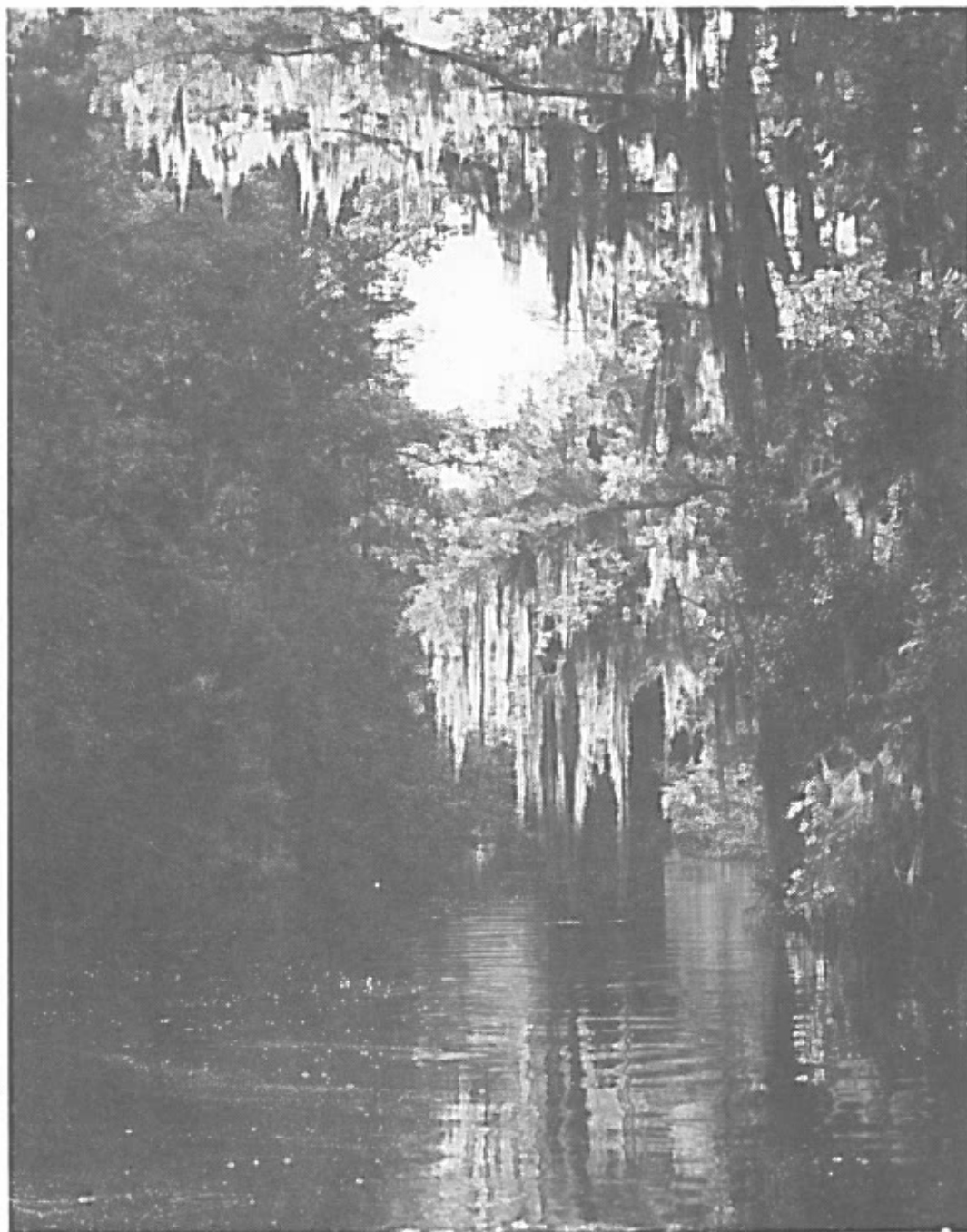




S O U T H C A R O L I N A



SCENIC RIVERS PROGRAM ADMINISTRATIVE HANDBOOK



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SOUTH CAROLINA SCENIC RIVERS PROGRAM ADMINISTRATIVE HANDBOOK

REPORT NO. 172

South Carolina Water Resources Commission

1201 Main Street, Suite 1100
Columbia, South Carolina 29201

1991

STATE OF SOUTH CAROLINA
The Honorable Carroll A. Campbell, Jr., Governor

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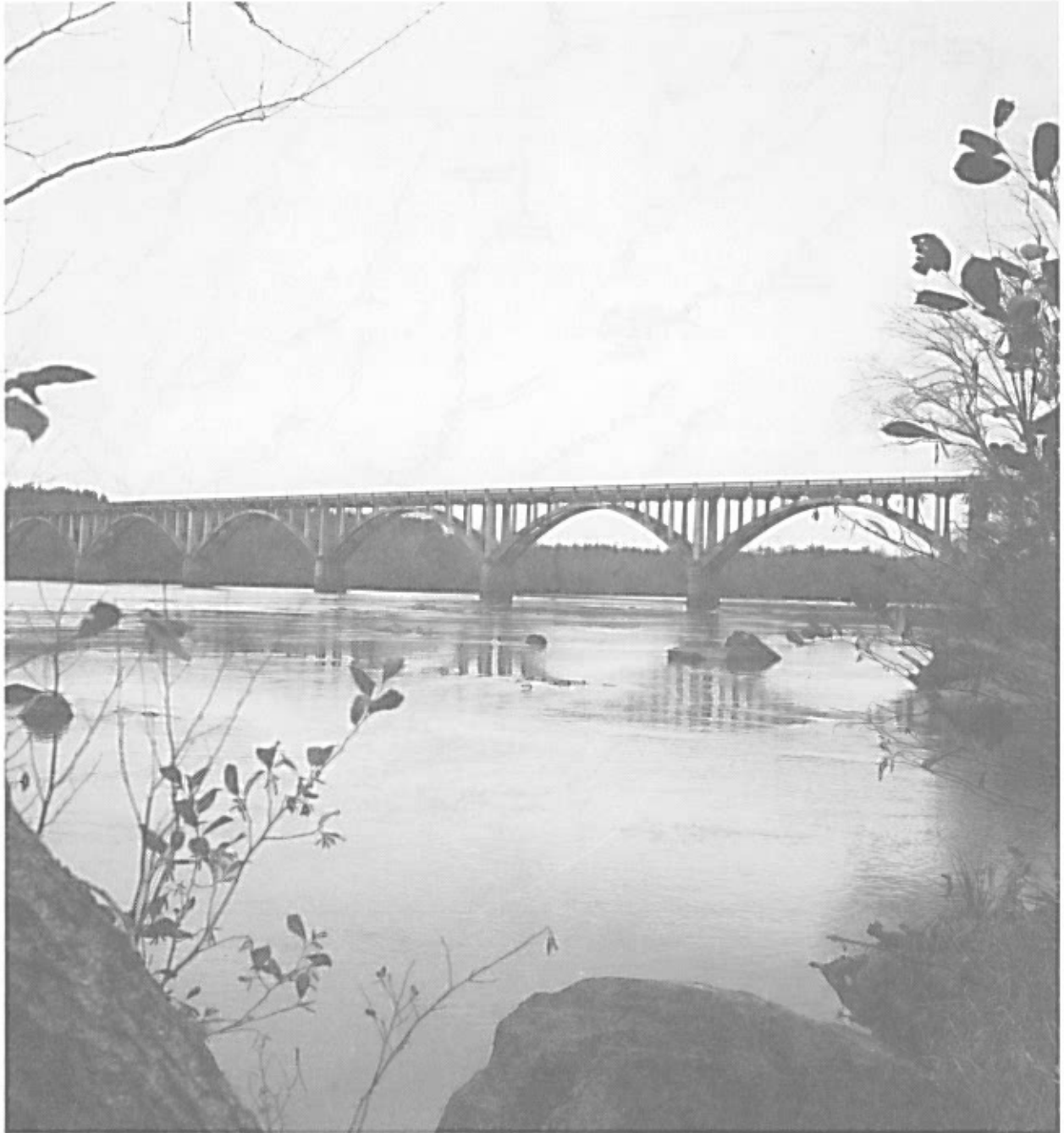
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SOUTH CAROLINA'S RIVERS



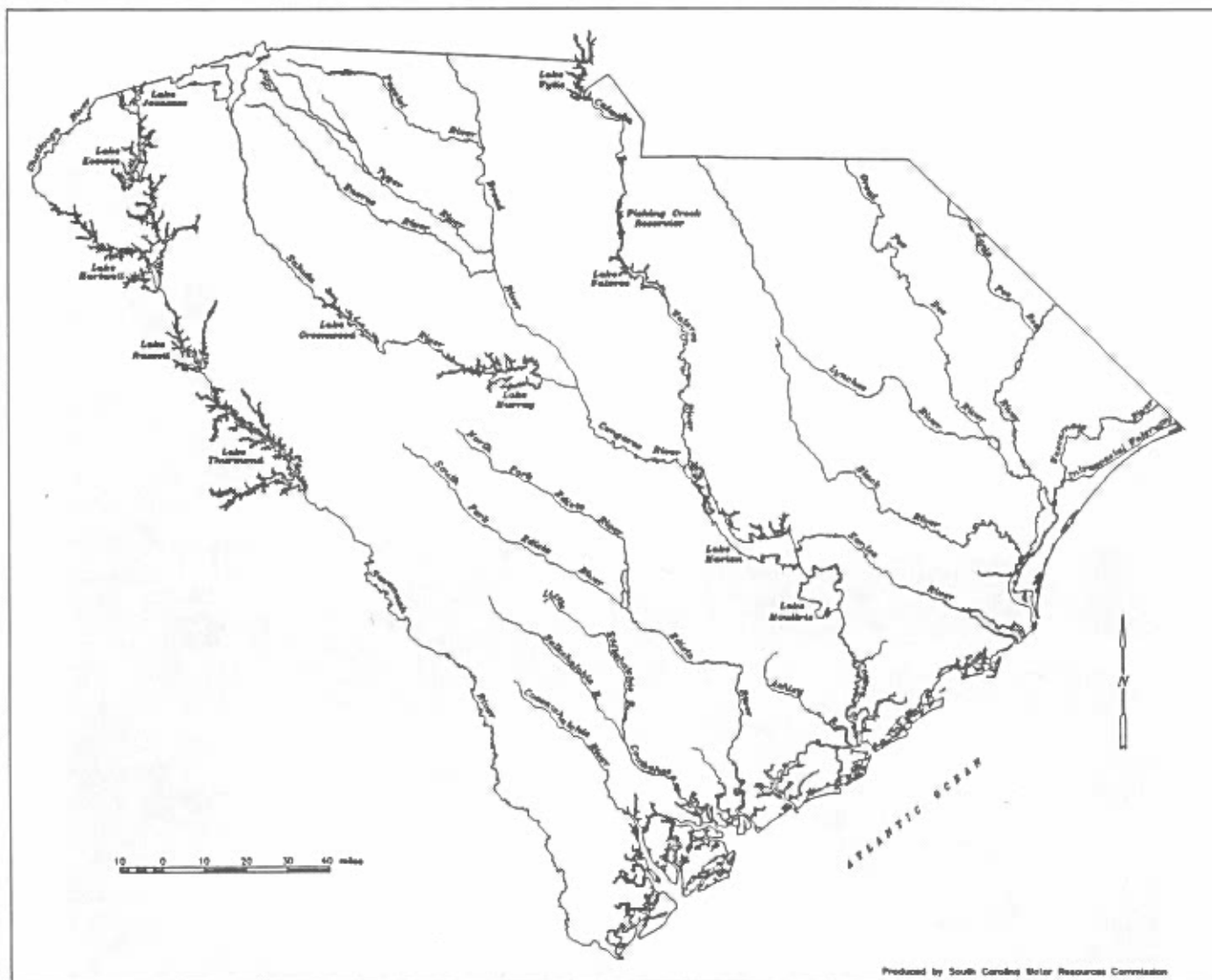


Figure 1. Major Rivers and Lakes of South Carolina

South Carolina's rivers are a valuable natural and cultural resource, forming a central part of our rich natural heritage. Within the state there are over 11,100 miles of flowing rivers and streams, or about half of a mile of stream for every square mile of land surface. Rivers are of crucial importance to the state's future, transporting our goods, providing drinking water, turning our turbines, supplying our industries, producing our food, and providing quality recreational opportunities. They provide essential fish and wildlife habitat and recreational benefits, channel floods, and assimilate waste. Yet our dependency on these flowing waters for this wide array of benefits places these river resources at risk. However, the state's riverine resources are multifaceted, presenting numerous opportunities for continued development and a sound conservation program.

