned. This information program should be combined with safety information, explained under Principle E, and information on conserving the river's resources, explained under Principle I.

Local law enforcement officers will have to be more active in responding to trespass and litter violations. Landowners must also cooperate and be willing to press charges against trespassers. This local cooperation, when combined with the above information program, will help to protect landowner rights.

In addition, efforts need to be aimed towards decreasing unauthorized overnight camping. Trip planning information should be provided so users can reach authorized camping areas or overnight facilities during daylight hours. Visitors must be made aware of, and directed to, authorized facilities. The National Park Service, liveries, and camps have a major responsibility to voluntarily develop procedures to avoid sending users on overnight trips unless authorized camping areas or overnight camping areas are available.

Some uses occur on the area between the normal high and low water marks known as the "strand." Because many aspects of the laws and treaties relating to the strand have not been tested in court, the extent of the navigational easement is unknown. The strand should be reserved for navigational purposes only. The Council should seek further legal clarification of this issue. The strand is private property, however, and the rights of private property apply to the strand.

**Objective 2:** Provide a well designed program to direct river users to authorized facilities.

Only a minimal number of signs should be used and they should be small, attractive, standardized, make full use of symbols, and be keyed to the maps. Many of these signs would stress private property warnings. They should be located at public access points, river rest stops, camping areas, before each settlement area, and on each bridge. In addition, private property reminder signs should be at boat launching points to catch the attention of users just before they enter the water. The National Park Service should be given the responsibility to develop the sign program and provide the signs, with the advice and recommendations of the Council.

**Objective 3:** Provide recreational support facilities in proper locations to reduce trespassing on private lands.

If a sufficient amount of essential recreational facilities are available, there would be less inclination to trespass on unauthorized private lands for these uses. These facilities include public river access sites, river rest areas with sanitary facilities, and privately-owned camping areas open to the public.

These recreational support facilities should be included in local town and township plans, subject to the procedures and provisions of this program and the Land and Water Use Guidelines. The Guidelines provide for these facilities as "conditional uses" which are permitted if certain conditions are met (such as the guidelines stated earlier in Principle C) after review and approval by the local officials.

**Principle G:** *Maintain the Private Sector as the Major Provider of Needed Recreational Facilities*

Recreation provides a major source of jobs and tax revenue to the Upper Delaware area. In turn, this income is passed on to create many more jobs. The National Park Service's current role in providing recreation areas and facilities on and along the Upper Delaware is minimal. This goal is intended to underscore the importance of relying on the private sector, such as private landowners and the existing commercial liveries, to provide needed recreation activities and facilities and to avoid federal acquisition of land for recreation.

**Objective I:** Encourage arid assist the private sector as the major provider of recreation facilities and services.

The public sector should avoid developing recreational facilities that will directly compete with the private sector. Public sector facilities, such as campgrounds, shall not charge subsidized rates that compete unfairly with the private sector. The Council and the National Park Service could assist interested landowners in properly planning and designing recreational areas.

**Objective 2:** Use outdoor recreation to strengthen the local economy.

Efforts should be made by the private sector to diversify the types of recreation providing employment, within the framework of the management plan. Activities during the off-season should be encouraged to provide year-round employment. A greater variety of leisure uses should be stressed, including more activities that will attract families and mature individuals. Week-long vacations to the Upper Delaware might be encouraged.

**Objective 3:** Encourage local towns, townships and counties to provide close-to-home recreational facilities as needed.

Some river recreational facilities should be aimed toward use by local residents. These include swimming and sunbathing areas. Local governments may decide to provide these facilities away from major roads used by outside visitors. Also, as indicated in Objective A, recreation facilities which directly compete with the private sector should be avoided.

**Principle H: Strictly Enforce** ***Existing Law***

This goal recognizes the need for maximizing the enforcement of existing laws. It also recognizes the need to have coordination between the National Park Service and state and local governments to enforce river use rules and regulations, and that existing state and federal laws will apply to fishing, eeling, hunting, trapping, commercial fishing.

**Objective 1:** Stress enforcement of state and local laws that are already existing.

River-related problems can be largely reduced by maximizing the use of existing laws and regulations and by strict enforcement of existing laws and regulations.

**Objective 2:** Use river patrols to strictly enforce applicable river rules and regulations.

The use of boat patrols on the river is an effective method for enforcing river rules and regulations. The Council should encourage the National Park Service to continue the use of river patrols and ensure that these patrols are widely noticed by users while they offer assistance and consistently enforce river use laws along the entire length of the river. The National Park Service can assist by providing staff support, equipment, and facilities for a river patrol program. Also, the National Park Service should quickly be in contact with local law enforcement officers when observing land-based violations during river patrols.

**Objective 3:** Greatly increase cooperation between federal, state, and local law enforcement efforts.

The National Park Service shares jurisdiction with the states for activities in and on the river relating to recreational use. There have been numerous problems with separate law enforcement efforts by federal, state, and local officers, each being overly restricted by their own limited authority. Therefore, the Park Service rangers, Pennsylvania Waterways Conservation Officers, New York Environmental Conservation officers, and local law enforcement officers should regularly join together in joint river patrols and other closely coordinated efforts. This would allow more local prosecution of violations, more efficient enforcement of existing laws, and greater coverage of the river.

**Objective 4:** Develop a strict enforcement policy.

A strict, phased-in law enforcement program is needed, with a period of time stressing warnings and increasing public awareness of the rules. Education is the key. It is essential that river users know that violations will result in strict enforcement. Laws against drunken boating, littering, trespassing, and vandalism need to be emphasized. All laws at all levels should be clearly identified. Unauthorized use of private lands, especially camping on lands clearly posted as private, should result in a strict penalty.

**Principle I:** ***Educate and Inform River Users About Protecting the River, Reducing River Conflicts, and Respecting the Rights of Others***

**Objective 1:** Prepare various types of information to make river users aware of the need for protecting the river resource, reducing user conflicts, and respecting the rights of others.

This awareness campaign should make use of all forms of communication, including brochures, posters, slide shows, interpretive programs, and existing billboards. This program would build on some existing educational programs developed by the National Park Service. The campaign should also be aided by continuing the volunteer canoe safety patrol program.

Much of this information can best be provided by having commercial liveries, campgrounds, and other recreational providers distribute information to river users. This same information should also be available at kiosks and at each river access site. The information could address a variety of concerns, with a brochure aimed towards each major type of user. The information should include an explanation of river conditions and hazards (such as eel weirs) and boating skills. It should cover some basic safety measures, as explained under Principle E, such as swimming hazards and hypothermia. In addition, ways should be discussed of avoiding conflicts between users, such as between canoeists and fishermen and between campers and landowners.

This comprehensive public information campaign should be developed and implemented by the National Park Service, under the direction and advice of the Council.

Objective 2: Provide maps and a limited number of signs to inform and direct river users.

Quality maps of each segment of the Upper Delaware should be produced. Mile markers on these maps should be keyed to landmarks and easily identifiable features such as bridges and rest areas, to let users know where they are. The map should clearly show estimated canoeing times between points, river access points, river rest stops, camping areas, landmarks, public and private lands, and recommended channels around islands and eel weirs. On the back of the maps, river rules and emergency information would be provided. Signs with positive wording and explanatory messages should be used to help prevent fires, littering, trespass, and resource overuse.

The National Park Service should develop and provide these maps and signs under the advice and recommendations of the Council.

Objective 3: Increase awareness among local residents and organizations of ways to conserve the river's resources.

To accomplish this objective, full use must be made of local newspapers and radio stations. Regular press releases and ideas for stories should be submitted by the Council. Also, educational programs on the river should be developed by all of the area schools, in conjunction with the Citizens Advisory Council. The Council should organize a clearinghouse to refer local organizations and schools to qualified persons willing to speak on the river's resources and their conservation.

Objective 4: Seek ways of reducing litter.

Litter can be reduced through public education programs. A carry-in/carry-out policy must be stressed. Enforcement of litter laws must be tightened, and users made aware of the enforcement. The Council should encourage volunteer groups to expand "cleanup" efforts at key points along the river. Additional trash containers secured to immovable objects should be placed at appropriate locations along the river, with adequate pick-ups. The effectiveness will be periodically reviewed by the Council.

## The Water Use Management Program

A well-conceived water use management program is needed to fully implement the Water Use Program and guidelines. A recommended management program consisting of the following steps is explained in this final section of the plan:

- Initial Water Use Management Program
- Evaluation of the Program
- Continuing Water Use Management Program

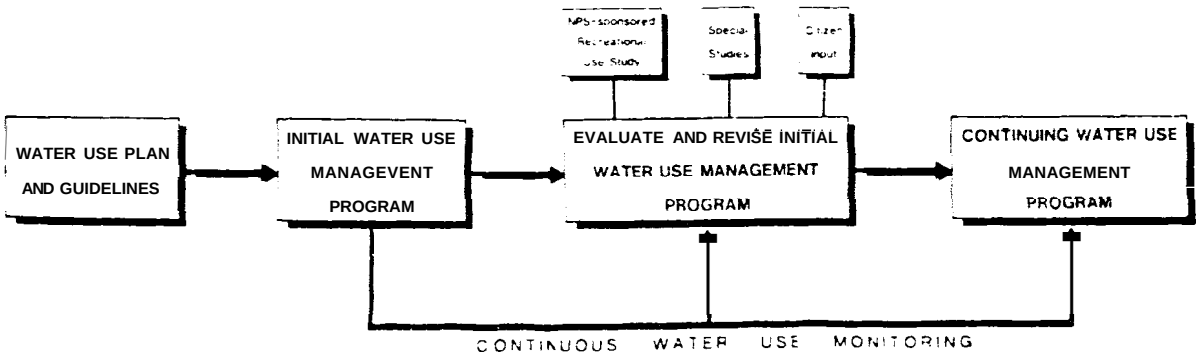
Although the Upper Delaware Council has the responsibility for coordinating the Water Use Program objectives, other agencies and many individuals should also be involved, on a voluntary basis, in implementing the Water Use Program objectives and recommendations.

The Upper Delaware Council will have a key review and recommendation role relating to water use management decisions. The Council will use and rely on its member agencies (National Park Service, Delaware River Basin Commission, the States, the towns and townships, etc.) to carry out the Water Use Management Program activities such as river monitoring and the administration of commercial livery licenses.

The Water Use Management Program must address both immediate concerns and concerns that could cause serious future problems.

The following chart shows how the Water Use Management Program has been structured to provide a progression of action that the members of the Council can take to manage river use and to conserve the river's resources:

**WATER USE MANAGEMENT PROGRAM**
**Upper Delaware Scenic and Recreational River**




This progression of actions is as follows:

1. After the Water Use Program and guidelines are approved, the Council should take the lead role in coordinating an <u>initial</u> Water Use Management Program. This initial program will emphasize voluntary and cooperative efforts stressing education, information, enforcement, and cooperation. New controls and additional rules and regulations must be avoided in this initial management program where adequate laws exist.

2. The effectiveness of the initial management program will be determined after careful evaluation by the Council. If any of the program's methods are deemed inappropriate to conserve the river and minimize river recreation problems, new methods and actions should be seriously considered which place an increased emphasis on less subtle methods, including regulations and controls. The initial management program would be revised to reflect the new methods.

3. Continuous water use monitoring and an annual evaluation of the management program will ensure adequate modifications and an effective continuing water use management program.

The four major components of the recommended Water Use Management Program, as shown in the chart, are described in the remainder of this section.

## Initial Water Use Management Program

A program of actions to manage water uses on the river should be carried out soon after this River Management Plan is approved. Some actions will be designed to address immediate problems, while others will address more long range concerns to avoid future problems.

The initial management program will emphasize a complete program of educating and informing users and strictly enforcing existing laws, rules, and regulations. Many actions will be taken that will require cooperation between all those involved in order to accomplish the goals of this plan. Efforts will build on existing successful management efforts, such as the licensing system for commercial liveries. This initial program will minimize additional regulations, rules, or controls on water use.

The philosophy underlying this initial management program is based on the preferences expressed in surveys and interviews of river users, landowners, and livery operators, and in discussions with all parties involved throughout the development of this plan. For example, in one survey (the 1984 Upper Delaware User Survey accomplished for the Council of Upper Delaware Townships by Urban Research and Development Corporation), river users clearly preferred the use of information and awareness efforts and the enforcement of existing rules and regulations to manage recreational uses over more direct regulatory ways of controlling users, such as requiring permits or charging fees.

In summary, the initial Water Use Management Program includes the following key actions:

1. Strictly enforcing existing rules and regulations
2. Continuing the National Park Service commercial livery licensing program, with the advice of the Council and the Citizens Advisory Council
3. Carefully locating new river recreation support facilities, as needed
4. Solving river congestion problems at "choke points"
5. Developing a comprehensive river users information and awareness program
6. Establishing an ongoing water use sub-committee, of the Council
7. Establishing a water use monitoring program

Many conflicts occurring along the river, especially those between some recreational users and landowners, could largely be resolved by strictly enforcing existing rules, regulations, and laws. These especially include laws against littering and trespassing, and safe boating laws.

The licensing program of commercial liveries should be continued by the National Park Service, with the advice of the Council. Through this program, safety standards are enforced and important river use information is provided. The program should be extended to include commercial camps and all liveries, regardless of size. Information on safety should be made available to all river users. Working together, the Council, the National Park Service, liveries and any other licensees should be able to find ways to improve this licensing program while trying to avoid an increase in the cost or time needed to comply with the requirements.

The licensing procedures described in this section shall apply to all liveries or companies that rent watercraft for use by others. All such enterprises shall carry valid liability insurance covering their operation.

As explained under other objectives, the initial management program should include carefully locating new river recreation support facilities as needed (see Principle C, Objectives 1 & 2). Efforts should also be made to solve congestion problem at "choke points" on the river, such as Skinners Falls. River use should be encouraged during off-peak times and seasons. Also, a comprehensive river user information and awareness program should be prepared and implemented by the National Park Service, with the advice of the Council. Elements of this information and awareness plan were discussed throughout this plan, including efforts to protect landowner rights (Principle F) and to encourage respect for the river's natural resources (Principle I).

Two major actions should begin immediately after the plan is approved:

1. The Council should establish a standing "water use committee." It would include public and private persons with diverse perspectives and knowledge of the river. The major function of this committee would be to provide guidance and assistance to the Council on ongoing and future water use studies. The committee would initially stress working with the National Park Service sponsored recreational use study. This study is in its preliminary phase, and the National Park service will be consulting with the Citizens Advisory Council, the Upper Delaware River Safety Committee, and others during this effort.

2. A program to continuously monitor river uses should be instituted. This "monitoring program" will be described later in this section. The committee could assist in developing this monitoring program and might also be given the responsibility to oversee and improve upon the continuous monitoring program.

### Evaluate and Revise Initial Water Use Management Program

The Council should evaluate and revise the initial water use management program after it has been implemented. The evaluation will emphasize whether conflicts between users of the river are within acceptable limits and whether the special scenic, recreational, cultural, and ecological qualities of the Upper Delaware River are being conserved. This evaluation should occur after the completion of the planned National Park Service-sponsored recreational use study, after the water use monitoring system has been in place over a length of time, and after input from citizens and organizations, including the Citizens Advisory Council, has been obtained. After the first major evaluation, the program then should be annually evaluated.

The evaluation will be valuable in showing what actions are working best and what aspects need to be improved and updated. If the evaluation shows that the program in place is inadequate, additional actions will be considered. Voluntary cooperative efforts and avoiding additional regulations and controls can only be emphasized if the river's many special qualities are not threatened, if river users can enjoy pleasant recreational experiences, and if riparian and landowner rights are being protected. Less subtle management options could be used if the initial water use management program proves to be inadequate to carry out the goals and objectives of the Water Use Program which are discussed later in this plan.

In order to make well-conceived management decisions and to properly evaluate the Water Use Management Program, water use monitoring and special studies will be required.

Water Use Monitoring Program

After obtaining advice and recommendations from the Water Use Committee, the Council should coordinate a continuous water use monitoring program to:

1. Continually analyze water quality at several locations along the river's length

2. Monitor the level of recreational use (including numbers and types of watercraft)

3. Periodically survey landowners to determine how recreational use is affecting them

4. Periodically survey experiences of recreational users to note information regarding user satisfaction and user characteristics

5. Observe the physical condition of the river's special resources (such as erosion or disturbance of fisheries), and analyze complaints and information on accidents

Areas with higher levels of use should receive the most attention in the monitoring process. If a segment or an area of the river is found to be suffering problems such as overuse, then management actions designed to alleviate the problem should be implemented. The monitoring program would enable adjustments to be made in the overall river management program. In addition, monitoring will provide up-to-date background information for all levels of government, and other interested parties, whenever they make major decisions affecting the river. The monitoring program would be coordinated by the Council, but implemented under the leadership of the National Park Service.

Ongoing and Future Studies

Department of the Interior guidelines for Scenic and Recreational Rivers published in 1982 state that "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" (47 Federal Register 39454). The Council should encourage future studies, as needed, and be involved in the actual development of study parameters.

National Park Service-Sponsored Recreational Use Study

The National Park Service-sponsored recreational use study presently underway will use studies done in preparation for this water use management plan. This study is being conducted in cooperation with the U. S. Forest Service, state and local governments, private interests, and the general public. The National Park Service-sponsored study should look further at key river-related problems, conditions, and issues that need to be addressed in the management of the river. This study would also utilize information from the continuous Water Use Monitoring Program, and would be used to revise the types of information collected by the monitoring program. The results of the study will be used by the Council.

Special Studies

Concerns have been expressed during the preparation of this plan that warrant additional study. Undoubtedly special studies will have to be performed periodically as needed to provide information for making appropriate management decisions. The Upper Delaware Council should be responsible for proposing and overseeing these.

### Continuing Water Use Management Program

The initial Water Use Management Plan can be carefully evaluated only after the situations and issues along the river have been properly studied and discussed. The evaluation should be based upon the findings of the monitoring program, the National Park Service-sponsored recreational use study, any other studies and input from citizens and organizations. The Council can then improve or modify the Water Use Management Program, in a manner consistent with procedures for revision or minor amendment. The evaluations would then occur annually to regularly improve and update the management program as situations change. The initial management program should be revised to include practical solutions to resolve documented river-related problems. Major revisions to the plan, however, would require that the River Management Plan be amended, the procedure for which is defined in the management structure section of this plan.

The continuing management program should strive to emphasize river management efforts that avoid new regulations and controls. However, if the scenic, recreational, ecological, and cultural resources of the Upper Delaware River become threatened or if use conflicts become serious despite the initial water use management program, less subtle and less voluntary management methods may have to be added. This might include progressively higher levels of regulation and controls until the Upper Delaware Scenic and Recreational River is being properly protected and use conflicts are brought down to an acceptable level. The Council would seek to establish these more stringent regulations if deemed desirable after careful study and discussion. Fish and wildlife management would continue to be regulated by existing state and federal law only (See appendices for possible management options).

## Specific Management Responsibilities

Specific management responsibilities are indicated throughout the Water Use Program. This final section provides an overall summary of the major responsibilities for carrying out the Water Use Program.

## Upper Delaware Council

The Upper Delaware Council will he the coordinating entity and will have overall responsibility for achieving the goals and objectives of the Water Use Program. The Council will have a key review role relating to water use management decisions and will rely on its member agencies to carryout the water use management program. More specifically, the Council will:

1. Interpret the Water Use Guidelines and Program, develop river management policies, and recommend actions to implement water use policies and guidelines

2. Be the principal forum for managing recreation use on the river

3. Serve as the main coordinating agency for carrying out the Water Use Management Program of the plan

4. Assist the local towns and townships in implementing the Land and Water Use Guidelines and River Management Plan in a consistent manner

5. Develop and implement, with assistance from the Citizens Advisory Council, a river use education and awareness program

6. Review and make recommendations on acceptable management actions, in consultation with the Citizens Advisory Council, landowners, users, and businesses

7. Recognize that a variety of management actions are available to manage river use and to conserve the river's resources

8. Review and make recommendations on the annual plan for water use recreational management to be carried out by the National Park Service

9. Provide advice and recommendations to the National Park Service regarding the commercial livery license program

10. Review and make recommendations regarding any permit or registration system which might be proposed in the future for water use

11. Oversee all recreation development and provide reviews of development plans and other matters which may affect river use

12. Authorize special studies, as needed, to provide information for making appropriate management decisions

## Towns and Townships

1. Assist the Council in implementing the Water Use Program and Water Use Management Program

2. Implement and enforce zoning ordinances to manage land uses within the river corridor in a way that is not detrimental to the goals and objectives of the Water Use Program

3. Use the Council to review recreation development plans and other matters which may affect river use

4. Use a strict law enforcement policy and publicize law enforcement efforts

5. Provide input to help evaluate the Water Use Management Program

Counties

1. The counties should provide land use planning and other technical assistance to the Council, the National Park Service, and the towns and townships in support of the water use program.

Commonwealth of Pennsylvania and State of Sew York

1. Continue administration and enforcement of fish management, boating, pollution control laws, and other river use laws

2. Keep the Council informed of all state-related water use matters, such as those relating to flow management and reservoir releases

3. Continue to work to maintain the high water quality of the river

4. Provide state funds and technical assistance for updating local comprehensive plans and zoning ordinances

5. Assist the Council in its administration of the Water Use Management Program

Delaware River Basin Commission

1. Continue the administration and enforcement of existing regulatory responsibilities, in cooperation with the Upper Delaware Council, on water use matters affecting the Upper Delaware

2. Include regular and adequate monitoring of water quality at regular intervals along the river

3. Keep the Council informed of all matters relating to flow management of the river and reservoir releases

Upper Delaware Citizens Advisory Council

1. Continue to encourage public involvement during the implementation of the Water Use Program

2. Continue to conduct public forums on relevant river use issues

3. Act as a forum to hear individual concerns or grievances about the Water Use Program and its implementation

4. Assist in the development and implementation of a river use education and awareness program

5. Provide input for evaluating the effectiveness of the Upper Delaware Council

6. Assist the Council, and others, in developing specific techniques to minimize water use conflicts

7. Work with area schools and others to develop educational programs to increase awareness among local residents of ways to conserve the river's resources

National Park Service

The National Park Service shares jurisdiction with the states for activities in and on the river surface relating to recreational use.

