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TO: Interested Parties  
FROM: Andy Kerr  
RE: Outstandingly Remarkable Values Identified for Wild and Scenic Rivers in Oregon  
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### *Abstract*

*The Wild and Scenic Rivers Act requires an administering agency to “protect and enhance” the outstandingly remarkable values (ORVs) for which a wild and scenic river was established. It is vital to ensure that the legislative record and administrative record adequately document all the pertinent ORV. Just for Oregon’s 171 distinct specific ORVs found in various sources are listed for the 69 units of the NWSRS in Oregon, totaling 2,424 miles. A listing of commonly accepted general ORVs is included in addition to the specific ORVs.*

The Wild and Scenic Rivers Act of 1968 (WSRA) requires the agency administering a particular unit of the National Wild and Scenic Rivers System (NWSRS) to fulfill two responsibilities:

- “protect and enhance” the outstandingly remarkable *values* (ORVs) for which that particular unit of the NWSRS was established
- give “primary emphasis” in administration to “protecting its esthetic, scenic, historic, archeologic, and scientific *features*” [emphasis added]

Other than the prohibition of dams and other water projects, and of future mining on federal public lands, “protect and enhance” is the heart and soul of the WSRA. The managing agency determines the ORVs and features of a wild and scenic river (WSR) based on the previous evaluations it may have undertaken prior to designation of the river segment by Congress, the legislative history of the congressional designation, and further evaluation during preparation of the management plan for the new WSR.

It is critical that all the outstandingly remarkable values (ORVs) that caused or might cause a river segment to be included in the WSR are documented for and/or by the administering agency. This memo examines the language of the WSRA as well as management plans for all of the Oregon WSRs for evidence as to what might constitute ORVs worth protecting and enhancing. It offers lists of both general and specific ORVs that might qualify river segments for future protection as part of the NWSRS.

## Outstandingly Remarkable Values: Statutory and Specific “Other Similar”

The WSRA begins:

*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. [emphasis added] ([16 U.S.C. 1271](#))*

Following the language of the WSRA, we say that “scenic, recreational, geologic, fish and wildlife, historic, cultural” are the *statutory* ORVs. That leaves “other similar” values, which while mentioned in the statute are not further defined there. All we can glean from the statute is that such values are not scenic, recreational, geologic, fish and wildlife, historic, or cultural—but are nonetheless “similar.” These values are defined elsewhere through practice and application of the WSRA.

Not one of the four federal land management agencies that administer WSRs and add more WSRs to the NWSRS—the USDA Forest Service (USFS) and the USDI Bureau of Land Management (BLM), Fish and Wildlife Service (FWS), and National Park Service (NPS)—has established a definitive list of “other similar” (or, in the shorthand of common usage, “other”) ORVs. Implementation of the WSRA by these agencies has produced a rather obscure canon of just what those “other similar” ORVs are.

Only the BLM has—as a matter of formal policy—ventured a guess as to what some of the “other” ORVs might include. In the *BLM Manual*, the Bureau of Land Management has specified that “other similar” ORVs include but are not limited to “hydrologic, ecologic/biologic diversity, paleontologic, botanic, and scientific study opportunities” (old *BLM Manual* 8351) or “ecological, biological or botanical, paleontological, hydrological, traditional cultural uses, water quality, and scientific values” (current [BLM Manual 6400](#)).

### Features

Then there are the “features” of a WSR that must be protected. The WSRA states:

*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.*[emphases added] ([16 USC 1281](#))

For a particular component of the NWSRS, such “*features*” may or may not be “outstandingly remarkable *values*.” All “features,” to the degree they exist, must be protected in the administration of a WSR.

“Scenic” and “historic” are named in the statute as both values and features. In the case of several WSRs, “archeologic” and “scientific” features have been found to be outstandingly remarkable (ORVs). However, I’ve not found a case of “esthetic” being found to be an ORV.

