

The River Partnership Paradigm: Legal Authorities and Case Study

June 2004

*Jackie Diedrich—Wild and Scenic Rivers Program Manager, USDA Forest Service
Jeffrey Vail—Attorney, Office of the General Counsel, USDA*

The River Partnership Paradigm: Legal Authorities and Case Study

Table of Contents

INTRODUCTION	2
PRINCIPAL FEDERAL AUTHORITIES FOR COOPERATIVE RIVER MANAGEMENT...3	
Challenge Cost-Share	3
Federal Land Policy and Management Act.....	4
Fish and Wildlife Coordination Act	4
(Agency) Foundations	5
Volunteer Programs	5
Wild and Scenic Rivers Act.....	6
DOCUMENTING YOUR PARTNERSHIP	7
Memorandum of Understanding	8
Financial Assistance Agreements.....	8
Cost-Share Agreements	9
LEGAL, ETHICAL AND POLICY CONSIDERATIONS INVOLVING RIVER PARTNERSHIPS	9
Introduction.....	9
Legal Considerations	10
Federal Advisory Committee Act (FACA).....	10
FACA’s Main Components.....	10
Understanding FACA’s Application to Partnerships.....	10
Non-Delegation Doctrine	11
Investigations, Audits, and Public Perception	12
Agency Investigations.....	12
Audit You Buddy!	12
15 Minutes of Fame You Are Not Seeking.....	13
Ethics and Conflict of Interest.....	13
Donations and Fundraising	14
Endorsement and Acknowledgments	14
RIVERS IN FOCUS—CASE STUDIES ON THE POWER OF PARTNERSHIPS.....	16
Upper Deschutes Wild and Scenic River	16
Anacostia River.....	20
APPENDIX	23
Other Federal Authorities Available for Cooperative River Management	23
References	28

THE RIVER PARTNERSHIP PARADIGM:

LEGAL AUTHORITIES AND CASE STUDY

INTRODUCTION

Premise—Successful and enduring river protection relies on cooperative management.

The need for creative partnerships between communities, tribal and other governments, and a diverse range of nongovernmental organizations and individuals is inherent in river management as rivers flow across artificial boundaries and ownerships, and reflect all the activities in their watershed. Partnership effectively leverages federal and nonfederal resources, and is essential in building support and awareness of river values in local communities.

To affect partnership in river management there is a need to connect stakeholders, roles and resources. Stakeholders in river management are as varied as the role and resources each entity may provide to protect river values. These roles and resources may be offered by any stakeholder, vary by river situation, and likely shift within an enduring, long-term partnership.

Stakeholders	Roles	Resources
<ul style="list-style-type: none">• Federal, state and local governments• Tribal governments• Industry and Business• Communities• Recreationists• Fishing and Boating Groups• Landowners• River Advocacy Groups	<ul style="list-style-type: none">• Leadership• Organization• Protection• Restoration• Monitoring• Education• Fundraising• Advocacy• Management• Operations	<ul style="list-style-type: none">• Technical Assistance• Funding• Manpower• Equipment• Materials

Cooperative management is as important for rivers that are federally protected, such as rivers in the National Wild and Scenic Rivers System, as for rivers with no identified managing entity. Partnership also has the potential to protect river values on the diversity of rivers in this country—from rivers flowing through largely undeveloped environments to rivers flowing through major urban areas.

Federal agency officials are strong advocates of partnerships as a means of improving resource conditions on and off federal lands. Secretary Norton has promoted a 4C's philosophy for Interior agencies—conservation through cooperation, communication, and consultation. As part of this cooperative approach, the Department of the Interior initiated a Cooperative Conservation Initiative in 2003, which involves funding for their Partners for Fish and Wildlife Program, their Coastal Program, and their challenge cost-share agreements. In the Forest Service, Chief Bosworth has spoken often in support of increased use of partnerships as a means of

accomplishing greater protection for the national forests as well as nonfederal lands. Recent changes to Forest Service cooperative policies and proposals for additional partnership legislation are further indication of the importance of partnerships to improving land and water management.

This paper describes the principal federal legal authorities available to affect partnership for river protection, includes brief examples of their application, describes how to document a partnership, and considers legal, ethical and policy implications. It concludes with case studies to highlight cooperative management approaches on two rivers—a wild and scenic river in central Oregon and the Anacostia River in the heart of the nation’s capitol.

PRINCIPAL FEDERAL AUTHORITIES FOR COOPERATIVE RIVER MANAGEMENT

This section describes authorities to affect cooperative river management available to principal land management agencies (Bureau of Land Management-BLM, National Park Service-NPS, USDA Forest Service-USFS, and USDI Fish and Wildlife Service-USFWS). Some of these authorities and the more detailed listing in Appendix A have application to other federal agencies and, while not the focus of this paper, there are many federal incentive programs available to private landowners to promote river stewardship in the form of grants (refer to Appendix B).

Challenge Cost-Share Agreements (CCS)

The BLM, NPS, and USFS have permanent authority for challenge cost-share programs.¹ The USFWS CCS program is authorized annually through appropriation acts. Cost-share authority authorizes agencies to cooperate with others in developing, planning and implementing mutually beneficial projects that enhance agency activities, where cooperators provide funds or in-kind contributions. Cost-share agreements may be used for activities outside of agency-administered lands, as long as the agency’s program authority covers the activity and lands in question. Cooperators may be public and private agencies, organizations, institutions, and individuals. Use of appropriated funds may be authorized through a cost-share or cooperative agreement² given substantial involvement by the agency in the project and a public purpose.

CCS Example:

The Allegheny National Forest entered into a CCS agreement with the Pennsylvania Environmental Council (PEC) to implement the action plan developed through the planning effort for the Allegheny Wild and Scenic River (WSR). The USFS agreed to financially support a river manager, with the PEC hiring this individual. While the USFS retains responsibility for managing the river, the river manager is focusing on work with local communities and interested publics, building awareness and appreciation of river values, and serving as a clearinghouse of

¹ BLM—Department of the Interior and Related Agencies Appropriations Act, P.L. 101-512 (1990)
NPS—16 U.S.C. 1f; Omnibus Parks and Public Lands Management Act of 1996, P.L. 104-333
USFS—Department of the Interior and Related Agencies Appropriations Act, P.L. 102-154 (1992)

² BLM and USFS CCS authority is not subject to Federal Grant and Cooperative Agreement Act. BLM documents CCS through cost-share and cooperative agreements; the USFS through a cost-share agreement. The NPS documents CCS through cooperative agreements and the USFWS through a cost-share agreement.

information for private landowners. Near-term objectives include educational workshops, development of informational materials, and securing grants to implement key actions in the Allegheny WSR Plan.

Federal Land Policy and Management Act of 1976 (FLPMA)

Reference to public lands is to lands managed by the BLM. Section 307(c) authorizes contribution or donations of money, services, and property (real, personal or mixed) for the management, protection, development, acquisition, and conveying of the public lands, including the acquisition of rights-of-way for such purpose. Section 307(b) authorizes the Secretary to enter into contracts and cooperative agreements for the management, protection, development and sale of public lands. This is the only section of FLPMA that authorizes cooperative agreements and it must tie in with management, protection, and development or sale of “public lands.” Section 307 also authorizes the volunteer program.

FLPMA Example:

The BLM developed an assistance agreement with Headwaters Institute to develop and deliver river education and interpretive training seminars to professional outdoor river guides on selected river for which BLM has management responsibility. Headwaters Institute, and its associated network of educators, present natural history, conservation and interpretive training for professional guides to promote a deeper public understanding of the importance of healthy rivers and their watersheds. The purpose of this partnership is to inform and educate river guides, agency personnel and the outfitted public about river stewardship. The seminars focus on a broad range of river-related topics, including natural history, Leave-No-Trace techniques, environmental education, interpretation, river conservation and related topics.