1. Submit its annual plan for water use recreation management to the Upper Delaware Council for review

2. Prepare and implement a comprehensive river user information and awareness program, with the advice and recommendations of the Council

3. Provide maps and signs, with the advice and recommendations of the Council, to inform and direct river users

4. Continue the commercial livery licensing program, with the advice and recommendations of the Council

5. Implement other necessary activities, with the advice and recommendations of the Council, to achieve the Water Use Program Goals and Objectives

6. Provide funding, contingent upon appropriations, and technical assistance to the towns and townships for preparation of land use plans, ordinances, and laws required for those local units of government to help carry out the Water Use Program Goals and Objectives

7. Provide staff support, equipment, and facilities for a river patrol program

8. Cooperate with and coordinate efforts of state fishing officers and local law enforcement officers to enforce applicable laws

9. Work to ensure the safety of river users and use the Upper Delaware River Safety Committee to address river safety issues

10. Provide an emergency communication system and periodically evaluate the effectiveness of the system

11. Enter into written agreements with rescue and emergency units for assistance provided in river-related rescue and emergency situations

## Other Agencies and Interest Groups

In addition to the Council and the other responsible agents, other agencies and many individuals should also be involved in the Water Use Program, on a voluntary basis. These include the private sector (landowners, commercial liveries, camps and campgrounds, etc.). various organizations (environmental groups, sportsmen's clubs, etc.) and others (area citizens, river users, the media, etc.). Recommendations regarding their involvement are included throughout the Water Use Program.

# *LAND AND WATER USE GUIDELINES*

## Upper Delaware Scenic and Recreational River

### Preamble

**AGEKCY:** National Park Service, Mid-Atlantic Regional Office

**ACTION:** Publication of amended general guidelines for land and water use controls in the Upper Delaware Scenic and Recreational River Corridor.

**SUMMARY:** These are revised general guidelines to provide local, State and Federal governments with guidance in the preparation of and enforcement of land and water use regulations designed to implement the legislation designating the Upper Delaware as a Scenic and Recreational River. They replace, in their entirety, those guidelines adopted on September 4, 1981 and are intended to provide additional flexibility to State and local governments in meeting the objectives of the legislation.

The guidelines are based on management principles and objectives set forth in the U.S. Wild and Scenic Rivers Act. Alternatives are generally provided for meeting those objectives so each community and level of government can respond in a way particularly suited to its needs while preserving and enhancing the characteristics which caused the Upper Delaware to be included in the national rivers system.

**DATE:** The effective date of these guidelines will be----------, 1986.

**ADDRESSES:** These guidelines are based on recommendations by the Conference of Upper Delaware Townships, P.O. Box 41, Fosterdale, New York, (914) 932-8707

**FOR FURTHER INFORMATION CONTACT:**
Mr. Wayne Senville
Mid-Atlantic Regional Office
National Park Service
143 South Third Street
Philadelphia, PA 19106

**SUPPLEMENTARY INFORMATION:** The Secretary of the Interior first published guidelines for land and water use on the Upper Delaware on September 4, 1981 and those guidelines have not been amended since. Meanwhile, preparation of a draft River Management Plan has been underway, and in the course of that work several objections have arisen to the format and content of the 1981 guidelines as they apply to the activities of local governments as well as individual landowners. Several clarifications of matters with respect to agriculture, forestry and hunting are necessary, based on public comment, and more flexibility is needed for each of the several affected governments to respond to the Upper Delaware legislation in ways consistent with their State land use planning enabling legislation and the needs of their particular Towns. There are also certain items, particularly recreational use, which were not adequately addressed in the 1981 guidelines and which, based again on public comment, require attention.

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## Section 1
## Introduction

### Legislative Authority

These general guidelines are published to assist local and State and Federal governments in developing and administering land and water use control measures to implement the legislation creating the Upper Delaware Scenic and Recreational River. (See Public Law 90-542 as amended by Section 704 of Public Law 95625, 16 U.S.C. 1274).

### Background and Purposes

Congress, in 1978, designated a 73.4-mile stretch of the Upper Delaware River as a unit of the National Wild and Scenic Rivers System. It recognized in doing so that the river valley possesses certain outstanding natural, cultural and recreational characteristics, including its existing communities, which should be protected for present and future generations. The valley has retained those characteristics through the actions of its citizens and landowners. Because of this and a desire for a limited Federal role, the Congress required the Department of the Interior to develop a cooperative approach to management. This approach relies principally on the actions of local governments and citizens to protect the valley's resources.

Local and State governments have broad responsibilities and many authorities which can be used to protect River valley resources. Several Towns have already implemented zoning and subdivision ordinances and similar measures, which in addition to meeting local needs, often do exactly what Congress intended with the Upper Delaware legislation. Other Towns are considering such tools.

Leaving land use decisions in the hands of local governments is the most important step in building a partnership between all levels of government. The programs of State governments and the Federal government will also conform to these guidelines and, in the process, be consistent with local actions and programs. The most basic purpose of these guidelines is to encourage a cooperative approach to land use decisions by all the various agencies, at all levels of jurisdiction, within the Upper Delaware River Valley. The Federal role is to manage the recreational use of the River, to represent the Federal interest in the protection of the area and to assist local and State governments in meeting the objectives of the River Management Plan and these guidelines. Its purpose is not to supersede the role of local governments or to impose regulations on them, rather, it is to work with local governments.

The guidelines provide direction for all cooperating governments—local, State and Federal—to determine those land and water uses which are clearly appropriate in the Upper Delaware River Valley, those uses which might, with conditions, be deemed appropriate and those which might pose a threat to the resources of the valley and hence, are inappropriate. Local governments which adopt land use regulations based on these guidelines will be deemed to be in "substantial conformance" with them and will often benefit in this determination by programs already being implemented by State and Federal agencies.

Implementation of these guidelines is to be accomplished through the use of existing

legal authorities; therefore, the guidelines are developed within the framework of those authorities now granted to local and State governments. These guidelines are not intended to require any local government to take actions which might be inconsistent or contrary to New York or Pennsylvania land use law or to require local governments to assume any of the existing responsibilities of State or Federal agencies.

Summarizing, the purposes of these guidelines are to:

1. Protect the health, safety and welfare of River corridor residents

2. Protect and enhance the unique characteristics of the Upper Delaware River Valley

3. Protect, encourage and promote the continuation of existing traditional land and water uses

4. Identify those future land uses which should substantially conform to these guidelines; those uses which, with conditions, would be deemed to conform; and those which would not conform

5. Identify standards and types of programs, and regulations which might be applied by local governments to substantially conform to these guidelines

6. Provide maximum flexibility for local governments in meeting these guidelines

7. Assure the actions of all levels of government–local, State and Federal-contribute to a true partnership management of the Upper Delaware and are consistent with the River Management Plan and the U.S. Wild and Scenic Rivers Act

**Limitations**

These general guidelines shall apply only to activities within the landward boundaries of the Upper Delaware Scenic and Recreational River area as mapped in the finally adopted River Management Plan. Moreover, nothing contained herein shall be construed to:

- limit rights of owners to maintain lawfully established uses

- limit rights to fish, hunt and trap on any lands or water or require a change in the regulation of hunting, fishing, trapping, the taking of bait harvesting of eels or the regulation of similar practices by State agencies

- limit the use of lawfully existing agricultural, forestry or mining practices, or to impose any restrictions whatsoever on lawfully operated farming operations

- limit return of property damaged as a result of disaster to conditions and use: existing prior to such disaster

***Non-conforming Uses***

Uses which do not meet current standards are usually identified as "non-conforming uses" and it is appropriate to not only exempt or "grandfather" them from meeting current standards, but also permit reasonable expansion and replacement of such uses and, in some cases, allow the conversion of one nonconforming use to another which is less non-conforming. Towns may allow expansion to a proportion of the existing structure/use (to be determined by the town), or process such proposals as conditional (Pennsylvania) or special uses (New York) to review impacts on the river. Replacement of non-conforming uses in the event of storm damage, fire damage or other disaster should be permitted regardless of existing non-conformities.

It is also appropriate in certain cases to permit use of existing lots, too small or irregularly shaped to meet current regulations. Towns should develop mechanisms by which owners of such lots can develop them without strictly conforming to current regulations.

***Hamlet Areas***

Substandard lots will tend to be most prevalent in areas with moderate to intensive development. These consist of the several hamlets along the river including, but not necessarily limited to, such places as Hancock, Lordville, Long Eddy, Hankins, Callicoon, Cochecton, Narrowsburg, Minisink, Ford, Barryville, Hillside, Pond Eddy, Mongaup, Sparrowbush, Equinunk, Damascus, Milanville, Masthope, Lackawaxen, Shohola, and Mill Rift. In some cases such as

Equinunk/Lordville, Callicoon, Lackawaxen/Minisink Ford and Pond Eddy the communities extend to both sides of the river. Characteristics of these hamlets vary considerably, with some being small residential communities and others the primary economic activity areas within their towns or for several towns. Each town must define the extent of such areas (including appropriate land areas for growth), the mixture of uses which are appropriate within them and development standards which are reasonable based on existing patterns of settlement.

Each town, having one or more of the hamlets identified in these guidelines within its borders, shall be given the opportunity to determine the hamlet's precise boundary. This determination shall be guided by the criterion that areas within the hamlet should have an existing density of at least one dwelling unit (or equivalent dwelling unit) per two acres, unless the area is surrounded or bordered on several sides by land developed at such densities and would constitute a logical infill area taking into account the existing pattern of development. New development proposed should be encouraged in areas capable of accommodating uses without adversely impacting or degrading the values for which the Upper Delaware has been designated as a component of the National Wild and Scenic Rivers System. The boundaries proposed for each hamlet shall be adopted as amendments to the Land and Water Use Guidelines, pursuant to Section 704(b)(2) of the Upper Delaware Special Provisions.

- A wide variety of uses exist and are appropriate within such hamlets subject to town discretion. Towns may, for local reasons, want to limit new growth in such areas because of natural characteristics or a general desire to encourage growth elsewhere within the town. Generally, the existing range of uses should be a guide in determining what are appropriate new uses. For example, if a hamlet is primarily a community of single family dwellings with a few convenience type stores, restaurants, and motel units, extensive recreational condominium or resort hotel development would probably not be appropriate.

- Development standards regarding lot sizes, yards, heights and the like should be consistent with existing development patterns within hamlets. For example, if the prevailing building height is 40 feet, new structures within that area should be similarly limited with exceptions as appropriate for feed mill grain towers, and other similar structures).

- In designing zoning districts for hamlet areas, towns should implement the recommended sign limitations for properties bordering directly on the River and develop a minimum setback of structures from the high water mark, consistent with State requirements.

***Variances** and Challenges*

Nothing in these guidelines is intended to prevent a town from providing for variances from the requirements contained in its land use ordinances. In Pennsylvania, variances are generally granted because of unique physical conditions or circumstances relating to lot size or shape, or unusual topography peculiar to a particular lot, which would deprive the owner of the reasonable use of his or her property if they had to conform to the requirements of the local ordinance. In New York, where are two distinct types of variances as delineated by numerous court decisions, area variances and use variances. Also, Pennsylvania law provides for a similar procedure called a "special exception", under which the Zoning Hearing Board (as opposed to the local governing body) authorizes the permit.

Area variances are granted on a showing of "practical difficulty", basically for the same reasons as those cited above for variances in Pennsylvania. Use variances require the higher standard of "unnecessary hardship".

In considering variance requests, towns balance the hardship of the property owner against any impacts which granting the variance would have on the public health, safety and welfare. This balancing should consider the impacts on the river and consistency with the objectives of these guidelines. No successful challenge shall be cause for any community to be found not in substantial conformance with these guidelines.

Pursuant to Section 704, the Secretary reserves the authority to prevent incompatibile land uses, including any provided by a use variance. With respect to area variances, the Secretary--while he may not decline in advance to exercise his authorities—will not acquire land under the power of eminent domain in situations in which the area variance has been properly granted under existing state law and has been approved by a Zoning Board of Appeals in New York, or a Zoning Hearing Board in Pennsylvania, or upheld in a court of competent jurisdiction, and where the area variance does not constitute an action incompatible with the purposes of the plan and guidelines.

In general, area variances do not have the potential to constitute clear and direct threats to the river corridor because they would be granted for compatible land uses based upon the unique characteristics or circumstances of a property (as opposed to use variances for incompatible uses).

## Section 2
## Application

### Relation to **Existing Laws and Plans**

These general guidelines do not establish minimum standards enforceable by federal agencies or representatives against private property within the river area; rather these standards provide the basis for determining whether local plans, laws and ordinances, and the enforcement of these, adequately address the goals of Congress in designating the Upper Delaware as a Scenic and Recreational River.

Governmental agencies should conform to local requirements prior to establishing or expanding any use within the river area.

These general guidelines do not relieve anyone from obligations to comply with existing federal, state or local laws. No authority to enact plans, laws, ordinances or regulations shall be superseded by these general guidelines; excepting that these guidelines are intended to be definitive with respect to the federal interest in private or other non-federal land within the river area. No provisions of other federal guidelines or regulations applying to the National Wild and and Scenic River System or the National Park System shall supersede these guidelines unless the same shall have Seen accomplished through amendment of these guidelines by the process provided to Public Law 95-625, as amended.

### Conformance **Review** by **Upper Delaware Council**

The Secretary of the Interior will contract with the Upper Delaware Council for the review of relevant local plans, laws and ordinances and for recommendations as to whether they "substantially conform" to the River Management Plan and these guidelines. These responsibilities are discussed in detail in the Plan. Only these ordinances, Laws and plans and sections of which are specifically relevant to the Upper Delaware River shall be reviewed. These guidelines provide towns with a great deal of discretion as to the manner in which they may conform. "Substantial conformance" shall be conformance, with respect to the list of compatible, conditional, and incompatible new land uses set out in these guidelines and with the substance of both the River Management Plan and each of the principles and objectives set out in these guidelines and in the River Management Plan. The Secretary of the Interior will consider the Council's recommendations in making the determination of substantial conformance.

The guidelines do not generally include criteria for issuance by the towns of conditional use or special use permits. To do so would unnecessarily interfere with a town's flexibility to develop standards best suited to its own circumstances. Moreover, it would be impossible in advance to outline the multitude of possible standards and criteria which could be employed to satisfy a particular objective. The Council should therefore, in making conformance reviews of town laws, plans and ordinances specifically address conditional use and special use permit criteria to ensure they include consideration of the potential impact of the use on the river and consistency with the objectives of these guidelines.

## Section 3
## Land Use Guidelines

The U.S. Wild and Scenic Rivers Act and the Department of the Interior's "Guidelines for Eligibility, Classification and Management of River Areas" provide several management principles and objectives for river areas in the national system. The guidelines which follow are based on those management principles. Each major management principle is listed below followed by recommended specific objectives and, in most cases, alternative measures which local governments can take to meet those objectives. A performance standard for communities which desire to use still other approaches is also offered in those instances where alternatives are detailed. Many of these measures are already addressed by towns under their review of subdivisions.

### Principle A

*Maintain the high water quality found in the Upper Delaware River*

**Objective 1:** Limit soil erosion and sedimentation from construction on steep slopes, using one or more of the following measures:

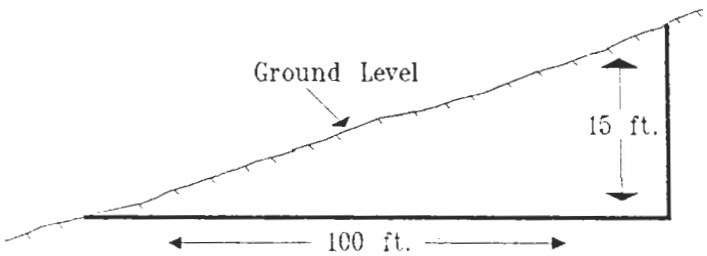
- A requirement for conditional use/special use review or a Professional Engineers plan for projects involving slopes over 15% in grade, or including a requirement for larger lot sizes on steep slopes)

- Requiring slopes of less than 16% in grade for the location of all principal structures with exception for agricultural and forestry uses, gardens and the like

Other regulations designed to achieve this objective should ensure no more than 10% of any lot characterized by slopes in excess of 15% in grade is built upon, covered with an impervious surface, regraded or stripped of, at any one time, vegetation with exceptions as noted above

**Objective 2:** Maintain natural cover to control stormwater runoff, limit flooding, protect groundwater supplies and provide erosion control. Acceptable approaches include:

- A 10% (or comparable square feet) maximum lot coverage, or impervious surface limitation on small lots. Employment of a sliding scale decreasing the allowable percentage of impervious lot coverage as the lot size increases.




Note: 15% slope is calculated as 15 vertical feet per 100 horizontal feet

Depiction of 15% Slope

- Limiting clearing for building purposes to 20% of the lot area with reduction to 10% for slopes over 15% in grade. "Limited clearing" is not the same as limiting impervious surface coverage.

- Requiring conditional use review of projects involving greater than 10% lot coverage or with impervious surface

Other regulations designed to achieve this objective should ensure no more than 12,000 square feet of impervious surface is permitted per dwelling unit or equivalent dwelling unit. It is the intent of this objective to encourage sound landscape management practices on private property.

**Objective 3:** Protect special erosion hazard areas along river banks through one or more of the following measures:

- A building setback from the River consistent with State required setbacks of septic systems from streams

- Making construction within 100' of the River subject to conditional use permits with requirements for plants to prevent erosion

Regulations, other than those suggested above to meet this objective, should prohibit principal structures in erosion hazard areas along river banks if mapped or defined by towns and recognized by the Upper Delaware Council.

**Objective 4:** Protect special erosion hazard areas along the ridge lines through one or more of the following measures:

- A requirement for conditional use/special use review of principal structures within 100 horizontal feet of the ridgeline

- A requirement that no structure be erected within ridgeline erosion hazard areas as mapped by the town

Regulations, other than those suggested above to meet this objective, should ensure buildings are not located so close to the ridgeline as to cause erosion, sedimentation, or landslide conditions.

**Objective 5:** Limit pollution problems from septic systems located on poor soils, by one of the following measures:

- A town or district wide minimum lot size for new river corridor lots of not less than two acres outside hamlets

- A general minimum lot size of two acres with reductions for individual lots under hardship conditions based on soil performance standards or use of innovative technology

Other regulations designed to achieve this objective should ensure a minimum lot size of no less than two acres on soils with severe limitations for conditional subsurface sewage disposal systems under state law.

**Objective 6:** Reduce pollution threats from solid and toxic wastes disposal by requiring new solid wastes disposal sites to be located outside the River corridor.

**Principle B**

*Provide for the protection of the health, safety, and welfare of residents and visitors while also providing for the protection and preservation of natural resources.*

**Objective 1:** Provide for light and air and maintain an uncluttered landscape through adequate separation of principal structures using one or more of the following measures:

- A 150 feet minimum river frontage requirement for new lots with exception for clustering

- A 150 feet minimum lot width, average lot width, road frontage, or width at the building line requirement with exception for clustering

- A 50 feet minimum side yard requirement

Other regulations designed to achieve this objective should provide for a 100 feet minimum separation of all principal structures located along the River. However, clustering may be permitted as a conditional use as long as such developments meet single unit density guidelines in order to ensure shoreline protection.

**Objective 2:** Provide for light and air and maintain an uncluttered landscape by limiting the height of principal structures using one or more of the following measures:

- A maximum building height of 35 feet with appropriate exceptions for farm structures, water and grain towers, small windmills, bridges, and the like

- Making structures over 35 feet in height conditional uses

**Objective 3:** Provide for light and air and maintain an uncluttered landscape by requiring adequate setbacks of principal structures from highways using one or more of the following measures:

- A minimum front yard of 35 feet

- A minimum building setback of 35 feet

**Objective 4:** Prevent unnecessary sign proliferation, particularly on the riverfront, by limiting advertising (off-premises) signs through one of the following measures:

- Prohibiting off-premises advertising signs, excepting those informational signs which may be recommended by the Council for purposes of directing visitors to public access areas

- Making advertising signs conditional uses/special uses with design standards requiring such signs harmonize with the surrounding landscape, and providing no flashing, oscillating or illuminated signs are permitted

- A 32 square feet maximum size and limit of such signs to 1 per 1000 linear feet of frontage or 2 per advertiser, whichever is less. River frontage signs should be restricted to 1 per riverfront facility and related to providing direction, for reason of health and safety, to such a facility, providing no flashing, oscillating or illuminated signs are permitted

Business identification (on-premises advertising) signs larger than 10 square feet in size should be limited by one or more of the following measures:

- Limiting the total number of such signs to one (1) per property line along a street or the River

- Limiting the total area of such signs to two (2) square feet of total sign area for each 1 lineal foot of building frontage or one (1) square foot of sign area for each 2 lineal feet of lot frontage

- Making business identification signs conditional uses; providing illuminated signs are permitted outside of developed areas and no flashing or oscillating signs are permitted

Public signs, safety signs, announcement signs, temporary signs, professional signs, home occupation signs, farm product signs, political signs, construction signs and for rent/for sale signs generally do not require permits but should be limited to less than 10 square feet in size and two signs per property. This guideline does not apply to temporary, institutional or trespassing signs.