Perhaps “esthetic” has not been found to be an ORV because *esthetic* is a word that has fallen out of use (hell, we cannot agree on how to spell it: *aesthetic*). This may be because of the tendency of the conservation movement, industry, commerce, and government to make our cases using utilitarian rather than intrinsic arguments (antonyms of *utilitarian* are *decorative* and *attractive*). It is worth comparing the definitions of *scenic* and *esthetic*:

*Scenic*: “PROVIDING OR RELATING TO VIEWS OF IMPRESSIVE OR BEAUTIFUL NATURAL SCENERY”

*Esthetic*: “CONCERNED WITH BEAUTY OR THE APPRECIATION OF BEAUTY”

And since *scenic* is defined by “scenery”:

*Scenery*: “THE NATURAL FEATURES OF A LANDSCAPE CONSIDERED IN TERMS OF THEIR APPEARANCE, ESPECIALLY WHEN PICTURESQUE: SPECTACULAR VIEWS OF MOUNTAIN SCENERY; THE PAINTED BACKGROUND USED TO REPRESENT NATURAL FEATURES OR OTHER SURROUNDINGS ON A THEATER STAGE OR MOVIE SET” [emphasis in original]

A wildflower-strewn meadow within a WSR can be both scenic and esthetic. An individual flower within a WSR is not scenic but can be esthetic.

### **ORVs: Bureaucratic and Congressional Findings**

Identification of ORVs is critical not only for management of existing WSRs but also because it figures heavily in agency consideration of potential wild and scenic rivers. More and more, it also figures heavily in congressional consideration of such. A little background on the process of designating WSRs as it has evolved through time and as it is experienced by the various stakeholders will clarify why ORV findings matter.

After the eight original WSRs established by the WSRA, most new WSRs were added to the NWSRS by specific Acts of Congress. A relative few came via another path provided for in the WSRA: gubernatorial request for an already state-protected stream. In the early decades, Congress established WSRs that were first formally “studied” by a land management agency at the specific direction of Congress ([16 U.S.C. 1276\(a\) & \(b\)](#)). Such studies determined ORVs. Later on, WSRs were often established without having had a full formal congressionally mandated study but as a result of the evaluations the WSRA required the four federal land management agencies to do as part of ongoing planning processes ([16 U.S.C. 1276\(d\)](#)). Most recently, Congress has relied more on the expert testimony of citizens and fact finding by congressional staff to determine ORVs.

#### *Bureaucratic (Pre-Designation) Findings*

Before a WSR is designated by Congress, a bureaucracy is likely hostile to its establishment. The requisite eligibility and suitability determinations are generally prepared by foresters, range conservationists, or practitioners of similar commodity-focused disciplines that are generally hostile to outstandingly remarkable values.

It is axiomatic: a bureaucracy does not like to have its discretion limited. The WSRA requires the four land management agencies to consider potential WSRs in their planning processes. The designation of a WSR by Congress results in limiting the discretion of the agency. In the cases of the Forest Service and the BLM, this could mean limits on logging, grazing, mining, off-road vehicle use, and other activities the agencies strongly favor.

### **A Word About “River-Related”**

In agency consideration of potential wild and scenic rivers, most agencies insist that an outstandingly remarkable value (ORV) must be “river-related.” The term is not found in the Wild and Scenic Rivers Act but is often found in agency-issued direction, generally to limit the potential ORVs and thus limit potential wild and scenic rivers. Though often applied narrowly, the only official agency definition of “river-related,” offered in [BLM Manual 6400](#), is generally quite broad:

*While the spectrum of resources that may be considered is broad, all features considered should be directly river related. That is, they should: (1) be located in the river or on its immediate shorelands (within 1/4 mile on either side of the river), (2) contribute substantially to the functioning of the river ecosystem, and/or (3) owe their location or existence to the presence of the river.*

In considering wild and scenic river designations, US senators and members of Congress are more interested in what citizens think about ORVs associated with a potential wild and scenic river than what the agency thinks.