Fish and Wildlife Coordination Act, 16 U.S.C. 661, Act of March 10, 1934, as amended

The Fish and Wildlife Coordination Act authorizes the Secretary of the Interior to cooperate with federal, state, and public and private agencies and organizations in fish and wildlife management and to accept donations of land and contributions of funds for protection and conservation of fish and wildlife and their habitats. This legislation is cited as part of the framework for USFWS to implement their CCS program and is, in part, the authority for USFWS Partners for Fish and Wildlife Program.

Fish and Wildlife Coordination Act Example:

The USFWS Partners for Fish and Wildlife Program is the primary mechanism for delivering voluntary on-the-ground habitat improvement projects on private lands for the benefit of federal trust species.³ The objectives of the program are to: 1) promote and implement habitat improvement projects; 2) provide conservation leadership and promote partnerships; 3) encourage public understanding and participation; and 4) work the Department of Agriculture to implement their conservation programs.

To affect partnerships, the USFWS contributes financial and technical assistance for native habitat improvement projects that benefit federal trust species. In Nebraska the Partners Program

³ Federal trust species include migratory birds, threatened and endangered species, anadromous fish of special concern to USFWS, and marine mammals.

has worked cooperatively with a number of organizations and many private landowners to restore and maintain habitat along the central Platte River. Twenty-two projects were completed in this area in fiscal year 2002. These projects contributed to the quality and quantity of habitat available to several threatened and endangered species, including the whooping crane, least tern and piping plover. Riverine sandbars and islands (prime roosting habitat) and wet meadow and native grasslands (foraging habitat) were targeted for conservation efforts.⁴

(Agency) Foundations

Congress has established federally chartered (nonprofit) foundations to support the mission of the NPS, USFS and USFWS.⁵ These foundations were created to encourage, accept and administer private gifts for the benefit of the agency, and to further conservation and other agency purposes. Foundations serve as both a grant-making and fundraising organization, focused on building partnerships to engage the public in support of the agency's mission.

The BLM does not have a separate foundation. However, through a partnership with the BLM, the National Fish and Wildlife Foundation accepts money from the BLM, which it distributes for BLM projects through a competitive Challenge Grant program.

Agency Foundation Example:

The National Fish and Wildlife Foundation and King County (Washington) established the Community Salmon Fund to stimulate small-scale, voluntary action by landowners, community groups, and businesses to support salmon recovery on private property in King and Snohomish Counties. The goals of the Community Salmon Fund are to: 1) fund habitat protection and restoration projects with substantial benefit to watershed health; 2) engage landowners, business owners and community groups to carry out these projects and care for them in the long run; 3) stimulate creativity and leadership among various constituencies to address conservation needs; and 4) target constituencies helpful in salmon recovery, especially farmers, rural forest owners, suburban homeowners and owners of businesses and industries. To encourage promising groups to apply and develop strong proposals, the Community Salmon Fund provides technical assistance to help with project design and permitting.

Volunteer Programs

The BLM, NPS, USFS and USFWS have statutory authority to use volunteers in support of agency programs.⁶ Congress appropriates funding for agencies to recruit, train and utilize

⁴ USFWS Partners for Fish and Wildlife Program Fiscal-year 2002 Highlights.

⁵ NPS--National Park Foundation Act, 16 U.S.C. Sections 19e-19o, P.L. 90-209 (1967)

USFS--National Forest Foundation Act, 16 U.S.C. Section 583j, P.L. 101-593 (1990)

USFWS--National Fish and Wildlife Foundation Establishment Act, 16 U.S.C. Sections 3701-3709, P.L. 98-244 (1984, as amended)

⁶ BLM--Section 307(b) of FLPMA

NPS--Volunteers in the Parks Act of 1969, 16 U.S.C. Sections 18g-j, P.L. 91-357 (1970)

USFS--Volunteers in the National Forests Act of 1972, 16 U.S.C. Sections 558a-558d, P.L. 92-300

USFWS--Fish and Wildlife Act of 1956 (16 U.S.C. 742), as amended by the Fish and Wildlife Improvement Act of 1978 (P.L. 95-616) and the National Wildlife Refuge System Volunteer and Community Partnership Enhancement Act (1998) (P.L. 105-242)

volunteers in a manner mutually beneficial to the agency mission and the volunteer.

Agency Volunteer Example:

The following excerpts from the NPS Volunteers in Parks annual report (2002) indicate regional and project-type diversity for use of volunteers in river protection.

- Missouri WSR—Project with area high school science classes to conduct water quality sampling and prepare reports.
- Niobrara WSR—Spring river clean-up sponsored by the Niobrara Council.
- St. Croix WSR—High school project performing native freshwater mussel identification and analysis; part of a continuing effort to protect native mussel population from nonnative species.
- Rock Creek Park—Volunteers recruited to assist with outreach to Hispanic and Asian communities bordering Rock Creek Park. Volunteers translated Park and VIP brochures into Spanish and helped with interpretive community outreach programs in their neighborhoods.
- New River Gorge National River—Wetland restoration through Student Conservation Association, scout and church groups.
- Chattahoochee River National Recreation Area—Month-long campaign focused on removal of exotic plants, planting of native trees, and streambank stabilization.

Wild and Scenic Rivers Act, 16 U.S.C. Sections 1271-1287, P.L. 90-542 (1968)

Two sections of the Wild and Scenic Rivers Act (WSRA) provide for partnership with state and other entities for the planning and protection of river resources:

Section 10(e) authorizes the federal river-administering agency to 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 for participation in the administration of a component of the National Wild and Scenic Rivers System. States and their political subdivisions are encouraged to cooperate in the “planning and administration of components of the system, which include or adjoin state- or county-owned lands.”

Section 11(b)(1) authorizes the Secretary of the Interior, the Secretary of Agriculture, or the head of any other federal agency to provide assistance and cooperate with states and other entities or individuals to plan, protect, and manage river resources, whether or not such rivers are part of the National Wild and Scenic Rivers System. Such cooperation may be through written agreement or otherwise. Agreements may provide for limited financial or other assistance from these Departments to encourage participation in the acquisition, protection, and management of river resources, including assistance in the form of facilities, equipment, tools, and technical assistance available to volunteers (Section 11(b)(3)).

WSRA Examples:

- Section 11(b)(1) of the WSRA, along with the Outdoor Recreation Act of 1963, serves to authorize the river-related activities of the NPS Rivers, Trails and Conservation Assistance Program (RTCA). The RTCA provides technical assistance to citizen groups and local and state governments working to implement community-based river

conservation and recreation projects.

- The Columbia River Gorge National Scenic Area developed a cooperative agreement with the State of Washington, Department of Natural Resources (DNR) to facilitate review of applications under the State's Forest Practices Act on the White Salmon and Klickitat WSRs under Sections 10(e) and 11(b)(1). The DNR agreed to consider the river's outstandingly remarkable values in evaluation of forest practices applications and to provide timely notice to the USFS. The USFS agreed to review and provide written comment, and also, as needed, technical assistance on a professional and nonreimbursable basis under this authority. The principal objective of this agreement is to protect water quality through sensitive timber harvest design. The evaluation, comment and technical assistance is focused on preserving the shoreline environment in a relatively natural state, preserving scenic qualities and protecting other natural resources.

DOCUMENTING YOUR PARTNERSHIP

You have created or become part of a partnership to protect river resources. In doing so, have you entered into written agreements with river partners that set out each party's roles and responsibilities?

If you do not have a written agreement or series of agreements documenting each party's function in a partnership you should strongly consider doing so. Written agreements are beneficial in setting out the parties' roles and responsibilities, and they are legally required for a federal financial assistance or cost-share arrangement. Agreements should:

- Document the objectives of and expected benefits to the partners;
- Describe the contribution of each partner; and
- Include citations to the appropriate legal authority.

An agreement also provides recognition of agency staff time to manage and nurture the partnership and is useful in evaluating its efficacy over time.