There are also many performance based approaches to sign regulations which may prove to do a better job of reducing the amount of signage within the river corridor or in making signs more environmentally acceptable, and such approaches are encouraged. The above guidelines are appropriate for Scenic or Recreational segments. Within existing hamlets other approaches are acceptable provided they do no: permit a proliferation of signs of substantially different size and character along the river itself.

Principle C

***Provide for recreational and other public uses while protecting the Upper Delaware as a natural resource***

**Objective 1:** Encourage both private and public agencies that are recreational providers to locate intensive use recreational facilities outside of undeveloped or "Scenic" segments of the river corridor. Alternative measures include:

- Zoning districts which limit new recreational uses to low intensity activities (i.e. tent campgrounds vs. recreational vehicle parks)

- Maximum size limits consistent with the definition of intensive use recreational facilities

- Intensive use recreational facilities are restricted to locations with direct access to a two-lane public highway.

**Objective 2:** Local, State and Federal agencies should adopt standards regarding development, operation and maintenance of recreational facilities to limit adverse impacts on adjacent landowners and the surrounding environment. Local governments are not expected to develop regulations already implemented by State or Federal agencies. Appropriate general guidelines follow along with suggestions for additional optional measures (see Appendix 1) which complement the recommended standards:

(a) Campgrounds and Recreational Vehicle Parks

- Gross density should not exceed 8 sites per acre for recreational vehicle type camping or 10 sites per acre for tent type camping.

- A minimum of 10 acres of land should be required to establish any recreational vehicle campground. A minimum of 5 acres should

be required for tent campgrounds unless subjected to site plan review.

- Permanent or long-term occupancy of any campsite and permanent structures or appurtenances on any individual campsite other than tent platforms and concrete pads are strictly prohibited.

- Independent onsite sewage disposal or water supply systems should not be permitted for individual recreational vehicle campsites.

(b) Boat Liveries and Other Recreational Uses

- A minimum of 2 acres should be required for any new river-related recreational facility (Pennsylvania Fish Commission and New York State DEC fishing only access sites excepted) used for the parking of vehicles or the erection of any structures.

(c) All Recreational Uses

- Except as provided above, public facilities should meet all the same standards as private ones.

- All river-related recreational facilities should supply evidence of compliance with state health regulations.

- All proposed river-related recreational facilities should be subjected to site plan review or conditional use review procedures as part of the local permitting process. Site disturbance should be limited and vegetative screening required where necessary to minimize visual impacts and, for erosion control purposes, limit access to the river bank. Adequacy of streets should also be examined.

**Principle D**

*Provide for the continuation of agricultural and forestry uses*

**Objective 1:** Encourage and support agricultural uses within the Upper Delaware River corridor. The following approaches are appropriate:

- Where official "Agricultural Districts" or "Agricultural Security Areas" have been created pursuant to New York or Pennsylvania law, towns should ensure their agricultural zoning districts include all land within such Districts or Security areas and address purposes of these designations.

- Making agricultural activities principal permitted uses within existing zoning districts.

Other regulations designed to meet this objective should, at a minimum, ensure that existing agricultural activities are not made non-conforming by virtue of regulations adopted to meet these Guidelines and that new practices are permitted which do not conflict with the goals of the Upper Delaware legislation, including irrigation, truck farming and the like. Federal actions should also be consistent with the stated purposes of these Districts and Areas.

**Objective 2:** Encourage the appropriate location and mitigate the effects of certain intensive livestock operations (not including, because of their traditional nature, dairy operations, the growing of crops or personal use livestock operations) which are likely to create problems of waste disposal or odors. Alternative approaches include:

- Prohibiting intensive livestock operations within the river corridor

- Making intensive livestock operations conditional/special uses

- Performance standards based on a ratio of livestock to acreage or similar concepts or which require a management plan ensuring adequate control of livestock and disposal of wastes

Other regulations designed to meet this objective should ensure beef and hog feedlots and cage-type poultry operations are located within the River corridor only after conditional use review shows that they address the potential impacts of runoff and waste.

**Objective 3:** Provide for the use of sound timber practices within the corridor. Alternative programs include:

- A Town or County Conservation District monitoring program based on industry standards such as those of the Pennsylvania Forestry Association and utilizing the

services of County. District or State Forester or Soil Conservation Service personnel, to do such monitoring through field response to technical assistance requests and complaints as well as reviewing soil erosion control permit applications.

- Prohibiting clearcuts over two acres in size or making them conditional uses within the river corridor, subject to a professional forester's review, with exceptions for agricultural purposes and wildlife management programs of the type conducted by the States.

- Development of local law provisions requiring soil stabilization and setting other performance standards.

Other state or local programs or regulations designed to meet this objective should, at a minimum, subject clearcuts to conditional use review and provide for removal of only individual selected trees within 50 feet of either side of the river or other perennial streams so, ideally, 50% or more of the overhead canopy will remain.

**Principle E**

***Conserve river area resources***

**Objective 1:** Ensure traditional resources extraction operations (not including subsurface mining and major surface mining) are permitted, but consistent with the protection of the public health, safety and welfare. Alternative measures include:

- State and County Conservation District programs for regulation of mining activities supplemented, where towns determine necessary, with local standards regarding slope, rehabilitation, noise, vibrations, performance bonding and the like

Other regulations designed to meet this objective should, at a minimum, require all natural resource uses comply with the respective state and federal mining laws.

**Objective 2:** Ensure town, county, state and federal activities will promote the conservation of river corridor resources by following the guidelines offered below:

- Sewage treatment plants, municipal sewer interceptor lines and the like should not be located through or on lands with frontage on the river or any agricultural lands except with respect to existing hamlets or in circumstances where a community is under state or federal orders to do so.

- No new impoundments (see definition) of the Upper Delaware River or, any tributary (see definition) which is within the boundaries of the river area as established by the River Management Plan, will be permitted. Exceptions, however, should be made for small agricultural ponds nor on tributaries, eel weirs and other stream improvement structures for fishery management purposes, subject to State fishing and federal navigation regulations.

-New paved four lane roads and bridges should not be constructed in the river corridor. Major highway widening projects on already passable roads meeting state specifications within those sections of the river classified as Scenic should be discouraged. Towns should also, in reviewing subdivision and road plans consider waiving pavement width requirements to preserve scenery and vegetation. Safety improvement projects such as the addition of passing lanes shall be excluded.

New major oil and gas transmission lines and refining/production facilities for other than local service will not be located within the river corridor excepting for individual wells, (subject to conditional use review), lines constructed to provide service to or collect from individual customers or wells. This does not prohibit maintenance of existing facilities or the location of new lines within existing rights-of-way.

- Mining of uranium and disposal of low or high level radioactive or toxic wastes are totally inappropriate uses for the river.

- Large scale groundwater withdrawal projects for low-flow stream augmentation or other water diversion projects will not be permitted within the river corridor.

Power plants, stream channelization and other projects listed as incompatible uses in the Schedule of Uses will not be permitted within the river corridor.

Principle F

***Maintain existing patterns of land use and ownership***

Objective 1: Limit housing density and intensity of uses with consideration to the existing character of the River corridor. Alternative approaches include:

- A special zoning district for the river corridor portion of the town (or incorporation of this area in a Zoning District which includes all of the river corridor) within which the minimum lot size is two or more acres. Municipalities with substantial areas of steep slopes, floodplain or other poor soils should reflect these characteristics in their establishment of permissible densities

- Use of two or more zoning districts classifications to achieve an average density not exceeding one unit per 2 acres within the river corridor. Specific areas would be mapped by the town and reviewed by the Council during the conformance review process to ensure the existing rural, uncluttered character of the corridor landscape is maintained.

- Use of "overlay districts,"or *sub-zones." to set density for those portions of a zoning district within the river corridor and those uses which are of particular concern. A town with a prevailing one acre minimum lot size, for example, might well create an overlay zone which requires a minimum of two acres if that portion of the district happens to be within the river corridor. A sub-zone achieves the same effect or a performance approach could also be used in presently unzoned communities to establish minimum requirements for residences and other uses wherever they occur, without the necessity of creating zoning districts as such.

Whichever alternative approach is utilized to achieve density control, there are certain considerations which should be given to development of those measures, including the following:

- It is appropriate, even desirable, to permit use of clustering techniques which reduce lot sizes while preserving open space. Such techniques should, however, achieve the same overall density which would result from application of the prevailing minimum lot size.

- Densities for non-residential uses should be based on an equivalent dwelling unit concept (tied to estimated sewage effluent).

- In isolated instances there may be natural limitations which will, apart from any regulatory action, control lot sizes. The impacts of these natural limitations (i.e. the Hawk's Nest Cliffs) should be considered in arriving at an appropriate minimum lot size for those remaining areas which are suitable for development.

Objective 2: Reinforce existing patterns of land use and private ownership by providing for similar allowed uses. Alternative techniques for accomplishing this are the same as those identified above.

Regardless of which approach(es) is used, there are certain uses which are appropriate as principal permitted uses, others which should be treated as conditional or special uses and still others which are inappropriate for the river corridor. The Schedule of Compatible, Conditional, and Incompatible Land Uses describes these uses and draws distinctions for those areas which are classified as "Scenic," those classified as "Recreational" and hamlets.

## Section 4
## General Guidelines for Water Use Control Measures

Principle A

***Protect the outstanding and highly valued attributes of the river for the enjoyment of area residents and visitors***

Objective 1: Maintain awareness of the need to protect the scenic, recreational, cultural, and natural qualities of the Upper Delaware.

Objective 2: Maintain and, where necessary. improve present water quality.

Objective 3: Prevent riverbank erosion.

Objective 4: Place in operation a system to monitor the river's resources.

Principle B

***Encourage cooperation and coordination among all levels of government***

Principle C

***Provide an enjoyable recreation experience***

Objective 1: Provide an adequate number and type of basic support facilities for all river users, including public access points, river rest stops, camping areas, and fishing access points along the Upper Delaware.

Objective 2: Use objective guidelines to select appropriate locations for future recreational support facilities.

Principle D

***Provide a variety of compatible recreational activities and situations***

Objective 1: Manage the Upper Delaware primarily for the traditional recreational activities which have occurred on the river in the past.

Objective 2: Conserve the Upper Delaware fishery which is unique and represents a natural resource that cannot be replaced.

Objective 3: Recognize the Upper Delaware's regional setting.

Objective 4: Make river users more aware of the need to respect others.

Objective 5: Design and locate recreation areas and facilities to avoid conflicting activity situations.

Principle E

***Prevent river recreational accidents and minimize hazards.***

Objective 1: Continue to use river patrols to assist in providing a safe recreation experience.

Objective 2: Provide better emergency communications and better river information.

Objective 3: Provide canoe safety training sessions.

Objective 4: Continue to use an Upper Delaware River Safety Committee to address river safety issues.

Objective 5: Continue to inform all users about river safety precautions and how to use the equipment safely.

Principle F

***Respect and protect riparian landowner rights***

Objective 1: Educate and inform river users about landowner rights and river use rules and regulations.

Objective 2: Provide a well designed program to direct river users to authorized facilities.

Objective 3: Provide recreational support facilities in proper locations to reduce trespassing on private lands.

Principle G

***Maintain the private sector as the major provider of needed recreational facilities***

Objective 1: Encourage and assist the private sector as the major provider of recreation facilities and services.

Objective 2: Use outdoor recreation to strengthen the local economy.

Objective 3: Encourage local towns, townships and counties to provide close-to-home recreational facilities as needed.

Principle H

***Strictly enforce existing laws***

Objective 1: Stress enforcement of state and local laws that are already existing.

Objective 2: Use of river patrols to strictly enforce applicable river rules and regulations.

Objective 3: Greatly increase cooperation between federal, state and local law enforcement efforts.

Objective 4: Develop a strict enforcement policy.

**Principle 1**

*Educate and inform river users about protecting the river, reducing river conflicts, and respecting rights of others*

**Objective 1:** Prepare various types of information to make river users aware of the need for protecting the the river resource, reducing user conflicts, and respecting the rights of others.

**Objective 2:** Provide maps and a limited number of signs to inform and direct river users.

**Objective 3:** Increase awareness among local residents and organizations of ways to conserve the river's resources.

**Objective 4:** Seek ways of reducing litter.

## Section 5
## Definitions

**Access Area** - A property used as an area of entry to a stream or other body of water for the purpose of launching or landing of watercraft. The access area may also include ancillary services or facilities other than base operations for watercraft rentals and may be operated as a private business.

**Agricultural Use** - A use involving the production, keeping, or maintenance for sale, lease or personal use of plants and animals useful to man, including but not limited to forages, grain and seed crops, dairy animals, poultry, beef, sheep, horses, pigs, bees fur animals, trees, food of all kinds, vegetables, nurseries, and lands devoted to soil conservation or forestry management programs.

**Average Lot Width** - The average of: (1) width of a lot at the building setback line and (2) the width of a lot at the rear of the property.

**Bait and Tackle Shop** - A retail establishment in which hunting and fishing equipment, supplies and accessories are sold to the public.

**Bed and Breakfast** - An existing residence which is used, in the manner of a home occupation, to provide overnight lodging with breakfast as part of the consideration and involving shared bath and dining facilities, also including youth hostels.

**Boarding House** - A lodging house at which meals are provided.

**Building Height** - The vertical distance measured from the average elevation of the proposed finished grade to the highest point of the roof for flat roofs; to the deckline of mansard roofs; and to the mean height between eves and ridge for gable, hip and gambrel roofs.

**Business and Professional Office** - An office in which an occupation or vocation requiring training or advanced study in a specialized field is practiced, including, but not limited to, medical, legal, and real estate offices.

**Campground** - A tract of land providing two or more sites (for rent or sale) for the parking of travel trailers or the erection of tents or other portable sleeping accommodations.

**Canoe (Watercraft) Livery** - A business or facility for the leasing or renting of waterborne vessels (primarily canoes) for outdoor water based recreation.

**Channel Modification** - Any channel widening, deepening, realignment or lining other than for the support of existing highway, bridge and rail facilities.

**Clearcutting** - The removal from more than two acres of a forested tract of substantially all trees, for other than agricultural or approved wildlife management purposes.

**Clear and Direct Threat** - An instance where a new land use is proposed which is either: (1) identified on the list of new land uses which are incompatible within the Upper Delaware river corridor; or (2) identified as a land use which would, if developed in such a way, be counter to one or more of the principles and objectives set out in the River Management Plan and the Land and Water Use Guidelines.

**Cluster Development** - A development design technique concentrating buildings on specific areas of a site to allow the remaining land to be used for recreation, open space, and preservation of environmentally sensitive features.

Commercial development - Any use, except home occupations, involving the offer for sale, rental, or distribution of goods, services or commodities or the provision of recreational facilities or activities for a fee, but not including the manufacture of goods or commodities.

Commercial Facility - A place of retail or wholesale trade or the location from which services are provided that are privately operated for pecuniary gain.

Conditional Use - In Pennsylvania, a use generally appropriate for a zoning district but permitted only after review by local officials with attachment of conditions pursuant to criteria set forth in the zoning ordinance for this class of uses. Although not synonymous, a similar type of procedure in New York is the special use procedure.

Customary Accessory Use - A structure or use which (a) is subordinate to and serves a principal building or principal use, including but not limited to the production, harvesting, and storage as well as washing, grading and packaging of unprocessed produce grown on-site; (b) is subordinate in area, extent and purpose to the principal structure or principal building or a principal use; (c) contributes to the comfort, convenience or necessity of the occupants, business or industry of the principal structure or principal use served; and (d) is located on the same lot as the principal structure or principal use served, except as otherwise authorized by this River Management Plan.

Density - The number of families, individual dwelling units or principal structures per unit of land.

Dwelling Unit - One or more rooms designed, occupied or intended for occupancy as separate living quarters with cooking, sleeping and sanitary facilities provided for the exclusive use of a single-family maintaining a household.

Eating and Drinking Establishment - A facility, open to the public, which serves prepared food and beverages.

Equivalent Dwelling Unit - The amount of non-residential development necessary to generate a sewage flow equal to that of a typical dwelling unit.

Erosion Hazard Area - Areas especially subject to the detachment and movement of soils or rock fragments or the wearing away of the land surface by water, wind, ice and gravity, particularly those areas located along the escarpments lining either side of the Upper Delaware River valley.

Fish and Wildlife Management - The management of the characteristics and interactions of fish and wildlife populations and their habitats in order to promote, protect or enhance the ecological integrity of rhose populations.

Floodplain - The channel and relatively flat area adjoining the channel of a natural stream or river which has been or may be covered by flood water, including at a minimum, those areas designated by the Federal Insurance Administration and/or the Federal Emergency Management Agency as "flood hazard areas".

Forest Management - The business of operating timber tracts, tree farms and forest nurseries; the gathering of forest products; and other forest services, not including saw mills or other wood industry manufacturers.

Garden Apartments - A building not more than two-and-one-half stories in height containing more than two dwelling units.

Gas and Oil Fields - Any oil or natural gas exploration activities such as drilling or seismic testing, or any new operation which extracts petroleum related products such as crude oil or natural gas from the earth.

Hamlet - The following spatially discrete, developed areas of concentrated residential, commercial, and or industrial development, in or adjacent to existing developed areas: in the State of New York—Hancock, Lordville, Long Eddy, Hakins, Callicoon, Cochecton, Narrowsburg, Minisink Ford, Barryville, Hillside, Pond Eddy, Mongaup, and Sparrowbush; in the Commonwealth of Pennsylvania—Equinunk, Damascus, Milanville, Masthope, Lackawaxen, Shohola, and Mill Rift

Heavy Industrial Use - The manufacturing, production or refining of raw materials or the large scale assembly of component parts for non-local distribution or consumption,

typically involving the generation of waste by-products, extensive buildings and ancillary transportation modes, but not including home occupation or traditional activities such as lumber yards or dairy processing plants.

**High Water Setback** - The required distance between the mean high water line of the Upper Delaware River and the building line of any lot.

**Home Occupation** - An activity carried out for gain by a resident in the resident's dwelling unit or an accessory building, subject to reasonable restrictions on the number of non-resident employees (if any), controls on signs (if allowed) and the maximum area to be used for the home occupation as well as parking requirements, provided the exterior appearance of the principal structure and premises is maintained as a residential dwelling.

**Hotel** - A building in which lodging, or boarding and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms are made through an inside lobby.

**Hunting/Fishing Camp** - A small structure used to provide shelter during hunting and fishing outings.

**Ice Breaking Structure** - A facility or structure placed within the river or on its banks for the purposes of breaking up ice, not including measures employed to protect individual existing structures.

**Impervious Surface** - Any material which reduces and prevents the absorption of stormwater into previously undeveloped land.

**Impoundment** - Any body of water located on a tributary, brook, stream, kill, or river formed by any new manmade structure within the boundary of the designated river; this does not apply to structures for fishery management such as eel weirs, or small agricultural ponds not on tributaries.

**Incompatible Use** - A new land use which, if permitted, would pose a "clear and direct threat" to the objectives of the Upper Delaware legislation and the River Management Plan.

**Industrial Use** - An establishment, other than a home occupation, used for the assembly, manufacturing, or processing of goods, not including farming.

**Institutional Use** - Any land use, generally serving no less than 25 persons at at one time, for the following public or private purposes: educational facilities, including universities, colleges, elementary, secondary and vocational schools, kindergartens and nurseries, cultural facilities such as libraries, galleries, museums, concert halls, theaters and the like; hospitals, including such educational, clinical, research and convalescent facilities as are integral to the operation of the hospital; medical and health service facilities, including nursing homes, supervised residential institutions, rehabilitation therapy centers and public health facilities; military facilities; law enforcement facilities; and other similar facilities, not including small day care centers, Montessori schools, institutional re-use of existing properties, and similar uses

**Intensive Livestock Operation** - The fattening or raising in relative confinement (using feedlots) of beef cattle or hogs or the keeping in cages of 100,000 or more fowl.

**Intensive Use Recreational Facilities** - Boat rentals, canoe or other watercraft liveries, tourist recreational facilities, recreational vehicle campgrounds, golf courses, public recreational facilities, clubhouses, and other recreational uses likely to require significant amounts of parking, restaurant facilities, rest room facilities and other accessory services; not including lands used as access points only, whether publicly or privately operated; and not including major commercial recreational development, nor town open space parks, playgrounds, or ballfields.

**Junkyard** - Any new commercial use of land, with or without buildings, principally for the outside storage, dismantling, processing, salvage and sale of uses and discarded materials including, but not limited to, wastepaper, rags, metal, building materials, house furnishings, machines, vehicles or parts of vehicles. This definition does not apply to yard sales or "flea markets."

**Landfills** - Any new site where trash or refuse is buried as part of a public or private

business operation, including toxic or radioactive wastes disposal.

Light Industrial Use - A use involving generally unobtrusive processes. This would include research, engineering or testing laboratories, assembly from components, fabrication of models, textiles, clothing manufacturing, warehousing distribution centers, wood products industries, etc.

Lot Coverage - That portion or percentage of the lot area which is covered by buildings, pavement, or other impervious surfaces (also known as building coverage).

Major Airports - A tract of land that is maintained with a paved runway for the landing and taking off of aircrafts and for receiving and discharging passengers and cargo.

Major Commercial Development - Commercial uses with 2,000 square feet or more of floor space, or five or more employees, not including Minor Commercial Development.

Major Commercial Recreational Development - Any new recreational uses which have significant impacts on land and water resource values, including, but not limited to, amusement parks, drive-in theaters, auto race tracks, fairgrounds and sports arenas, but not including retail sales, boat rentals and similar uses.

Major Electric Lines - Any new electric power lines, cables, or conduits used for transmission of power between two points which has a design capacity of 125 kilovolts or greater and extending a distance of one mile or more in length, or of between 100 kilovolts and 125 kilovolts, extending a distance of ten miles or more in length. This definition does not include telephone and electric distribution lines.