The state's rivers are a study in contrasts, representing a variety of riverine types and creating a diversity of riparian environments. From the cold waters of the boulder-strewn mountain streams to the tannin-stained blackwater rivers of the expansive coastal plain, South Carolina possesses rivers of magnificent beauty and vitality. The Thompson River, a mountain stream, flows into South Carolina in Oconee County, dropping in a series of dramatic waterfalls into Lake Jocassee. The Thompson supports native trout and is one of the state's more remote rivers. Piedmont rivers such as the Tyger, Enoree, or the Broad, twist and turn as they flow quietly through the hardwood forests providing habitat for a variety of wildlife ranging from wild turkey to white-tailed deer. South Carolina's urban rivers like the lower Saluda River in Columbia provide numerous recreational opportunities with its trout and striped bass fisheries, and whitewater rapids, as well as a great variety of birds and wildflowers. Big rivers such as the Savannah and the Great Pee Dee provided avenues into the interior of South Carolina for the early settlers and carried commercial goods to the coastal ports. They serve various purposes from industrial to recreational today.

Finally, there are the blackwater rivers. These beautiful tea-colored rivers such as the Little Pee Dee, Edisto, Black, Ashepoo, and Waccamaw flow over white, sandy bottoms and silently glide past wide sandbars as they meander through the vast cypress-tupelo swamps of South Carolina. The blackwater rivers bring the river user into the state's and the south's true wildernesses -- the blackwater swamps.

These rivers provide only a few examples of South Carolina's diverse riverine resources. South Carolina contains one of the last significant tracts of old growth southern bottomland hardwood forests in the Congaree Swamp National Monument along the Congaree River. Some of the southeast's most scenic waterfalls such as Raven Cliff Falls or Lower Whitewater Falls are located on South Carolina rivers. The longest free-flowing blackwater river in the United States, the Edisto River, is in South Carolina.

South Carolina utilizes many of its rivers for needed economic benefits. However,

many of the state's rivers remain largely unspoiled and unharnessed, flowing free as they have for centuries. Each successive generation places new pressures and new stresses on our limited and commonly held riverine resources.

The aesthetic, recreational and the economic qualities of rivers are important to the citizens of South Carolina. Clearly, the economic use and the conservation of our river resources are in the public interest. The key is to balance these two potentially competing interests through clearly stated policies and enlightened management.

Interest in river conservation increased dramatically in the 1980s. It is the purpose of the Scenic Rivers Program as specified by the South Carolina General Assembly to protect rivers possessing unique or outstanding natural, cultural, or recreational values. This handbook describes the intent of the South Carolina Scenic Rivers Program, explains the Scenic Rivers legislation and requirements of the Act, and discusses the system as it presently exists.

THE SOUTH CAROLINA SCENIC RIVERS ACT

Background

In July of 1974, Governor John West signed the original South Carolina Scenic Rivers Act into law. The legislative declaration of purpose in the 1974 Act stated that:

The General Assembly finds that certain selected rivers and sections of rivers of this state possess unique and outstanding scenic, recreational, geologic, fish and wildlife, historic and cultural values. It is the policy of the General Assembly to provide for the protection of these selected diminishing values and to preserve the state's natural heritage for the benefit and enjoyment of present and future generations.

The Act authorized the establishment of a State Scenic Rivers Program and specified procedures for designation, acquisition and use of river segments worthy of protection.

The primary vehicle for protecting river corridors under the 1974 law was the acquisition of conservation easements from riparian landowners. This participation is entirely voluntary. The law did provide the legal authority to purchase properties; however, no monies were ever appropriated for that purpose. The Act was amended in 1981 to include changes in the valuation of donated properties for tax purposes, limitations on liability of titleholders of donated properties, and provisions for public use and access on scenic rivers.

Only one river, a five-mile stretch of the Middle Saluda River in Caesar's Head State Park in Greenville County, was protected by the Scenic Rivers Program before changes in the law in 1989. The ineffective nature of the original legislation plus a growing interest in river conservation in South Carolina lead to the passage of new scenic rivers legislation in 1989.

New Directions

On June 1, 1989, Governor Carroll A. Campbell, Jr. signed into law the Scenic Rivers Act of 1989. The new law maintains the voluntary aspects of the previous law, relying primarily on voluntary donations of land or conservation easements from riparian landowners. However, the 1989 Act created the Scenic Rivers Trust Fund, which is a

funding mechanism that may accept funds from a variety of sources for the purpose of purchasing riparian lands from willing sellers.

The other changes in the 1989 law are oriented toward more options for landowner participation. The new legislation mandates the creation of advisory councils for each scenic river and provides a co-management provision which gives the South Carolina Water Resources Commission (Commission) the authority to enter into agreements to cooperatively manage a river with public or private entities. The 1989 Act also requires that designation of scenic rivers by the Commission be ratified by the General Assembly. The Commission determines the eligibility of rivers for inclusion in the program and administers all other aspects of the State Scenic Rivers Program.

The following sections of this handbook contain the standards and procedures of the Commission for determining the eligibility of rivers or portions of rivers for the Scenic Rivers Program, and for managing lands acquired by the state as scenic rivers. The standards and procedures are not formal regulations, but serve as guidelines in the formulation of management plans and protective frameworks for the fulfillment of the purpose of the South Carolina Scenic Rivers Act. These standards and procedures have been developed pursuant to the provisions of the Scenic Rivers Act of 1989 (Section 49-29-10 *et seq.*, 1976 *South Carolina Code of Laws*).

PROCEDURES FOR SCENIC RIVER DESIGNATION

Introduction

The following section delineates the steps required for protecting a river through the Scenic Rivers Program. The process has eight steps beginning with a formal request for designation and ending with the acquisition of management rights in the river corridor.

Requests

The scenic river designation process begins with the receipt by the Commission of a request to evaluate a river or river segment to determine if the river is eligible to become a state scenic river. Requests for an evaluation and designation of rivers or river segments may be made to the Commission by state agencies, local governments, or other governmental units, citizen's groups, riparian landowners, or individuals. The process may also begin by a motion from the Commission. Written requests are required and should provide evidence as to how a proposed river meets the criteria for scenic river status. The Commission may then conduct an eligibility study to determine whether the proposed river is eligible for scenic river designation.

Eligibility Investigation

The purpose of the eligibility investigation is to gather sufficient information concerning the condition and uses of a river and surrounding lands to determine if the river or river segment exhibits unique or outstanding scenic, recreational, geologic, botanical, fish, wildlife, historic, or cultural values which would merit protection under the Scenic Rivers Program. In evaluating whether a river or river segment is eligible as a scenic river, the Commission will apply the "Criteria for Eligibility and Classification" outlined in Section IV of this handbook. The study is conducted by Commission staff.

Prior to the completion of the eligibility study, the Commission must hold a public meeting in the vicinity of a river or river segment proposed for scenic river designation to solicit comments from the public concerning the proposed designation. Notice of the public meeting must be published at least thirty days before the meeting in the State Register and in a newspaper having general circulation in each county containing or bordering the river or river segment under study, as well as in a newspaper having general circulation in the State. Landowners along the proposed river or river segment

must also be notified by letter of the public meeting. The Commission will also solicit and consider the views of interested state agencies, local governments, and other organizations.

The eligibility report contains findings and recommendations of the eligibility investigation and a classification of the river based upon the definitions specified in Section IV of this handbook. The proposed river or river segment must meet the criteria for one of the three classes of scenic rivers in order to be eligible. The completed eligibility report is submitted to the Commission for appropriate action.

If it is determined by the Commission that a river is qualified to be included in the State Scenic Rivers Program, the Commission will publish a notice of this finding in the State Register and in a newspaper of general circulation in the state to notify interested parties of the opportunity to donate lands and easements and receive any tax benefits provided under the Act. The notice must describe the boundaries of the eligible river or river segment. Written notice of the eligibility determination must be given to the General Assembly, State Budget and Control Board, South Carolina Tax Commission, affected units of local government, and other interested state agencies and landowners.

The Act authorizes the Commission to inventory and study all South Carolina rivers that would be eligible under the program. The primary source for this information is the *South Carolina Rivers Assessment* of 1988. Rivers or river segments identified in the Assessment as possessing the criteria for scenic river eligibility may be determined to be eligible State Scenic Rivers by the Commission.

County Council Approval

Affected county councils must give their consent to the river protection activity since participation by landowners may change the tax status of riparian properties. This consent is usually given through a resolution endorsing the proposed scenic river designation.

This step does not necessarily have to occur at this point in the designation process. However, the approval of the affected counties at this stage can provide information to the General Assembly prior to any legislative action designating a river as a State Scenic River. County council approval is required prior to any land transactions between the state and riparian landowners.

General Assembly Designation

After the eligibility process is complete, the South Carolina General Assembly must ratify the designation by the Commission. The Act states that "no river or river segment

may be designated a state scenic river until the General Assembly has duly enacted legislation ratifying such designation."

Appointment of Advisory Councils

After General Assembly ratification, the Commission, through the executive director, must establish an advisory council for the newly designated scenic river. The duties of the advisory council are to assist and advise the Commission in protection and management of the designated scenic river. The advisory council also assists the Commission in developing a management plan for the designated scenic river, based on protection and enhancement of the river's natural attributes and current uses at the time of eligibility.

The advisory council must be appointed as early as possible after the General Assembly action. Each advisory council must consist of not less than six nor more than ten members selected from local government, riparian landowners, community interests, and the Commission, whose staff member serves as chair. The riparian landowners must constitute a majority of the membership on each council.

Management Plan

Once a river or river segment has been designated as a State Scenic River, and there are indications that an adequate proportion of the riparian lands can be obtained or protected as provided for under the Act, the Commission, in consultation with the advisory council, will prepare a survey of existing land uses, natural resources and river conditions within the designated scenic corridor. The purpose of the survey is to assess the existing conditions along the river corridor in sufficient detail to provide the Commission with a basis from which a management plan for the river can be developed.

The management plan will contain a complete inventory of the existing land usage; an assessment of the scenic, recreational, geologic, botanical, fish, wildlife, historic, environmental, and cultural attributes of the river corridor; and an overview of activities which may be expected to continue to impact the area after management rights or properties are acquired by the state. Other components of the plan include an overview of problems in the river corridor, a plan for the acquisition of management rights on riparian lands, an assessment of and recommendations concerning public access, and an overview of the management of the river as part of the State Scenic Rivers Program.

The management plan will also contain guidelines for the protection of the river corridor as part of the scenic rivers system. The Scenic Rivers Act requires that the Commission "formulate comprehensive water and related land use plans for the three classes of scenic rivers" (these three plans are found in Section V of this document).

These comprehensive plans will provide the basis for the management guidelines for a specific river corridor.

The plan should provide enough flexibility for review and adaptability over time. Riparian lands may be managed and protected under the Scenic Rivers Program upon approval of the completed management plan by the Commission and the advisory council for that scenic river.

Acquisition of Management Rights

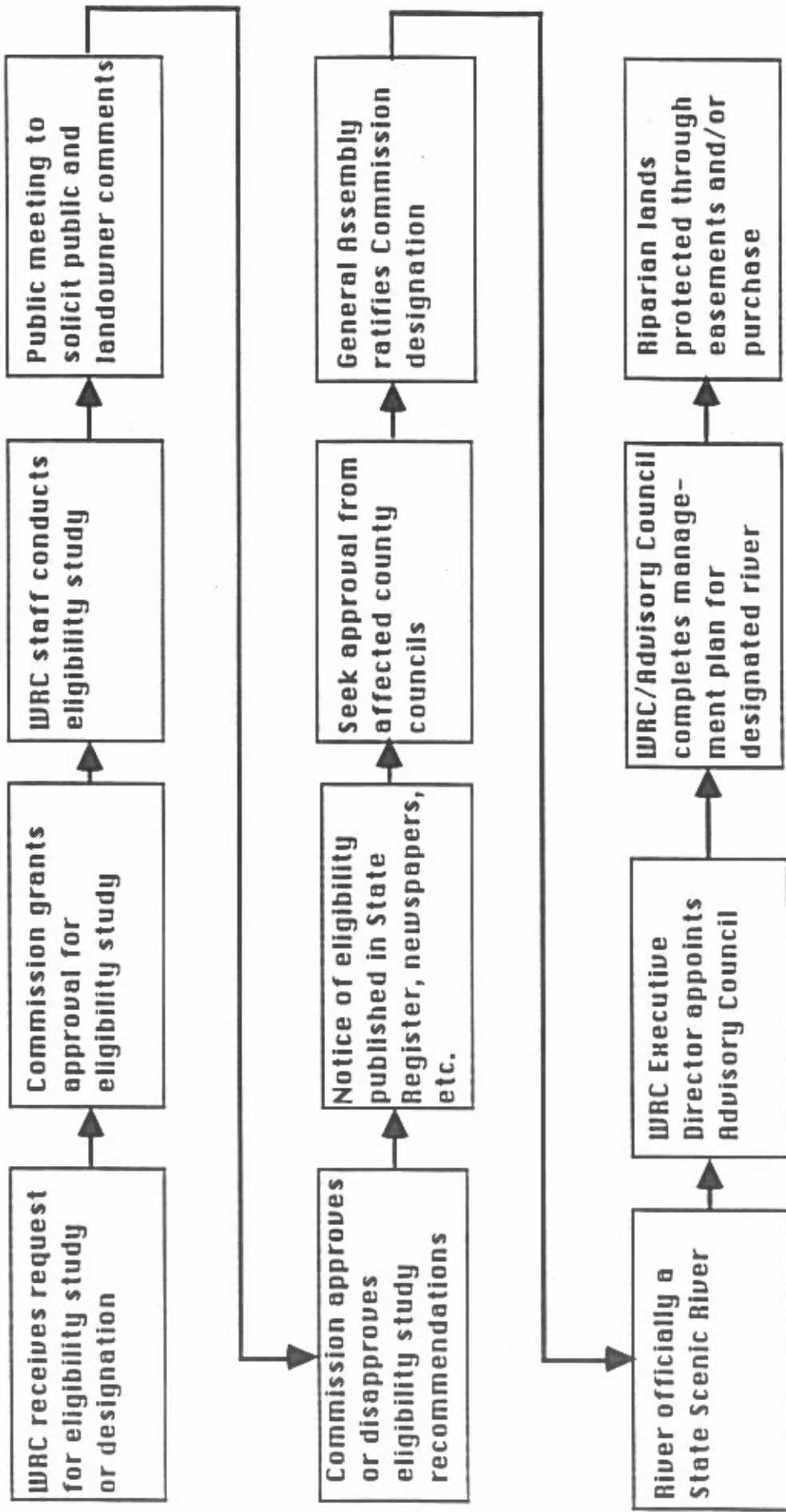
Generally, upon completion of the management plan, Commission staff, aided by the advisory council, will begin to seek management rights on riparian lands in the designated river corridor. Management rights may be acquired through three legislatively approved means: 1) a donation of a perpetual conservation easement; 2) a fee simple donation; or 3) the purchase of fee simple interest in riparian properties. A detailed discussion of these three means of participation is found in Section VI.