There are different agreements for documenting a partnership depending upon the nature of the activities being undertaken, whether funds, equipment, or services are involved, and the extent of the federal government's involvement.

Memorandum of Understanding

A Memorandum of Understanding, or MOU, is appropriate for establishing a framework for cooperation between a federal agency and one or more parties regarding a project or activity of mutual interest. Under an MOU each party directs its own activities and uses its own resources. MOUs are not fund-obligating documents and should not be used when the intent is to exchange funds, property, services, or anything of value, nor should it be used to make binding commitments of resources. Projects or activities undertaken as a result of an MOU's general commitment to cooperate must be documented using separate instruments as appropriate, such as cooperative agreements, grants, contracts, or challenge cost-share agreements.

If funding for a specific project is contemplated as a result of a relationship established by an MOU, a financial-assistance agreement, procurement contract, collection agreement, or cost-share agreement must be separately established. An MOU may not be used as a basis for not competing a program, activity, or award where competition is otherwise required.

Financial-Assistance Agreements

Congress enacted the Federal Grant and Cooperative Agreement Act⁷ (FGCAA) in 1977 to eliminate ineffectiveness and reduce confusion over the appropriate legal instruments to use in procurement and assistance relationships between the federal government and nonfederal entities. The FGCAA is intended to standardize the array of legal instruments used by federal agencies in their relationships with outside entities. Importantly, the FGCAA does not create authority for federal agencies to enter into assistance or procurement relationships. It simply defines the appropriate legal instruments an agency must use once Congress establishes an agency's authority to provide assistance or procure goods or services.

The FGCAA distinguishes federal-assistance relationships from procurement relationships. Under the FGCAA, a transaction or relationship must be analyzed to determine whether its principal purpose is to provide assistance to stimulate a public purpose, which would require use of a grant or cooperative agreement, or whether its principal purpose is to acquire a good or service for the direct benefit of the government, which would require use of a procurement contract. A grant is distinguished from a cooperative agreement by the level of federal involvement between the federal government and the recipient of the assistance in carrying out the activity covered in the agreement. If substantial federal involvement other than funding is contemplated then a cooperative agreement should be used; if such involvement is not intended, then a grant agreement is appropriate.

Unless Congress enacts a law creating an exception to the FGCAA, a federal agency must analyze any assistance or procurement relationship applying the principal purpose test set forth under the FGCAA. Depending upon whether a relationship involves assistance or procurement, different regulations and Office of Management and Budget (OMB) circulars will apply. These regulations and OMB circulars set forth requirements for the range of issues that arise in assistance and procurement relationships, such as advance payments, tracking financial transactions, and competition for assistance.⁸

Federal financial assistance in the form of cooperative agreements may be used under a number of authorities, such as the Wild and Scenic Rivers Act, National Trails System Act and Federal Noxious Weed Act of 1974.

Cost-Share Agreements

Congress has enacted cost-share authority for the federal land management agencies. This authority is outside the scope of the FGCAA. Cost-share agreements involve joint contribution

⁷ 31 U.S.C. Sections 6301-6309

⁸ Federal assistance relationships are subject to federal assistance regulations and related OMB circulars, while federal acquisition relationships are subject to federal acquisition regulations and related OMB circulars.

of resources by a federal agency and cooperators to perform work that is mutually beneficial and that aids in the accomplishment of the agency's mission. Typically, federal agencies may enter into challenge cost-share agreements to accomplish any of the agency's authorized purposes, as long as the nature of the relationship between the agency and cooperators is a cost-sharing relationship and not federal assistance or procurement.

LEGAL, ETHICAL AND POLICY CONSIDERATIONS INVOLVING RIVER PARTNERSHIPS

Introduction: Caution! Partnerships Can Be Hazardous

The road to hell was paved with good intentions, so the saying goes. The most well-intentioned river partnerships may nonetheless prove controversial or legally deficient if the partnerships are not formed and operated with attention to legal, ethical, and policy considerations. Government agency authority may be improperly exercised or delegated. Partners may not accurately or adequately document their relationship in the form of a contract or agreement. Financial contributions by government partners may not be authorized for the activities funded, or records tracking such contributions may be deficient. In addition, audits by the General Accounting Office (GAO) and agency Inspector General offices may be initiated in response to a Congressional inquiry or public complaints.

For example, a partnership formed to restore wildlife habitat in a watershed, reduce soil erosion, and rehabilitate the bed and banks of a river may lead to recommendations and actions objectionable to certain river users. The partnership may endorse management actions that would involve alteration or reduction of certain recreational use or grazing activities in the watershed. Alternatively, a partnership may support actions that would not result in changes in the type or levels of use that some members of the public believe are necessary. A disgruntled partner may resign from the partnership and seek to discredit or undermine the partnership's objectives. In any of these scenarios, participants in partnerships need to think about and be prepared for the day when an audit of their activities is conducted, or a lawsuit challenging their actions is filed, or the media decides to investigate and publicize charges that the partnership's activities are unethical, unlawful, or misguided.

Partnerships formed with an awareness of relevant legal, ethical, and policy considerations will be better prepared to answer any inquiries directed at their activities. Some of the more significant considerations are described below.

Legal Considerations

The Federal Advisory Committee Act (FACA)

FACA's Main Components

FACA establishes criteria for how federal officials obtain advice and recommendations from nonfederal employees by regulating the formation and operation of advisory committees. FACA is intended to open to public scrutiny the manner in which federal agencies obtain information from individuals and groups. FACA defines "advisory committee" to include any committee or

group established by law or established or utilized in order to obtain advice or recommendations for federal agencies and not composed wholly of federal officials or employees.

New advisory committees established under FACA may only be created after public notice of the committee is provided and the agency establishing the committee determines that the committee's establishment is in the public interest. Each advisory committee must have a clearly defined purpose, its membership must be fairly balanced regarding points of view represented, and meetings of the advisory committee must be open to the public.

Under the Unfunded Mandates Reform Act of 1995, Congress amended FACA. Section 204 of the Unfunded Mandates Act established that FACA does not apply to meetings exclusively among federal, state, local and tribal officials, or their designated employees with authority to act on their behalf, where such meetings are for the purpose of exchanging views, information, or advice relating to activities or programs involving shared responsibility or administration. The intent of this amendment was to ease restrictions on discussions on shared intergovernmental program responsibilities or administration.

Understanding FACA's Application to Partnerships

Federal agencies involved in river partnerships need to consider whether FACA applies to those partnerships. Regulations issued by the General Services Administration (GSA), the federal agency with authority for interpreting FACA, are instructive in better understanding FACA requirements.⁹ Under GSA's regulations, no FACA committee need be formed where federal officials are: 1) meeting with a local citizens group interested in improving resource management overseen by that official; 2) attending meetings of external groups where advice may be offered to the official during the course of discussions; 3) participating in meetings of groups or organizations as a member; or 4) meeting with their contractors, licensees, or other private sector program partners.

The preceding guidance is based on the assumption that the federal agency does not exercise actual management or control over the group involved. Several factors are used to determine whether the federal agency exercises management and control over a group and whether, therefore, the group is being utilized as an advisory committee subject to FACA's requirements: 1) whether the agency manages the group's membership or otherwise determines its composition; 2) whether the agency manages or controls the group's agenda; or 3) whether the agency funds the group's activities. Answering yes to any or all of these questions does not automatically mean the group is utilized within the meaning of FACA, but the agency may need to reconsider its relationship to the group if it is indistinguishable from an advisory committee established by the agency.¹⁰

A committee established to perform primarily operational functions is not covered by FACA.

⁹ 41 CFR 101-6 and 1-2-3, Federal Advisory Committee Management

¹⁰ Two cases help illustrate how courts interpret FACA and implications for agencies and their partners where FACA is violated. Alabama Tombigbee River Coalition v. USFWS (D. Alabama); Kaibab Industries v. Lujan, (D. Arizona).

Operational functions include functions specifically authorized by statute or Presidential directive, such as implementing government decisions or policy.