The result is that formal WSR studies, and “eligibility” and/or “suitability” determinations required in Forest Service and BLM plans, end up recommending few stream segments to Congress for wild and scenic river protection. Often an agency just ignores most stream segments in its jurisdiction. When it does evaluate a stream segment, it often finds values that while “remarkable” are not outstandingly so. Where the agency does find at least one ORV, thereby deeming the stream “eligible” for designation by Congress, the next bureaucratic step in the evaluation is often that the segment, even though outstandingly remarkable, is not “suitable” (the agency finds that it would not be a good idea for Congress to designate it as a WSR).

The case is different for the National Park Service and the Fish and Wildlife Service. Since their lands already have a strong conservation mandate, a WSR is not bureaucratically viewed as limiting bureaucratic discretion but rather furthering bureaucratic hopes.

### *Congressional Findings*

The appetite of Congress to establish WSRs is far greater than that of the bureaucracy to recommend them. Therefore, increasingly, as part of the legislative process, Congress is determining not only what “other similar” ORVs are but also assigning statutory ORVs to particular additions to the NWSRS. ORVs for these NWSRS units can be divined from testimony and other information submitted to Congress, from statements by sponsors of the legislation establishing new or expanded WSRs, from formal “committee reports” that sometimes accompany a bill through the legislative process, or from remarks in the *Congressional Record*.

### **Seek and Ye Shall Find**

Previously the Forest Service had found a segment of the Zigzag River to have no ORVs and therefore to be “ineligible” for congressional designation as a wild and scenic river. Nonetheless, Congress established the Zigzag Wild and Scenic River in 2009. A decade later, taking a closer look, the Forest Service found that the Zigzag River is outstandingly remarkable for its scenery (duh) and recreation (double duh) as it flows off the slopes of Mount Hood through the Mount Hood Wilderness. The Forest Service also found another ORV in the “other similar” category of ecological, biological diversity, scientific, and/or wildlife. Specifically: macroinvertebrates. In most particular, Scott’s apatanian caddisfly. The agency noted:

*Macroinvertebrate is also an outstandingly remarkable value. There are only nine populations of the Scott’s apatanian caddisfly (Allomyia scotti) known in the entire world, all of which are found on the Mt. Hood National Forest. The habitat for this species is present within the Zigzag River.*

Even Congress misses one once in a while.

### *Bureaucratic (Post-Designation) Findings*

After a WSR is designated by Congress, a bureaucracy is far less hostile to such. The requisite management plan is prepared by the administering agency, but the efforts are often led by resource specialists with an affinity for outstandingly remarkable values.

It’s all about the legislative history. The pre-designation findings of the bureaucracy as to ORVs do not limit Congress, and the post-designation agency ORV findings will at least include the ORVs recognized in the congressional process.

<b>Table 1: General Outstandingly Remarkable Values for Wild and Scenic Rivers</b>	
archeological (or <i>archeologic</i> )	paleontological (or paleontologic)
botanical (or botanic)	prehistorical (or prehistoric)
biological diversity	connectivity
<b>cultural</b>	<b>recreational</b> (or recreation)
ecological (or ecologic)	<b>scenic</b> (or scenery)
<i>esthetic</i>	<i>scientific</i> (scientific study or scientific values)
<b>fish</b> (or fisheries)	traditional cultural uses
geological (or <b>geologic</b> )	water quality
historical (or <i>historic</i> )	water quantity
hydrological (or hydrologic)	<b>wildlife</b> (or fish and wildlife)
macroinvertebrates	wildness
<b>Bold</b> denotes general ORVs expressly called out in the Wild and Scenic Rivers Act. The remainder encompass the “other similar values” mentioned in the act. ( <a href="#">16 USC 1271</a> )	
<i>Italic</i> (bolded or not) denotes the “features” for which “primary emphasis shall be given” by the agency administering the wild and scenic river. ( <a href="#">16 USC 1281</a> )	

### **General and Specific ORVs, Listed for Handy Reference**

Practice has evolved—and is still evolving—to categorize ORVs as either *general* or *specific*. A general ORV is described in one or a few words and encompasses a broad range of specific values. Specific ORVs are more refined as to the particular kind of general ORV or specific to a particular WSR.