Prior to beginning the process of working with riparian landowners to acquire management rights, three conditions must be met. These are:

- a. The river corridor must be designated as a scenic river by the General Assembly;
- b. The consent of the governing body is obtained in the county or counties in which the proposed scenic river corridor is located;
- c. There is some indication that a sufficient amount of lands or land rights can be acquired along the proposed scenic river corridor.

All of the preceding steps should occur prior to the beginning of the preparation of a management plan for a proposed river corridor. However, the process of acquiring management rights and the drafting of a management plan may, in some cases, be a simultaneous process.

SCENIC RIVERS PROGRAM: PROCESS OVERVIEW



CRITERIA FOR ELIGIBILITY AND CLASSIFICATION OF SCENIC RIVERS

Introduction

The South Carolina Scenic Rivers Act requires that a river or portion of a river eligible as a scenic river must possess unique or outstanding scenic, recreational, geologic, botanical, fish, wildlife, historic or cultural values. To determine if the proposed river or river segment possesses any or all of these characteristics, the Commission applies the criteria for assessing a river's eligibility and classification under the Scenic Rivers Program.

In evaluating a river for possible inclusion in the State Scenic Rivers Program, or in determining its classification, the river and its immediate land area must be considered as a unit, with primary emphasis on the quality of the environment and the sum of overall features. Although a river area may reflect some evidence of human activity it may still qualify as eligible. The delineation of eligibility criteria emphasizes unique or outstanding riverine characteristics.

Eligibility Criteria for All River Types

The following list represents a description of general criteria used by the Commission for evaluating the eligibility of a proposed river for the scenic rivers program. "River" as defined in the Scenic Rivers Act, is "a flowing body of water or a section, portion or tributary of it including rivers, streams, creeks, branches or small natural lakes."

1. Scenic - The scenic character should provide an impression of unique or outstanding natural, pastoral, or aesthetic qualities.
2. Recreational - Recreational values will be determined based on characteristics of the river and adjacent lands. The river corridor should provide recreational opportunities including boating, fishing, swimming, or other appropriate activities.
3. Geologic - Unique or outstanding geologic values should include features of rare or unusual geologic composition or appearance, such as waterfalls, bluffs, or unusual rock formations.

4. Botanical - Botanical values should include habitat of special or critical significance, such as unusual or diverse plant communities, or rare or endangered species habitat.
5. Fish/Wildlife - Fish and wildlife values should include natural fish and wildlife habitat of special significance (both game and nongame species) and rare or endangered species habitat.
6. Historic/Cultural - Historic and cultural values would apply to those sites of historic events or structures, archaeological importance, or sites especially illustrative of South Carolina or regional cultural heritage.
7. Water Quality - Water quality in all rivers under consideration for scenic rivers eligibility must meet or exceed the most current published state water quality classifications for that proposed river or river segment, or the water quality must be capable of being upgraded to meet state standards.
8. Stream Flow - There should be a sufficient volume of water during normal years to permit full utilization of the riverine area. Where navigational use is important, the width, depth and volume of water should be sufficient for safe navigation.
9. Length - The minimum lengths generally necessary to qualify a river as eligible are one mile in the upper Piedmont and mountain provinces or three miles in the remainder of the state.

Class-specific Criteria for Eligibility and Classification

The following criteria distinguish the three types of scenic rivers provided for by the Scenic Rivers Act. These criteria are applicable for assessing a river's potential inclusion in the program and for determining its appropriate classification.

A river or river segment may be more than one defined river type along its length. The number of river types within any eligible river or segment should be kept to a minimum.

Type I - Natural River Areas

Natural rivers are "(t)hose free-flowing rivers or river segments generally inaccessible except by trail or river, with adjacent lands and shorelines essentially undeveloped and its waters essentially unpolluted." Free-flowing is defined as "existing or flowing in natural condition without impoundment, diversion,

straightening, riprapping, or other modification of the waterway." These definitions, along with the general criteria in Section V (see page 19), form the basis for the specific criteria for this river type. The criteria for natural rivers are as follows:

- a. Development - Evidence of human activity in the river corridor should be limited or non-existent. Crossings of roads, railways, or utilities must be limited to one such crossing in a ten-mile river segment. The existence of residential or commercial development in the river corridor may disqualify the segment as a natural river. Structures, if unobtrusive or possessing historical or aesthetic values, may be acceptable.
- b. Scenic Character - Natural rivers are essentially wilderness corridors. Shorelines and scenic vistas should be essentially natural in character with little or no evidence of human activity. A limited amount of agricultural or silvicultural activities may be acceptable.
- c. Impoundments - The river or river segment should be free-flowing as defined in the Act. Upstream impoundments, flow regulation, and/or water use must be considered in relation to impacts on the natural character of the corridor.
- d. Water Quality - At the time of the eligibility study or prior to ratification by the General Assembly, water quality must meet minimum criteria for desired types of recreational use, especially body-contact recreation, except where such criteria are not naturally met. In addition, the water presently must be capable of supporting the propagation of aquatic life, including fish which normally are adaptable to the habitat of the stream. Preference is given to streams of A, SA, Trout or ORW (Outstanding Resource Waters) water quality classifications, or those that can be upgraded to these standards.
- e. Accessibility (River Corridor Access) - Within the natural river area there can be no visible paralleling paved or unpaved roads. The presence of access facilities may be acceptable if visual impacts on the scenic and natural character of the river corridor are minimal.

Type II - Scenic River Areas

The Act defines "scenic rivers" as "(t)hose rivers or river segments which are essentially free-flowing and possess shorelines largely undeveloped and with limited road access. Adjacent lands are partially or predominantly used for agriculture, silviculture, or other dispersed human activity which does not disturb substantially the natural character of the river corridor."

This definition, along with the general criteria in Section V (see page 19), forms the basis for the specific criteria for this river type. The criteria for scenic rivers are as follows:

- a. Development - The river corridor should be largely undeveloped. Crossings of roads, railways, or utilities are limited to one crossing per five miles of river. Crossings grouped closely together may qualify as a single crossing.

Certain types of structures are acceptable in a scenic river corridor. Agricultural, residential, or recreational structures are acceptable if limited in number, dispersed throughout the corridor, and without substantial disturbance to the river's natural character. The presence of historic structures is acceptable.

- b. Scenic Character - Scenic rivers should provide a landscape with an overall natural or pastoral character. Normal agricultural and silvicultural activities are acceptable if accomplished without a substantial adverse impact on the scenic vista.
- c. Impoundments - Small impoundments or diversions, if compatible with scenic values, may be acceptable on scenic rivers.
- d. Water Quality - Water quality must meet, or have the potential to meet, minimum criteria for desired types of recreational use, especially body-contact recreation, except where such criteria would be exceeded by natural background conditions. In addition, the water should be capable of supporting propagation of aquatic life, including fish which normally are adaptable to the habitat of the stream. Preference is given to streams of A or SA or higher water quality classifications, or those that can be upgraded to those standards.
- e. Accessibility (River Corridor Access) - Within the scenic river area there can be short stretches of visible paralleling paved or unpaved roads. The presence of river access facilities is acceptable. Such structures should produce a minimal impact on the scenic character of the river.

Type III - Recreational River Areas

The Act defines "recreational rivers" as "(t)hose rivers or river segments accessible by road and that possess development along shorelines and adjacent lands. Included are rivers with developed or partially developed shorelines and adjacent lands for residential, commercial, or industrial purposes, rivers with parallel roads or railroads, and rivers with some impoundments. These rivers or

river segments provide outstanding river-related recreational opportunities."

This definition, along with the general criteria in Section V (see page 19), form the basis for the specific criteria for this river type. The criteria for recreational rivers are as follows:

- a. Development - The river corridor may be developed with residential, commercial, agricultural, limited industrial or other facilities. Crossings of roads, railways, or utilities should not exceed one crossing per river mile. Crossings grouped closely together may qualify as a single crossing.
- b. Scenic Character - Recreational rivers may possess landscapes of urban or suburban character. Although the shoreline is developed, the river corridor should possess significant scenic, recreational, or historic values.
- c. Impoundments - Although the presence of impoundments or diversions alone does not disqualify a river from this class, the river should possess scenic, recreational or historic values if an impoundment is present. Flows may be regulated by upstream control devices.
- d. Water Quality - Water quality should meet, or have the potential to meet, minimum criteria for desired types of recreational use, especially body-contact recreation, except where such criteria would not be met by natural background conditions. In addition, the water should be capable of supporting propagation of aquatic life, including fish which normally are adaptable to the habitat of the stream.
- e. Accessibility (River Corridor Access) - The river corridor may be readily accessible with paralleling roads or railroads along river banks, bridge crossings, and several river access points.

SCENIC RIVER WATER AND LAND USE PLANS

Introduction

The Scenic Rivers Act requires that "(t)he Commission shall formulate comprehensive water and related land use plans for the three classes of scenic rivers." Therefore, based on the different physical attributes of river corridors, three sets of management guidelines follow which describe their management frameworks. Each set of guidelines prescribes unique restrictions on river use and development corresponding to each type of scenic river.

The purposes of these management guidelines are:

1. to protect the scenic, aesthetic, historic and ecological values of a designated scenic river corridor;
2. to provide for consistent management practices within each class of river in conformance with the purposes of the Scenic Rivers Act;
3. to assure that the management of each river or river segment would not result in that area falling into a less restrictive river class.

Natural Rivers

The Act defines "natural rivers" as "(t)hose free-flowing rivers or river segments generally inaccessible except by trail or river, with adjacent lands and shorelines essentially undeveloped and its waters essentially unpolluted."

As defined, natural rivers are essentially wilderness-type areas and therefore contain the least evidence of human influence. Thus, the management guidelines specified for this type of river are the most restrictive in terms of water and land management. The management guidelines for natural rivers apply to all lands in the corridor that are purchased by the state, donated in fee or restricted by an easement.

According to the Act, natural rivers must be managed in a manner which:

- a. would best maintain and enhance those conditions which are attributed to wilderness-type areas;

- b. would allow camping and river access only at designated public access areas;
- c. would allow certain public uses only within prescribed public access areas.

The Act also prohibits the construction of new roads or buildings, mining and commercial timber harvesting in this class.

In order to provide for a consistent management framework, the Commission will attempt to establish a uniform corridor width through either purchase of riparian lands or through the negotiation of easement agreements. On a natural river the corridor should be no less than 300 feet nor greater than 500 feet from the ordinary high water mark or mean high water line on both sides of the river.

Conservation easements donated to the state on natural rivers should generally contain the restrictions and prohibitions contained in the following guidelines. These guidelines for natural rivers will apply to all lands in the corridor that have been purchased by the state, donated in fee or restricted by an easement.

Structures and Facilities

1. **Boundary Markers.** Natural rivers shall be clearly marked by placing survey monuments on corridor perimeters, by posting boundary markers, and if appropriate, by fencing or other means.
2. **Fences and Barriers.** Fences and barriers may be installed. They shall not create a barrier to the movement of wildlife, or visually or physically obstruct natural or aesthetic features.
3. **Signs.** Signs are allowed only when necessary to provide information for the health and safety of visitors and the preservation of natural features of the area. Scientific or trail markers may be permitted. All signs shall be unobtrusive and of natural materials that blend with the surroundings.
4. **Roads.** Construction of new highways, hard-surface roads, and bridges is prohibited.
5. **Buildings.** No buildings of any type shall be constructed in a natural river corridor.
6. **Docks, Wharves or Bulkheads.** Construction of new docks, wharves or bulkheads is prohibited unless it can be demonstrated to the Commission that there is a compelling need for such structures.