Non-Delegation Doctrine - Niobrara Example

Decisions on the expenditure of federal monies and decisions on federal policies, programs, plans, and projects must be made by federal officials (U.S. Constitution Article II). Federal agencies who delegate these kinds of decisions to nonfederal entities are in violation of this Constitutional provision, known as the “non-delegation doctrine” National Park and Conservation Association (NPCA) v. Stanton, 54 F. Supp. 2d 7 (D.D.C. 1999). In NPCA, portions of the Niobrara River were designated as a component of the Wild and Scenic Rivers System under the administration of the NPS. Congress designated an Advisory Commission of local interests to aid NPS in developing a management plan for the river. Under the Record of Decision for the management plan, management would be conducted by a local Council.

NPS entered into a cooperative agreement with local governmental entities to establish the local Council. The Council’s duties included: obtaining funds from any source to perform its functions, managing law enforcement and visitor use; hiring staff; and acquiring and managing real and personal property. The Council consisted of county commissioners, landowners, Natural Resource District representatives, timber and recreational interests, and one member each from the Nebraska Game and Park Commission, USFWS, and NPS. Council decisions were determined by a simple majority. The cooperative agreement between NPS and the Council encouraged the Council to find outside sources of money to avoid having NPS dictate decisions to the Council. If the Council failed to manage and protect the Niobrara, NPS retained the power to terminate the agreement.

The court, in finding for NPCA, held that the Secretary of the Interior cannot wholly delegate responsibility to a local entity that is not bound by the statutory obligations applicable to the Secretary in administering NPS land and components of the National Wild and Scenic River System. Congress’ creation of the Advisory Commission to support NPS did not eliminate the Secretary’s duties. The court explained that delegations of authority from federal agencies to private parties may be valid as long as the federal agency retains final reviewing authority over the private parties’ actions. The court concluded that the broad powers delegated to the Council by NPS resulted in NPS retaining virtually no final authority over the Council’s actions. This delegation exceeded Congress’ direction in the WSRA that the Secretary may enter into cooperative agreements with other entities for administration of rivers.

The court contrasted the unlawful delegation by NPS to the Niobrara Council with the authority exercised by the Upper Delaware River Council. Under the Delaware River plan, the Council could make recommendations to the Secretary, but the Secretary retained full authority to accept or reject those recommendations based on their consistency with the management plan for that river.

Investigations, Audits, and Public Perception

Agency Investigations

In 1998 the Office of the Inspector General (OIG) at the Department of Agriculture conducted an evaluation of USFS assistance agreements with nonprofit organizations (NGOs). OIG determined that the USFS did not effectively manage grant agreements totaling \$12 million to the eight non-profit organizations OIG reviewed. Statutes, OMB circulars, and Departmental regulations were not followed when issuing and monitoring assistance agreements. OIG concluded that \$1.3 million in grant awards to NGOs was not in compliance with authorizing statutes, \$4.9 million was subject to recovery because federal grants were not properly matched by three NGOs, over \$200,000 in interest costs were incurred by the federal government because funds were advanced in excess of needs to the NGOs, \$315,000 in unallowable costs were paid to five NGOs, and \$970,000 in funds were not de-obligated after the grant period expired for one NGO.

In its recommendations to the Department of Agriculture, OIG advised the Forest Service: to develop and implement a strategy for ensuring that grant administration guidelines are followed; that approving officials in the USFS should ensure that assistance agreements are consistent with statutory authority; that overpayments and interest earned from grant funds be recovered from the NGOs; and that all existing grants and cooperative agreements with NGOs should be reviewed to ensure their compliance with federal law, OMB circulars, and Departmental regulations.

Audit You Buddy!

The GAO conducts audits of federal programs and activities at the request of Congress. GAO audits of federal agency activities can result in reports documenting agency mismanagement of funds or misuse of government authority. Audits that identify agency mismanagement may result in reductions in agency appropriations, elimination or cutbacks of government programs, and public skepticism about the program or agency being audited.

For example, in July 2003, GAO issued a report on NPS work with nonprofit partners, entitled “Agency Needs to Better Manage the Increasing Role of Nonprofit Partners.” The report contained a number of recommendations and observations about the need for improved management and tracking of relationships with cooperators such as Friends groups and concessionaires. The report noted that Friends groups and cooperating associations contributed over \$200 million to NPS between 1997-2001. According to the report, although NPS has a goal of increasing partnership activities with nonprofit organizations, NPS has no process in place for holding park managers accountable for meeting contribution goals. Such reports may prompt agency officials to institute new policies designed to address deficiencies GAO identifies and can increase pressure on agencies to demonstrate improvements in program administration.

15 Minutes of Fame You Are Not Seeking

The local paper writes an article raising questions about the practices and procedures of a natural resource partnership. Congressperson X sends a letter to the head of your federal agency asking for an explanation of the funding and involvement provided in support of a river management partnership. A state or federal legislative committee announces hearings to look into the practices related to and authority for a cooperative natural resource program conducted by a state or federal agency. All of these situations can and do occur, and public perception of the

partnership or cooperative venture can be significantly influenced in the process. A partnership that anticipates and prepares for this kind of public scrutiny will be more apt to endure such an examination with its integrity and public respect intact.

Ethics and Conflict of Interest

From an ethics perspective, partnerships may be hazardous. Partnerships between federal agencies and nonprofit organizations raise three distinct concerns: 1) conflicts involving official capacity fiduciary participation in an NGO; 2) conflicts involving nonfiduciary participation in an NGO; and 3) conflicts involving other official actions related to the NGOs in which a government official participates.

The first concern pertains to a federal employee's involvement in their official capacity in an NGO as a board member, officer, trustee, general partner, employee or attorney. Federal law prohibits federal employees from serving in any of these capacities with an outside organization in their official capacity, except under limited exceptions, and there are criminal sanctions from such prohibited involvement.¹¹ This prohibition is due to the fact that a federal employee who serves as a fiduciary of an outside organization has the financial interests of the organization imputed to the employee. A fiduciary has a duty to place the interests of the outside organization above any other interest, whereas a federal employee has a duty to place the public interest foremost. Service as a fiduciary, especially as a board member or officer, places a federal employee in the role of managing an outside organization. This level of involvement can expose the federal government to liability for the actions of the nonprofit organization, as well as the federal employee. Service on one board may create an expectation on the part of other nonprofit organizations that federal officials will serve on their boards as well.

The above fiduciary concerns need not prevent federal officials from working in partnership with non-profits or other nonfederal entities. Federal agencies can work in partnership with other stakeholders in river management without becoming board members of a private organization or river partnership organization. If the partnership establishes a nonprofit organization, federal agency officials could still attend meetings of the partnership and work with the partnership in a liaison or similar non-board member capacity.

¹¹ Under 18 U.S.C. Section 208(a), a federal employee is prohibited from participating personally and substantially as a government employee in a particular matter that will have an effect on the financial interests of any organization in which the individual serves as an officer, director, trustee, or employee. As interpreted by the Department of Justice, simply participating on a board constitutes prohibited official participation involving the financial interests of the board on which the federal employee serves as an officer.

Any such service would violate 18 U.S.C Section 208(a) unless: (a) there is a specific statute requiring or permitting such official participation; (b) the organization upon which the government official serves releases the official from fiduciary obligations pursuant to applicable state law; (c) applicable state law imposes no fiduciary obligation on a board member; or (d) a waiver is granted under 18 U.S.C. Section 208(b). Waivers from the government to serve on an outside board in a person's official capacity may be granted subject to the criteria in 18 U.S.C. Section 208(b)(1). Such waivers may be granted where a determination is made that the employee's interest in the outside organization is not so substantial as to be deemed likely to affect the integrity of the services that the government may expect from the employee. Normally, such a waiver must be requested and granted prior to an employee's participation in the activity for which the waiver is granted.