Major Oil and Gas Lines - Any pipe or conduit used for the transmission of natural gas, oil or other fuel which is one thousand (1000) feet or longer and is under pressure of 125 pounds per square inch (p.s.i.) or greater. This does not apply to natural gas, oil, or other fuel distribution lines for residential, industrial and commercial use.

Major Surface Mining Operations - Any new land use operation which extracts minerals from the earth from active operations exceeding two (2) acres in size, including, but not limited to, strip mining, dredging, quarrying, coal or uranium mining.

Major Tributary - Any tributary, stream to the Upper Delaware River which is depicted on the U.S. Geologic Survey Maps for the Upper Delaware River area, not including any portion of the stream outside the river corridor.

Marinas - Any new commercial boat basin providing secure mooring for motorboats. This does not include livery operations and individual residential boat docks.

Mineral and Soil Resource Products - Clay, gravel, stone, top soil and other products extracted from the ground.

Minor Commercial Development - In recreational areas, commercial uses limited to professional offices associated with residences, small neighborhood retail convenience stores, farm stands or similar retail facilities with less than 2,000 square feet of floor space, or less than five people, and compatible with the natural and scenic qualities of a designated recreational river.

Minor Surface Mining Operation - Any new extraction of minerals by, but not limited to, strip mining, dredging, or quarrying, not exceeding two acres of active face at one time plus an area equal in size to the active face necessary for accessory use.

Mobile Home - A transportable single-family dwelling intended for permanent occupancy or place of assembly contained in one unit, or two units designed to be jointed into one integral unit capable of being separated and repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations.

Mobile Home Park - A parcel of land under single ownership which has been planned and approved for the commercial renting of mobile homes and/or mobile home spaces for nontransient use.

Motel - A building or group of buildings which: (a) contains living or sleeping accommodations used primarily for transient occupancy, and (b) has individual entrances

from outside the building to serve each accommodation.

Natural Cover - Natural vegatationin cluding grasses or other plants which help to keep soil from being washed or blown away.

Non-Conforming (Substandard) Lot - **A** lot, the area and dimensions or location of which, was lawful prior to adoption, revision or amendment to a Zoning Ordinance, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of a Zoning District.

Non-Conforming **Use** - A use or activity which was lawful prior to the adoption, revision or amendment to a Zoning Ordinance, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of a Zoning District.

Nursery - **A** business in which plants, such as trees and shrubs, are grown for transplanting, for use as stocks for budding and grafting or for sale.

Other Recreational **Uses** - New recreational uses that are designed for relatively short use periods and that do not provide other than rudimentary visitor services and that do not include infrastructure development except as required to meet state health codes, typically including such uses as river rest stops, river access sites, boat-in tent camping, town open space parks, playgrounds and ballfields.

Overlay District - **A** zoning district which overlays other zoning districts applicable to any lot and imposes additional requirements without changing any of the requirements normally applicable within the designated district.

Paved Four Lanes Roads and Bridges - Any construction of new arterial highways and bridges or widening of highways from two to four lanes. This does not apply to repaving of existing highways or bridges, repair projects or the construction and repair of two lane roads and bridges.

Personal **Use** Livestock Operation - The keeping of livestock including beef animals, dairy animals, poultry and other farm animals for personal use rather than commercial purposes.

Places of Worship - A structure and its accessory properties used for religious observances, such as churches and synagogues.

Power Generating Stations - Any new commercial or public electric generating facility (for base load, cycling or peaking purposes) powered by coal, oil or natural gas, nuclear power and hydropower.

Principal Structure - The dwelling unit or primary commercial building.

Public Facility - A facility operated by a unit of government.

Public Recreational Facilities and Visitor Centers - Facilities or sites operated by a government entity to provide amusement, entertainment, education, or a recreational service to the public.

Recreational Vehicle Campgrounds - A parcel of land, whether leased or sold, providing sites for travel trailers, truck campers, camper trailers or motor homes for transient use

Recreational Vehicle Parks Intended for Non-transient **Use** - A site or facility operated in the manner of a campground, where the individual lots, tracts, parcels or other divisions of land are permanently conveyed, leased on a long-term basis or the recreational vehicles are otherwise permitted to remain permanently or semi-permanently affixed to an individual site for extensive periods of time whether used or not.

Retail Establishment - Commercial developments that sell goods or services to the public.

Ridgeline - The point at which the plane which constitutes the side of the river valley intersects with the plane of the plateau adjacent to the river valley, often resulting in a broad precipice or cliff face overlooking the Delaware River. Ridgeline, as used here, is not intended to mean the boundary of the River Corridor.

River - The Upper Delaware Scenic and Recreational River.

River Area or Corridor - That area included within the landward boundaries of the Upper

Delaware Scenic and Recreational River as designated by the River Management Plan.

River Frontage - The lineal distance in feet which a property fronts on the Upper Delaware National Recreational and Scenic River.

River Related Recreational Facilities - Recreational uses which are principally oriented toward river users including but not limited to boat accesses and bases, bait and tackle shops, campgrounds, swimming areas, comfort areas, snack stands if part of a larger recreational facility and other facilities which offer an array of recreational activities and services, but not including hotels, motels, restaurants, amusement parks, amenities installed for use by individual residents, and the like.

Sawmill - An establishment for processing logs into finished or semi-finished lumber, but which does not include major wood products industries or lumberyards

Seasonal Residence - A secondary dwelling unit used on an irregular basis

Site Plan Review - A procedure whereby, in New York State, Planning Boards are authorized to review and approve, approve with modifications or disapprove site plans as set forth in Zoning Ordinances or in regulations of the Planning Board and directed toward such elements of concern as screening, drainage, availability of services and traffic impacts. Also, in Pennsylvania, a similar review by the Township Planning Commission with final action pursuant to a conditional use permit from the Township Board of Supervisors.

Side Yard - A space extending from the front yard to the rear yard between the principle building and the side lot line and unobstructed from the ground upward except as may be permitted elsewhere in the ordinance. (Front and rear yards are similarly defined in terms of front and rear lot lines).

Small Craft Shop - An establishment for the sale of items which require the maker to have manual dexterity or artistic skill, including but not limited to, pottery, carpentry, and sewing shops.

Small Hotel - A building, in which (a) lodging or boarding are provided and offered to the public for compensation, (b) ingress and egress to and from all rooms are made through an inside lobby, (c) includes, but is not limited to, country inns and youth hostels, and (d) meets the following conditions: (1) does not exceed twelve rental units in size. (2) is located immediately adjacent to an arterial road, and (3) is compatible with the natural and scenic characteristics for which the river was designated.

Small Motel - A building or group of buildings, which (a) contains living or sleeping accommodations used primarily for transient occupancy, and (b) has individual entrances from outside the building to serve such living and sleeping, and (c) meets the following conditions: (1) does not exceed twelve rental units in size, (2) is located immediately adjacent to an arterial road, and (3) is compatible with the natural and scenic characteristics for which the river was designated.

Special Use - In New York State, a use which, because of its unique characteristics, requires individual consideration through a site plan review process by the Planning Board as established by Section 274A of the Town Law or through the review process by the Zoning Board of Appeals as established by Section 267 of the Town Law. Such a use may require certain conditions and safeguards before being permitted. Although not synonymous, a similar type of procedure in Pennsylvania is the conditional use procedure.

Stream Discharge - The discharge of treated or untreated effluent to a stream.

Substantial Conformance - Conformance with respect to the list of Compatible, Conditional, and Incompatible Land Uses set out in these guidelines and with the substance of each of the principles and objectives set out in these guidelines so as to carry out the intent of the Upper Delaware legislation.

Townhouses - A group of single-family dwellings, not over two-and-one-half stories in height constructed as part of a series of dwellings, all of which are either attached to the adjacent dwelling or dwellings, by party walls or are located immediately adjacent

thereto with no visible separation between walls or roofs.

Towns - A New York State Town or Pennsylvania Township.

Tributary - See "Major Tributary".

Traditional Resource Extracting Operations - Any resource extraction operation not including major surface mining operations or subsurface mining operations.

Variance - Permission to depart from the literal requirements of an ordinance.

Wholesale Greenhouse - An establishment which sells to retail outlets plants cultivated under glass or similar enclosures.

## Section 6
## Appendices

### Appendix 1
### Suggested Optional Requirements for Recreational Uses

***Campgrounds and Recreational Vehicle Parks***

- A 50' planted or natural landscaped border should be required along the nonhighway borders of any campground where adjoined by residences

- All recreational vehicle campgrounds, regardless of location, should be required to have access to a public street or highway of at least collector status and adequate sight distances frontage to provide safe design of entrances and exits with adequate sight distances in either direction. Access to individual campsites should be from interior streets

- Separation requirements of no less than 20' from other recreational vehicles or tent platforms and 50' from highway rights of way. A setback of 50 feet from the water's edge should be required for all recreational vehicles, or the plan subjected to site plan review for purposes of preventing erosion, screening from the river and providing access to the river.

- Campground structures and campsites for recreational vehicles should not be permitted to locate on floodplains or lands with slopes in excess of 15% in grade without special engineering.

- All recreational vehicle campgrounds should be required to include a minimum of one parking space at each campsite and such additional parking elsewhere that no parking, loading or maneuvering will have to occur on any public street.

- All campgrounds and other recreational facilities should be required to establish and/or abide by rules which will prevent nuisances, provide for safe disposal of refuse and control the use of fire.

- All recreational vehicle campsites should include a stabilized vehicular parking area for the camper unit and a safe location to camp.

***Boat Liveries and Other Recreational Uses***

- All canoe livery operations should be required to have at least 1 access point on the river with adequate off-street parking and no parking on public streets Parking standards will necessarily have to be varied based on expected levels and types of uses at different sites. Appropriate general guidelines, however, might be 1 parking space for each raft, 1 space for every 4 tubes and 1 space for every 2 canoes or kayaks. Additional accesses or evidence of prior written agreements from landowners for use of other put-in and take-out points should be required as necessary to support the operation.

- A minimum of one (1) sanitary receptacle for every 40 watercraft should be required as a general standard for evaluating a livery's facilities

- All operators of recreational facilities should be required to provide an adequate number of trash receptacles at parking areas, access points and comfort stations to ensure each user of the facility is able to so dispose of their refuse.

- The boundaries of any recreational facility should be required to be screened or otherwise clearly delineated to limit trespass onto adjacent properties and buffer said properties from the impacts of the recreational activities at the site.

## Appendix 2
## Schedule of Compatible, Conditional, and Incompatible Land Uses

### *Introduction*

The Upper Delaware legislation proposes a management framework under which the federal agency agrees to provide financial assistance and specified local services and not to acquire interests in lands in return for the affected local governments' agreement to manage the land in the river corridor in a manner consistent with the intent of the National Wild and Scenic Rivers Act and with its own zoning and other ordinances enacted pursuant to its own needs and authorities.

The schedule of uses encourages development in certain areas. In other areas it is permitted if the proposed development will not degrade the river corridor. Finally, the legislation prohibits certain activities, such as water resources development projects. In addition, other uses are identified which would have irreversible adverse impacts on the river and which, under this agreement, are incompatible with the river corridor.

### *Understanding the Schedule of Uses*

The Schedule is essentially a 3 x 3 matrix of uses showing compatible, conditional/special uses, and incompatible uses horizontally, and scenic, recreational, and hamlet classifications vertically. Scenic sections have the strongest restrictions and hamlets the least. In general, development is encouraged in hamlet areas. Refer to the boundary and classification section for definition of these three classifications

The compatible uses column is read downward. Uses compatible in the scenic section are also compatible in recreational and hamlet areas Uses in recreational areas are also compatible in hamlets. The conditional/special use column is read similarly.

The incompatible column should be examined carefully. None of the uses in this column may be undertaken in scenic sections. Recreational segments are somewhat less restricted, with incompatible uses in recreational and hamlet areas being prohibited uses. Incompatible uses in hamlets are limited to those uses identified in that single cell.

Note that the chart also relates diagonally. Uses listed as incompatible in scenic are generally conditional in recreational areas and compatible uses in hamlets, for instance.

There may a number of unforeseen future uses that cannot be specifically provided for in the schedule. When those situations arise, the affected town, the Council and the National Park Service will compare those uses to similar uses that are defined in the Guidelines and make their judgments accordingly.

This plan also stipulates that the objectives and principles of the Land and Water Use Guidelines should be met before local governments grant conditional/special use permits. In every situation, each town will decide the most appropriate conditions to place upon such uses.

Any town may choose to have additional or other land use requirements within the river corridor and to have more restrictive ordinances and regulations, consistent with the health, safety, and welfare of its residents.

# *SCHEDULE OF COMPATIBLE, CONDITIONAL, AND INCOMPATIBLE LAND USES*

| CLASSIFICATION | COMPATIBLE USES | APPROPRIATE SPECIAL USES/CONDITIONAL USES | INCOMPATIBLE USES |
|---|---|---|---|
| **Scenic Segments** | Agricultural Use<br>Forest Management<br>Fish & Wildlife Management<br>Single-Family Dwelling Unit<br>Hunting/Fishing Cabins & Seasonal Residences<br>Nurseries & Wholesale Greenhouses<br>Home Occupations<br>Customary Accessory Uses<br>Places of Worship<br>Bed & Breakfast Places | Sawmills<br>Other Recreational Uses<br>Cluster Development<br>Small Craft Shops Substantially Set Back From The River<br>Boarding Homes<br>Small Motels & Hotels<br>Bait & Tackle Shops<br>Gas/Oil Fields & Lines (*See* Section III-E-2)<br>Minor Surface Mining Operations<br>Garden Apartments & Townhouses (At Density of 1 Unit per 2 Acres) | Intensive Use Recreational Facilities<br>Other Commercial Development<br>Institutional Uses<br>Other Uses Listed Below As Incompatible |
| **Recreational Segments** | All Principal Uses Appropriate in Scenic Segments<br>Other Recreational Uses<br>Two-Family Dwelling Units<br>Bait & Tackle Shops<br>Small Hotels & Motels | All Conditional/Special Uses Appropriate in Scenic Segments<br>Other Minor Commercial Development<br>Institutional Uses<br>Intensive Use Recreational Facilities<br>Business & Professional Offices<br>Eating & Drinking Establishments | Major Commercial Development<br>Industrial Uses<br>Other Uses Listed Below As Incompatible<br>Other Motels & Hotels |
| **Hamlets** | All Principal Uses Appropriate in Scenic & Recreational Segments<br>Eating & Drinking Establishments<br>Other Motels & Hotels<br>Retail Establishments<br>Business & Professional Offices<br>Intensive Use Recreational Facilities<br>Institutional Uses<br>Commercial Development | All Conditional/Special Uses Appropriate in Scenic/Recreational Segments<br>Light Industrial Uses<br>Garden Apartments<br>Townhouses | Heavy Industrial Uses<br>Junkyards<br>Subsurface Mining Operations<br>Major Surface Mining Operations<br>Impoundments<br>Channel Modifications<br>Landfills<br>Major Airports<br>Paved 4-Lane Roads & Bridges<br>Marinas<br>Power Generating Stations<br>Major Electric Lines<br>Ice Breaking Structures<br>Major Commercial Recreational Development<br>Major Oil & Gas Transmission Lines |

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# *GLOSSARY*

**Boundary** - A map line that defines the area of national interest in the Upper Delaware River corridor. This area will be protected through local laws, plans and ordinances and the use of other existing laws.

**Carrying Capacity** - The point beyond which the level of use of a recreation resource (water surface, campground hiking trail or any number of other resources) will mean one or more the following

- The user will not achieve a reasonable level of satisfaction (commonly referred to as 'social carrying capacity')

- A resource becomes degraded to the point of making it unattractive or unsuitable for recreation (commonly known as 'physical carrying capacity')

- Other factors such as management costs, economic considerations, and landowner-user relationships influence when the carrying capacity of a resource is reached

**Classification** - Under the Wild and Scenic Rivers Act, a system for assessing existing development levels and for directing future management; the classifications on the Upper Delaware are scenic and recreational.

**Cultural Resources** - Tangible and intangible aspects, living and dead, that provide information about a cultural system; this may include human history, archeological sites, industrial remnants, and architectural features.

**Easement** - A partial interest in land.

**Eminent Domain** - The government's power to take private property for a public purpose. This power can be exercised by government agencies only when specifically authorized by either federal or state law. The United States Constitution requires that whenever eminent domain is used, the landowner must receive just compensation for the property taken.

**Facade** - That part of a building that may be seen by a person observing it.

**Facade Easement** - An agreement which gives the holder of the easement the right to control the use and appearance of a building's facade.

**Fee Title Acquisition** - Outright purchase of a property.

**Fishing Access Area** - Either a small site (approximately two acres) that will allow for relatively easy foot access to the shoreline as well as putting in and taking out a watercraft or land along the shoreline of a property owner which can be reached by foot from an off-street parking area on that owner's property.

**Floodplain** - A land area adjacent to a watercourse that is periodically inundated by high water flows.

**Guidelines** - The Land and Water Use Guidelines.

**Historic District** - A geographically definable area, urban or rural, that possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects, united by past events or aesthetically by plan or physical development.

**Interpretive Program** - A program designed to develop a visitor's interest in, and enjoyment and understanding of, an area by describing and explaining its characteristics and their interrelationships.

Jurisdiction - The limits or territory within which authority may be exercised.

Kiosks - Small, portable information booths.

Lateral Boundary - The landward corridor line that runs generally parallel to the river.

Perennial Stream - A stream that flows during all seasons.

Proprietary Jurisdiction - The authority possessed by the federal government to manage lands it owns or leases. It does not displace the state government's authority. National Park Service regulations are applicable to lands owned or leased by the NPS under its proprietary jurisdiction.

Public Access Area - An area approximately 5 to 7 acres in size where the general public can gain access to the river. Facilities at these areas include a parking lot, a map of the river, comfort station, a public telephone, trash containers, boat launching area, and limited picnicking sites.

Riparian Landowner - A person(s) who owns land that is located on the bank of a river such as the Upper Delaware.

River Corridor - The river and its immediate environment; the river and the adjacent land area within the landward boundaries.

River Rest Stop - An area approximately 3 acres in size which is reached by watercraft where a person(s) in that watercraft can stop and rest. Facilities at these areas include a map of the river, a comfort station, and trash containers.

Technical Assistance - In general, the providing of information, advice and ideas to individuals or groups requesting help by professionals or those who are are specially trained in certain areas of expertise.

Terminal Boundary - The boundary at either the upper or lower end of the Upper Delaware Scenic and Recreational River.

Unique Land Resources - Representative examples of landforms within a physiographic section, province, or region of the United States; a landform can also be recognized as significant when it is the most representative example of a landscape feature within a given physiographic area.

Water Use Guidelines - Statements which provide management agencies, the public sector, and the private sector with overall directions for managing the Upper Delaware as a Scenic and Recreational River.

Water Use Management Program - A specific program which has the following three parts to fully implement the Water Use Program and Guidelines: Initial Water Use Management Program, Evaluation of the Program, and Continuing Water Use Management Program.

Water Use Performance Guidelines - A concept containing guidelines regarding facilities, safety, and carrying capacity to regulate water recreational uses on the Upper Delaware River.

Water Use Monitoring Program - A Key element of the Water Use Management Program which will continuously monitor water quality, level of use for recreation, landowner opinions regarding recreation use on the river, experiences of recreation users, physical conditions of the river, and complaints and data on accidents to make needed adjustments in the Water Use Management Program.

Wetland - Land areas that are either perpetually or seasonally flooded. The extreme dampness may be due to high water tables, the impermeable nature of the soil, or poor drainage.

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# *COST AND PHASING OF PROPOSED PLAN*

## Land Acquisition

Not more than 123 acres of land are needed for project development, of which approximately 110 acres would be two large tracts and 14 acres would be five tracts ranging in size from two to five acres. Sites will be needed for the two district ranger stations (35 acres each), parking facilities on either side of the Roebling Aqueduct (1 acre each), the archeological site and river rest stop in the vicinity of Ten Mile River (40 acres), a canoe-in campground facility on property owned by the Commonwealth of Pennsylvania (to be developed by the Commonwealth), the Zane Grey House, 1-2 acres, (if the house and collection are jeopardized by imminent loss or damage and it the property owner agrees to the acquisition) and one site in the vicinity of the Mongaup River (70 acres), to be developed jointly for a visitor contact facility, emergency river access, river rest stop, and interpretation of a Delaware and Hudson Canal lock site, if a suitable lock also is located on the property.