7. Utilities. The construction of new utility lines, either paralleling or crossing the river corridor, including but not limited to, electric, natural gas and communication lines, on or above ground, is prohibited unless a substantiated need is demonstrated and no feasible alternative exists. When construction of utility lines is allowed by the Commission, the affected area must be restored to its former condition or a condition compatible with the maintenance of scenic vistas from the river and its banks. Materials must be weather- and water-proofed. Construction of new utility lines cannot result in more than one utility line in any ten-mile river segment.
8. Impoundments. Construction of new impoundments is prohibited.
9. Drainage. Excavation of new drainage ditches is prohibited. Maintenance of existing drainage ditches is permitted.
10. Lagoons. Construction of waste treatment lagoons, ponds, or other such facilities is prohibited.
11. Maintenance. Maintenance of structures and facilities not otherwise prohibited by this plan is permitted, provided that the maintenance does not increase, extend or cause such structures or facilities to result in prohibited activities.
12. Firebreaks. Under emergency conditions, construction of new firebreaks may be allowed by the Commission in consultation with the South Carolina Forestry Commission.
13. Trails. Trails are footpaths which are generally impassable to vehicular traffic. Construction of new trails is permitted to provide for use of the area, and to prevent erosion and trampling of vegetation or other deterioration, but otherwise is prohibited. Use of natural materials is required for footbridges or elevated walks along trails. Resurfacing of trails with gravel or other permeable non-paved surfacing is allowed.

Land Management Practices

14. Mining and Mineral Exploration. Mining is prohibited.
15. Timber Harvesting. Commercial timber harvesting is prohibited. Selective removal of diseased or insect-infested timber may be permitted to protect the remainder of the area.
16. Landscape Management. In the event of damage by fire, flood or other

destructive action, landscaping to prevent severe erosion may be allowed provided that it is compatible with the maintenance of scenic vistas from the river and its banks. Landscaping requiring the placement of fill requires the prior approval of the Commission.

17. **Safety Hazards.** Dead trees, branches or other features that constitute a safety hazard may be removed.
18. **Motor Vehicles.** The use of motor vehicles, including motorcycles or motorized trail bikes, is prohibited except on public access roads. Use of motor vehicles for emergency or management purposes may be permitted.
19. **Removal or Introduction of Objects.** There shall be no removal of any natural material or object except by authorization from the Commission. No natural or human-made object that detracts from the natural characteristics or presents a safety hazard may be introduced into the corridor.
20. **Fire Control.** All wildfires shall be brought under control as quickly as possible. After a wildfire, cleanup, fire hazard reduction, and/or replanting are permitted with the approval of the Commission.
21. **Erosion Control.** Severe erosion and potentially severe erosion may be controlled provided the control practices do not violate other provisions of natural river management guidelines. The Commission must be notified prior to any erosion control actions.
22. **Dumping.** Dumping materials such as landfill, and dumping or placing of trash, waste or unsightly or offensive substances or materials is prohibited.

Water Management Practices

23. **Discharges.** New point-source discharges into waters within a natural river corridor are prohibited unless a substantiated need is demonstrated and no feasible alternative exists.
24. **Stream Alteration.** Damming, diking, dredging, filling, or channelization of a natural river are prohibited. The construction of canals is also prohibited. No in-stream material recovery is permitted. Aquatic weed control, stream snagging or flood damage cleanup may be authorized by the Commission.
25. **Water Withdrawal.** Water withdrawal may be authorized by the Commission provided the method of obtaining water does not otherwise violate the provisions of this plan. Any water withdrawal device must be screened by

indigenous vegetation.

Public Use Provisions

26. **Public Use.** Public use is allowed and encouraged to such extent and in such manner as to be compatible with the maintenance of scenic vistas from the river and its banks. Cooperating landowners are not required to provide public access.
 - a. **Access Control.** Ingress and egress across riparian lands in the river corridor are allowed only at the locations and under the conditions which do not impair the natural qualities of the area. Areas of public access for the purposes of hiking, camping or other uses will be designated by the Commission to provide for the use of the area consistent with proper protection of the natural conditions.
 - b. **Natural Features.** Destroying, cutting, breaking, removing, defacing, mutilating, injuring, taking or gathering any tree, shrub, other plant or plant part, rock, mineral or geological feature is prohibited unless authorized by the Commission.
 - c. **Special Uses.** Hiking, camping, and campfires may be allowed only in designated areas.
27. **Hunting.** Hunting is allowed in natural river corridors where permissible by law and is subject to regulations promulgated by the South Carolina Wildlife and Marine Resources Department.
28. **Boating.** Boating is allowed subject to safety regulations promulgated by the South Carolina Wildlife and Marine Resources Department.
29. **Fishing.** Fishing is allowed subject to regulations promulgated by the South Carolina Wildlife and Marine Resources Department.

Vegetation and Wildlife Management

30. **Management of Rare or Unusual Plant and Animal Species.** Control of plant succession and habitat will be undertaken if necessary to preserve or restore rare or unusual indigenous flora or fauna.
31. **Control of Exotic Plants and Animals.** Control of exotic plants and animals may be undertaken as necessary by the Commission in consultation with

the South Carolina Wildlife and Marine Resources Department.

32. Control of Natural Populations. There will be no action to increase or reduce populations of native plants or animals or to restrict movement of wildlife across boundaries of a natural river except as deemed necessary by the Commission, in consultation with the South Carolina Wildlife and Marine Resources Department, for the preservation of the natural character of the area.

Scenic Rivers

The Act defines "scenic rivers" as "(t)hose rivers or river segments which are essentially free flowing and possess shorelines largely undeveloped and with limited road access. Adjacent lands are partially or predominantly used for agriculture, silviculture, or other dispersed human activity which does not disturb substantially the natural character of the river corridor."

Scenic rivers should provide a riparian landscape with an overall natural or pastoral character. Human impacts in the corridor should be of customary agricultural, silvicultural, residential or recreational character. Any human development activities must be dispersed throughout the river segment to lessen the visual impacts.

The Act specifically states that "scenic rivers" must be managed in a manner which best maintains and enhances the scenic values of the river and the adjacent land, while at the same time preserving the right of riparian landowners to use the river for customary agricultural, silvicultural or other similar purposes.

The legislation also mandates the following management practices for scenic rivers:

The continuation of present agricultural practices such as grazing and the propagation of crops, including timber, is permitted. The construction of farm-use buildings is permitted if it is found to be compatible with the maintenance of scenic qualities of the stream and its banks. There may be no construction of roads paralleling the river within the limits of a scenic easement or public access area. The harvesting of timber is permitted provided the landowner follows the best management practices for forested wetlands as approved by the South Carolina Forestry Commission. Mining activities are permitted pursuant to a mining permit issued under the provisions of Chapter 19 of the South Carolina Mining Act. Construction for public access related to recreational use of these scenic river areas is allowed in accordance with Section 49-29-140.

In order to provide for a consistent management framework, the Commission will attempt to establish a uniform corridor width through either purchase of riparian lands or

easement agreements. On a scenic river the corridor should be no less than 200 feet nor greater than 500 feet from the ordinary high water mark or the mean high water line on both sides of the river.

Conservation easements donated to the state on scenic rivers should contain the restrictions and prohibitions contained in these guidelines. The following management guidelines for scenic rivers will apply to all lands in the corridor that have been purchased by the state, donated in fee or restricted by an easement.

Structures and Facilities

1. **Boundary Markers.** Scenic rivers shall be clearly marked by placing survey monuments on corridor perimeters, by posting boundary markers, and if appropriate, by fencing or other means.
2. **Fences and Barriers.** Fences and barriers may be installed. They shall not create a barrier to the movement of wildlife or visually or physically obstruct natural or aesthetic features.
3. **Signs.** Signs are allowed only when necessary to provide information for the health and safety of visitors and preservation of natural, historical or cultural features of the area. Scientific or trail markers may be permitted. All signs shall be unobtrusive and of natural materials that blend with the surroundings.
4. **Roads.** Construction of new roads related to recreational or other appropriate uses in a scenic river corridor may be authorized by the Commission provided they are compatible with the maintenance of scenic vistas. Construction of roads paralleling the river is prohibited.
5. **Buildings.** Construction of new structures for agricultural or silvicultural purposes is allowed with the prior approval of the Commission provided that they are compatible with the maintenance of scenic vistas. Structures for camping, picnicking and other recreational activities are allowed with the approval of the Commission.
6. **Docks, Landings or Bulkheads.** Construction of new private or public non-commercial docks or landings may be authorized pursuant to state and federal law, provided the structures are compatible with the maintenance of scenic vistas from the river and its banks. Construction of bulkheads is prohibited unless a substantiated need to prevent erosion is demonstrated and no feasible alternative exists.
7. **Utilities.** Construction of new above ground, on-ground, or underground

utility lines, either paralleling or crossing the river corridor, may be allowed. Utility line construction which results in a river crossing may be allowed provided that the construction does not result in more than one utility crossing, either an existing or new crossing, per five miles of river. Multiple utility crossings at the same location may qualify as a single crossing. Demonstrated hardships may provide exceptions to this standard. Determination of hardship will be made by the Commission in consultation with the entity seeking approval for the crossing. Any utility crossing must be constructed in such a way as to minimize impacts on the scenic vista and must be approved by the Commission.

8. Impoundments. Construction of new impoundments is prohibited.
9. Drainage. Excavation of new drainage ditches is prohibited. Maintenance of existing drainage ditches is permitted.
10. Lagoons. Construction of waste treatment lagoons, ponds, or other such facilities is prohibited.
11. Maintenance. Maintenance of structures and facilities not otherwise prohibited by this plan is permitted, provided that the maintenance does not increase, extend or cause such structures or facilities to result in prohibited activities. Roads may be resurfaced.
12. Firebreaks. Construction and maintenance of firebreaks may be allowed by the Commission in consultation with the South Carolina Forestry Commission.
13. Trails. Trails are footpaths which are usually impassable to vehicular traffic. Construction of new trails, including footbridges, is allowed to provide for use of the area, to prevent erosion and trampling of vegetation or other deterioration, but will be kept to a minimum. Use of natural materials is required for footbridges or elevated walks. Resurfacing of trails is allowed with gravel or other permeable non-paved surfacing.

Land Management Practices

14. Mining and Mineral Exploration. Mining activities are permitted pursuant to a mining permit issued under the provisions of Chapter 19 of the South Carolina Mining Act. The Commission must be notified prior to the beginning of any mining or mining-related activities.
15. Timber Harvesting. Commercial timber harvesting is allowed subject to best

management practices as approved by the South Carolina Forestry Commission.

16. **Landscape Management.** In the event of damage by fire, flood or other destructive action, landscaping designed to prevent severe erosion is allowed provided that it is compatible with the maintenance of scenic vistas from the river and its banks. Landscaping requiring the placement of fill requires the prior approval of the Commission.
17. **Motor Vehicles.** The use of motor vehicles, including motorcycles or motorized bicycles, is prohibited except on public access roads. Operation of agricultural and silvicultural equipment is allowed in pursuit of customary activities provided the equipment is operated in such a manner as to minimize impacts on the scenic vista. Maintenance and emergency vehicles are allowed as necessary.
18. **Fire Control.** All wildfires shall be brought under control as quickly as possible. After a wildfire cleanup, fire hazard reduction and/or replanting are allowed with the approval of the Commission in consultation with the South Carolina Forestry Commission.
19. **Erosion Control.** Severe erosion and potentially severe erosion may be controlled provided the control practices do not violate other provisions of scenic river management guidelines. The Commission must be notified prior to any erosion control actions.
20. **Dumping.** Dumping materials such as landfill, and dumping or placing of trash, waste or unsightly or offensive substances or materials is prohibited.

Water Management Practices

21. **Discharges.** New point-source discharges into waters within a scenic river corridor may be allowed, provided other provisions of these management guidelines are not violated. The discharge must be permitted by the South Carolina Department of Health and Environmental Control to insure compliance with treatment technology and water quality requirements. Areas impacted by construction must be restored to their former condition or restored in a manner compatible with the maintenance of scenic vistas from the river and its banks.
22. **Wells.** New wells may be constructed with the approval of the Commission.
23. **Stream Alteration.** Damming, diking, spoil deposition in, or channelization

of a scenic river are prohibited. The construction of canals is also prohibited. Aquatic weed control, bank stabilization, stream snagging and maintenance and flood damage cleanup may be authorized by the Commission.

24. **Water Withdrawal.** Water withdrawal is permitted provided it does not otherwise violate the management guidelines for scenic river corridors.

Public Use Provisions

25. **Public Use.** Public use is allowed and encouraged at established public access points and to the extent and in a manner compatible with the maintenance of the scenic character of the river and its banks. Cooperating landowners are not required to provide public access.
26. **Hunting.** Hunting is allowed in scenic river corridors where permissible by law and will be regulated by the South Carolina Wildlife and Marine Resources Department.
27. **Boating.** Boating is allowed subject to regulations promulgated by the South Carolina Wildlife and Marine Resources Department.
28. **Fishing.** Fishing is allowed subject to regulations promulgated by the South Carolina Wildlife and Marine Resources Department.
29. **Hiking and Camping.** Hiking, camping and campfires may be allowed in designated areas within a scenic river corridor. Cutting of living material in a designated camping or hiking area for any purpose is prohibited.

