



THE LARCH COMPANY

ANDY KERR, CZAR

OFFICES IN ASHLAND, OREGON AND WASHINGTON, DC,

503.701.6298 CELL/TEXT

ANDYKERR@ANDYKERR.NET • WWW.ANDYKERR.NET

TO: Interested Parties
FROM: Andy Kerr
RE: Outstandingly Remarkable Values Identified for Wild and Scenic Rivers in Oregon
DATE: 27 October 2019 (revised from 13 August 2015 original)

The Wild and Scenic Act (WSRA) of 1968 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](#).*

WSRA requires that each “free-flowing” stream included in the National Wild and Scenic Rivers System as a wild and scenic river have at least one “outstandingly remarkable value” (ORV).

WSRA defines “free-flowing”:

as applied to any river or section of a river, means existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence, however, of low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the national wild and scenic rivers system shall not automatically bar its consideration for such inclusion: Provided, That this shall not be construed to authorize, intend, or encourage future construction of such structures within components of the national wild and scenic rivers system. [16 U.S.C. 1286\(b\)](#).

As for the other “non-statutory ORVs, “other similar” values” has been shorthanded by common useage to “other” values. None of the four federal land management agencies that administer wild and scenic rivers (USDA Forest Service [USFS] and USDI Bureau of Land Management [BLM], Fish and Wildlife Service [FWS] and National Park Service [NPS]) have established definitive lists of “other” ORVs. Only BLM has—as a matter of formal policy—ventured as to what some of the “other” ORVs might include. In the now superseded *BLM Manual 8351*, the agency said:

Other Similar Values. While no specific evaluation guidelines have been developed for the "other similar values" category, additional values deemed relevant to the eligibility of the river segment should be considered in a manner consistent with the foregoing guidance -- **including, but not limited to,** hydrologic, ecologic/biologic diversity, paleontologic, botanic, and scientific study opportunities.¹ [emphasis added]

[BLM Manual 6400](#), which superseded 8351, says:

Values among those listed in Section 1(b) of the Wild and Scenic Rivers Act: "scenic, recreational, geological, fish and wildlife, historical, cultural, or other similar values." Other values that may be considered include, but are not limited to, ecological, biological or botanical, paleontological, hydrological, traditional cultural uses, water quality, and scientific values.

Determining Outstandingly Remarkable Values Before and After Designation as a Wild and Scenic River

The outstandingly remarkable values cataloged here are either those that:

- Congress determined the wild and scenic river to have during consideration of the legislation to establish it; and/or
- the managing agency found the wild and scenic river to have as it was developing the requisite management plan.

In general, Congress is willing to be more expansive of what qualifies as an outstandingly remarkable value to support legislation to designate a wild and scenic river. After all, if voters think something is outstandingly remarkable in value, then it is.

In general, the managing agencies view outstandingly remarkable value through two distinct lenses:

- *Before* designation when the agency is doing an evaluation of whether or not it should recommend that Congress establish a particular free-flowing stream as a wild and scenic river.
- *After* designation of a wild and scenic river by Congress when the agency's role is limited to managing it, whether the agency was supportive or not of designation.

It almost always comes down to this. As a class, Bureau of Land Management and Forest Service managers (far less the case with National Park Service or Fish and Wildlife Service land managers) view wild and scenic river establishment as a limit of their management discretion. Bureaucrats like discretion, as it is in their nature. As they want reasons not to make recommendations that limit their discretion, managers will be quite stingy with ORV determinations for a stream they have to evaluate and possibly make a recommendation to Congress as to whether to designate it as wild and scenic river.

After designation, federal land managers view themselves as entrusted with the management of a public resource worthy of congressional recognition, and after all, there are often several ORVs worth noting.

Table 1 lists "other" outstandingly remarkable values that have been either identified by the managing agency in the management plan for a wild and scenic river in Oregon, documents in

¹ BLM Manual 8351.31.C.8. (2015).

which Congress identified the value as an ORV when it was considering the legislation designating the wild and scenic river, or other agency reports. Many management plans for national wild and scenic rivers may be found at rivers.gov.²

While the sample is limited to (and therefore biased toward) Oregon, it should be noted that 29% of the total units of and 15% of the total miles in the National Wild and Scenic Rivers System are found in Oregon. In Table 1, **bold** entries are the “statutory” ORVs. *Italic* entries were drawn from the White Wild and Scenic River Management Plan, jointly prepared by the USDA Forest Service and USDI Bureau of Land Management in 1993. In that plan, the managing agencies detailing of particular outstandingly remarkable values is the most encompassing I have come across.