## General ORVs

All of the statutory ORVs are general ORVs. Through administrative and congressional practice, several other general ORVs have come into common application (Table 1). The list of general ORVs will likely continue to expand. I have included “wildness” as a general ORV not because it has been previously determined to be an ORV, but because it should be and it is not well captured in the other ORVs.

## Specific ORVs

Table 2 is a list of bureaucratic pre-designation, congressional, and bureaucratic post-designation findings of both general and specific ORVs compiled from a survey by the author of all available management plans for Oregon WSRs.

Table 2 is limited to Oregon WSRs because that is what the author is most familiar with and most committed to. However, it is worth noting that as of 2020, Oregon has more units (but not miles) in the NWSRS than any other state. There are 69 units of the NWSRS in Oregon, totaling 2,424 stream miles, representing 31 percent of the individual units and 18 percent of the miles in the national system. Though geographically limited, the sample size of specific ORVs is robust.

One particularly outstandingly remarkable management plan is that for the White WSR, which arises from a glacier on Mount Hood and empties into the Deschutes River. The White River WSR management plan was jointly prepared by the Forest Service and the BLM and is an excellent example of documenting specific ORVs. The highly specific White WSR ORVs are in *italics* in Table 2.

Equally remarkable are the specific ORVs that Senator Ron Wyden (D-OR), a champion of the Wild and Scenic Rivers Act, detailed in the *Congressional Record* for several WSRs established or expanded in 2019. The specific Wyden-described ORVs are shown in SMALL CAPS in Table 2.

Finally, Table 2 lists specific ORVs identified by the Forest Service in a document entitled “[River Values Report for Nine Wild and Scenic Rivers on Mt. Hood National Forest](#)” (April 2019) for wild and scenic rivers established or expanded in 2009. Those particular specific ORVs are underlined.

<b>Table 2: Specific ORVs Identified for NWSRS Units in Oregon</b>
<u>100-foot waterfall</u>
<i>active glacier</i>
APPLEGATE NATIONAL HISTORIC TRAIL CROSSING
<i>aspect and gradient</i>
<i>Barlow Road</i>
<i>bog communities and stiff club moss</i>
botanic/botany
botany
<u>camping</u>
CAMPING AND FISHING
CLEAN COLD WATER THAT SUPPORTS MAINSTEM NATIVE FISHERY VALUES
CLEAN COLD WATER THAT SUPPORTS WILD SALMON AND WILD STEELHEAD
<u>core population of bull trout</u>