Even where a federal official is involved with an NGO in a non-fiduciary capacity, that official must still avoid acting as the NGO's representative to the federal government. Representing the NGO would include oral or written communication with other federal officials with the intent of influencing their actions as they relate to the NGO's interests.

Donations and Fundraising

Federal agencies benefit greatly from gifts of money and real and personal property in support of river protection and restoration. Acceptance of gifts by a federal agency is only permissible, however, when authorized by an act of Congress. Donations to federal agencies that are not authorized by law are an unauthorized augmentation of appropriations.

Fortunately for federal land managers, Congress has enacted laws under which agencies may accept donations to support fulfillment of the agencies' missions. Both the Department of the Interior and the Department of Agriculture have established gift acceptance regulations governing how gifts may be accepted within their respective authorities. For example, while both Departments and their respective agencies have gift acceptance authority, each Department restricts or prohibits acceptance of gifts from certain entities, such as those organizations that have contracts with the Department or that are in litigation against the department. These agency regulations are intended to avoid conflicts of interest that could result from acceptance of donations from certain entities. The Office of Government Ethics has also enacted regulations governing acceptance of gifts by agency personnel, and these regulations must be considered together with departmental¹² and individual agency regulations when determining whether a gift may be accepted. See 5 CFR 2635.200.

Fundraising or solicitation of contributions is generally more restricted than agency authority to accept donations. Office of Government Ethics' regulations generally prohibit solicitation of contributions for the benefit of a federal agency, absent express statutory authorization. See 5 CFR 2635.808. Congress has authorized solicitation of funds under certain statutes, however, such as the Take Pride in America Act. Absent such statutory authority, the federal agencies need to avoid solicitation of contributions. This does not preclude a federal agency from placing donation boxes at visitor centers to support an agency program or activity. Likewise, restrictions on agency solicitation do not preclude agency foundations from soliciting contributions in support of the agencies and their programs. Federal agencies are also free to explain and describe their programs and objectives in a general informative manner that does not get into a direct solicitation of contributions.

Endorsements and Acknowledgments

Recognition of partner contributions encourages partners to continue supporting river protection and restoration and gives appropriate credit for partner efforts. As with almost every other aspect of a partnership, there are restrictions on appropriate forms of recognition for partner contributions.

Federal agencies may, for example, acknowledge the contributions of a partner in the conduct of

¹² See the Department of the Interior Donations Activity Guidelines.

a partnership, and a partner may likewise acknowledge a federal contribution. For example, it is permissible to post a sign at a dock facility or trailhead acknowledging the contributions of a partner toward the construction or maintenance of the trail or facility. Similarly, a federal agency may issue a public notice of an assistance award to a partner to carry out an authorized river-related activity.

Acknowledgment of partner contributions must avoid endorsements of organizations or their products, services, or activities. Agency regulations as well as Office of Government Ethics' regulations direct agency officials to avoid endorsing commercial enterprises.¹³ It would be impermissible, for example, for the NPS to promote or recommend a company because they contributed to a river restoration project.

¹³ OGE Regulations regarding endorsements are at 5 CFR 2635.701-705. See also NPS Director's Order #21, Section 7, Donor Recognition; USFS Manual 1650.31 and 1624.03; and USDA Regulation 1400-1.

RIVERS IN FOCUS – CASE STUDIES ON THE POWER OF PARTNERSHIPS

To highlight cooperative river management, two case studies are presented. The rivers profiled differ geographically, by the amount of development within their watersheds, and by the type of federal recognition and management presence. What these contrasting case studies share, however, is the premise of this paper—successful and enduring river protection relies on cooperative management.

Upper Deschutes Wild and Scenic River¹⁴

Introduction and Setting

A 54.4-mile segment of the upper Deschutes River in central Oregon was added to the National Wild and Scenic Rivers System in 1988 (Omnibus Oregon Wild and Scenic Rivers Act, P.L. 100-557). The designated segment, most of which is also an Oregon State Scenic Waterway, flows from Wickiup Dam, a Bureau of Reclamation facility, to the City of Bend Urban Growth Boundary.

The upper 40.4-mile segment of the river is primarily smooth water interrupted by one major and one smaller rapid. Shoreline development ranges from primitive to highly developed, with some reaches bordered primarily by private land. There is extensive riparian habitat and wetlands in this segment. The middle segment (11 miles), although easily accessible, is relatively undeveloped. It contains spectacular falls and rapids created by intrusion of lava flows into the river channel and extensive riparian habitat. The lower 3-mile segment of the river is characterized by extensive rapids. The east side of the river is privately owned with residences lining the rimrock above the river and a few adjacent to the river. The west side is primarily National Forest System lands. Geology, (brown trout) fishery, vegetation, wildlife, prehistory, scenery and recreation have been determined outstandingly remarkable.

Impacts from Settlement – River Conditions Today

The river environment has been significantly altered over the last 100 years. The construction of Crane Prairie (1922) and Wickiup Dams (1945) influence and partially control the flow of the river downstream to Bend, where the majority of the water is diverted by six irrigation districts. Human interaction in the basin has also altered vegetation along the channel and banks.

Manipulation of flow patterns for irrigation has affected both water quality and quantity. While the existing water quality and quantity still supports a remarkably diverse ecosystem, the former clarity and uniformity of flow are no longer present. Flow fluctuations, along with significant changes in the timing of water flows, have contributed to increased streambank erosion, decreased water quality, decreased quality of fish habitat, and adverse impacts on the riparian resources.

¹⁴ Narrative excerpted from Upper Deschutes Wild and Scenic River Final Environmental Impact Statement and Comprehensive River Management Plan (July 1996), and personal communication with Mollie Chaudet, Upper Deschutes Wild and Scenic Rivers Coordinator.

Much of the natural vegetation immediately adjacent to the river has been subjected to the effects of flow fluctuation, recreational use, residential development, timber harvest, and grazing. Aquatic vegetation is significantly different than pre-European settlement due to introduced species. Riparian vegetation has also been significantly affected through trampling, recreation facilities, roads, and rural development.

About a quarter of the land adjacent to the river is privately owned, most subdivided into small parcels intended for residential use. Development on private lands has changed the scenic character of the river corridor with a variety of structures, roads, utility corridors, the introduction of nonnative landscaping and manicured lawns. Retaining walls, fences, docks, and other structures have been constructed on the streambank, in some cases altering wetlands and riparian areas. The river corridor contains 10 subdivisions and several large single-ownership properties. Most private lots are not serviced by community water or sewer systems.

Water quality is most affected by upstream reservoirs, which significantly increase turbidity through erosion and primary production (growth of microorganisms). Due to these factors, the river does not meet State water quality standards. Studies indicate the wide seasonal fluctuations in flow from Wickiup Reservoir result in the impairment of recognized beneficial uses related to salmonid and resident fish, and aquatic life. During the storage season, the reduced stream flows limit the available feeding, resting and hiding habitat for trout. Macroinvertebrate production and brown trout spawning habitat are also limited by reduced flows. The elevated flows during the irrigation season result in flow conditions and velocities that potentially affect spawning habitat and survival of juvenile fish.

Water quality is also negatively affected by absence of large woody material, which is important in controlling the stream energy. The high, regulated flows of the irrigation season coincide with the growing period of streambank vegetation and make the establishment or reestablishment of vegetation unlikely, hindering one of the primary natural means of stabilizing the river channel. The existing rate of bank erosion has resulted in property owners attempting to arrest the accelerated erosion by placing rip-rap along cutbanks to protect riverfront property.

The proximity of residential and commercial development near the river has the potential to increase the loading of pollutants. The potential for extensive future development along the river corridor increases the likelihood of pollutants to be directly discharged into the river through septic systems. The low levels of dissolved oxygen in the summer suggest bacteria from septic systems now impact the river. Agricultural and forestry practices, recreation and other human activities also have the potential to degrade water quality.