Estimated approximate land costs (not including proposed development expenditures):

| | |
|---|---|
| Total National Park Service | $1,181,600 |
| **Total Land Acquisition Costs** | **$1,181,600** |

### National Park Service Annual Operations Costs

(based on 1986 dollars)

| | |
|---|---|
| National Park Service: | |
| Operations | 1,300,000 |
| Upper Delaware Council | 300,000 |
| Grants for Trash Removal and Law Enforcement | 271,000 |
| Planning | 444,000 |
| **Total Operations Costs** | **$2,315,000** |

### Phased Development Costs National Park Service

| | Phase 1 1986-1988 | Phase 2 1989-1992 | Phase 3 1993-95 | Total Costs (10 Yr Plan Period) |
|---|---|---|---|---|
| **Total Costs** | **$3,784,400** | *$340,000* | $97,000 | $1,221,400 |

### National Park Service Personnel Costs

| Personnel | Permanent | Seasonal |
|---|---|---|
| Existing | 17 | 34 |
| Proposed | 29 | 44 |

National Park **Service** Development Costs

| Site | Cost Estimate | Development Phase |
|---|---|---|
| North District Ranger Station | 213,700 | 1 |
| Headquarters Complex | 35,000 (to complete) | 1 |
| Archeological Site at Ten Mile River | 57,000 | 3 |
| River Rest Stop at Ten Mile River | 35,000 | 1 |
| Zane Grey House | 500,000 | 2 |
| Roebling's Bridge and Toll House | 2,000,000 (to complete) | 1 |
| NY Parking for Roebling's Bridge and emergency access | 100,000 | 1 |
| PA Parking for Roebling's Bridge and emergency access | 100,000 | 1 |
| D&H Canal Lock #72 | 40,000 | 2 |
| South District Ranger Station | 213,700 | 1 |
| River Rest Stop at South District Ranger Station | 35,000 | 1 |
| Visitor Contact Facility near Mongaup River, emergency access | 817,000 | 1 & 2 |
| River Rest Stop on land for Visitor Contact Facility near Mongaup River | 35,000 | 1 |
| D&H Canal Lock #54 | 40,000 | 3 |
| **Total National Park Service Development Costs** | **$4,221,400** | |

## Non-Federal Development Costs

### Commonwealth of Pennsylvania

| Site | Cost Estimate | Development Phase |
|---|---|---|
| Canoe-in Campground, on State Forest Land, Westfall Township (Land already in state ownership) | $ 100,000 | 1 |
| **Total Non-Federal Development Costs** | **$ 100,000** | |

## Financial and Personnel Requirements for Upper Delaware Council

The Upper Delaware Council will need staffing and consulting assistance from a variety of fields. Staffing is needed to cover the review of local laws, plans, and ordinances, new development proposals, the actions of county, state and federal agencies, and for monitoring the enforcement of these actions. Coordinating activities is also an important Council function that is best accomplished with staff onsite. In addition, the plan authorizes the Council to provide technical assistance to participating local governments to assist them in reaching substantial conformance and for other activities. The Council will also be responsible for monitoring a variety of federal and state activities, including the annual plan for recreation, water use, and cultural resources management. Staffing levels and funds are provided for these purposes.

The plan permits the Council to contract for outside services necessary for carrying out the duties assigned to the Council. In particular, technical support to aid in substantial conformance and new development reviews may require the assistance of engineering and planning professionals beyond the staff capability of the Council. Necessary funding is proposed in the budget.

The plan provides for legal support and liability coverage for the Council, for its local representatives in carrying out the Council's assigned duties. This same support also applies to participating local governments and public officials from those governments. Limitations on this coverage are as follows:

1. Legal support may be used only for actions directly involved with carrying out the assignments identified in this plan that relate to the Upper Delaware Scenic and Recreational River area.

2. Legal support will be provided for defense against challenges to the legality of local plans, laws, and ordinances prepared to meet the requirements and guidelines stipulated by this legislation (also note limitations identified in item 1 above).

3. Legal advice may be obtained to assist in substantial conformance and project reviews at the local level, and the review of proposed state and federal actions that directly affect the river corridor.

4. Pursuant to this agreement, the plan authorizes the Council to secure legal representation for Council activities and for plan-related local government actions.

5. Public official liability coverage will be made available to the Council, Council representatives, and participating local government officials.

This support will not be provided for purely local unrelated to the River Management Plan and the Land and Water Use Guidelines.

Funding will be sought from the National Park Service through a line item with the overall budget request for the Upper Delaware Scenic and Recreational River. Funding will also be sought from the Commonwealth of Pennsylvania and the State of New York. The plan proposes a cost-sharing ratio of 60% federal and 40% state. this amount being divided equally between the two states.

Towns provide in-kind services as they implement the Land and Water Use Guidelines and participate as members of the Council.



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## Upper Delaware Council Costs

Income:

| | |
|---|---|
| Congressional Appropriations | $ 300,000 |
| State of New York | 100,000 |
| Commonwealth of Pennsylvania | 100,000 |
| **Total** | **$500,000** |

## Professional Expertise Required by the Council

| | |
|---|---|
| Project Leader | 1 |
| Planning Technicians | |
| Land Use and Project Review | 2 |
| Administrative Ass't/Office Manager | 1 |
| Secretary | 1 |
| Contracted Services | As required |
| **Total** | **5** |

## Summary of River Management Plan Actions and Responsibilities

| PROGRAM AREA | | ACTION | | AGENCY | WHEN |
|---|---|---|---|---|---|
| 1. | Plan Approval | | Secretary of Interior | DOI | 1986 |
| 2 | Establish Council (UDC) | a | Prepare and accept an agreement to establish a Council | members | within 3 months of plan approval |
| | | b. | Secure funding Select representatives Select officers Select personnel Draft Bylaws | members | within 6 months |
| | | c. | Develop and enter into a contract or cooperative agreement with Department of the Interior for the review and monitoring of local laws, plans and ordinances | NPS/UDC | within 6 months of plan |
| | | d | Develop a program for project review | UDC | within 4 months of estab. of UDC within |
| | | e. | Complete initial review of local laws, plans and ordinances for substantial conformance | MC | 1 year |
| | | f. | Provide assistance to towns for making appropriate modifications to local ordinances | UDC/NPS | ongoing |
| | | g. | Complete review of local plans and ordinances | UDC | within 1 year of UDC |
| 3. | Establish Federal, State and River Basin Commission Consistency Programs | | Develop and adopt Federal agency, State agency and Delaware River Basin Commission policies to assure consistency with RMP | NPS/MC/ States | within 1 year |

# *THE CONCEPT OF PERFORMANCE GUIDELINES*

Numerous options are available and should be considered if it is realized that the river's resources are not being adequately protected. Some possible options are listed below in the order in which they should be considered. This concept should be further developed as part of the National Park Service-sponsored recreational use study. Further, the specific numerical guidelines listed in the chart which follows should be considered as suggested ranges to be monitored and revised. if necessary, as part of the recreation study.

**Option 1** - *Use Water Use Performance Guidelines to Regulate Water Recreational Uses and Stress Voluntary Limits on Commercial Watercraft*

One of the first options to consider should be establishing "performance guidelines" for the existing commercial livery operators, camps, and others that use watercraft. Below are listed some examples of possible performance guidelines. These guidelines would be further developed as part of a National Park Service-sponsored recreational use study. Various techniques, with the exception of concession airing which should be avoided, might be used to help implement these guidelines. Local town and township zoning ordinances, for example, could include facility standards for access/parking, toilets, water, trash disposal, and camping. The commercial livery license, however, would be an appropriate place for "safety standards" and "carrying capacity standards".

The Upper Delaware Council might urge all recreational facilities to place a voluntary limit on their number of watercraft. Voluntary limits would be especially encouraged along segments of the river that might prove to be overcrowded or overused. Also, new and expanding liveries shall be required to submit their plans for review by the Council.

If Option 1 is found to be inadequate or inappropriate, Option 2 should then be considered.

**Option** *2* - *Develop a Permit or Registration System*

Option 2 could build upon Option 1 to include a permit or registration system. This program could be administered by the National Park Service with the concurrence of the Council. The form and specifics of the permit or registration system would be determined by the Council according to the type of problems that need to be addressed, after careful study and after input from all interested parties.

This system would not be intended to strictly control watercraft use levels. However, it could aid in river use monitoring. It also would support efforts to provide safety and rule information to users. In addition, it might be used to generate revenue.

**Option 3** - *Develop a Permit System That Allocates Use*

This Option represents a rather stringent control that might be taken by the Council only if proven necessary, after Option 1, Option 2, and other options were found to be inadequate to conserve the river, or if severe safety problems became evident. The existing use levels would serve as a basis for the restrictions. Commercial liveries would be required to maintain existing use levels and traditional use patterns on the river. If the problems that forced controls on watercraft later became less severe, these controls might then be relaxed. In developing a permit system which allocates use, it will also be important to recognize and protect private rights. The details of any system to allocate use would be determined by the Council after careful study and input from all interested parties.

Any potential permit system should be relatively simple to administer and to comply with, and should not overburden the users. Additional possible actions should be considered as needed. The system should also allow for competition among outfitters, prevent monopolization of fair trade, and allow for changes in future economic development and user fees as a means of revenue.

THE CONCEPT

WATER USE PERFORMANCE GUIDELINES FOR COMMERCIAL LIVERIES, CAMPS, AND OTHERS THAT RENT WATERCRAFT ON THE UPPER DELAWARE RIVER

| FACILITIES | | | | | | |
|---|---|---|---|---|---|---|
| ACCESS/ PARKING | TOILET | WATER | CAMPING | TRASH DISPOSAL | SAFETY | CARRYING CAPACITY |
| Provide an adequate number of vehicular access points on the river with adequate off street parking.<br><br>Seek permission from landowners for use of other put-in and take-out points.<br><br>Use public access points on a limited basis to allow for more public use of these places. | Ensure that adequate toilet facilities are available within segments of the river which a livery, camp or other rental watercraft group will use. (This may be done either by showing that existing public facilities are available or by providing new facilities on an individual or shared basis.) | Have drinking water sources available to customers before the trip. | Advise users that camping on private land is illegal.<br><br>Provide a list of names/places where overnight camping opportunities exist. | Supply litter bags or containers to users.<br><br>Provide trash receptacles at parking areas access points, and comfort stations. | Provide Coast Guard approved personal flotation devices to each person in boat and instructions for wearing them<br><br>Provide safety and river use education.<br><br>Alert river users when water levels or conditions are dangerous.<br><br>Prohibit rental to people under the influence of alcohol or drugs.<br><br>Allow livery land to be used for emergency access.<br><br>Provide watercraft and equipment that comply with scientifically based standards for use in the Upper Delaware. | Make attempts to coordinate use with other liveries to avoid crowding during peak weekends.<br><br>Advise users of river use ethics (respecting other river users, landowners, etc.).<br><br>Carry-out appropriate actions to minimize congestion at choke points on the River (e.g., Skinners Falls). |

NOTE: The statements made in this table are used to illustrate the concept of performance guidelines. Detailed guidelines may be presented after appropriate analysis and discussion. Some of these guidelines are already being addressed in the current commercial livery licenses

The Land and Water Use Guidelines [illegible] suggested [illegible] measures for the types [illegible]

# *UPPER DELAWARE SCENIC AND RECREATIONAL RIVER: IMPACT OF THE RIVER MANAGEMENT PLAN ON THE FINANCES OF LOCAL GOVERNMENTS IN NEW YORK AND PENNSYLVANIA*

**Prepared by the Fairchild-Martindale Center for the Study of Private Enterprise**

**Lehigh University**

**J. Richard Aronson, Professor of Economics**
**Vincent G. Munley, Associate Professor of Economics**

**November 6, 1985**

## Executive Summary

This analysis was undertaken pursuant to Section 704(c)(2)(C) of Public Law 95-625, the Special Statutory Provisions for the Upper Delaware Scenic and Recreational River. This section of law requires that an analysis be prepared of the economic costs and benefits of implementing the River Management Plan, including any impact of the plan upon revenues and costs of local government.

This report concentrates on the expected impacts of the plan upon the revenues and expenditures of local government. Actions proposed to mitigate or offset these impacts are discussed in the management structure section of the River Management Plan.

The analysis focused on the two ways that the river management plan might affect municipal finances within the river corridor. The first is through any effect that it might have on municipal revenues; the second is through any effect that it might have on municipal expenditures. The results suggest that the plan will not have any impact whatever on the overall financial condition of any county government or any school district. The results suggest that while the plan might affect the finances of town(ship)s within the river corridor, for the majority of town(ship)s, the magnitude of the effect most likely will be so slight as to be imperceptible within the context of year to year changes in tax-expenditure patterns. Only for the townships of Buckingham, Manchester, Berlin, and Shohola is it likely that the effects will be noticeable, and even in these townships, the magnitude is not expected to be major--generally, only on the order of 2.0% to 4.0% changes in expenditure patterns.

The analysis suggests that the river management plan will not affect the revenues of any county, township, or school district. While the National Park Service will purchase limited amounts of land, in some cases removing this land from tax rolls, the amount of land involved is inconsequential in terms of property tax potential to any municipal governemnt. Further, while the plan will impose zoning restrictions on land use, there is no evidence to suggest that this will impact tax revenues for any municipality in either a positive or an adverse direction.

The analysis suggests that the plan will not have any effect on the expenditures of county governments or school districts. The plan may have a limited impact on the expenditures of town(ship)s. The zoning restrictions imposed by the plan will require town(ship)s that currently do not operate zoning offices to establish them. Moreover, additional recreation activity and expanded vacation home market, and an influx of retirees might lead to additional township expenditures. As noted above, however, the overall impact of these effects is not projected as significant in most cases.

# UPPER DELAWARE SCENIC ASD RECREATIONAL RIVER: IMPACT OF RIVER MANAGEMENTPLAN *ON* THE FINANCES OF LOCAL GOVERNMENTS IS NEW YORK AND PENNSYLVANIA

## Introduction

There are two ways in which the proposed plan can affect the finances of local governments in New York and Pennsylvania. First is the plan's potential impact on the local tax base. The National Park Service (NPS) will acquire a limited amount of land exempting it from property taxation. Also, the zoning requirements imposed on land within the corridor could affect land values and hence their property tax revenue potential. Second, the plan will affect municipal expenditures. The zoning requirements for land in the corridor will move governmental units without zoning offices to create them. Also, the river management plan may increase the attractiveness of the river corridor as a location for retirement homes, vacation homes and river recreation visits. These factors in turn could affect municipal expenditures on items such as fire protection highways and governmental administration.

In this report we first outline the "Pre-Plan Financial Situation" of the municipal governments involved. We then present our estimates of the potential effects of the plan on municipal finances in the town(ship)s, counties and school districts that comprise the river corridor.

## Pre-Plan Financial Condition

A financial profile of the town(ship)s that encompass the river corridor is presented in Tables 1A-1D. Table 1A presents the revenue patterns for the 15 town(ship)s for fiscal year 1982, the most recent year for which complete data are available for all municipalities. Column 1 shows the assessed value of taxable land in each townships. The assessment ratio shown in column 2 is used to convert assessed values into market values, which are presented in column 3. Columns 4 through 7 describe the sources of revenue used to support municipal expenditures for each township. Township revenues in New York come mainly from property taxes and intergovernmental revenues. State aid includes revenues for general purposes, for maintenance, operation and construction of sewage treatment facilities, highways, navigation law enforcement, youth programs and recreation for the elderly. The Federal aid is composed of revenue sharing funds and funds for the construction of sewage treatment facilities and other programs of community development. Local aid represents revenues received from other local governments and include such things as transfers from county governments and fees for services provided to other local governments on a contractual basis. Pennsylvania townships also receive substantial revenues from property taxes and intergovernmental aid. Pennsylvania townships do, however, generate a larger proportion of revenues from own sources other than property taxes than is the case for New York State townships. These revenues, called Act 511 taxes, include such levies as per capita taxes, earned income taxes and real estate transfer taxes.

(1982) are presented in Table 1B. The expenditure patterns are similar for town(ship)s in New York and Pennsylvania. Government administration expenditures are a significant item in township budgets. Under this heading expenditures are made for executive, legislative, judicial and financial operations. Some town(ship)s also spend as much as 10% of their budget on police and fire. However, by far the largest expenditure item for town(ship)s is highways. The funds are used for maintenance and improvement of town roads and bridges, snow removal, street lighting and public transportation. Highway expenditures are comprised of two categories: current expenses and capital expenses. Current expenditures are for operating costs including such expenses as personal services, employee benefits and contractual expenses. Capital outlays go for equipment purchases and construction improvement and acquisition of fixed assets. As shown in the table highway expenses amount to more than half of total budget outlays for most town(ship)s.

Data describing the revenue and expenditure patterns in 1978 are presented in Tables 1C and 1D. These tables provide background information about the fiscal condition of town(ship)s prior to the scenic and recreational river designation.

Tables 2A through 2D present revenue and expenditure patterns for county governments. All five counties generate substantial revenues from property taxation and intergovernmental aid. Orange and Sullivan counties also generate a large share of their revenues from sales taxes. The most important expenditure categories for counties are government administration, highways and welfare. Column 8 of Tables 2B and 2D shows the total of those county expenditure categories not included separately. Correction facilities and higher education are major components of this residual.

Tables 3A and 3B present revenue and expenditure information for the school districts that comprise the river corridor. School district expenditures are for elementary and secondary education. We do not show separate expenditure categories. Property taxes and intergovernmental aid are the most important revenue sources of the school districts.

## Revenue Effects

Implementation of the river management plan can affect municipal revenues in two ways. First the National Park Service will purchase approximately 122 acres of property along the river, thus removing some land from the tax base. Second, the zoning restrictions required by the plan may affect land values within the river corridor. Table 4A presents the magnitude of land area involved for each township both as an absolute value and as a percentage of total township acreage. Inspection of the table reveals that for every township the amount of land to be purchased by the National Parks Service is a very small percentage of total acreage. The percentage of township land within the corridor, however, varies considerably across town(ship)s, ranging from 1.2 percent in Berlin to 17.7 percent in Manchester.

[1] Independent fire districts in New York have been included as part of the town in which they are located for accounting purposes in this report.

In order to determine the municipal revenue effects we must convert acreage values into market values. We use the market values of National Park Service purchases provided to us by the Conference of Upper Delaware Townships. In order to estimate the market value of taxable property within the river corridor for each township we make two assumptions. First we assume that the pattern of taxable and exempt property is similar within the river corridor and outside the river corridor for each township. Second we assume that the marker value per acre is the same inside and outside the river corridor for each township. Calculations based on these assumptions provide estimates of the municipal property tax base impacts for each local government jurisdiction involved. Tables 4B, 4C and 4D present these estimates for the town(ship)s counties and school districts respectively.

Several conclusions can be derived based upon the information presented in Tables 3B. 4C and 4D. First, the direct municipal finance effects of National Park Service land acquisition will be very minor. The percentage of land market values involved is small, always less than one percent. Moreover the purchase of 70 acres in Deerpark is planned to include exclusively undeveloped acreage owned by a utility. The 40 acres in Tusten is land owned by the Boy Scouts of America, thus it is already tax exempt. Assuming that the National Park Service purchases land that is undeveloped and currently providing limited property tax revenue at other locations as well, the effect of these purchases on property tax generating ability will be imperceptible within the context of year to year changes in municipal budgets.

The effects on property tax generating ability of the zoning restrictions imposed **by** the river management plan will be indirect and they will impact the finances of the municipalities only after a jurisdiction-wide tax value reassessment takes place. This, together with the conclusion of the Coughlin-Keene study[2] that the zoning restrictions will not affect land values substantially, leads us to conclude the river management plan will not have any significant effect, either positive or negative, on the tax revenues of any municipality within the river corridor.

## Expenditure Effects

As with the revenue effects, the expenditure effects can be classified as those that will be direct and certain and those that will be indirect and less certain. An immediate direct effect will be the cost to municipalities of implementing and enforcing the zoning requirements stipulated in the land management program. Prior to 1980 the majority of the 15 town(ship)s were not zoned communities. In New York, Deerpark, Cochecton, Delaware and Fremont had instituted zoning prior to 1980. In Pennsylvania only Lackawaxen and Westfall

[2] **Robert E. Coughlin and John C. Keene, regarding a land values rcscarch report being prepared for the National Park Service, August 1985.**

[3] **Information on zoning was obtained from Thomas J. Shepstone, AICP,** by **the Foresight Consulting Group.**

In order to estimate the cost to each town(ship) of implementing and enforcing the zoning requirements of the river management plan we examined the annual line items for zoning and planning for the seven townships—Deerpark, Cochecton, Delaware, Fremont, Highland, Lumberland and Tusten—which reported this expenditure in the 1982 detailed municipal data summary obtained from the New York State Office of the Comptroller. The average expenditure for this group was $1557, with individual values ranging from $192 in Highland to $3213 in Deerpark. Based upon this information we project an annual cost of approximately $2000 to implement zoning for those communities that did not have zoning prior to 1980. Moreover, because of the detailed land use requirements specified under the land management plan we estimate that the incremental annual cost of including and enforcing these ordinances will be approximately $1500 for all 15 town(ship)s.

Table 5A presents our estimates of the direct cost of the river management plan for each township. Column 5 shows this cost as a percentage of 1982 expenditures. This percentage corresponds to the increase in taxes required to finance the zoning expenditure if the revenue generating patterns presented in Table 1A are maintained. Examination of Table 5A reveals that the cost to most town(ship)s will be less than one percent of their 1982 spending level. However the expenditure impact will be larger in Buckingham, 3.7% Shohola, 2.3% Berlin, 2.2% and Manchester, 2.0% This is because these three townships do not currently have zoning offices and their 1982 expenditure levels were the lowest of the 15 town(ship)s.

As noted in the introduction, it is possible that implementation of the River Management Plan and designation of the Upper Delaware as part of the Wild and Scenic River system will affect the land use and the population of the area. As examples, we can consider the effects of an increase in the number of river recreation visitors, the propensity to build vacation homes and a potential increase in the size of the retirement population in the municipalities along the river. In order to estimate these potential effects on municipal finances we must make an assumption about the likely size of these increases. In doing so it is important to emphasize that the estimates we derive are predicated completely on this assumed increase. The assumption made here is that over a ten year period river recreation visits and the number of vacation homes will increase 20 percent above the 1982 level and that the retirement population will increase 5 percent above the 1982 level. We will explain below how different assumptions about these growth rates will alter our expenditure effect estimates.

In order to determine the effect of the assumed growth in river recreation visits, vacation homes and retirement population on municipal expenditures we first estimate how different categories of municipal expenditures will respond to changes in these factors. The discussion of the econometric analysis we use to derive these estimates is quite technical and included as a technical note at the end of this appendix. At this point, however, we summarize the results of the econometric analysis. We found no evidence that an increase in any of these three factors will increase any category of spending by county governments. For town(ship)s, however, we did find several statistically significant relationships. There is evidence to suggest that an increase in river recreation visits, vacation homes or retirement population will result in a higher level of spending on highways. We also found evidence to suggest that an increase in the retirement population will result in higher levels of township spending for government administration, fire protection and sanitation.