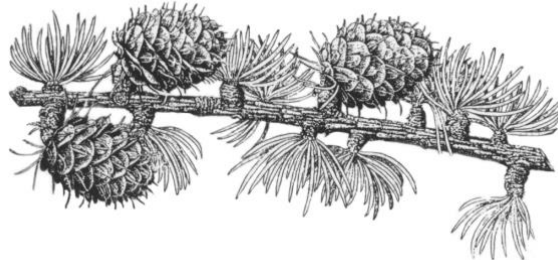
One can conclude from Table 1 that an outstandingly remarkable value is either what the managing agency identifies or is told by Congress to be. If a proposed wild and scenic river has a value is outstandingly remarkable to you, all you need to do is convince Congress to designate it.

A Word About “River-Related”

In agency consider 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 potential wild and scenic rivers. Those often applied narrowly, the only official agency definition is generally quite broad. In [BLM Manual 6400](#), that agency defines “river-related”:

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 does.



DEDICATED TO THE CONSERVATION AND RESTORATION OF NATURE, THE LARCH COMPANY IS A NON-MEMBERSHIP FOR-PROFIT ORGANIZATION THAT REPRESENTS SPECIES THAT CANNOT TALK AND HUMANS NOT YET BORN. A DECIDUOUS CONIFER, THE WESTERN LARCH HAS A CONTRARY NATURE.

² www.Rivers.gov. [Management Plans](#) (web page).

Table 1	
Identified Outstandingly Remarkable Values for National Wild and Scenic Rivers System Unit in Oregon	
<i>Active glacier</i>	<i>Aspect and gradient</i>
<i>Barlow Road</i>	<i>Bog communities and stiff club moss</i>
Botanic/Botany	Botany
Camping	Cultural
Cultural-Prehistory	Cultural-Traditional Use
<i>Dark soiled bogs and “genus communities” of grape ferns</i>	<i>Diversity of threatened, endangered, and sensitive species</i>
Ecologic/Biologic Diversity	Ecology
Ecology/Botany	Exceptional Wild Trout Fisheries
Expert Whitewater Kayaking	Fish
Fish Habitat and Populations	Fisheries
Fishing	<i>Fumarole field</i>
<i>Genetically isolated redband rainbow trout</i>	Geologic
Geology/Hydrology//Geologic/Hydrologic	<i>Ghost forests</i>
<i>Glacial valley floodplain</i>	<i>Glacially carved valley</i>
Glaciated Canyons	<i>Graveyard Butte</i>
<i>Harlequin duck habitat</i>	Hiking
Historical /Historic	Hunting
Hydrologic	<i>Kayaking</i>
<i>Keeps Mill</i>	<i>Keeps Mill Overlook</i>
Macroinvertebrates	Native American Cultural Use
Natural Values	<i>Nature and wildlife observation</i>
Nature Study	<i>Nordic skiing</i>
<i>Northern spotted owl habitat</i>	<i>Old Maid age pyroclastic flows and mudflow deposits</i>
Other**	Outstanding Whitewater Boating
Paleontologic	<i>Peregrine falcon habitat</i>
<i>Photography</i>	<i>Plant community diversity</i>
<i>Potential Research Natural Area</i>	Prehistory/prehistoric
Premier Steelhead and Trout Fisheries	Recreational /recreation
Riparian	<i>River color</i>
<i>Rugged hiking and backpacking</i>	Scenic /Scenery
Scientific Study Opportunities	<i>Sightseeing</i>
<i>Solitude opportunities</i>	Species Diversity
Swimming	Threatened and Endangered Species
Threatened and Endangered Species Habitat	Traditional Value/Lifestyles Adaptation
Trout Fishing	<i>Tygh Valley milkvetch</i>
Unique Ecosystems	<i>Unusual extensions of species beyond normal range</i>
Vegetation	Vegetative Communities
<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>
Water Quality and Quantity	Whitewater Boating
Wilderness	Wildlife
Wildlife Habitat	Wildlife Habitat and Populations
Bold entries are “statutory” outstandingly remarkable values called out in the Wild and Scenic Rivers Act of 1968 as amended.	
Plain (Roman) entries were compiled by a quick review of each webpage for each current wild and scenic river in Oregon (http://www.rivers.gov/oregon.php) 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 (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 that the author has come across.	
** “Other” is from the statute, but is not further defined. This list has been compiled from agency-identified values used over the decades and identified or recognized for wild and scenic rivers in Oregon by the managing agency.	