Present flow regimes support a large agricultural production network, some recreational activities, and other water-related social and economic activities. Diverted water has improved the quality of life and increased property values for those who receive it. Water diverted from the river serves domestic, small municipal and small industrial water needs. Recreation opportunities and aquatic and wildlife habitats are also provided off stream by the storage and distribution system.

Community Actions – Protection and Restoration

The Upper Deschutes River Wild and Scenic River and State Scenic Waterway Comprehensive Management Plan (Upper Deschutes River Plan) is the result of a collaborative effort between federal, tribal, state and local governments to develop a common vision of future river management. Adopted by these cooperating agencies, the Upper Deschutes River Plan provides management direction under respective agency authorities.

Partnerships between those signatory to the CRMP and with broad-based community groups and individuals are an integral part of successful plan implementation. The CRMP identified desired partnerships in key areas:

- Implementation of the Adaptive Flow Management Strategy—Obtaining funding for projects and raising local, state and national awareness of the goals of the Upper Deschutes River Plan.
- Improvement of Instream and Streambank Conditions—Effort to expand partnership with homeowners, recreationists and conservation groups in implementing fish habitat and streambank enhancement projects.
- Reducing Fuel Loadings—Partnerships with homeowner associations, residents and recreationists to help achieve the fuel reduction goals of the plan.
- Caring for the River Ecosystem—Volunteer programs to assist with care of the river ecosystems including, but not limited to: inventory and monitoring of dispersed recreation sites; monitoring of recreation use levels; trail maintenance; and providing interpretive programs.

As a result of the planning process, several interagency teams were formed and are currently active in river protection and restoration.

Adaptive Flow Management Team—This technical team, comprised of representatives of the cooperating agencies, is focused on increasing instream flow and improving water quality of the Upper Deschutes River. To help monitor the progress and effectiveness of specified strategies in achieving resource condition goals, a partnership was developed with the Upper Deschutes Watershed Council (UDWC)¹⁵ and the U.S. Geological Survey to develop a framework for regional water quality monitoring in the middle and upper Deschutes River Basin.

The resulting Upper Deschutes regional water quality monitoring program is focused on: coordinating regional monitoring; compiling and analyzing regional data; and, extending outreach and education.¹⁶ The specific aim is avoid traditional monitoring efforts, typically

¹⁵ The UDWC is a nonprofit organization recognized by the Oregon Watershed Enhancement Board (OWEB). Focal areas for UDWC are: assessment of watershed health; creating awareness and understanding the value of healthy watersheds; and developing, implementing and funding watershed enhancement projects.

¹⁶ Information about the regional water quality monitoring program from personal communication with Mollie Chaudet, Upper Deschutes Wild and Scenic Rivers Coordinator, and Lesley Jones, UDWC Water Quality Program

limited by jurisdictional boundaries. This program facilitates the collection of data based on identified protocols to allow comparison, projection of trends, and establishment of regional priorities. Regional priorities set the stage to conserve, restore and enhance water quality in project planning and implementation.

From the data gathering, analysis and priority setting emphasis of the first phase of this program, the UDWC is now focusing on public outreach through its Streamwatch and Adapt-a-Reach volunteer program. The former focuses on outreach to community groups to provide education about watershed science, regional priorities, and what an individual citizen may do to protect water quality. The Adopt-a-Reach program emphasis is on engaging volunteers to participate in water-quality site monitoring.

Growing from early river cleanup events on the Upper Deschutes WSR, the UDWC Riverfest is sponsored by a network of community partners. Now in its sixth year, Riverfest includes over 30 events to increase awareness and understanding of outstanding natural resources of the watershed. It includes outdoor, art and literature events, and river cleanup at 15 sites.

Upper Deschutes River Stewardship Team: The Upper Deschutes River Stewardship Team is an informal consortium of federal, state, and local agencies with management authority over a variety of activities on the Deschutes River. The purpose of this team is to provide a single sounding board for agencies to present issues and promote timely and coordinated responses to private landowners as they apply for permits. Within the scope of the Upper Deschutes River Plan, the team may: develop criteria to identify and acquire, from willing sellers, lands or easement from conservation or access; develop joint permits for land development proposals; and coordinate enforcement activities to best utilize agency resources.

One of the principal accomplishments of this team is the development of a landowner's guide to facilitate river stewardship and to model appropriate streambank stabilization projects. The brochure has increased understanding of appropriate methods to restore or enhance private property and serves as an impetus for conducting interagency technical assistance for projects in which multiple authorities apply.

ANACOSTIA RIVER

Introduction and Setting

A number of creeks and streams originating in Maryland and draining 176 square miles flow into the Anacostia River, which winds from Maryland through the eastern portion of the capitao. Two-thirds of the Anacostia watershed is in suburban Maryland. Most of the headwaters area is residential, with a small percentage in forested lands and a lesser percentage surrounded by commercial development. The Anacostia River, only 9.5 miles in length, flows into the Potomac River in the southern tip of Washington, DC. The Potomac empties into the world's third largest estuary, the Chesapeake Bay.

In pre-European times, the Anacostia River was once a thriving center of Indian culture. Forests and abundant wildlife surrounded the Anacostia, and healthy populations of shad, perch, sunfish, striped bass, catfish, and herring, among other fish species, lived in its waters. During the 18th and 19th centuries, significant portions of the watershed were cleared for tobacco, corn, and cotton farming. Soon, ships that once navigated up the river to Bladensburg, Maryland, could no longer do so due to heavy soil erosion and sedimentation. The river channel, which once was 30 feet deep, became so heavily laden with sediments that, today, it is less than 10 feet deep in many places.

Impacts from Settlement - River Conditions Today

Since the late 19th century, ecological problems in the Anacostia watershed have largely resulted from an expanding human population and changes in land use and cover. More than 800,000 people live in the Anacostia watershed - an average population density of nearly 5,000 people per square mile. A study completed by the U.S. Army Corps of Engineers in 1990 determined that the main causes of ecological degradation in the Anacostia were: 1) lack of environmental controls during urbanization of the watershed; and 2) past activities of the Corps in flood control, channelization, navigation implementation, debris removal, and aquatic vegetation control. Between 1902 and 1960 it is estimated that these activities destroyed 2600 acres of wetlands, 99,000 linear feet of aquatic habitat, and 700 acres of hardwood forest.

When heavy rainfall occurs, the District of Columbia's combined storm water/sewer system often overflows, with the overflow draining directly into the Anacostia. Approximately three billion gallons of untreated combined sewage are discharged into the Anacostia annually. Storm overflows have been the principal cause of high fecal coliform concentrations in the river. Consider this: when your Senator flushes the toilet on Capitol Hill on a rainy day, the Anacostia is the destination of that "flushing."

The river has high levels of ammonia and harmful bacteria, low amounts of dissolved oxygen, and excessive amounts of iron, lead, and zinc. The pollution problem in the Anacostia is not confined to the portion of the river in Washington, D.C. Recently the Anacostia Watershed Society tested water quality at several points along the river and determined, surprisingly, that

the highest levels of fecal coliform bacteria are recorded upstream on the river in the area of the watershed located in suburban Maryland. The resulting impacts on aquatic life are disturbing. A study conducted by the USFWS determined that over 60% of all bullhead catfish in the Anacostia have cancerous tumors, among the highest rates ever recorded in an American river.

The Anacostia is a tidal river whose waters move slowly and sluggishly. Whatever enters the river stays there for awhile, because the river's tidal influence and physical characteristics result in a slow flushing of its waters. The land in the Anacostia River watershed is over 50% paved or impervious, another significant cause of high levels of sedimentation and contaminants in its waters. The River has the unpleasant appearance of a liquid landfill in places, particularly after a major storm when sewer overflow, litter, and other contaminants are flushed into the river.

Along the mainstem of the Anacostia, most of the shoreline is owned by the federal government. Anacostia Park and Kenilworth Aquatic Garden and Park are administered by the NPS, the National Arboretum is administered by the USDA Agricultural Research Service, and the Defense Department operates facilities closer to the mouth of the Anacostia. Land use in the watershed is 43% residential, 25% forest, with the remaining one-third of land use a mix of agricultural, industrial, parkland, commercial, and institutional.