Table 5B shows our estimates of the potential increases in township expenditure above the 1982 levels that could be attributed to the assumed increases in retirement population, river recreation visits, and second homes respectively. To obtain these estimates we performed the following steps. First we multiplied the projected increases by the statistically significant elasticity estimates reported in Table 6A of the Technical Note.[4] For the effect of river recreation visits on highway expenditures this is 0.20 multiplied by 0.11, or 0.022. Then for each expenditure category we multiplied this product by the 1982 expenditure level for each township. For the effect of river recreation visits on highway expenditures in Hancock this is 0.022 multiplied by $406,700, or $8,900. For river recreation visits this completes the expenditure effect calculation, since only highway expenditures are affected by this factor. These values are reported in column 3 of Table 5B.

For vacation homes which also affect only highway expenditures, this completes the gross expenditure effect calculation. Unlike river recreation visits which act only to increase township expenditures, however, new vacation homes provide an additional revenue source for each township. To calculate the value of this additional revenue we assume that vacation homes are constructed on previously underdeveloped land with a market value equal to the median house value in each township. The additional revenue then is equal to the number of newly constructed second homes (an increase of 20 percent above the current level) multiplied by the median house value multiplied by the equalization ratio adjusted property tax rate. Subtracting the increased revenue from the increased gross expenditure produces the net expenditure effect of increased second home ownership which is reported in the fourth column of Table 5B. For example, to calculate the gross expenditure effect of a 20 percent increase in the number of vacation homes in Hancock we multiply the projected increase by the elasticity estimate by the 1982 expenditure level for highways, or

$$0.20 \times 0.14 \times \$406{,}700 = \$11{,}388.$$

To calculate the revenue effect we multiply the projected increase by the current number of vacation homes by the median house value by the valuation ratio adjusted property tax rate, or

$$0.20 \times 328 \times \$30{,}120 \times 0.0062 = \$12{,}335.$$

Thus the net expenditure effect of a 20 percent increase in the number of vacation homes for the township of Hancock is a savings of $947. Since bracketed numbers indicate negative values inspection of the table reveals that nine of the fifteen town(ship)s could experience a net financial benefit from the assumed increase in second home ownership.

[4] Elasticity measures the magnitude of the percentage change in one economic variable (in this case municipal expenditure categories) caused by a one percent change in another economic variable (in this case river recreation visits, vacation homes, or retirement population).

In order to determine the expenditure effect of an assumed five percent increase in retirement population we next aggregate the gross expenditure effects of governmental administration, fire protection, highways and sanitation. This produces the total gross expenditures effect. As with second home ownership an influx of retired persons can generate additional property tax revenue for each township. We assume that new retiree residents constructed a new home equal in value to the township median house value on previously undeveloped land and that the average retirement household contains 1.5 persons. We then calculate the additional property tax revenue by multiplying the market value of new retiree homes by the equalization ratio adjusted property tax rate for each township. The net expenditure effect value obtained by subtracting the additional property tax revenue from the total gross expenditure effect values presented in column 2 of Table 5BS Inspection of the table reveas that the net retirement population effect is positive for every township and is always the largest of the three expenditure effects.

At this point we re-emphasize that the expenditure effect estimates presented in Table **5B** are predicated on our assumed growth rates in river recreation visits, vacation homes and retirement population. Because the econometric analysis discussed in the Technical Note to this Appendix is based on constant elasticity functional form expenditure equations, however, it is possible to determine the effect of alternate assumptions about growth rates in a straightforward manner. For example the expenditure effects of a ten percent growth rate in river recreation visits and vacation homes, together with a two and one half percent growth in retirement population, can be obtained by multiplying the values of columns 2 through 4 in Table 5B by one half. For a two percent growth in retirement population, a ten percent growth in river recreation visits and a twenty percent growth in vacation homes, multiply the value in column 2 by 0.4, multiply the value in column **3** by **0.5** and maintain the value in column 4, etc. Finally to obtain the total expenditure effect simply add the three separate expenditure effects.

Column 5 of Table **5B** presents the total expenditure effect for our projected growth rates. Column 6 shows the annual increase in local taxes over a 10 year period that would be required to finance these expenditures, if the revenue generating patterns presented in Table 1A are maintained. These values range from about li6 of one percent in Westfall to about 5/6 of one percent in Fremont.

We can now summarize our conclusions about the expenditure effects of the river management plan. The immediate impact of implementing zoning will be significant for the townships of Berlin, Buckingham and Shohola, but relatively minor for the other town(ship)s. The longer term impacts of increased river recreation visits, vacation homes and retirement population under what we consider reasonable assumptions of their growth rates will be more varied across town(ship)s, but will in no case be significant in the context of year to year changes in municipal budgets. Finally we anticipate no expenditure impacts on county or school district expenditures.

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[5] **This calculation parallels the other two and therefore it is not necessary to describe another numerical example.**

In order to estimate the expenditure effects for town(ship) and county governments due to increased levels of visitor attendance, second home ownership and retirement population, it is necessary to measure the sensitivity of different municipal expenditure categories to these factors. To accomplish this we estimate separately a set of expenditure functions for county governments and a set of expenditure functions for subcounty municipal governments. We adopt the median voter analytical framework widely used for studying the determinants of state and local government expenditures. The expenditure functions take the form:

Expenditurei = f (Price, Income. Intergovernmental Aid,
Density, Recreation Visits, Vacation Homes,
% over *65)*

where

Expenditurei is the level of expenditure per capita for governmental function i for counties or municipalities;

Price is the price to the median voter of raising additional dollar of revenue per capita through property taxation, measured as the median house value divided by the per capita market value of taxable property;

Income is the median income;

Intergovernmental Aid is total federal, state and local aid per capita;

Density is the population per square mile;

Recreation Visits is per capita attendance at national parks and state parks combined;

Vacation Homes is the number of homes held for occasional use as a percent of total homes; and

% over *65* is the percentage of population over *65.*

So that the results of this econometric analysis are appropriate to apply toward our calculations of expenditure effects for town(ship)s and counties along the Upper Delaware River, we select as the data base for the empirical estimation all counties in the states of New York and Pennsylvania designated by the U.S. Bureau of the Census as "Nonmetropolitan Areas." Twelve of the sixty-five counties in this sample are excluded from this analysis because they contain neither a national park nor a state park and hence do not report a value for recreation visits as defined above. For county governments we estimate expenditure functions for police, highways, parks and recreation, and health and hospitals. Data for these values as well as the value for intergovernmental aid in the county expenditure functions are obtained from the 1982 L.S. Census of Governments: Finances of County Governments. For subcounty municipal governments we estimate expenditure functions for government administration, police, tire, highways, parks and recreation, and utility and sanitation. Data for these values as well as the value for intergovernmental and in the subcounty municipalities functions are obtained from the 1982 U.S. Census of Governments: Compendium of Government Finances. Data for other variables in the expenditure functions are obtained from the 1980 U.S. Census of the Population 1980 U.S. Census of Housing, and individual state and National Park Service documents for visitor attention

We specify the functional form of the expenditure equations as constant elasticity, that is linear in logarithms. This functional form has two advantages. First, it is used widely in studies that explain the determinants of state and local government expenditures. Second, by providing constant elasticity estimates it allows straightforward calculation of expenditure effects for the Upper Delaware town(ship)s under different assumptions about the projected growth rate in visitor attendance, second home ownership and retirement population. Because intergovernmental aid contains matching grants the level of this aid is determined in part by the level of expenditure by the recipient government. Thus, to eliminate the undesirable statistical implications of simultaneous equation bias, we estimate the experiditure functions with the two stage least squares procedure. Intergovernmental aid is specified as a right hand side endogenous variable identified by the additional predetermined variables the amount of municipal miles of highway in a county and a binary variable designating whether the county is in New York or Pennsylvania.

Table **6A** and 6B present the expenditure elasticity estimates for county governments and subcounty municipal governments respectively. An asterisk indicates those estimates which are statistically different than zero at the ten percent significance level. The price and income variable, when statistically significant, are negative and positive, respectively, a result consistent with economic theory. Intergovernmental aid is positive and usually signficant, as expected. Density is included in the equations because it has frequently been found to be a determinant of local government expenditures in the public finance literature.

The final three variables are of greatest interest to this study. In the county expenditure functions the only one of these variables observed to exert a statistically significant effect on spending is vacation homes in the health and hospitals equation. Its sign there is negative. Thus, we conclude that increases in the variables of interest will exert no pressure for increases in spending by county governments. In the municipal expenditure functions the percent of the population over 65 is positive and statistically significant in the equations for government administration, fire, highways, and utility and sanitation. Recreation visits and vacation homes are positive and significant in the highways equation. These expenditures elasticity estimates are used in the expenditure effect calculation that we discuss in the body of this appendix.

**TABLE 1A**
**1982 Data For Township Revenue Patterns**
**(Dollar Values in Thousands of Dollars)**

| | [1] Assessed Value | [2] Taxable Land Value Equalization Ratio (%) | [3] Market Value | [4] Total Prop. Tax | [5] Revenues Own Sources | [6] Other | [7] Federal, State & Local Aid |
|---|---|---|---|---|---|---|---|
| **NEW YORK** | | | | | | | |
| Hancock | $42194 | 58.3 | $72337 | $650.6 | $451.6 | $54.3 | $144.7 |
| Deerpark[a] | 68875 | 72.1 | 95487 | 660.9 | 425.5 | 72.8 | 162.7 |
| Cochecton[a] | 2896 | 9.2 | 31547 | 419.5 | 266.9 | 23.7 | 128.9 |
| Delaware[a] | 4689 | 9.7 | 48191 | 871.7 | 379.0 | 212.9 | 279.8 |
| Fremont[a] | 592 | 1.4 | 41399 | 361.8 | 228.9 | 7.9 | 125.0 |
| Highland | 522 | 1.1 | 47454 | 454.1 | 340.0 | 41.5 | 72.6 |
| Lumberland | 62679 | 115.5 | 54267 | 520.9 | 365.3 | 29.8 | 125.8 |
| Tusten[a] | 698 | 1.9 | 36737 | 614.2 | 273.2 | 171.9 | 169.1 |
| **PENNSYLVANIA** | | | | | | | |
| Lackawaxen | 17063 | 21.4 | 82537 | 256.7 | 87.8 | 76.2 | 92.7 |
| Shohola | 8474 | 20.9 | 40546 | 157.0 | 54.8 | 49.0 | 53.2 |
| Westfall | 4720 | 15.3 | 30850 | 200.1 | 51.4 | 81.2 | 67.5 |
| Berlin | 5766 | 25.4 | 22701 | 153.9 | 55.8 | 20.9 | 77.2 |
| Buckingham | 3389 | 22.4 | 15130 | 103.5 | 11.8 | 29.2 | 64.5 |
| Damascus | 10292 | 23.3 | 44172 | 393.6 | 137.5 | 55.6 | 200.5 |
| Manchester | 4478 | 27.4 | 16343 | 183.0 | 35.3 | 31.7 | 116.0 |

NOTES:
[a] - Includes independent fire district(s) within the township.
Sources: Special Report on Municipal Affairs, State of New York, Office of the State Comptroller; Local Government Financial Statistics, Commonwealth of Pennsylvania, Department of Community Affairs.

## TABLE 1B
## 1982 Data for Township Expenditure Patterns
## (Dollar Values in Thousands of Dollars)

| | [1] | [2] | [3] | [4] | [5] | [6] | [7] | [8] |
|---|---|---|---|---|---|---|---|---|
| | | | | Expenditures | | | | |
| | Total | Government Administration | Police | Fire | Highways | Parks & Rec'tion | Utility & Sanitation | Other |
| NEW YORK | | | | | | | | |
| Hancock[a] | $592.1 | $85.1 | $2.0 | $44.2 | $406.7 | $2.5 | $0 | $51.6 |
| Deerpark[a] | 716.8 | 212.1 | 33.1 | 104.5 | 327.7 | 2.1 | 0 | 37.3 |
| Cochecton[a] | 423.6 | 64.0 | 0.3 | 20.9 | 288.4 | 0.7 | 21.4 | 27.9 |
| Delaware(a,b) | 524.2 | 67.7 | 0 | 54.0 | 354.3 | 3.8 | 0 | 44.4 |
| Fremont[a] | 377.0 | 57.8 | 0.8 | 19.0 | 277.2 | 0.8 | 0 | 21.4 |
| Highland | 512.6 | 91.4 | 29.6 | 32.6 | 292.4 | 3.6 | 0 | 63.0 |
| Lumberland | 533.8 | 76.8 | 26.0 | 18.0 | 340.2 | 2.1 | 0 | 70.7 |
| Tusten[(a,b)] | 482.3 | 64.4 | 19.5 | 17.9 | 233.1 | 1.0 | 26.7 | 119.7 |
| PENNSYLVANIA | | | | | | | | |
| Lackawaxen | 229.2 | 29.6 | 13.1 | 31.6 | 90.8 | 2.4 | 0.04 | 61.7 |
| Shohola | 140.4 | 14.8 | 15.1 | 12.6 | 72.8 | 0 | 2.5 | 22.6 |
| Westfall | 206.7 | 20.7 | 61.5 | 7.8 | 36.4 | 0 | 1.3 | 79.1 |
| Berlin | 156.5 | 13.4 | 0 | 4.8 | 100.6 | 0 | 0 | 37.7 |
| Buckingham | 95.7 | 15.5 | 0.7 | 0 | 52.2 | 14.2 | 0 | 13.1 |
| Damascus | 397.9 | 21.2 | 0 | 10.4 | 306.1 | 23.2 | 1.6 | 35.4 |
| Manchester | 176.5 | 34.4 | 0 | 4.4 | 103.7 | 14.2 | 0 | 19.8 |

Notes: [a]-Same as Table 1A
-Excludes large capital expenditure for Utility and Sanitation
Sources: Same as Table 1A

TABLE 1C
**1978 Data For Township Revenue Patterns**
**(Dollar Values in Thousands of Dollars)**

| | [1] Assessed Value | [2] Taxable Land Value / Equalization Ratio(%) | [3] Market Value | [4] Total Property Tax | [5] Revenues / Own Sources Other | [6] Revenues / Own Sources & Local | [7] Federal, State Aid |
|---|---|---|---|---|---|---|---|
| **NEW YON** | | | | | | | |
| Hancock[il] | $43906 | 75.30 | $58308 | $409.0 | $24'3.2 | $ 12.0 | $153.8 |
| Deerpark[a] | 64887 | 77.20 | 84040 | 634.8 | 406.0 | 54.5 | 174.3 |
| Cochecton[a] | 2882 | 11.40 | 25347 | 363.1 | 185.1 | 48.8 | 129.2 |
| Delaware[a] | 4520 | 12.30 | 36778 | 366.5 | 221.1 | 13.5 | 131.7 |
| Fremont[a] | 559 | 2.04 | 27402 | 488.5 | 236.9 | 7.9 | 243.7 |
| Highland[a] | 458 | 1.26 | 36349 | 322.6 | 232.4 | 14.0 | 76.2 |
| Lumberland" | 1181 | 3.02 | 39106 | 405.5 | 271.6 | 52.4 | 81.5 |
| Tusten[it] | 665 | 2.67 | 24906 | 340.8 | 174.1 | '30.4 | 127.3 |
| **PENNSYLVANIA** | | | | | | | |
| Lackawaxen | 9264 | 15.20 | 60947 | 190.5 | I1.8 | 59.9 | 58.8 |
| Shohola | 3716 | 13.20 | 28152 | 108.5 | 45.4 | 25.0 | 38.1 |
| West fall | 2889 | 14. 10 | 20489 | 90.6 | 40.8 | 17.9 | 31.9 |
| Berlin | 5158 | 33.60 | 15351 | 122.1 | 43. 2 | 19.8 | 59. 1 |
| Buckingham | 3244 | 29.60 | 10959 | 69.7 | 12.4 | 15.8 | 41.5 |
| Damascus | 9314 | 30.20 | 30841 | 319.6 | 105.6 | 74.5 | 139.5 |
| Manchester | 4252 | 30.30 | 14033 | 120.2 | 27.4 | 18.5 | 14.3 |

Notes: [R]– Includes independent fire district(s) within the township.
Sources: Same as Table 1A

TABLE 1D
**1978 Data For Township Expenditure Patterns**
**(Dollar Values in Thousands of Dollars)**

| | [1] Total | [2] Government Administration | [3] Police | [4] Fire | [5] Highways | [6] Parks & Recreation | [7] Utility & Sanitation | [8] Other |
|---|---|---|---|---|---|---|---|---|
| | | | | Expenditures | | | | |
| **NEW YORK** | | | | | | | | |
| Hancock [a] | $421.3 | $55.3 | $0.2 | $18.4 | $276.7 | $2.5 | $0 | $68.2 |
| Deerpark" | 641.2 | 156. 0 | 47.7 | 83.3 | 281.5 | 8.1 | 0 | 70.6 |
| Cochecton [a] | 423.4 | 48.1 | 0 | 122.6 | 172.4 | 1.2 | 35.8 | 43.3 |
| Delaware | 442.3 | 49.4 | 0.1 | 23.3 | 267.6 | 2.8 | 0 | 90.1 |
| Fremont [a] | 484.1 | 47.4 | 0 | 51.7 | 212.1 | 0 | 0 | 172.9 |
| Highland [a] | 356.6 | 55.4 | 8.3 | 46.2 | 201.3 | 1.6 | 0 | 43.8 |
| Lumberland | 540.4 | 120.0 | 6.4 | 18.0 | 337.0 | 2.4 | 0 | 56.6 |
| Tusten [a] | 335.9 | 62.7 | 0.5 | 17.1 | 147.3 | 0.8 | 16.2 | 91.3 |
| **PENNSYLVANIA** | | | | | | | | |
| Lackawaxen | 285.8 | 28.5 | 0 | 26.9 | 169.9 | 0 | 0 | 60.4 |
| Shohola | 132.5 | 12.6 | 0 | 10.6 | 89.5 | 0 | 1.2 | 18.6 |
| Westfall | 94.4 | 14.5 | 9.2 | 4.4 | 30.4 | 0 | 1.7 | 34.3 |
| Berlin | 116.0 | 12.3 | 0 | 3.8 | 49.3 | 0 | 0 | 50.6 |
| Buckingham | 56.4 | 6.7 | 0 | 1.8 | 34.6 | 0 | 0 | 13.3 |
| Damascus | 326.2 | 13.8 | 0 | 9.4 | 234.8 | 0 | 1.7 | 66.5 |
| Manchester | 119.4 | 9.9 | 0 | 3.9 | 88.4 | 0 | 0.2 | 16.9 |

NOTES: [a] Same, as Table 1C
Sources: Same as Table 1A

TALBE 2A

**1982 Data For County Revenue Patterns**
**(Dollar Values in Thousands of Dollars)**

| | [1] | [2] | [3] | [4] | [5] | [6] | [7] |
|---|---|---|---|---|---|---|---|
| | Assessed Value | Taxable Land Value Equalization Ratio (%) | Market Value | Revenues: Total | Own Sources: Property Tax | Own Sources: Other | Federal, State & Local Aid |
| **NEW YORK** | | | | | | | |
| Delaware | $478251 | 47.8 | $999897 | $20344.6 | $6982.5 | $5762.7 | $7599.4 |
| Orange | 3516290 | 84.4 | 4164247 | 96184.1 | 31485.1 | 23724.3 | 40972.7 |
| Sullivan | 260530 | 18.4 | 1418236 | 39570.3 | 8435.9 | 16724.4 | 14347.0 |
| **PENNSYLVANIA** | | | | | | | |
| Pike | 154579 | 10.3 | 800928 | 2815 | 1745 | 636 | 433 |
| Wayne | 160427 | 24.3 | 660193 | 3554 | 1424 | 509 | 1622 |

Sources: Same as Table 1A

## TABLE 2B
## 1982 Data For County Expenditure Patterns
## (Dollar Values in Thousands of Dollars)

| | [1] Total | [2] Government Administration | [3] Police | [4] Expenditures Highways | [5] Parks and Recreation | [6] Health & Hospitals | [7] Welfare | [8] Other |
|---|---|---|---|---|---|---|---|---|
| **NEW YORK** | | | | | | | | |
| Delaware | $21282.6 | $1336.9 | $488.2 | $5253.0 | $123.7 | $1276.7 | $11290.6 | $1513.5 |
| Orange | 103978.0 | 10569.3 | 4939.4 | 5478.3 | 1516.9 | 6974.4 | 60435.7 | 14064.9 |
| Sullivan | 42900.4 | 4530.8 | 2674.2 | 10265.3 | 289.8 | 5646.7 | 12785.2 | 6708.4 |
| **PENNSYLVANIA** | | | | | | | | |
| Pike | 2426 | 830 | n/a | 28 | 3 | 29 | 240 | 1297 |
| Wayne | 4278 | 1199 | n/a | 63 | 31 | 90 | 671 | 2225 |

NOTES:
n/a- Not Available

Source: Same as Table 1A

## TABLE 2C
## 1978 Data For County Revenue Patterns
## (Dollar Values in Thousands of Dollars)

| | [1] | [2] | [3] | [4] | [5] | [6] | [7] |
|---|---|---|---|---|---|---|---|
| | Assessed Value | Taxable Land Value Equalization Ratio (%) | Market Value | Total | Revenues Own Sources Property Tax | Other | Federal, State & Local Aid |
| **NEW YORK** | | | | | | | |
| Delaware | $376129 | 45.9 | $818740 | $17414 | $5572 | $1757 | $10084 |
| Orange | 3075225 | 86.2 | 3569617 | 103953 | 35959 | 10107 | 57888 |
| Sullivan | 196941 | 17.1 | 1155079 | 37557 | 8475 | 11178 | 17905 |
| **PENNSYLVANIA** | | | | | | | |
| Pike | 86378 | 15.8 | 546696 | 1887 | 869 | 394 | 625 |
| Wayne | 141024 | 29.9 | 471652 | 3359 | 1242 | 486 | 1631 |

Sources: Same as Table 1A

TABLE 2D

**1978 Data For County Expenditure Data**
**(Dollar Values in Thousands of Dollars)**

| | [1] | [2] | [3] | [4] | [5] | [6] | [7] | [8] |
|---|---|---|---|---|---|---|---|---|
| | | | | Expenditures | | | | |
| | Total | Government Administration | Police | Highways | Parks & Recreation | Health & Hospitals | Welfare | Other |
| **NEW YORK** | | | | | | | | |
| Delaware | $18178 | $2594 | $321 | $3843 | $24 | $646 | $9906 | $844 |
| Orange | 107225 | 17440 | 3803 | 4213 | 1201 | 7631 | 61349 | 11586 |
| Sullivan | 39436 | 7071 | 1347 | 6799 | 668 | 1892 | 17482 | 4177 |
| **PENNSYLVANIA** | | | | | | | | |
| Pike | 1803 | 605 | n/a | 53 | 1 | 34 | 181 | 930 |
| Wayne | 2978 | 673 | n/a | 62 | 0 | 38 | 484 | 1722 |

Notes:

n/a- Not Available.