Recreational Rivers

The Act defines "recreational rivers" as "(t)hose rivers or river segments accessible by road and that possess development along shorelines and adjacent lands. Included are rivers with developed or partially developed shorelines and adjacent lands for residential, commercial, or industrial purposes, rivers with parallel roads or railroads, rivers with some impoundments. These rivers or river segments provide outstanding river-related recreational opportunities."

Recreational rivers are partially developed river corridors and possess riparian landscapes of an urban or suburban character. Recreational rivers, while showing the effects and results of various human activities, still possess scenic and natural values worthy of protection.

The Act states that "(r)ecreational rivers must be managed in a manner which would best maintain and enhance the scenic values of the river while at the same time preserving the right of riparian landowners to use the river for customary agricultural, silvicultural, residential, recreational, commercial, and industrial purposes."

The legislation also mandates the following management practices for recreational rivers:

The continuation of present agricultural practices such as grazing and the propagation of crops, including timber, is permitted. The construction of farm-use buildings is permitted if it is found to be compatible with the maintenance of scenic qualities of the stream and its banks. There may be no construction of roads paralleling the river within the limits of a scenic easement or public access area. The harvesting of timber is permitted provided the landowner follows the best management practices for forested wetlands as approved by the South Carolina Forestry Commission. Mining activities are permitted pursuant to a mining permit issued under the provisions of Chapter 19 of the South Carolina Mining Act. Construction for public access related to recreational use of these scenic river areas is allowed in accordance with Section 49-29-140.

In order to provide for a consistent management framework, the Commission will attempt to establish a uniform corridor width through either purchase of riparian lands or through the negotiation of easement agreements. On a recreational river the corridor should be no less than 100 feet nor greater than 500 feet from the ordinary high water mark or the mean high water line on both sides of the river.

Conservation easements donated to the state on recreational rivers should contain the restrictions and prohibitions contained in these guidelines. The following management guidelines for recreational rivers will apply to all lands in the corridor that have been purchased by the state or donated in fee or restricted by an easement.

Structures and Facilities

1. **Boundary Markers.** Recreational rivers shall be clearly marked by placing survey monuments on corridor perimeters, by posting boundary markers, and if appropriate, by fencing or other means.
2. **Fences and Barriers.** Fences and barriers may be installed. They shall not create a barrier to the movement of wildlife, or visually or physically obstruct natural or aesthetic features.
3. **Signs.** Signs are allowed only when necessary to provide information for the health and safety of visitors and preservation of natural, historical or

cultural features of the area. Scientific or trail markers may be permitted. Commercial advertising signs are prohibited.

4. Roads. Construction of new roads related to recreational or other appropriate uses in a recreational river corridor may be authorized by the Commission provided they are compatible with the maintenance of scenic vistas. Construction of roads paralleling the river is prohibited.
5. Buildings. Construction of new structures for agricultural, recreational, silvicultural, commercial, industrial or residential purposes is allowed with the prior approval of the Commission provided that they are compatible with the maintenance of scenic vistas. Maintenance and restoration activities on existing structures are allowed.
6. Docks, Landings or Bulkheads. Construction of new private or public non-commercial docks or landings may be permitted pursuant to state and federal law, and provided the structures are compatible with the maintenance of scenic vistas from the river and its banks. Construction of bulkheads is prohibited unless a substantiated need to prevent erosion is demonstrated and no feasible alternative exists.
7. Utilities. Construction of new above-ground, on-ground, or underground utility lines, either paralleling or crossing the river, may be allowed. Utility line construction which results in a river crossing may be allowed provided that the construction does not result in more than one utility crossing, either an existing or new crossing, per river mile. Multiple utility crossings at the same location may qualify as a single crossing. Demonstrated hardships may provide exceptions to this standard. Determination of hardship will be made by the Commission in consultation with the entity seeking approval for the crossing. Any utility crossing must be constructed in such a way as to minimize impacts on the scenic vista and must be approved by the Commission.
8. Impoundments. Construction of new impoundments is prohibited.
9. Drainage. Excavation of new drainage ditches is prohibited. Maintenance of existing drainage ditches is permitted.
10. Lagoons. Construction of waste treatment lagoons, ponds, or other such facilities is prohibited.
11. Maintenance. Maintenance of structures and facilities not otherwise prohibited by this plan is permitted, provided that the maintenance does not increase, extend or cause such structures or facilities to result in prohibited

activities. Roads and trails may be resurfaced.

12. Firebreaks. Construction of new firebreaks is allowed in consultation with the South Carolina Forestry Commission.
13. Trails. Trails are footpaths which are usually impassable to vehicular traffic. Construction of new trails, including footbridges, is allowed to provide for use of the area, to prevent erosion and trampling of vegetation or other deterioration, but will be kept to a minimum. Use of natural materials is required for footbridges or elevated walks. Resurfacing of trails is allowed with gravel or other permeable absorptive surfacing.

Land Management Practices

14. Mining and Mineral Exploration. Mining activities are permitted pursuant to a mining permit issued under the provisions of Chapter 19 of the South Carolina Mining Act. The Commission must be notified prior to the beginning of any mining or mining-related activities on a recreational river.
15. Timber Harvesting. Commercial timber harvesting is allowed subject to best management practices as approved by the South Carolina Forestry Commission.
16. Landscape Management. In the event of damage by fire, flood or other destructive action, landscaping designed to prevent severe erosion is allowed provided that it is compatible with the maintenance of scenic vistas from the river and its banks. Landscaping requiring the placement of fill requires the prior approval of the Commission.
17. Motor Vehicles. The use of motor vehicles, including motorcycles or motorized bicycles, is prohibited except on public access roads. Agricultural and silvicultural equipment is allowed in pursuit of customary activities and provided the equipment is operated in such a manner as to minimize impacts on the scenic vista. Maintenance and emergency vehicles are allowed as necessary.
18. Fire Control. All wildfires shall be brought under control as quickly as possible. After a wildfire, cleanup, fire hazard reduction, or replanting are allowed with the approval of the Commission and in consultation with the South Carolina Forestry Commission.
19. Erosion Control. Severe erosion and potentially severe erosion may be controlled provided the control practices do not violate other provisions of

recreational river management guidelines. The Commission must be notified prior to any erosion control actions.

20. **Dumping.** Dumping materials such as landfill, and dumping or placing of trash, waste or unsightly or offensive substances or materials is prohibited.

Water Management Practices

21. **Discharges.** New point-source discharges into waters within a recreational river corridor may be allowed, provided other provisions of these management guidelines are not violated. The discharge must be permitted by the South Carolina Department of Health and Environmental Control to ensure compliance with treatment technology and water quality requirements. Areas impacted by construction must be restored to its previous condition or restored in a manner compatible with the maintenance of scenic vistas from the river and its banks.
22. **Wells.** New wells may be constructed with the approval of the Commission.
23. **Stream Alteration.** Damming, diking, spoil deposition in, or channelization of a recreational river is prohibited. The construction of canals is also prohibited. Aquatic weed control, bank stabilization, stream snagging and maintenance and flood damage cleanup may be authorized by the Commission.
24. **Water Withdrawal.** Water withdrawal is permitted provided it does not otherwise violate the management guidelines for recreational river corridors.

Public Use Provisions

25. **Public Use.** Public use is allowed and encouraged at established public access points and to the extent and in a manner compatible with the maintenance of the scenic character of the river and its banks. Cooperating landowners are not required to provide public access.
26. **Hunting.** Hunting may be allowed in recreational river corridors. Hunting will be regulated by the South Carolina Wildlife and Marine Resources Department in consultation with the Commission.
27. **Boating.** Boating is allowed subject to regulations promulgated by the South Carolina Wildlife and Marine Resources Department.

28. Fishing. Fishing is allowed subject to regulations promulgated by the South Carolina Wildlife and Marine Resources Department.
29. Hiking and Camping. Hiking and camping may be allowed in designated areas within a recreational river corridor. Cutting of living material in a designated camping or hiking area for any purpose is prohibited.



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PUBLIC-PRIVATE PARTNERSHIPS OF THE SCENIC RIVERS PROGRAM

Introduction

The key to river management under the Scenic Rivers Program is the voluntary involvement of riparian landowners in public-private partnerships. Protection of a river in the Scenic Rivers Program is based entirely on the willingness of private landowners to voluntarily participate in the program by granting conservation easements, donating riparian properties to the state or selling the property as a willing seller. The Scenic Rivers Program has no power of eminent domain.

Public-private partnerships help prevent single-solution river management techniques and facilitate a diversity of inputs into river corridor planning efforts. Through these partnerships, the direction in river resources planning and management becomes one of cooperation, with long-range conservation of the river corridor as a shared goal. The success of these partnerships is dependent upon their capacity for consensus-building and constituency development among sometimes diverse groups.

Public-private partnerships are established in the Scenic Rivers Program in three ways: through the formation of Advisory Councils, through perpetual easement agreements between the state and individual landowners along designated scenic rivers, and through mutual management agreements between the state and either public or private entities.

Conservation Easements

A conservation easement is a legal agreement a property owner makes to restrict the type and amount of development that may take place on his or her property. It creates a shared control over the future of land. People grant easements to protect their land from inappropriate development while retaining private ownership. Each easement's restrictions are tailored to the particular property and to the interests of the individual owner. The private, voluntary aspect of an easement is one of its major strengths.

Under the Scenic Rivers Program, property donated in an easement remains in the ownership of the titleholder, but an agreement is made to transfer agreed upon management privileges or rights on the property to the state for scenic rivers management. The specific provisions and restrictions of the easement are negotiated individually with each landowner, and may be flexible within the guidelines set forth for

each of the three specific types of scenic river. Land placed in the Scenic Rivers Program which is already owned by the state may be restricted in conformance with the Act by easement or deed restriction executed by the donating agency and approved by the Budget and Control Board.

Along a designated scenic river any property with significant scenic or conservation values can be protected by an easement under the program. For conservation easements, much of the property must be visible to the public, but physical access is unnecessary unless specified by the landowner in the easement agreement.

All easements must be granted in perpetuity. The original owner and all subsequent owners are bound by the restrictions of a perpetual easement. The benefit to the landowner is in permanent exemptions from property taxes and assurance that the resource values and character of the property are protected indefinitely.

Any owner of riparian property in a designated scenic river corridor may grant an easement. If the property belongs to more than one person, all owners must consent to the easement. If the property is mortgaged, the owner must obtain an agreement from the lender to subordinate its interest to those of the easement holder so that the easement cannot be extinguished in the event of a foreclosure. The easement is recorded at the county or town records office so that all future owners and lenders learn of the restrictions upon obtaining a title report.

State and federal income tax and estate tax benefits can accrue to the donor when the gift is donated or sold to the Scenic Rivers Program. In addition, after the grant of a perpetual easement, land subject to the easement is exempt from all property tax. The value of the fee or easement must be assessed just prior to the donation.

The state, under the Scenic Rivers Act, can accept any amount of land in a perpetual conservation easement. However, from a management perspective, it is advantageous to maintain a uniform, or nearly uniform, corridor width. Consequently, for river corridor management purposes the state will seek to establish the following management corridors based upon the type of river:

- a. Natural river: a minimum of 300 feet to a maximum of 500 feet from the ordinary high water mark or mean high water line on both sides of the river;
- b. Scenic river: a minimum of 200 feet to a maximum of 500 feet from the ordinary high water mark or mean high water line on both sides of the river;
- c. Recreational river: a minimum of 100 feet to a maximum of 500 feet from the ordinary high water mark or mean high water line on both sides of the river.

The Commission, under the Scenic Rivers Program, is responsible for enforcing easement restrictions. The Commission monitors the restricted property on a regular basis decided upon with the landowner at the time of the easement, but typically at least once a year. This visit is conducted, usually accompanied by the owner, to determine whether the property remains in the condition prescribed by the easement and documented at the time of the grant. Written records are maintained by the Commission on the monitoring visit. If the visit reveals a violation to the easement, the Commission has the legal right to require the owner to restore the property to its condition prior to the violation.

Income Tax Benefits

The donation of a conservation easement to the Scenic Rivers Program is a tax-deductible charitable gift, provided that the easement is perpetual and meets the criteria set forth under the Act. Both state and federal income tax reductions may be realized through an easement donation. To determine the value of the easement donation, the owner has the property appraised both at its fair market value without the easement restrictions and at its fair market value with the easement restrictions. The difference between these two appraised values is the easement value. The full value of the easement may be deducted from state income taxes within a five-year period, either in lump sum in a single year or in proportionate amounts across the five-year period.

For federal income tax reductions, the donor is eligible to deduct an amount equal to 30 percent of his or her adjusted gross income each year for a total of six years, or until the value of the gift has been used up. Detailed federal regulations govern appraisals used for federal tax deductions. Potential easement donors should seek legal counsel to help provide a clear understanding of the process.