Community Actions – Protection and Restoration.

Over the past two decades, numerous institutions and individuals have demonstrated a growing interest in restoring the Anacostia. Such an effort is complicated, however, by the substantial cost of creating new, more environmentally-friendly infrastructure, and by the myriad causes of non-point source pollution.

In 1987, the District of Columbia, the State of Maryland, and two Maryland counties entered into the Anacostia Watershed Restoration Agreement and formed a Restoration Committee. The Agreement committed the parties to restore the water quality and aquatic life of the Anacostia. In 1991, the Committee adopted a plan for river restoration that contained six scientifically based goals for restoration and protecting the Anacostia, emphasizing the need for interagency and intercommunity cooperation. In 1994, a related agreement was signed by 23 federal agencies on ecosystem management in the Chesapeake Bay. One of the provisions in that Agreement committed the signers' support for the Anacostia Watershed Restoration Committee's plan to restore the Anacostia.

Cooperation in addressing problems facing the Anacostia has also arisen out of litigation. In 1999, the Anacostia Watershed Society and other parties sued the District of Columbia Water and Sewer Authority (WASA) for Clean Water Act violations related to management of the sewer system. In October 2003, the parties reached a settlement under which WASA agrees to implement improvements to the sewer system infrastructure that will significantly reduce sewer overflow into the Anacostia.

In 2000, 20 federal and District of Columbia agencies that own or administer lands in the Anacostia River watershed entered into the Anacostia Waterfront Initiative (AWI) MOU. This

partnership is designed to bring together landowners within the watershed in support of efforts to restore and revitalize the Anacostia River. The partnership has produced a draft Framework Plan for restoration, along with eight Target Area Plans within the watershed. More than 5,000 participants were involved in the public process leading to development of the Framework Plan over a three-year period.

The AWI envisions a range of uses and developments in the Anacostia, drawing from successful urban waterfront restoration projects in Boston, Pittsburgh, and elsewhere. Bike paths and trails will extend along both sides of the Anacostia's boundary within the District. Commercial and residential developments are envisioned for certain areas. Road and bridge reconstruction and redesign are intended to improve public use of and access to the river, as well as improving the aesthetics of the transportation infrastructure. Current industrial and military uses within the watershed are also examined under the AWI, with plans underway to reduce harmful impacts to the river.

A number of other initiatives and projects have been performed or are underway in the Anacostia, with the involvement of local and federal governments, community groups, and the business community. The Anacostia Watershed Toxics Alliance (Alliance) is a public/private partnership of 15 organizations formed to evaluate the presence, sources, and impacts of toxic contaminants in the watershed. Research by the Alliance is ongoing into data gathering regarding pollution sources during storm events and survivability of larvae of migratory fish. PEPCO, a major supplier of electricity in the Washington, D.C. area, has worked in partnership with the NPS and the District of Columbia on restoration of wetlands in the Anacostia, as well as expansion of an aquatic resource center dedicated to supporting restoration of indigenous fish species.

Portions of Kenilworth Marsh along the Anacostia were reconstructed during a major restoration effort in 1992-93. The cooperative restoration project involved the NPS, the District of Columbia Government, the U.S. Army Corps of Engineers, the Metropolitan Washington Council of Governments, and others, and resulted in the conversion of 32 acres of unvegetated mud flats into emergent tidal marsh.

Grassroots initiatives such as trash clean-ups, canoe classes, and boat tours have helped to focus public attention on the river's health. Both the public and private sectors are taking steps to restore wetlands and promote techniques to capture and clean runoff water. Industrial uses have been curtailed and existing ones like the Navy Yard, a Superfund site, are restoring their sites and incorporating storm water controls and filters.

Appendix A
Other Federal Authorities Available for Cooperative River Management
(Listed alphabetically.)

Authority	Description	Eligible Cooperators
Cooperative Funds and Deposits Act of 1975, 16 U.S.C. Section 565a1-a3, P.L. 94-148 (1975)	Authorizes the Secretary of Agriculture to enter into cooperative agreements with others to facilitate administration of USFS programs and activities: 1) to construct, operate and maintain pollution abatement facilities; 2) engage in cooperative manpower and job training programs; 3) develop and publish environmental education and forest history materials; and 4) perform forestry protection. Must be in public interest and there must be a mutual interest other than monetary considerations. Secretary may advance or reimburse funds to cooperators or furnish materials.	Public or private agencies, organizations, institutions or persons
Cooperative Funds Act, 16 U.S.C. Section 498, P.L. 63-122 (1914)	Authorizes the Secretary of Agriculture to receive contributions toward cooperative work in protection and improvement of the national forests, with funds put into a special fund made available to the Secretary for payment of expenses of protection or improvements.	

Authority	Description	Eligible Cooperators
<p>Donations:</p> <ul style="list-style-type: none"> • BLM-FLPMA Section 307(c) • NPS-16 U.S.C. Section 6 • USFS-Acceptance of Gifts Act of October 10, 1978 • USFWS-16 U.S.C. Section 742f(b) to accept gifts for the benefit of USFWS and 16 U.S.C. Section 668dd(b) to accept donations of funds and to use these funds to acquire or manage lands or interests therein • Wilderness Act, 16 U.S.C. Section 1135 	<p>Authorizes the Secretary of Agriculture or the Interior, as appropriate, to accept gifts and donations.</p>	<p>Anyone</p>
<p>Federal Noxious Weed Act of 1974, P.L. 93-629</p>	<p>Authorizes federal agencies to develop cooperative agreements with state agencies and their political subdivisions for establishment of an undesirable plant management plan and to issue cost-sharing cooperative agreements with state and local agencies.</p>	<p>State and local agencies</p>
<p>Granger-Thye Act, 16 U.S.C. Section 581i, P.L. 81-478 (1950)</p>	<p>The Act authorizes the Secretary of Agriculture to make funds available to cooperators to foster and stimulate participation with the USFS in forest, range, and watershed management research, and in order to aid in obtaining the fullest cooperation from states and other public and private organizations and individuals in effectuating such research.</p>	<p>States, public and private organizations and individuals</p>

Authority	Description	Eligible Cooperators
National Trails System Act, 16 U.S.C. Sections 1241-51, P.L. 90-543 (1968)	The Secretary charged with administration of national recreation, scenic or historic trail may enter into written cooperative agreements with states, their political subdivisions, landowners, private organizations or individuals to operate, develop or maintain any portion of trail within or outside federally administered area. Agreements may include: 1) provisions for limited financial assistance to encourage participation in acquisition, protection, operation, development or maintenance of such trails; 2) providing volunteer status under appropriate authority (Section 7(h)(1)). Section 11 details the use of volunteer assistance for planning, development, maintenance and management of trails throughout the nation.	States, political subdivisions, landowners, private organizations and individuals
Organic Acts of Land Managing Agencies: <ul style="list-style-type: none"> • BLM-FLPMA • NPS-Act of August 25, 1916 • USFS-Organic Administration Act of 1897 • USFWS-National Wildlife Refuge System Improvement Act of 1997 	Provide general authority and mission and may be cited, in part, as legal basis for pursuing cooperative river management.	