Sources: Same as Table 1A

**TABLE 3A**
**Fiscal Year 1982/83 Data For School District Revenue and Expenditure Patterns**
**(Dollar Values in Thousands of Dollars)**

| | [1] | [2] | [3] | [4] | [5] | [6] |
|---|---|---|---|---|---|---|
| | | | | Revenues | | |
| | | | | Own Sources | | |
| | Market Value of Taxable Property | Total Expenditures | Total | Property Tax | Other | Federal, State & Local Aid |
| **NEW YORK** | | | | | | |
| Hancock | $60109 | $3098 | $2980 | $1007 | $302 | $1670 |
| Port Jervis | 204995 | 9927 | 10818 | 3630 | 880 | 6307 |
| Delaware Valley | 78407 | 2189 | 2261 | 1166 | 136 | 959 |
| Eldred | 110854 | 2078 | 2115 | 1416 | 151 | 548 |
| Narrowsburg | 60947 | 1416 | 1414 | 842 | 72 | 501 |
| **PENNSYLVANIA** | | | | | | |
| Delaware Valley | 320454 | 6561 | 6618 | 4154 | 1076 | 1388 |
| Wallenpaupak | 499213 | 6789 | 7027 | 4543 | 922 | 1561 |
| Wayne Highlands | 257596 | 8820 | 8545 | 3347 | 994 | 4205 |

Sources: Special Report on Municipal Affairs, State of New York, Office of the State Comptroller; Background Information on 'NAME' School District, Commonwealth of Pennsylvania, Department of Education.

**TABLE 3B**
**Fiscal Year 1977/78 Data For School District Revenue and Expenditure Patterns**
**(Dollar Values in Thousands of Dollars)**

| | [1] | [2] | [3] | [4] | [5] | [6] |
|---|---|---|---|---|---|---|
| | Market Value of Taxable Property | Total Expenditures | Total | Revenues Own Sources Property Tax | Revenues Own Sources Other | Federal, State & Local Aid |
| **NEW YORK** | | | | | | |
| Hancock | $47286 | $2155 | $2414 | $574 | $349 | $1492 |
| Port Jervis | 174642 | 9367 | 6852 | 2331 | 558 | 3963 |
| Delaware Valley | 58381 | 1706 | 1741 | 753 | 77 | 011 |
| Eldred | 79661 | 1390 | 1389 | 876 | 99 | 413 |
| Narrowsburg | 42300 | 1067 | 1102 | 624 | 64 | 414 |
| **PENNSYLVANIA** | | | | | | |
| Delaware Valley | 218622 | 3548 | 4048 | 2583 | 665 | 800 |
| Wallenpaupak | 359856 | 4479 | 4590 | 3047 | 607 | 936 |
| Wayne Highlands | 187001 | 6035 | 6168 | 2696 | 639 | 2833 |

Sources: Same as Table 3A

**TABLE 4A**
**Land Area Affected By River Management Plan**

| | [1] | [2] | [3] | [4] | [5] |
|---|---|---|---|---|---|
| | Total (Acres) | Purchase by NPS (Acres) | Land Area % | Within Corridor (Acres) | % |
| **NEW YORK** | | | | | |
| Hancock | 104173 | 0 | 0 | 6605 | 6.3% |
| Deerpark | 45958 | 70 | 0.15% | 725 | 1.6% |
| Cochecton[a] | 25786 | 3-5 | 0.02% | 3084 | 12.0% |
| Delaware[a] | 24115 | 3-5 | 0.02% | 3574 | 14.8% |
| Fremont | 34458 | 0 | 0 | 3427 | 9.9% |
| Highland[b] | 34611 | 7-9 | 0.02% | 3215 | 9.3% |
| Lumberland[b] | 34470 | 5 | 0.02% | 4504 | 13.1% |
| Tusten | 34707 | 40 | 0.12% | 4917 | 14.2% |
| **PENNSYLVANIA** | | | | | |
| Lackawaxen | 49920 | 1-2 | 0.01% | 5761 | 11.5% |
| Shohola | 29440 | 0 | 0 | 4305 | 14.6% |
| Westfall | 19008 | 0 | 0 | 2443 | 12.9% |
| Berlin | 25920 | 0 | 0 | 316 | 1.2% |
| Buckingham | 28864 | 0 | 0 | 3076 | 10.7% |
| Damascus | 52032 | 0 | 0 | 5827 | 11.2% |
| Manchester | 29696 | 0 | 0 | 5267 | 17.7% |

Notes

[a] Includes 3-5 acres that will be purchased in either Cochecton or Delaware
[b] Includes 3-5 acres that will be purchased in either Highland or Lumberland

Sources: National Park Service, Conference of Upper Delaware Townships

**TABLE 4B**
**Township Property Tax Base Affected By River *Management* Plan**

| | [1] | [2] | [3] | [4] | [5] |
|---|---|---|---|---|---|
| | 1952 Market Value of Taxable Property | | | | |
| | Total ($1000) | Purchase by NPS ($1000) | % | Within Corridor ($1000) | % |
| **NEW YORK** | | | | | |
| Hancock | 72337 | 0 | 0 | 4557 | 6.3% |
| Deerpark | 95487 | 260 | 0.3% | 1528 | 1.6% |
| Cochecton[a] | 31547 | 160 | 0.5 | 3786 | 12.0% |
| Delaware | 48191 | 160 | 0.3% | 7132 | 14.8% |
| Fremont | 41399 | 0 | 0 | 4098 | 9.9% |
| Highland[b] | 47454 | 120 | 0.3% | 4413 | 9.3% |
| Lumberland[b] | 54267 | 280 | 0.5% | 7110 | 13.1% |
| Tusten | 36737 | 300 | 0.8% | 5217 | 14.2% |
| **PENNSYLVANIA** | | | | | |
| Lackawaxen | 82537 | 60 | 0.1% | 9525 | 11.5% |
| Shohola | 40546 | 0 | 0 | 5929 | 14.6% |
| Westfall | 30850 | 0 | 0 | 3965 | 12.9% |
| Berlin | 22701 | 0 | 0 | 277 | 1.2% |
| Buckingham | 15130 | 0 | 0 | 1612 | 10.7% |
| Damascus | 44172 | 0 | 0 | 4947 | 11.2 |
| Manchester | 16343 | 0 | 0 | 2899 | 17.7% |

Notes:

a,b Same as Table 4A
Sources:

Documents cited in Table 1A, National Park Service, Conference of Upper Delaware Townships, Authors' Estimates.

**TABLE 4C**
**County Property Tax Base Affected By River Management Plan**

| | [1] | [2] | [3] | [4] | [5] |
|---|---|---|---|---|---|
| | Market Value of Taxable Property | | | | |
| | Total ($1000) | Purchase by NPS ($1000) | % | Within Corridor ($1000) | % |
| **NEW YORK** | | | | | |
| Delaware | 999898 | 0 | 0 | 4557 | 0.5% |
| Orange | 4164247 | 260 | 0.01% | 1528 | 0.04% |
| Sullivan | 1418236 | 740 | 0.05% | 31756 | 2.2% |
| **PENNSYLVANIA** | | | | | |
| Pike | 800928 | 60 | 0.01% | 19419 | 2.4% |
| Wayne | 660193 | 0 | 0 | 9735 | 1.5% |

Sources: Same as Table 4B

**TABLE 4D**
**School District Property Tax Base Affected By River Management Plan**

| | [1] | [2] | [3] | [4] | [5] |
|---|---|---|---|---|---|
| | Market Value of Taxable Property | | | | |
| | Total ($1000) | Purchase by NPS ($1000) | % | Within Corridor ($1000) | % |
| **NEW YORK** | | | | | |
| Hancock | 60109 | 0 | 0 | 4557 | 7.6% |
| Port Jervis | 204995 | 260 | 0.1% | 1528 | 0.7% |
| Delaware Valley | 78407 | 160 | 0.2% | 1987 | 15.3% |
| Eldred | 110854 | 320 | 0.3% | 11523 | 10.4% |
| Narrowsburg | 60947 | 300 | 0.5% | 8246 | 13.5% |
| **PENNSYLVANIA** | | | | | |
| Delaware Valley | 320454 | 0 | 0 | 9894 | 3.1% |
| Wallenpaupak | 499213 | 60 | 0.01% | 9525 | 1.9% |
| Wayne Highlands | 257596 | 0 | 0 | 9735 | 3.8% |

Sources: Same as Table 4B, Documents cited in Table 3A.

## TABLE 5A

**Direct Cost to Townships of Implementing River Management Plan (Dollar Values in Thousands of Dollars)**

| | [1] | [2] | [3] | [4] | [5] |
|---|---|---|---|---|---|
| | Total Expenditures 1982 | Direct Cost of River Management Plan: Implement Zoning | Incremental Zoning Cost | Total Zoning Cost | % of 1982 Expndtures |
| **NEW YORK** | | | | | |
| Hancock | $ 592.1 | $ 2.0 | $1.5 | $3.5 | $ 0.6% |
| Deerpark | 716.8 | 0 | 1.5 | 1.5 | 0.2% |
| Cochecton | 423.6 | 0 | 1.5 | 1.5 | 0.4% |
| Delaware | 524.2 | 0 | 1.5 | 1.5 | 0.3% |
| Fremont | 337.0 | 0 | 1.5 | 1.5 | 0.4% |
| Highland | 512.6 | 2.0 | 1.5 | 3.5 | 0.7% |
| Lumberland | 533.8 | 2.0 | 1.5 | 3.5 | 0.7% |
| Tusten | 482.3 | 2.0 | 1.5 | 3.5 | 0.7% |
| **PENNSYLVANIA** | | | | | |
| Lackawaxen | 229.2 | 0 | 1.5 | 1.5 | 0.7% |
| Shohola | 140.4 | 2.0 | 1.5 | 3.5 | 2.3% |
| Westfall | 206.7 | 0 | 1.5 | 1.5 | 0.7% |
| Berlin | 156.5 | 2.0 | 1.5 | 3.5 | 2.2% |
| Buckingham | 95.7 | 2.0 | 1.5 | 3.5 | 3.7% |
| Damascus | 397.9 | 2.0 | 1.5 | 3.5 | 0.9% |
| Manchester | 176.5 | 2.0 | 1.5 | 3.5 | 2.0% |

Source: Authors' Estimates

TABLE 5B

**Long Term Effects on Township Expenditures for Specific Demographic Growth Rate Assumptions[a]**

(Dollar Values in **Thousands of** Dollars)

| In: Factors | [1] 1982 Total Expenditures | [2] Additional Expenditures Due to An Assumed Increase: Retirement Population | [3] Recreation Visits | [4] Vacation Home Ownership | [5] Total | [6] All Three Annual Tax Increase Over 10 year period |
|---|---|---|---|---|---|---|
| **NEW YORK** | | | | | | |
| Hancock | $592.1 | $27.0 | $8.9 | $[0.9][13] | $35.0 | 0.53% |
| Deerpark | 716.8 | 33.0 | 7.2 | 3.7 | 48.9 | 0.72% |
| Cochecton | 423.6 | 18.9 | 6.3 | [5.4] | 19.8 | 0.46% |
| Delaware | 524.2 | 23.5 | 7.8 | [.09] | 30.3 | 0.34% |
| Fremont | 337.0 | 17.6 | 6.1 | 7.4 | 31.1 | 0.83% |
| Highland | 512.6 | 17.8 | 6.4 | [11.8] | 12.5 | 0.28% |
| Lumberland | 533.8 | 20.0 | 7.5 | [12.3] | 15.3 | 0.29% |
| Tusten | 482.3 | 14.8 | 5.1 | [3.5] | 16.4 | 0.27% |
| **PENNSYLVANIA** | | | | | | |
| Lackawaxen | 229.2 | 9.2 | 2.0 | [4.0] | 7.2 | 0.28% |
| Shohola | 140.4 | 5.7 | 1.6 | [3.6] | 3.7 | 0.23% |
| Westfall | 206.7 | 2.8 | 0.8 | [0.6] | 3.1 | 0.15% |
| Berlin | 156.5 | 5.3 | 2.2 | 1.4 | 8.9 | 0.57% |
| Buckingham | 95.7 | 3.2 | 1.1 | 1.4 | 5.8 | 0.55% |
| Damascus | 397.9 | 16.7 | 6.7 | 7.7 | 31.2 | 0.76% |
| Manchester | 176.5 | 6.8 | 2.3 | 2.9 | 12.0 | 0.64% |

Notes:

a Assumptions: 20% growth in visitor attendance and second home ownership, 5% growth in retirement population

b Brackets indicate negative numbers

Source: Authors' estimates

**TABLE 6A**
**County Government Expenditure Elasticity Estimates**

| | Police | Highways | Parks and Recreation | Health and Hospitals |
|---|---|---|---|---|
| Constant | 15.6<br>(0.61) | 22.6<br>(1.23) | -18.0<br>(1.38) | -29.6*<br>(1.69) |
| Price | -0.31<br>(0.76) | -0.25<br>(0.86) | -0.34*<br>(1.67) | -0.51*<br>(1.87) |
| Income | -2.10<br>(0.81) | -2.59<br>(1.40) | 1.89<br>(1.43) | 2.56<br>(1.44) |
| Intergovernmental | 1.81*<br>(5.47) | 1.86<br>(7.78) | 0.67*<br>(3.91) | 1.45*<br>(6.30) |
| Density | -0.40<br>(1.13) | -0.10<br>(0.41) | -0.49*<br>(2.73) | 0.05<br>(0.19) |
| Recreation Visits | 0.28<br>(1.51) | 0.06<br>(0.48) | 0.04<br>(0.40) | 3.08<br>(0.60) |
| Vacation Homes | -0.11<br>(3.443 | 0.03<br>(0.15) | 3.12<br>(0.92) | -0.3*<br>(1.73) |
| % Over 65 | -0.81<br>(0.53) | -1.13<br>(1.04) | 0.34<br>(0.44) | -0.19<br>(0.18) |

Notes:

[a] Numbers in parentheses are the absolute value of the students t statistics for the null hypothesis of no association.

* Statistically significant at the ten percent level or better using a two tailed test.

Source Authors' Estimates

**TABLE 6B**
**Municipal Government** Expenditure Elasticity Estimates

| | Government Administration | Police | Fire | Highways | Parks and Recreation | Utility and Sanitation |
|---|---|---|---|---|---|---|
| Constant | -3.72 | -25.7* | -83.0* | -30.1* | -59.6* | -40.1* |
| | (0.70) | (15.4) | (3.17) | (2.69) | (2.10) | (2.10) |
| Price | 0.02 | -0.02 | -0.38 | -0.29* | -0.23 | -0.24 |
| | (0.31) | (0.15) | (1.56) | (2.79) | (0.86) | (1.34) |
| Income | 0.56 | 1.74 | 5.22* | 2.00* | 3.94* | 2.80 |
| | (1.34) | (1.42) | (2.52) | (2.24) | (1.72) | (1.85) |
| Intergovenmental | 0.22 | 1.23* | 4.46* | 2.14* | 3.33* | 1.86 |
| | (0.98) | (1.83) | (3.94) | (4.41) | (2.72) | (2.25) |
| Density | -0.11* | 0.58 | 0.71* | 0.06 | 0.51 | 0.37 |
| | (1.85) | (0.17) | (2.45) | (0.51) | (1.60) | (1.75) |
| Recreation Visits | 0.03 | 0.01 | 0.20 | 0.11* | 0.10 | 0.01 |
| | (1.12) | (0.11) | (1.30) | (1.65) | (0.55) | (0.14) |
| Vacation Homes | 0.03 | 0.01 | 0.24 | 0.14* | 0.14 | 0.03 |
| | (0.81) | (0.05) | (1.23) | (1.67) | (0.65) | (0.21) |
| % Over 65 | 0.49* | 0.74 | 2.69* | 1.10* | 0.90 | 1.70 |
| | (1.79) | (0.93) | (2.01) | (1.91) | (0.61) | (1.73) |

Notes:

[a], * Sane as Table 6A

Source: Authors' Estimates

# WILD AND SCENIC RIVERS ACT (EXCERPTS)

U.S. Code, Title 16 (1976 ed. and Supp. V 1981)

## CHAPTER 28—WILD AND SCENIC RIVERS


Sec.
1271. Congressional declaration of policy.
1272. Congressional declaration of purpose.
1273. National wild and scenic rivers system: Congressional authorization for inclusion; designation by State legislatures; permanent administration by States; application for inclusion by Governors; satisfaction of criteria; eligibility for inclusion.
1274. Component rivers and adjacent lands; establishment of boundaries; classification; development plans.
1275. Additions to national wild and scenic rivers system.
(a) Reports by Secretaries of the Interior and Agriculture; recommendations to Congress; contents of reports.
(b) Study of report by affected Federal and State officials; recommendations and comments; transmittal to President and Congress.
(c) Publication in Federal Register.
1276. Rivers constituting potential additions to national wild and scenic rivers system.
(a) Enumeration of designated rivers.
(b) Studies and reports.
(c) State participation.
(d) Continuing consideration by Federal agencies to potential national, wild, scenic and recreational river areas.
1277. Land acquisition.
(a) Grant of authority to acquire; State and Indian lands; use of appropriated funds.
(b) Curtailment of condemnation power in area 50 per centum or more of which is owned by Federal or State government.
(c) Curtailment of condemnation power in urban areas covered by valid and satisfactory zoning ordinances.
(d) Exchange of property.
(e) Transfer of jurisdiction over Federally owned property to appropriate Secretary.
(f) Acceptance of donated land, funds, and other property.
(g) Retained right of use and occupancy; termination; fair market value; improved property.
1278. Restrictions on water resources projects.
(a) Construction projects licensed by Federal Power Commission.
(b) Construction projects on rivers designated for potential addition to system.
(c) Activities in progress affecting river of system; notice to Secretary.
(d) Grants under Land and Water Conservation Fund Act of 1965.
1279. Withdrawal of public lands from entry, sale, or other disposition under public land laws.
1280. Federal mining and mineral leasing laws.
1281. Administration.
(a) Public use and enjoyment of components; protection of features; management plans.
(b) Wilderness areas.
(c) Areas administered by National Park Service and Fish and Wildlife Service.
(d) Statutory authorities relating to national forests.
(e) Cooperative agreements with State and local governments.
1282. Assistance in financing State and local projects.
1283. Administration and management policies.
(a) Review by Secretaries and heads of agencies.
(b) Existing rights, privileges, and contracts affecting Federal lands.
(c) Water pollution.
1284. Existing State jurisdiction and responsibilities.
(a) Fish and wildlife.
(b) Compensation for water rights.
(c) Reservation of waters for other purposes or in unnecessary quantities prohibited.
(d) State jurisdiction over included streams.
(e) Interstate compacts.
(f) Rights of access to streams.
(g) Easements and rights-of-way.
1285. Claim and allowance of charitable deduction for contribution or gift of easement.
1286. Definitions.
1287. Authorization of appropriations.


### 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.)

#### CODIFICATION

Section consists of subsec. (b) of section 1 of Pub. L. 90-542. Subsecs. (a) and (c) of section 1 are classified to section 1272 of this title and as a note under this section, respectively.

#### 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 1 of Pub. L. 92-560, Oct. 25, 1972, 86 Stat. 1174, provided: "That this Act [which enacted 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'."

#### 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 cf 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.)

**CODIFICATION**

**Section consists of subsec. (c) of section 1 of Pub. L. 90-542. Subsecs. (a) and (b) of section 1 are classified to section 1271 and section 1271 note, respectively.**

**1273. National wild and scenic rivers system; Congressional authorization for inclusion; designation by State legislatures; permanent administration by States; application for inclusion by Governors; satisfaction of criteria; eligibility for inclusion: notification of Federal Energy Regulatory Commission; publication in Federal Register; expense to the United States: federally owned lands within boundaries of State river**

(a) 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 there to 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).

(As amended Pub. L. 95-625. title VII. 761. Nov. 10, 1978. 92 Stat. 3533.)

(b) 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.)

**1274. Component rivers and adjacent lands; establishment of boundaries; classification development plans**

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

* * * * * *

(190 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 or, 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.

* * * * * *

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)."

* * * * * *

**§ 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**

(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.

(As amended Pub. L. 95-625, title VII, § 763(b), Nov. 10, 1978, 92 Stat. 3533.)

**§ 1278. Restrictions on water resources projects**

**(a) Construction projects licensed by Federal Power Commission**

The Federal Power 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 diminsh 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 Power 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 Power 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 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.

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

The Federal Power 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. 460*l*-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.)

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.

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, section 792 et seq. of Title 16, Conservation, were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42, The Public Health and Welfare.