Estate Tax Benefits

Estate taxes are levied on the property's fair market value, so even if heirs wish to keep their property in its existing condition, the land is usually taxed according to the amount a developer or speculator would pay. This can create exorbitant estate taxes. If, however, the land were restricted by a perpetual conservation easement before the owner's death, the estate valuation would be the restricted value. Insofar as the restricted value is lower than the unrestricted value, the estate tax would be lower for land with a conservation easement.

A property owner can specify in his or her will that a charitable gift of a conservation easement be made upon his or her death. Property owners that donate an easement during their lifetimes personally realize the additional income and property tax savings.

Property Tax Benefits

After the grant of a perpetual easement, land subject to a permanent easement is exempt from all future property taxes.

Donation in Fee

Donation of riparian lands to the state is another method of assuring perpetual maintenance of scenic values by the state along scenic rivers. Landowners wishing to donate lands to the Scenic Rivers Program may elect to take a deduction from state and federal income tax corresponding to the value of the fee donated, and may take this deduction over a five-year period in a similar manner as described above under easements.

Purchase

An alternative for landowners to easements or fee simple donations is the sale to the state of riparian properties. The state may, through the Scenic Rivers Trust Fund, purchase riparian properties or portions of properties for the purposes of scenic rivers management. Purchases of property for the Scenic Rivers Program must be at least 100 feet in width from the ordinary high water mark on the river on scenic and recreational rivers and at least 300 feet from the ordinary high water mark on the river on natural rivers.

Advisory Councils

According to the Act, advisory councils must be established for each designated scenic river. The advisory council is formed as a public-private partnership to guide the development of the river's management plan, detailing strategies and procedures for implementing and maintaining a scenic river corridor. The local involvement and commitment of advisory council members in formulating a management plan establishes the dialogues necessary for long-term protection.

The advisory council is formed for a scenic river once eligibility procedures for the river are completed by the Commission and eligibility has been ratified by the General Assembly. The Commission, through the executive director, shall establish the advisory council. Each advisory council is made up of from six to ten representatives from local government, riparian landowners, community interests and the Commission. It must consist of a majority of riparian landowners, and is chaired by a Scenic Rivers Program staff member of the Commission.

Developing a management plan requires that the advisory council identify the issues, goals and approaches for the river's protection. Advisory council members are selected who are knowledgeable about the river, concerned about its conservation and able to maintain citizen involvement throughout the project. Ideally, the advisory council, in developing a river management plan, creates a broad spectrum of support for the plan and arrives at a consensus on river management techniques that are ultimately put into action to protect the river. For further details on advisory council responsibilities, refer to appendix B.

Mutual Management

The 1989 Scenic Rivers Act gives the Commission the authority to enter into agreements with "local, state, and federal agencies, and private landowners, for the mutual management of a scenic river." A mutual management agreement represents a shared responsibility in managing a river corridor under the South Carolina Scenic Rivers Program.

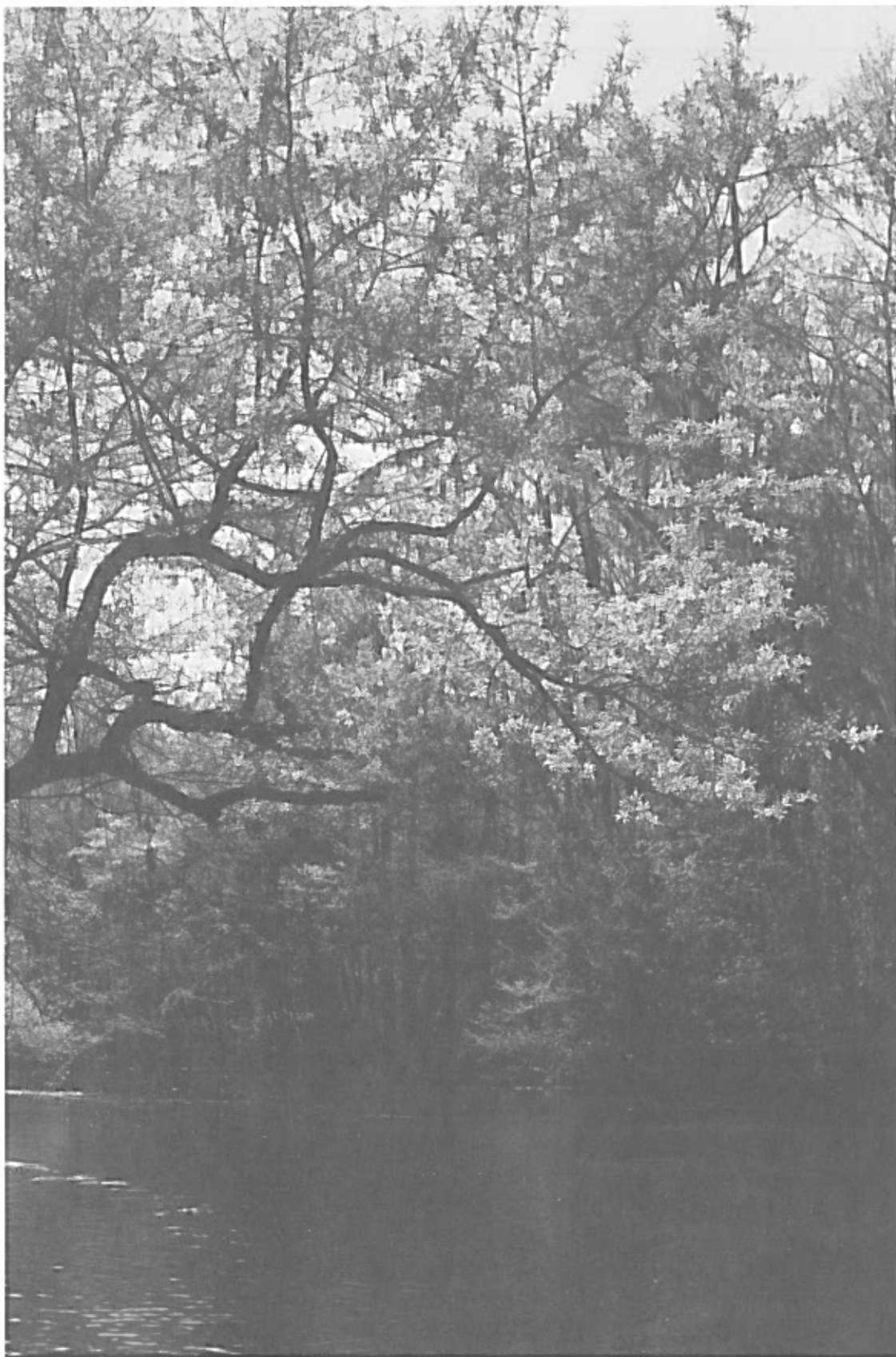
The mutual management provision of the Act represents an attempt to provide more local input into the management of a designated river. Mutual management would most often be accomplished through an agreement between the Commission and either a local, state, or federal governmental entity. However, in a river corridor where a single individual owned many or all riparian lands, a mutual management agreement would be possible with a single landowner in a designated corridor.

Mutual management agreements pertain only to the management of a State Scenic River under the management requirements delineated by the Scenic Rivers Act. The river corridor would have to be protected through easement agreements or purchase or donations of riparian lands. Mutual management represents a shared management responsibility in the corridor and does not change the way in which a river corridor would be protected under the program.

The Scenic Rivers Trust Fund

The Scenic Rivers Trust Fund is established as an acquisition fund for the Scenic Rivers Program. The fund operates to benefit the public through the Scenic Rivers Program by facilitating the purchase of land or rights to land which are voluntarily sold to the program by willing landowners. The fund may also be used for legal fees, appraisals, surveys, or other costs involved in the acquisition of those interests. The Scenic Rivers Trust Fund is eligible to receive donations, gifts, appropriations of state general funds, federal funds, bond issue receipts, securities, and other monetary instruments of value. Persons wishing to contribute to this fund with lands or monies are eligible for state and federal tax deductions.

The fund is kept separate from other funds of the state. No fund money may be expended to acquire an interest in land by eminent domain, nor may the funds be expended to acquire interest in land without a recommendation from the Commission and the approval of the Budget and Control Board. All fund expenses and the uses of these expenditures are reported by the Commission each year to the General Assembly and chairmen of the House and Senate Agriculture and Natural Resources Committees.



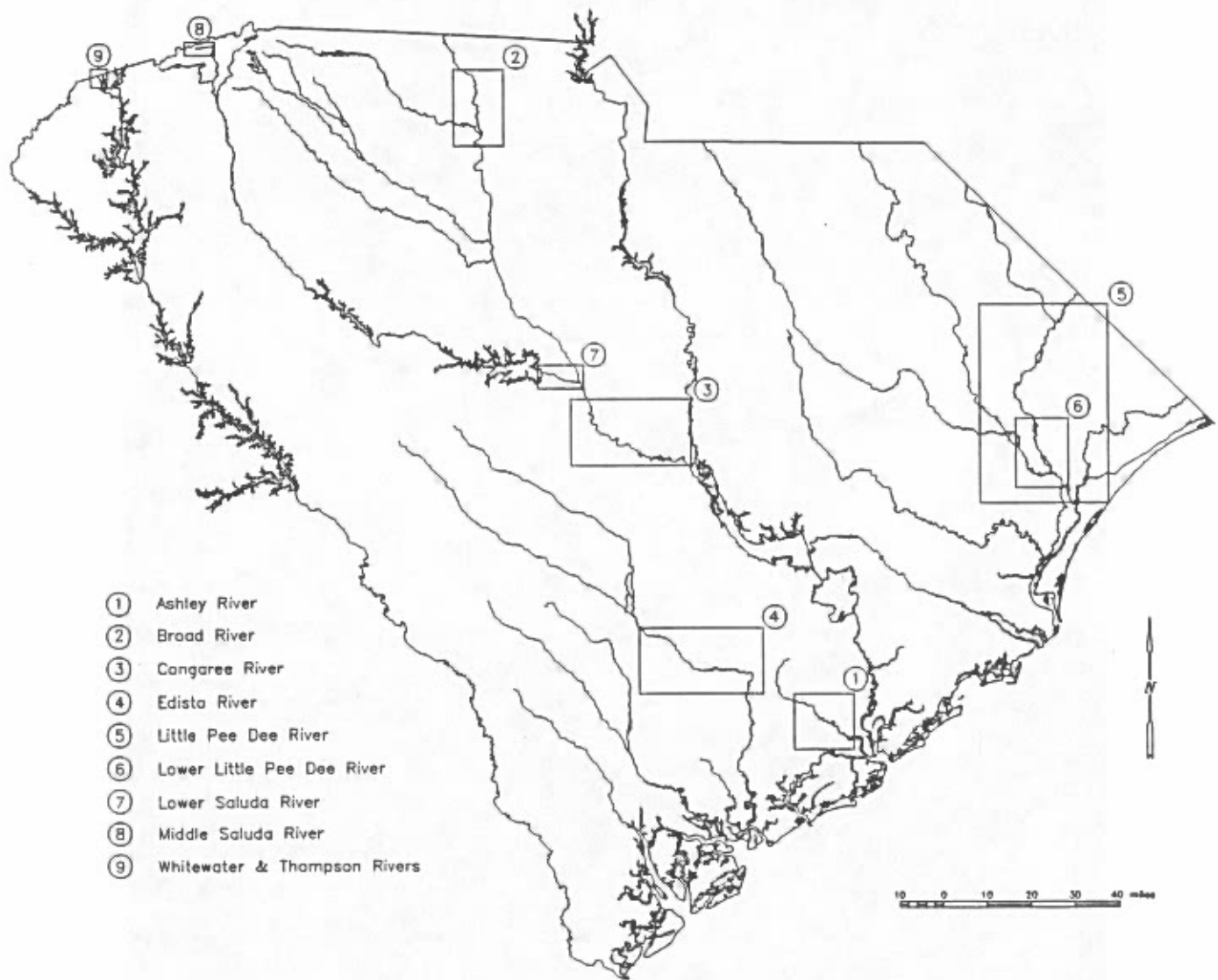


Figure 3. Designated and Eligible State Scenic Rivers

DESIGNATED AND ELIGIBLE STATE SCENIC RIVERS

State Scenic Rivers

Middle Saluda River

The Middle Saluda River was the first river protected under the Scenic Rivers Program in South Carolina. The river became eligible on August 17, 1977, and was designated a Natural River on August 14, 1978. Located in northern Greenville County and completely within Caesar's Head State Park, about five miles of the Middle Saluda and its major tributary, Coldspring Branch, are protected by a 600-foot wide scenic corridor established through an agreement with the South Carolina Department of Parks, Recreation and Tourism. The protected portion extends from U.S. Highway 276 to a point about one mile upstream of the abandoned Cleveland Fish Hatchery. Dropping almost 1000 feet in four miles, the Middle Saluda River is a typical mountain stream, with clear, cold water that supports reproducing trout populations.

