



Wild & Scenic Rivers Act

The Texas Forestry Association has gone public in opposition to the proposed study of the Neches River in East Texas for possible designation for protection under the Wild & Scenic Rivers Act (W&SR). This action is in line with TFA's Position Statement on W&SR which was adopted by the TFA Board of Directors in October of 2007 and reaffirmed at the Annual Board meetings in 2008 and 2009. TFA was joined by the Texas Farm Bureau which also is opposed to this study.

The W&SR Act was signed into law in 1968. Under the provisions of the Act the term river means a flowing body of water or estuary or a section, portion or tributary thereof, including rivers, streams, creeks, runs, rills and small lakes. Therefore any waters going into the designated watershed would come under federal management control.

While the W&SR designation may sound good to some people, this designation would have consequences that will impact our communities, landowners and economic opportunities, and landowners will have to live with the provisions of the federal act forever. Many people are not aware of the unintended consequences of this designation.

Proponents of this study say that private property rights are not affected. TFA is concerned with that statement simply from the fact that bringing federal designation to the Neches River means that future land management decisions of private landowners can be tied to water quality issues as well as other federal environmental laws. For example, stricter compliance by landowners to the Endangered Species Act, Heritage Rivers Act, Clean Water Act, NEPA, etc. would come into play when the study is initiated. The courts today are full of cases against private landowners based on these federal laws.

Proponents of this designation state that they only want the study conducted to determine if the Neches River meets the criteria of the Wild & Scenic River Act. TFA feels this is a misleading statement as the Neches River will come under the W&SR Act at the time the study begins, not when and if it is so designated.

Proponents for the W&SR designation say that private property rights will not be affected. Again, TFA feels this is misleading as the boundary of the river will be measured within ¼- mile from the high water mark on each side of the river. The Act also states in Section 6 (2) (b) "that nothing contained in this section, however, shall preclude the use of condemnation when necessary to clear title or to acquire scenic 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." The condemnation of scenic easements (viewsheds) is also addressed in the W&SR Act which means landowners would be subject to removing or prevented from building structures if those structures were determined to not be consistent with the W&SR Act. Also under this Section of the Act, the Secretary of Agriculture or Interior, can issue guidelines and specify standards for local zoning ordinances that are consistent with the Act. TFA is concerned that these provisions will have far reaching impacts on future economic development opportunities and a landowner's right to manage their land.

A more common sense approach would involve working with private landowners to encourage land stewardship practices that are available through the Farm Bill. The Texas Forestry Association supports incentives that encourage land stewardship as well as the rights of willing landowners to enter into land conservation easements. The Texas Forest Legacy Program, a cooperative effort between the Texas

Forest Service and the USDA Forest Service to protect environmentally important forestlands from conversion to non-forest uses is one example of a willing seller approach that TFA supports. Under the Forest Legacy Program easements protect conservation values while allowing forest landowners in Texas to maintain the economic and recreational uses of their forests. TFA feels that landowners giving of their land willingly vs. being directed by the federal government should be the desired goal.

In an article that appeared in the Seattle Times, Kevin Coyle, vice president and conservation director of American Rivers in Washington, D.C. is quoted as saying "We need to go beyond the wild-and-scenic-river system over the next 25 years, not only to fill out the system itself, but to figure out other ways to restore and protect rivers." In the same article he is quoted on the desire to protect entire watersheds and not just the quarter mile buffer along the river. In another example of how the W&SR Act will impact local communities an article that appeared in the Stillwater Gazette, notes that U.S. Representative Michele Bachmann is on record of wanting to pull portions of the St. Croix River (Minnesota) from the W&SR Act because of the Sierra Club lawsuits that have held up and added to the cost of the local community's plans to build a bridge across the river.

Finally, TFA is concerned that the need for this designation has been tied to preventing the development of Lake Fastrill. TFA also has a position statement on "Loss of Land Base Due to Water Impoundments" that can be found on the TFA website at www.texasforestry.org. TFA feels that these are two separate issues that should be argued based on their own merits. Lake Fastrill is no longer a threat to be built which is all the more reason to question why landowners would want more government brought into East Texas.

TFA opposes this designation for the following reasons: 1) Designation would limit the economic growth of our local and rural communities; 2) Designation would infringe on private property rights of landowners; 3) Designation would limit the use of the land for agricultural and forestry practices; & 4) Designation would add to the federal regulations imposed on local communities and landowners in East Texas.

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