CRITICAL HABITAT FOR WILD SPRING CHINOOK SALMON AND WILD WINTER STEELHEAD, [AND] NATIVE RESIDENT CUTTHROAT TROUT
critical travel (migration) corridor for deer and elk between winter and calving seasons
<b>cultural</b>
cultural–prehistory
cultural–traditional use
DACE
<i>dark soiled bogs and “genus communities” of grape ferns</i>
DEL NORTE SALAMANDER
DIVERSE VIEWS DUE TO DIVERSE VEGETATION AND GEOLOGY
<i>diversity of threatened, endangered, and sensitive species</i>
ecologic/biologic diversity
ecology
ecology/botany
ENDEMIC SNAIL SPECIES
equestrian trail use along the river, especially as an easy trail
EXCELLENT CRAYFISH, BEAVER, AND NATIVE CUTTHROAT TROUT HABITAT
exceptional wild trout fisheries
expert whitewater kayaking
<b>fish</b>
fish habitat and populations
fisheries
fishing
FIVE IDENTIFIED CULTURAL SITES, VIEWS OF CLIFFS, MOSS-COVERED BOULDERS, AND DIVERSE STREAM-SIDE VEGETATION
full suite of native [fish] species
<i>fumarole field</i>
<i>genetically isolated redband rainbow trout</i>
<b>geologic</b>
geology/hydrology//geologic/hydrologic//geohydrologic
<i>ghost forests</i>
<i>glacial valley floodplain</i>
<i>glacially carved valley</i>
glaciated canyons
<i>graveyard butte</i>
HABITAT FOR SOUTHERN OREGON–NORTHERN CALIFORNIA (SONCC) WILD COHO
habitat for the harlequin duck
HABITAT FOR THREATENED MARBLED MURRELETS
<i>harlequin duck habitat</i>
HIGH CONCENTRATION OF ROUGH-SKINNED NEWTS IN WASSON LAKE
HIGH-QUALITY HABITAT FOR BALD EAGLE, NORTHERN SPOTTED OWL, RED TREE VOLE, MARBLED MURRELET, AND COASTAL GIANT SALAMANDER
highly memorable and impressive canyon views
highly memorable and photographic [scenery]
HIGHLY RATED SCENERY INCLUDES GORGEOUS RIVER
hiking
<b>historical/historic</b>
HORSEBACK RIDING
hunting

hydrologic
INTACT MATURE AND OLD-GROWTH FOREST HABITAT
INTACT WILLOW RIPARIAN HABITAT
JENNY CREEK SUCKER
<i>kayaking</i>
KAYAKING, FISHING, [AND] HIKING
<i>Keeps Mill</i>
<i>Keeps Mill overlook</i>
LAMPREY
<u>large, deep-seated earthflows that are very active</u>
LARGEST AND ONE OF THE FEW NATURAL POPULATIONS OF NELSON'S CHECKERMALLOW IN THE OREGON COAST RANGE
<u>low-impact recreation opportunities</u>
macroinvertebrates
MATURE AND OLD-GROWTH FOREST HABITAT
MATURE AND OLD-GROWTH FORESTS
MATURE AND OLD-GROWTH FORESTS SUCH AS PORT ORFORD CEDAR, BREWER'S SPRUCE, SADLER'S OAK, [AND] SIERRA LAUREL
MATURE FOREST SCENIC VALUES
MATURE FORESTS
MOUNTAIN BIKING
Native American cultural use
NATIVE CUTTHROAT TROUT
NATIVE REDBAND TROUT
NATIVE RESIDENT RAINBOW AND NATIVE CUTTHROAT TROUT, WILD WINTER STEELHEAD
natural values
<i>nature and wildlife observation</i>
nature study
<i>Nordic skiing</i>
NORTHERN PACIFIC POND TURTLE
<i>northern spotted owl habitat</i>
<i>Old Maid age pyroclastic flows and mudflow deposits</i>
<u>old-growth trees along the river</u>
OLDER FOREST SCENERY
ONLY KNOWN BREEDING SITE IN OREGON COAST RANGE FOR HARLEQUIN DUCKS
<b>other similar</b>
outstanding whitewater boating
paleontologic
<u>Parkdale lava flow</u>
PART OF THE LARGEST OREGON COAST RANGE LOW ELEVATION MATURE AND OLD-GROWTH RAINFOREST
<i>peregrine falcon habitat</i>
<i>photography</i>
<i>plant community diversity</i>
PORT ORFORD CEDAR
POSSIBLE DWARF WESTERN PEARL SHELL MUSSEL
<i>potential research natural area</i>
prehistory/prehistoric
premier steelhead and trout fisheries