Little Pee Dee River

Fifty-two miles of the Little Pee Dee River were designated eligible for scenic river status on November 19, 1980. The eligible portion extends from the junction with the Lumber River to Highway 378. While these 38 miles of the river are eligible for State Scenic Rivers status, the last 14 miles from Highway 378 to the confluence with the Great Pee Dee River were designated as a State Scenic River in March, 1990. The section from the Lumber River to Highway 378 has been recommended for Type II Scenic River status while the last 14 miles was designated as a Type I Natural River. The Little Pee Dee is a typical Coastal Plain blackwater river and is bordered by extensive swamplands.

Lower Saluda River

On July 20, 1983, a 10-mile segment of the Saluda River beginning one mile below Lake Murray to the confluence with the Broad River was declared eligible for inclusion in the State Scenic Rivers Program as a Recreational River area. Although the Saluda River is located in the lower Piedmont, releases from the Saluda Hydroelectric facility give this stretch of river the characteristics of a mountain stream. The river has very cold water which supports a stocked trout fishery. The river also possesses unique geologic features which, combined with the large releases from the Saluda Hydroelectric facility, provide a whitewater river environment. The lower Saluda River was designated as a state scenic river on May 31, 1991.

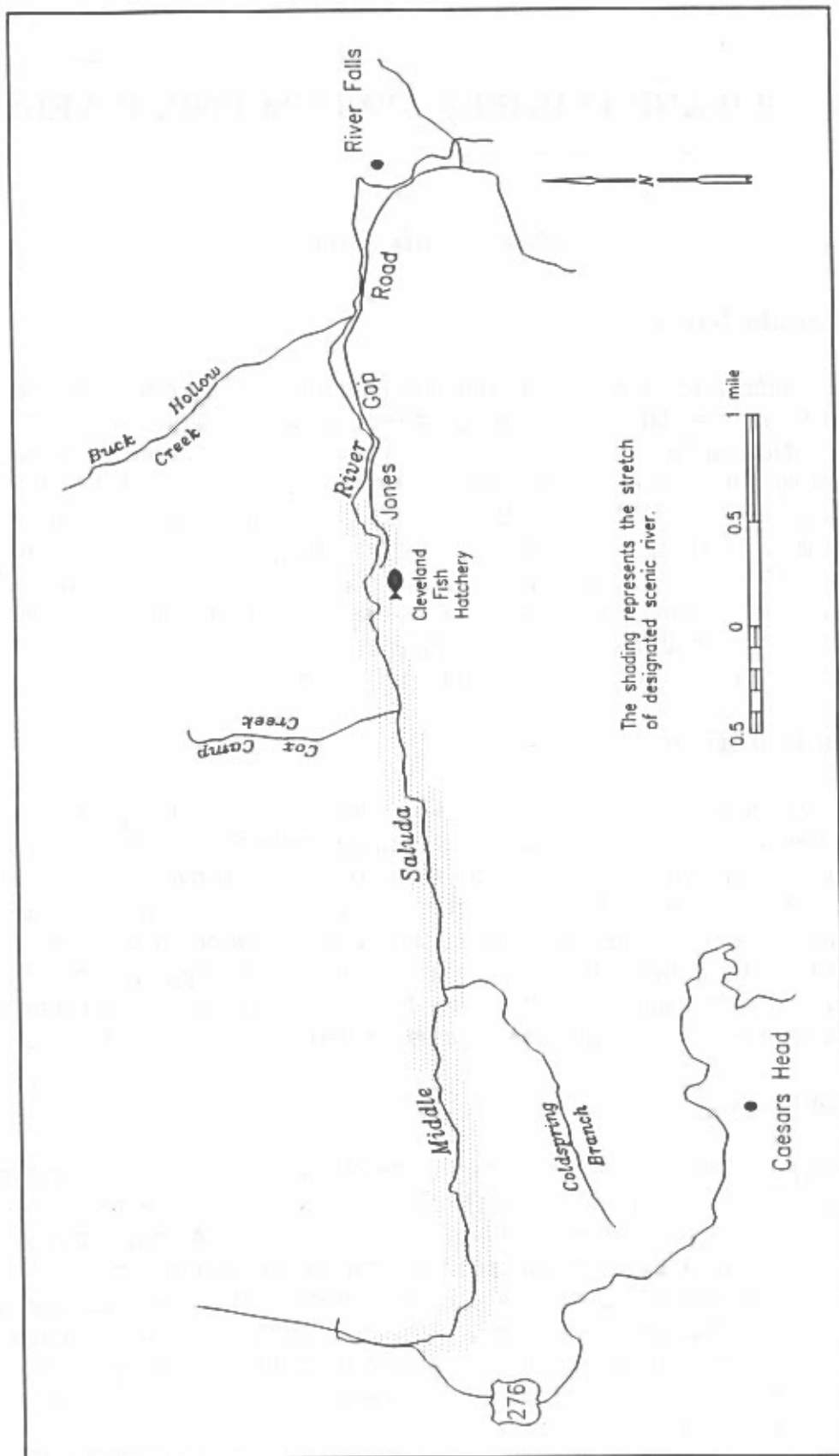


Figure 4. Middle Saluda River

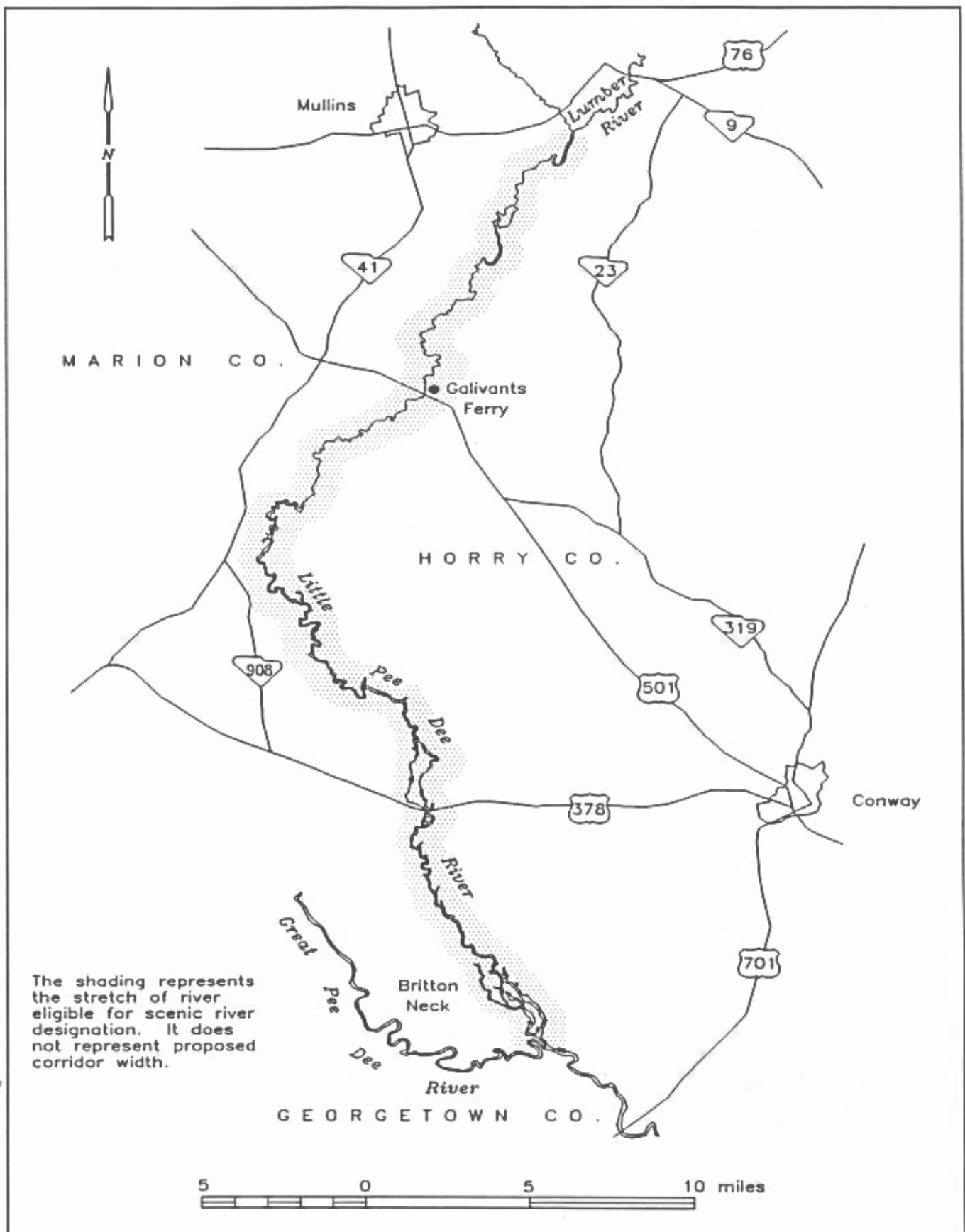


Figure 5. Upper Little PeeDee River

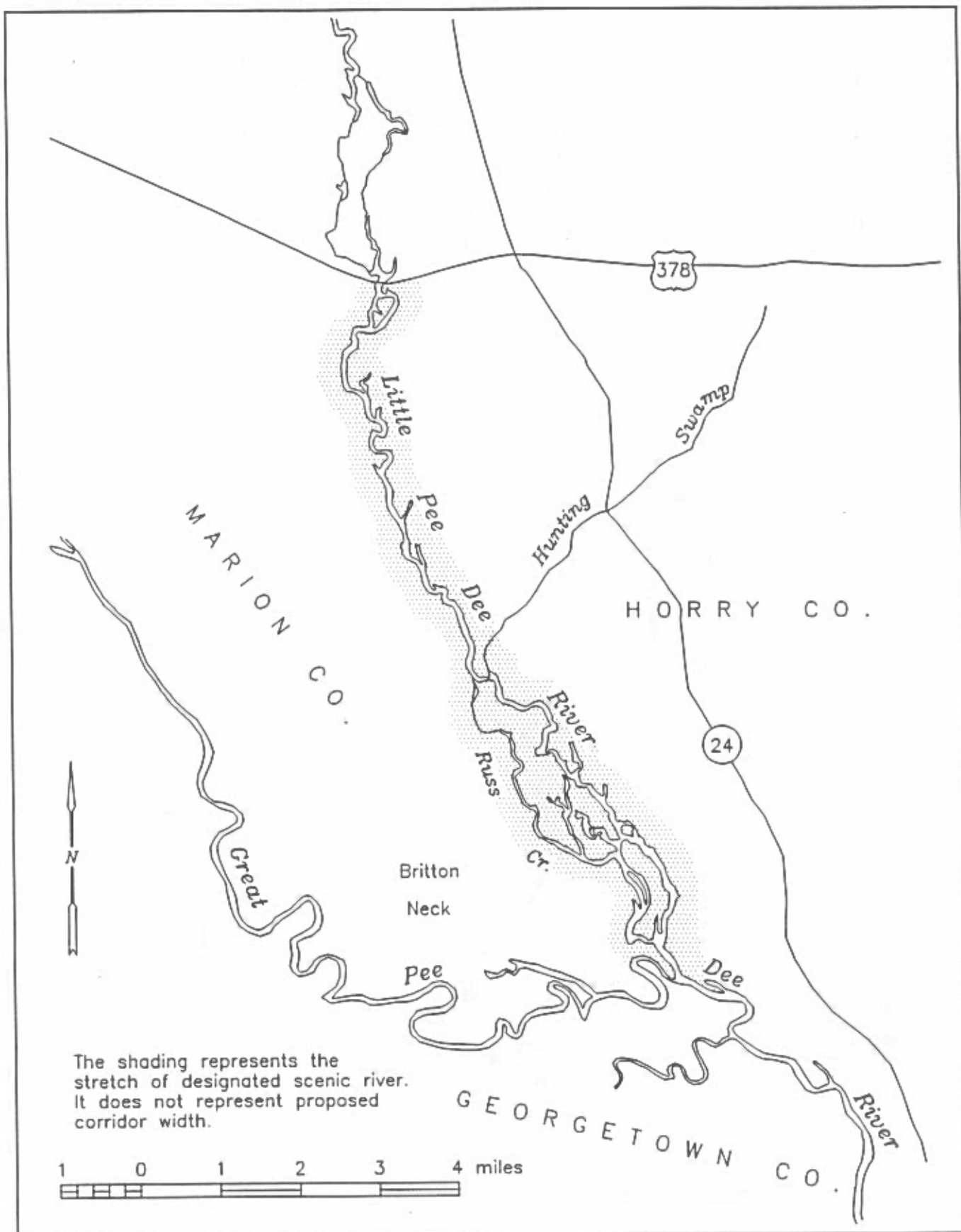


Figure 6. Lower Little Pee Dee River

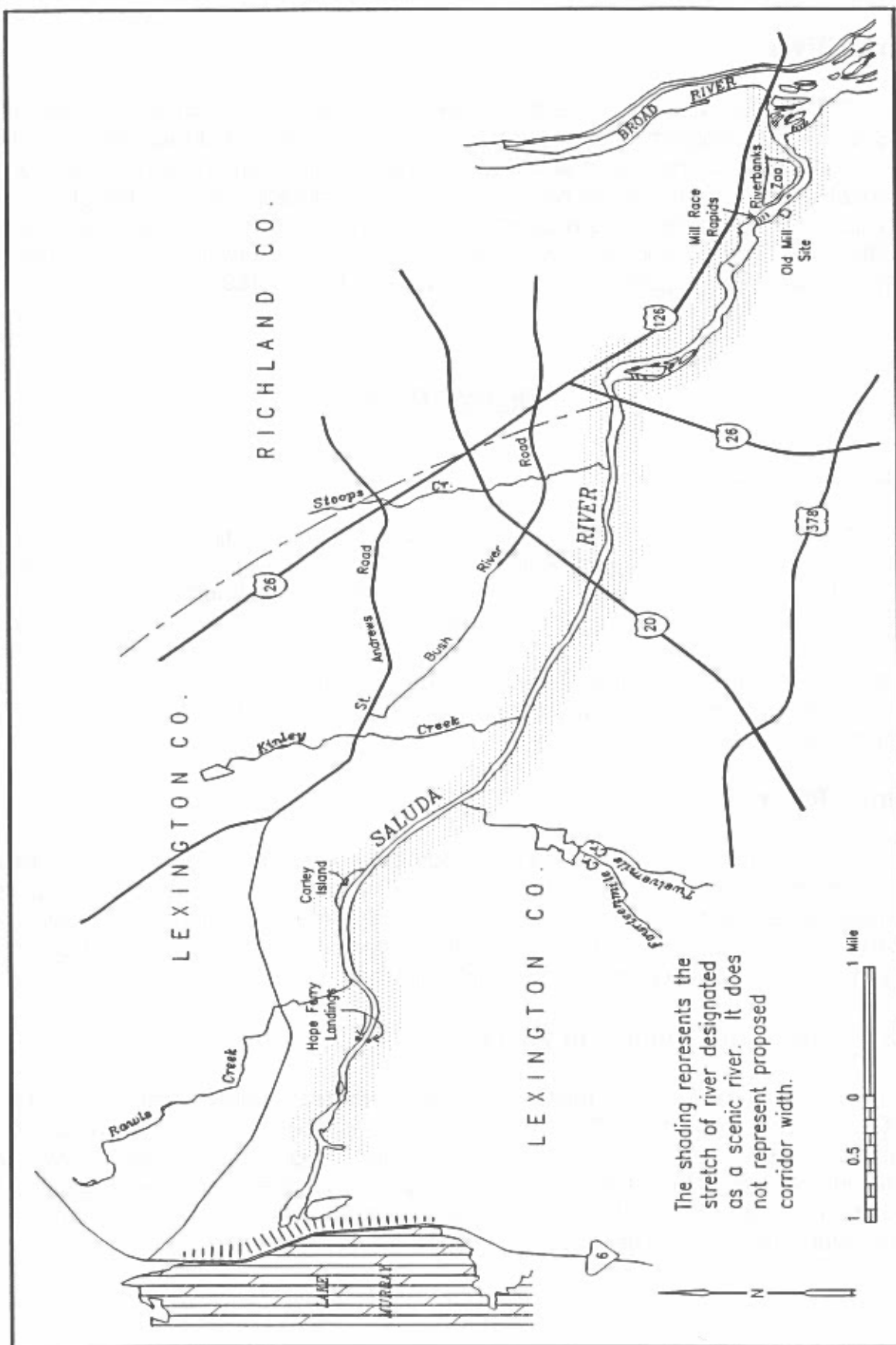


Figure 7. Lower Saluda River

Broad River