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

(a) 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) 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.

(As amended Pub. L. 96-487, title VI, § 606(c), Dec. 2, 1980, 94 Stat. 2417.)

**§ 1280. Federal mining and mineral leasing laws**

(a) 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) 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 or [1] 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

[1] So in original. Probably should be "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.

(As amended Pub. L. 96-487, title VI, § 606(b), Dec. 2, 1980, 94 Stat. 2416.)

### § 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.)

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.

### § 1282. Assistance in financing State and local projects

(a) 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. 460*l*-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. 460*l* 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) 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.

(As amended Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

CHANGE OF NAME

"Secretary of Health and Human Services" was substituted for "Secretary of 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.)

(As amended Pub. L. 95-625, title VII, § 762, Nov. 10, 1978, 92 Stat. 3533.)

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**

Notstanding 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.)

**§ 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, § 15, Oct. 2, 1968, 82 Stat. 918; Pub. L. 93-279, § 1(c), May 10, 1974, 88 Stat. 123.)

(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.)

United States Department of the Interior

NATIONAL PARK SERVICE

*MID-ATLANTIC REGION*
143 SOUTH THIRD STREET
PHILADELPHIA, PA. 19106

IN REPLY REFER TO:

November 9, 1984

Robert C. Hoffman
Foresight Consulting Group
2600 North Powhatan Street
Arlington, VA 22207

Dear Mr. Hoffman:

We are pleased to respond to your request for clarification of the applicability of Title 36 of the Code of Federal Regulations (36 CFR) to the Upper Delaware River. I realize that there is a great deal of concern about these regulations.

I think it is important to re-emphasize the fact that the intent of the Upper Delaware legislation is to conserve the river and its adjacent corridor primarily through the use of state and local land use regulations and private landowner actions. The scope of the National Park Service (NPS) regulatory powers under the Upper Delaware legislation is limited in several important areas. Plainly, the NPS role is much more limited than is typically the case. This represents the unique nature of the Upper Delaware legislation - and the challenge it poses - to forge an effective working relationship between a variety of separate government bodies, agencies, organizations, and concerned individuals.

I have attached our response to your questions and some other commonly asked questions about 36 CFR. I hope this format helps clarify matters and we will be happy to respond to any other questions that may arise. These responses are based on our regional Solicitor's opinions and recent consultations with that office.

As is spelled out in the attachment, 36 CFR applies to lands owned or leased by the NPS and to activities in and on the Upper Delaware River which involve the recreational use of the River. It does not apply to privately-owned lands, whether within or outside the river corridor boundaries. Please let me know if you need additional information.

Sincerely,

James W. Coleman, Jr.
Regional Director



Year of the Visitor

# APPLICATION OF 36 CFR
# UPPER DELAWARE NATIONAL SCENIC & RECREATIONAL RIVER
# NATIONAL PARK SERVICE
# MID-ATLANTIC REGIONAL OFFICE
# NOVEMBER 1984

## WHAT IS TITLE 36 OF THE CODE OF FEDERAL REGULATIONS (36 CFR)?

The 36 CFR is a set of federal regulations that provides the basic mechanism used nationally by the NPS to protect the natural and cultural resources of the areas it administers, as well as the visitors and property within those areas. For a copy of 36 CFR (the most current version is dated July 1, 1984) contact the NPS, Mid-Atlantic Regional Office.

It is important to recognize that in most NPS areas, a substantial amount or portion of the land is in federal ownership. Typically, 36 CFR fully applies in those areas. The Upper Delaware is unique in that very little land is owned by the NPS, and accordingly the application of 36 CFR is very limited. Therefore, the Upper Delaware cannot be compared to other typical NPS areas in terms of how 36 CFR is applied.

## WHERE DOES 36 CFR APPLY ON THE UPPER DELAWARE NATIONAL SCENIC AND RECREATIONAL RIVER?

The 36 CFR applies to:

1. Lands that are owned or leased by the NPS (specifically, these areas on the Upper Delaware include the headquarters site, the district offices, the Roebling Bridge, visitor contact facilities and the leased access sites at Skinners Falls and Narrowsburg).

2. Other federally or state owned lands or waters administered by the NPS pursuant to an agreement with a state or another federal agency

3. Activities in and on the Upper Delaware River which involve the recreational use of the River.

## DOES 36 CFR APPLY TO PRIVATE LANDS?

Private lands along the Upper Delaware River are not subject to 36 CFR. The Upper Delaware enabling legislation does not give the NPS authority to regulate, under 36 CFR, activities on private lands. Futhermore, neither Pennsylvania nor New York has ceded any jurisdiction to the NPS over private lands. The NPS will definitely not seek from the States any jurisdiction to regulate activities over private lands.

## HOW DOES 36 CFR AFFECT HUNTING AND FISHING?

The Upper Delaware enabling legislation (Section 704 (h)) provides that: "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 in the manner provided in Section 13 of the Wild and Scenic Rivers Act." This, in addition to the fact that 36 CFR applies only to a limited extent on the Upper Delaware (see previous responses), indicates that hunting and fishing will continue to be conducted in accordance with existing state regulations.

The NPS will not be imposing additional regulations regarding hunting or fishing through 36 CFR. Hunting and fishing regulations that apply will be those of the Commonwealth of Pennsylvania and the State of New York.

## HOW DOES 36 CFR AFFECT TRAPPING AND COMMERCIAL FISHING?

Inasmuch as on the Upper Delaware, 36 CFR applies only to NPS owned or leased lands and to activities related to the recreational use of the River, and since most current trapping and commercial fishing (notably use of eel weirs) occur either on the river bottom or on lands not owned or leased by the NPS, these activities can continue in accordance with state laws and regulations.

## WHAT IS THE STRAND AND DOES THE 36 CFR APPLY THERE?

The Strand is the narrow area that is situated between the normal low water and normal high water along the River. The NPS does not have the authority to regulate through 36 CFR, land based activities such as picnicking, hiking and camping on the Strand. NPS authority on the Strand is limited only to those activities which are directly related to the recreational use of the river.

# United States Department of the Interior

NATIONAL PARK SERVICE

*MID-ATLANTIC REGION*

143 SOUTH THIRD STREET

PHILADELPHIA, PA. 19106


IN REPLY REFER TO:
D18(MAR-PD)

15 MAR 1985

Mr. Robert C. Hoffman
Vice-President
Foresight Consulting Group
2600 North Powhatan Street
Arlington, Virginia 22207

Dear Mr. Hoffman:

This is in response to your letter of February 21, 1985 concerning the Upper Delaware Rational Scenic and Recreational River.

The River Management Plan, upon its approval by the Secretary, publication in the Federal Register, and transmittal to the appropriate Committees of Congress(plus 90 days), will be the operative document for this Service and the Department of the Interior. The Upper Delaware legislation is specific on this matter--"the plan shall apply to the Upper Delaware Valley" and "the plan shall be administered by the Secretary in accordance with the provisions of this section (704)." All future decisions of this Service are required to be consistent with the plan and the plan will guide and direct any future actions which we might take. Such actions, of course, would be as a participatory member of the River Management Council. This agency and, we believe, all of the governments now involved in the planning process will adhere to the plan.

Upon its apprval, the plan might be incorporated into the Delaware River Basin Commission's comprehensive plan. Their could be sponsored by the Secretary, who is a member of the Commission, and the two States. Wish such an action, all Federal and State agencies would be required to be consistent with the River Management Plan and to adhere to it.

From one perspective, once agreement is reached between the Towns, the States, and the Service on the plan, and upon its approval by the Secretary the plan can be viewed as a contract among all the concerned parties. Hopefully, all parties will adhere to it and use the plan and Land and Water Use Guidelines to make future decisions regarding the river and adjacent lands. In their way the plan will be used as a guiding document for the safe and wise use of valley lands and waters.

Sincerely,

James W. Coleman, Jr.
Regional Director



Year of the Visitor

United States **Department** of the Interior

NATIONAL PARK SERVICE

*MID-ATLANTIC* REGION
143 SOUTH THIRD STREET
PHILADELPHIA, P.A. 19106

N REPLY REFER TO:
D18 (MAR-PD)
Upper Delaware RMP

2 4 SEP 1985

Mrs. Marge Hillriegel, Chair
Conference of Upper Delaware Townships
P.O. Box 41
Fosterdale, New York 12735

Dear Mrs. Hillriegel:

This letter is in response to your verbal requests for us to further clarify the type of legal assistance we can provide to you and COUP in the event that you are sued for actions related to the Upper Delaware River Management Plan. We recognize the concerns which you have raised and wish to be as supportive as possible in providing the services which you require.

This letter intends to elaborate upon and further clarify the verbal responses made by Glenn Eugster and Mike Gordon of this office at the August 27 and 28 town and township work sessions.

First of all, we recognize the need for sound legal advice to make the decisions necessary to carry out the Upper Delaware planning effort. The management plan and land and water use guidelines have to be legal under New York, Pennsylvania and United States law. We do not intend to require any local government to take actions which might be inconsistent or contrary to New York or Pennsylvania land use law.

To ensure that the plan and guidelines are awful and in full compliance with federal law, they are being reviewed by the Solicitor's Office of the Department of the Interior. Attorneys representing the State of New York and the Commonwealth of Pennsylvania will also be reviewing the proposed plan before it is finalized. In addition, COUP's cooperative agreement with the Foresight Consulting Group provides funding for an independent, outside legal review and analysis of the plan. It is my understanding that such a review is currently being conducted.

We have also indicated to you that if a COUP representative or a town official is sued for an action taken in response to the Upper Delaware River Management Plan, and the National Park Service or the Department of the interior is named as a defendant or co-defendant in any lawsuit challenging the lawfulness of the plan or guidelines, the full resources of



Year of the Visitor

the Department of the Interior and the Department of Justice would be made avaliable to help defend the action. If appropriate, the Offices of the New York and/or Pennsylvania Attorney General and the Delaware River Basin Commission would also be drawn on. Of course, the facts and issues involved in a particular lawsuit will influence the specific actions which would be taken by this office and the other cooperating agencies in the Upper Delaware effort. It is important to also note that if the lawsuit involves solely local actions or parties unrelated to the Upper Delaware plan and guidelines it would be inappropriate for the federal government to become involved.

In September 1984 you requested that we respond to specific areas where you felt COUP needed legal assistance. A copy of our November 9, 1984 response to you is attached. We are continuing to investigate other possible arrangements for assisting in the provision of legal services to the towns and to COUP members, including actions which could be taken in the event of threats or intimidation of town officials or COUP members in performing their duties.

Glenn Eugster of my staff also recently discussed possible legal assistance from New York State with the Deputy Commissioner of the Department of Environmental Conservation. The Deputy Commissioner, who is Drayton Grant, was advised of your concerns and is very sensitive to them. Ms. Grant is presently arranging for a meeting between the State Attorney General's Office and other appropriate interests to discuss what legal assistance they can provide to you. We will advise you when and where this meeting will be so that you or someone from COUP can attend.

I hope that this response reiterates to you, the towns and the members of COUP our commitment to ensure that the plan and guidelines are fully lawful, and that legal assistance will be available in the event of litigation aimed at the Congressionally-mandated plan and planning process.

Sincerely,

James W. Coleman, Jr.
Regional Director

THE SECRETARY OF THE INTERIOR

WASHINGTON

Mrs. Marge Hillriegel
Chair, Conference of Upper
Delaware Townships
P.O. BOX 41
Fosterdale, New York 12735

Dear Mrs. Hillriegel:

We appreciate the role the Conference of Upper Delaware Townships is playing in drafting a River Management Plan for the Upper Delaware National Scenic and Recreational River. Because of questions raised during this process, I would like to take this opportunity to clarify the requirements for planning for the Upper Delaware and this Department's responsibilities.

We are required by Public Law 95-625 to approve a management plan for the Upper Delaware and then to submit that plan to the Congress. As required by law, this Department must find that the plan is compatible with the purposes of the Wild and Scenic Rivers Act. This is not a matter subject to delegation. The plan is effective 90 days after it has been transmitted to the Congress (no specific congressional approval of the plan is required).

The National Park Service developed a draft plan in 1983 and was prepared to submit the plan to this office for final approval. In the normal course of events, this plan would presumably have been approved and transmitted to the Congress.

In response to local citizen concerns and at the request of the Conference of Upper Delaware Townships, the National Park Service withheld further action on the plan and provided the Conference the opportunity to develop a revised plan for our consideration. We understand that much progress has been aide under the auspices of the Conference in the development of this revised plan, with the participation of the National park Service, the States, and other agencies and organizations. This effort has our support.

As the draft plan undergoes review by the individual towns, we are advised that some individuals or groups advocate that the towns not participate in this effort. For this reason, we believe it is important to emphasize that by law, a plan must be completed, approved by this office, and transmitted to the Congress. In this regard, we will be prepared to review and act upon your revised plan, provided that it is consistent with Section 704 of public Law 95-625 and the National Wild and Scenic Rivers Act. Similarly, should a plan not be forthcoming from the Conference and its coaponent towns, we expect that an alternative plan that serves the need will be approved and transmitted as required by Public Law 95-625.

We know that you share our belief that a cooperative, partnership approach is the most appropriate means to implement the Upper Delaware legislation, and to meet the desires and needs of local citizens. The current planning effort is such an approach, and we urge continued participation of the Conference and the individual towns as we revise and approve a river management plan. Together we will shape a plan for the future of this area which best serves the needs of all the interested parties.

Sincerely,

Donald Paul Hodel

DONALD PAUL HODEL

# *PLANNING COMMITTEES*

## Conference of Upper Delaware Townships

| | |
|---|---|
| George Fluhr | Shohola Township (Alternate) |
| George Frosch | Town of Hancock |
| Frank Hartmann | Town of Deerparl (Alternate) |
| Doug Hay | Westfall Township |
| Tom Hill | Town of Lumberland |
| Rick Lander | Town of Tusten |
| Jean McCoach | Town of Cochecton |
| Wayne McCue | Lackawaxen Township (Alternate) |
| Kenneth Muller | Town of Deerpark |
| Ross Rosencrance | Lackawaxen Township |
| Bruce Selneck | Shohola Township |
| Craig Stewart | Town of Delaware |

## Upper Delaware Citizens Advisory Council

| | |
|---|---|
| Larue Elmore | Wayne County Commissioners |
| Herbert Fabricant | Orange County Legislature |
| Phil Fitzpatrick | Pike County Commissioners |
| George Frosch | Delaware County Commissioners |
| Edwin Hipsman | Pike County Commissioners |
| George Hocker | Pennsylvania Governor |
| Geraldine Howson | Wayne County Commissioners |
| Richard M. Knight | Delaware County Commissioners |
| Robert Levin | Secretary of Interior |
| John McKay | Pike County Commissioners |
| Tom Miner | New York Governor |
| David Pardy | New York Governor |
| Richard Quinn | Sullivan County Supervisors |
| Karen G. Ridley | Orange County Legislature (Chair) |
| Sanburn Sutherland | Pennsylvania Governor |
| Jerry Skoda | Sullivan County Supervisors |

## Water Use Guidelines Committee

| | |
|---|---|
| Allan Barnes, Sr. | Citizen |
| Joseph Bartley | Pennsylvania Fish Commission |
| Joe DiBello | National Park Service |
| Larue Elmore | UD Heritage Alliance Wayne Co. Soil Cons.Dist. |
| Robert Everest | Delaware River Basin Commission |
| Roger Fickes | Pennsylvania DER |
| George F. Frosch | Conference of Upper Delaware Townships |
| Robert Gilbert | Boy Scouts of America |
| Doug Hay | Conference of Upper Delaware Townships |
| Marge Hillriegel | Conference of Upper Delaware Townships |
| GeorgeHocker | Upper Delaware River Association |
| Marvin Honeywell | National Canoe Safety Patrol |
| David Humphrey | Urban Research and Development Corp. |
| Cal Hyte | National Park Service |
| Frank Jones | Delaware Valley Organization for Recreation |
| John F. Karish | National Park Service |
| Charles Morrison | New York DEC |
| Chris Nielsen | National Canoe Safety Patrol |
| Tom Palmer | Urban Research and Development Corp. |
| Jules Robinson | Association of Upper Delaware Independent Outfitters |
| Edward Rosenfeld | CAC |
| Bruce Selneck | Pike County Fed. of Sportsmens Clubs |
| Thomas J. Shepstone | Planning Consultant |
| Ray Youngblood | Trout Unlimited |
| Glenn Voss | National Park Service |
| Russell Warner | Association of Upper Delaware Independent Outfitters |
| Lewis Schmalzle | Conference of Upper Delaware Townships |

## Land Use Guidelines Committee

| | |
|---|---|
| Brian D. Acciavatti | Delaware Valley Organization for Recreation |
| Leonard Bauer | Town of Fremont |
| Jeffrey Bellinger | Citizen |
| Richard Byler | Pennsylvania DER |
| Eileen Donaldson | Town of Highland |
| Bill Douglas | Wayne County Planning Commission |
| Larue Elmore | Damascus Township |
| George Frosch | Town of Hancock |
| Nancy Giancontieri | Town of Lumberland |
| Thomas Griffith | Town of Damascus |
| Richard Guttzeit | Town of Cochecton |
| Francis Hartmann | Town of Deerpark |
| Chuck Heyn | Damascus Township |
| Rick Lander | Town of Tusten |
| Dr. Vernon Leslie | Citizen |
| Jay Rose | Lackawaxen Township |
| Anges Ross | National Park Service |
| Lewis Schmalzle | Town of Highland |
| Bruce Selneck | Shohola Township |
| Wayne Senville | National Park Service |
| Thomas J. Shepstone | Planning Consultant |
| Chris Wallingford | Conference of Upper Delaware Townships |
| Barbara Yeaman | Citizen |

## Plan Oversight Committee

| | |
|---|---|
| Brian D. Acciavatti | Delaware Valley Organizationfcr Recreation |
| Stephen C. Barnes | Upper Delaware Inholders Association |
| Richard Byler | Pennsylvania Department of Environmental Resources |
| Diane Carlton | Upper Delaware Clearinghouse |
| Jeffrey Clemente | Narrowsburg Chamber of Commerce |
| Larue Elmore | Upper Delaware Heritage Alliance Wayne County Soil Conservation District |
| Glenn Eugster | National Park Service |
| Robert Everest | Delaware River Basin Commission |
| Roger Fickes | Pennsylvania Department of Environmental Resources |
| Louise Flora | Federation of Sportsmens Clubs of Sullivan County |
| Roland Flora | Federation of Sportsmens Clubs of Sullivan County |
| Gwrge Frosch | Conference of Upper Delaware Townships |
| Edward Giancontieri | Upper Delaware Inholders Association |
| Gerald Hansler | Delaware River Basin Commission |
| Sandra Hauptman | National Park Service |
| Marge Hillriegel | Conferena of Upper Delaware Townships |
| Robert C Hoffman | Foresight Consulting Group |
| John **Hutzky** | National Park Service |
| Gwrge Hocker | Upper Delaware River Association |
| Frank Jones | Delaware Valley Organization for Recreation |
| Carol MacMaster | Citizens Advisory Council |
| Brua MacMillan | New York State Department of Environmental Conservation |
| Dorothy Merrill | National Audubon Society |
| Charles Morrison | New York State Department of Environmental Conservation |
| Joseph Paganp | Orange County Government |
| Glenn Pontier | Narrowsburg Chamber of Commerce |
| Michael Priesnitz | Foresight Consulting Group |
| Jules Robinson | Association of Upper Delaware Independent Outfitters |
| Oscar Ropke | Upper Delaware River Association |
| Edward Rosenfeld | Citizens Advisory Council |
| Marie F. Rosenfeld | American Civil Liberties Union of Northeastern PA |
| Bruce Selneck | Pike County Federation of Sportsmens Clubs |
| Thomas J. Shepstone | Planning Consultant |
| Dave Siebert | Upper Delaware Clearinghouse |
| Craig Stewart | Conference of Upper Delaware Townships |
| Fred Studer | Sierra Club |
| Chris Wallingford | Conference of Upper Delaware Townships |
| Russell Warner | Association of Upper Delaware Independent Outfitters |
| Barbara Yeaman | Sierra Club/ National Audubon Society |

## Plan Revision Committee

| | |
|---|---|
| Larue Eimcre | Citizens Advisory Council |
| Glenn Eugster | National Park Service (Alternate) |
| Bob Everest | Delaware River Basin Commission (Alternate) |
| Roger Fickes | Pennsylvania Dept. of Env. Resources |
| George Fluhr | Shcnoia Township (Alternate) |
| George Frosch | Town of Hancock |
| Michael Gordon | National Park Service |
| Gerald Hansler | Delaware River Basin Commission |
| Frank Hartmann | Town of Deerpark (Chair) |
| Doug Hay | Westfall Township |
| Tom Hill | Town of Lumberland |
| Chuck Hoffman | Foresight Consulting Group |
| Rick Lander | Town of Tusten |
| Robert Levin | Town of Deerpark (Alternate) |
| Bruce MacMillan | New York State Department of Environmental Conservation (Alternate) |
| Jean McCoach | Town of Cochecton |
| Wayne McCue | Lackawaxen Township |
| Charles Morrison | New York State Department of Environmental Conservation |
| Kenneth Muller | Town of Deerpark |
| Gary D. Peake | Town of Hancock (Alternate) |
| Karen G. Ridley | Citizens Advisory Council (Alternate) |
| Jay Rose | Lackawaxen Township (Alternate) |
| Ross Rosencrance | Lackawaxen Township (Alternate) |
| Bruce Selneck | Shohola Township |
| William F. Schneider | Town of Lumberland (Alternate) |
| Charlie Shay | Westfall Township (Alternate) |
| Craig Stewart | Town of Delaware |
| Charles Wieland | Town of Tusten (Alternate) |