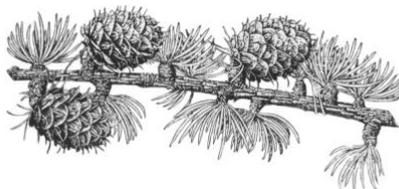
quality habitat for cold water corydalis
<b>recreational/recreation</b>
riparian
<i>river color</i>
ROGUE RIVER NATIONAL RECREATION TRAIL
ROGUE RIVER STONECROP
ROOSEVELT ELK WINTER RANGE
<i>rugged hiking and backpacking</i>
SCENIC VIEWS OF THE LAKESHORE AND BEYOND
<b>scenic/scenery</b>
scientific study opportunities
Scott's apatanian caddisfly ( <i>Allomyia scotti</i> )
SCULPINS
<i>sightseeing</i>
<i>solitude opportunities</i>
South Fork Water Board pipeline and associated features (decommissioned in 1985)
species diversity
swimming
threatened and endangered species
threatened and endangered species habitat
THREE EPA LEVEL IV ECOREGIONS CONVERGE
Timberline Trail and Pacific Crest Trail
traditional value/lifestyles adaptation
trout fishing
[truly wild] mid-Columbia steelhead
<i>Tygh Valley milkvetch</i>
unique and challenging experience for kayakers
UNIQUE COLUMNAR BASALT ROSETTE FORMATION
unique ecosystems
<b>unique whitewater opportunities</b>
<i>unusual extensions of species beyond normal range</i>
vegetation
vegetative communities
VERY HIGH PRODUCING WILD STEELHEAD STREAM
VIEW OF AND FROM THE ROGUE RIVER CANYON, AND THE ROGUE RIVER NATIONAL RECREATIONAL TRAIL
VIEWS FROM THE UMPQUA RIVER LOOKING UP THE WATERSHED
<i>views from Timberline Lodge and lower parking area, Highway 35, Timberline Trail, White River sno-park of the river</i>
<i>views of Bonnie Butte and Mount Hood from the river</i>
violet suksdorfia
water quality and quantity
WATERFALL
whitewater boating
WILD CHINOOK SALMON
WILD CHUM SALMON
WILD COHO SALMON
WILD COHO SALMON, WILD WINTER STEELHEAD, WILD FALL CHINOOK SALMON, AND LAMPREY
WILD FALL CHINOOK

WILD WINTER AND WILD SUMMER STEELHEAD
WILD WINTER STEELHEAD
WILD WINTER STEELHEAD, WILD COHO SALMON, AND WILD FALL CHINOOK SALMON
wilderness
<b>wildlife</b>
[wildlife] diversity due to the elevation changes within the corridor and creek itself
wildlife habitat
wildlife habitat and populations
WINTER AND SUMMER STEELHEAD
WINTER STEELHEAD
<b>Bold</b> entries are “statutory” outstandingly remarkable values called out in the Wild and Scenic Rivers Act of 1968 as amended.
Plain (roman) entries were compiled from a quick review of the webpage for <a href="#">each current wild and scenic river in Oregon</a> and a quick scan of each wild and scenic river management plan, if available, from that site or other agency documents (N=32).
<i>Italic</i> entries are specific to the White Wild and Scenic River and are adapted from Table 3.1, White River National Wild and Scenic River Environmental Assessment (ca. 1993), jointly prepared by the USDA Forest Service and USDI Bureau of Land Management. It is the most detailed listing of outstandingly remarkable values by any agency that the author has come across.
SMALL CAP entries are specific ORVs noted by Senator Wyden in the <a href="#">September 11, 2019, Congressional Record</a> .
Underlined entries are specific ORVs noted in <a href="#">River Values Report for Nine Wild and Scenic Rivers on Mt. Hood National Forest</a> ” (April 2019).

## Conclusion

Outstandingly remarkable values can be determined through federal land management agency evaluations and through citizen advocacy during the legislative process that becomes part of the legislative history of the congressional statute that places the new wild and scenic river into the National Wild and Scenic Rivers System.

In the end, an ORV is anything that the administering agency accepts in developing the requisite management plan for a component of the National Wild and Scenic Rivers System. Where Congress has spoken on, or relied upon evidence of either general or specific ORVs for particular system components, an agency should give full weight to the congressional findings. If it does not, it will seem to be acting in an arbitrary and capricious manner.



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