Authority	Description	Eligible Cooperators
Outdoor Recreation Act, P.L. 88-29 (1963)	Authorizes the Secretary of the Interior to provide technical assistance, advice and to “cooperate with states, political subdivisions, and private interests, including nonprofit organizations, with respect to outdoor recreation.” Allows for donation of money, property, personal services, or facilities to meet purposes. Partial basis for NPS Rivers, Trails and Conservation Assistance Program (RTCA).	States, political subdivisions, private interests and nonprofit organizations
Wyden Amendment, Section 323 of the Department of the Interior Appropriations Act, 1999, P.L. 105-277	Authority through fiscal year 2004 for the Secretary of Agriculture to enter into cooperative agreements with government entities and others for the protection, restoration and enhancement of fish and wildlife habitat and other resources on public and private land. The Secretary may enter into a watershed enhancement and restoration agreement to improve viability of resources on National Forest System lands within watershed through the provision of technical assistance and cost sharing.	Government entities and others

Authority	Description	Eligible Cooperators
<p>Act of August 13, 1970, "Youth Conservation Corps Act," 16 U.S.C. Sections 1701-1706, P.L. 91-378</p>	<p>Enacted in 1970 to provide employment opportunities to youth between the ages of 15-18 for conservation work on public lands. Participants perform conservation work under programs developed by the Secretary of Agriculture and the Interior. The Secretaries may also contract with a public agency or nonprofit organization for the operation of any YCC project. The Secretaries are directed further to establish a program under which grants are to be made to States to assist them with the costs of projects for employment of YCC participants on nonfederal public lands and waters.</p>	<p>Youth, public agency, nonprofit organizations</p>

Appendix B

PARTNERSHIP WEBSITES

Agency (general)

BLM

www.blm.gov/nlcs/partnerships: Bureau of Land Management website devoted to partnership authorities, questions and answers involving partnership issues, and links to related websites.

NPS

<http://www.nps.gov/partnerships/>: National Park Service website focused on developing partnerships to support National Parks and programs. The website includes information on how to affect partnerships, agency direction, case studies, contacts and links to related websites.

USFS

www.partnershipresourcecenter.org: This website is a joint undertaking of the National Forest Foundation and the USFS. The website contains information for USFS staff and USFS partners on opportunities for cooperative undertakings, guidance on process for forming partnerships, and resources available to support partnerships.

USFWS

<http://partners.fws.gov/>: U.S. Fish and Wildlife Service website providing information about partnership programs to restore wildlife habitat. This website also describes natural resource assistance grants to governmental, public and private organizations, groups and individuals administered by the U.S. Fish and Wildlife Service.

Agency Foundations

National Park Foundation

<http://www.nationalparks.org/Home-fla=no.asp>: National Park Foundation website. The website contains information about the Foundation and opportunities for grants and other cooperative opportunities. Detailed information is provided on grant programs, volunteerism, visitor experience, education, and community engagement.

National Forest Foundation

www.partnershipresourcecenter.org: This website is a joint undertaking of the National Forest Foundation and the USFS. The website contains information for USFS staff and USFS partners on opportunities for cooperative undertakings, guidance on process for forming partnerships, and resources available to support partnerships.

National Fish and Wildlife Foundation

<http://www.nfwf.org>: National Fish and Wildlife Foundation website. This website contains information about the Foundation and grants to projects benefiting conservation education, habitat protection and restoration, and natural resource management.

Agency Volunteer Programs

BLM

<http://www.blm.gov/volunteer/>: This website includes volunteer opportunities, examples and annual reports for the BLM volunteer program.

NPS

<http://www.nps.gov/volunteer/>: This website includes volunteer opportunities, examples and annual reports for the NPS VIP program.

USFWS

<http://volunteers.fws.gov/>: This website includes volunteer opportunities, examples and annual reports for the USFWS volunteer program.

Federal Grants

Environmental Protection Agency (EPA)

<http://www.epa.gov/epahome/grants.htm>: This website describes grants, cooperative agreements, fellowships and interagency agreements available through the Environmental Protection Agency.

EPA

<http://cfpub.epa.gov/fedfund/>: The Catalogue of Federal Funding Sources for Watershed Protection website is an EPA-established searchable database of financial assistance resources available to fund a variety of watershed protection projects.

National Resources Conservation Service

<http://www.nrcs.usda.gov/programs/>: Website of the National Resources Conservation Service that describes conservation grant and incentive programs available through NRCS.

USFWS

<http://grants.fws.gov/>: This website lists the variety of natural resource assistance grants to governmental, public and private organizations, groups and individuals administered by the Fish and Wildlife. It includes a number of other links (e.g. Catalog of Federal Domestic Assistance, Federal Aid Information Management System).

Catalog of Federal Domestic Assistance

<http://12.46.245.173/cfda/cfda.html>: The Catalog of Federal Domestic Assistance summarizes programs available to state and local governments, domestic public, quasi-public, and private profit and nonprofit organizations and individuals. The website is searchable and includes aids to guide in writing a proposal.

Federal Aid Information Management System (FAIMS)

http://faims.fws.gov/portal/page?_pageid=53,1,53_31187&_dad=portal&_schema=PORTAL: This website provides a means through which information contained in the Federal Aid Information Management System (FAIMS) can be accessed over the Internet. It allows you to quickly locate and retrieve grant specific information by state/country, grant program, and/or individual agency.

Nonprofit Organizations

Sonoran Institute

www.sonoran.org: The Sonoran Institute is a nonprofit organization dedicated to promoting conservation and restoration of the environment in western North America. The Institute focuses on capacity building in local communities to improve conservation practices, and the website contains information and links regarding conservation initiatives and opportunities.

Partnership Beyond Public Lands

www.nps.sonoran.org: This website, known as the Partnership Beyond Public Lands website, provides information on resources and tools available to public land managers seeking to develop partnerships with neighboring communities. The site includes contact information for land management officials currently involved in partnership efforts.

Red Lodge Clearinghouse

www.redlodgclearinghouse.org: This website is designed as a full support site for collaborative groups committed to resolving resource use conflicts throughout the interior western United States. It contains information on funding sources, guidance on collaboration techniques, and related information.

Community-Based Collaboratives Research Consortium

www.cbrc.org: The Community-Based Collaboratives Research Consortium (CBCRC) is a network of mediators, researchers, government agencies, community groups, and environmental groups committed to assessing and understanding local collaborative efforts related to natural resources and community development. The website contains information on analyses of collaborative efforts undertaken involvement natural resource use and management and information on the effectiveness of such collaborative undertakings.

Western Governors Association

www.westgov.org/wga/initiatives/enlibra: The Western Governors Association developed a set of principles described as “Enlibra,” for the protection of air, land, and water. These principles are designed to guide effective natural resource management and are tools for use by anyone involved in natural resource management issues. The website includes a resource guide with information on the principles and ways to incorporate them into natural resource management.

U.S. Institute for Environmental Conflict Resolution

www.ecr.gov: This is the website of the U.S. Institute for Environmental Conflict Resolution. The Institute, created by Act of Congress, acts to resolve environmental conflicts, promotes the increased use of environmental conflict resolution, and promotes collaborative problem solving and consensus building in the design and implementation of environmental policies.

The Watershed Academy (EPA)

<http://www.epa.gov/owow/watershed/wacademy/>: The Watershed Academy at EPA offers training on watershed processes, functions, and management, provides links to other watershed-related training programs, and access to watershed-related educational documents. It also provides watershed management facilitation services to help states and tribes start watershed projects.

River Network

www.rivernetwork.org: River Network is a nonprofit organization committed to assisting people in understanding, protecting, and restoring rivers and watersheds. River Network provides a variety of services, products, and support to watershed conservationists.

American Rivers

<http://www.americanrivers.org>: American Rivers is a nonprofit membership organization dedicated to protecting and restoring healthy, natural rivers and the variety of life they sustain for people, fish and wildlife. American Rivers provides support to watershed conservationists.

Conservation Technology Information Center (Purdue University)

<http://www.ctic.purdue.edu/KYW>: This website, sponsored by the Conservation Technology Information Center at Purdue University, contains watershed partnership guides, a watershed library, a roster of local watershed groups and related information.

Center for Watershed Protection

<http://www.cwp.org/mission.htm>: The Center for Watershed Protection provides local governments, activists, and watershed organizations around the country with the technical tools for protecting streams, lakes and rivers. The Center has developed and disseminated a multi-disciplinary strategy to watershed protection that encompasses watershed planning, watershed restoration, stormwater management, watershed research, education and outreach and watershed training.