The 15-mile segment of the Broad River designated as a state scenic river under the Scenic Rivers Program extends from the Ninety-nine Islands Hydroelectric Power Plant to the confluence of the Broad and Pacolet rivers. This segment borders portions of Cherokee and York counties just north of the river's entrance into Sumter National Forest. A group of riparian landowners requested scenic river protection for this stretch of river in 1989. The Commission gave approval for an eligibility study in 1990, and the river segment was officially designated a scenic river on May 31, 1991.

Eligible Rivers

Congaree River

On October 20, 1976, the Congaree River became the first river selected to be eligible for inclusion in the State Scenic Rivers Program. The eligible portion extends from the mouth of Congaree Creek, just below Columbia, to the Southern Railroad bridge crossing 37 miles downstream. The Southern Railroad bridge is two and one-half miles upstream of U.S. Highway 601. A portion of the extensive swamplands that border the left bank of the river have been included in the Congaree Swamp National Monument. The Monument borders 22 miles of the river and provides habitat for a wide variety of plant and animal species.

Ashley River

On November 17, 1976, a 19-mile segment of the Ashley River near Charleston was declared eligible for scenic river status. The proposed segment extends from Highway 165 at Bacon's Bridge to the mouth of Bulls Creek. The finding of eligibility was based on the area's natural beauty and the historical importance of such places as Drayton Hall, Magnolia Gardens and Middleton Place.

Whitewater and Thompson Rivers

On November 21, 1984, the Commission authorized an eligibility assessment of the Whitewater and Thompson Rivers for state Scenic Rivers status. Individually, the Whitewater and Thompson River segments are short. Together, however, the two rivers represent 2.6 miles of breathtaking waterfalls, rapids, and races that deserve scenic rivers protection. One and eight-tenths of a mile of river is eligible for the program on the Whitewater, and eight-tenths of a mile is eligible on the Thompson.

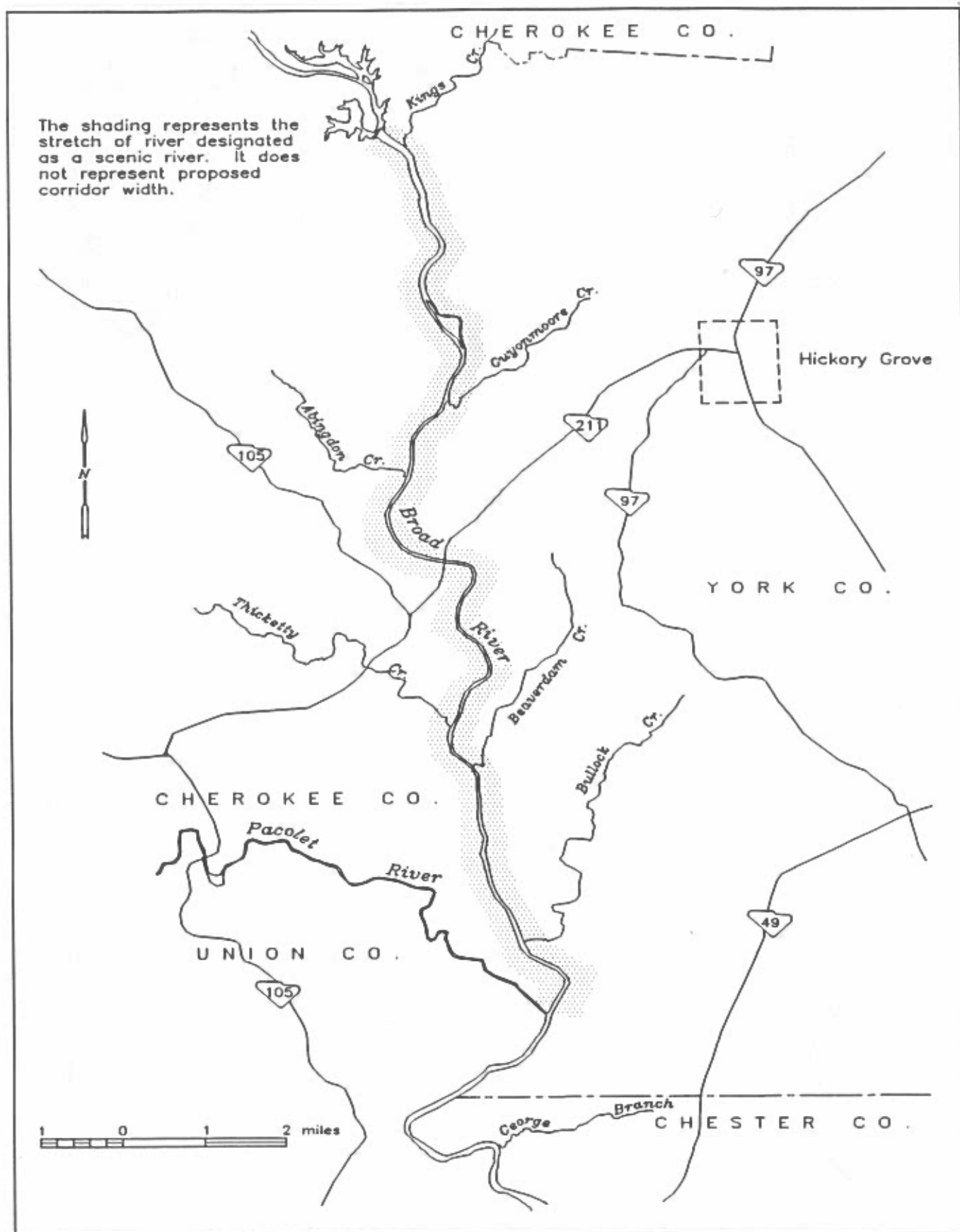


Figure 8. Broad River

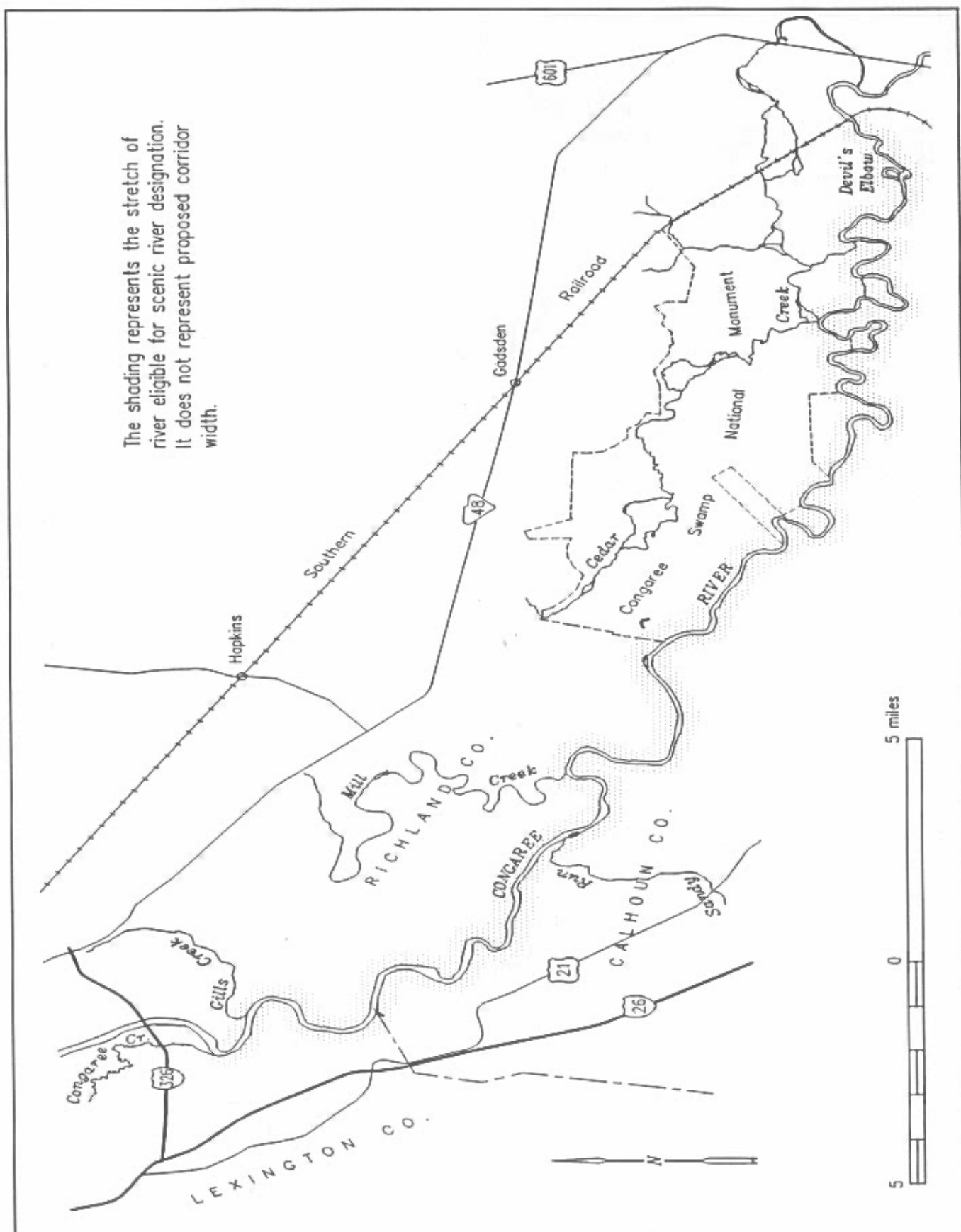


Figure 9. Congaree River

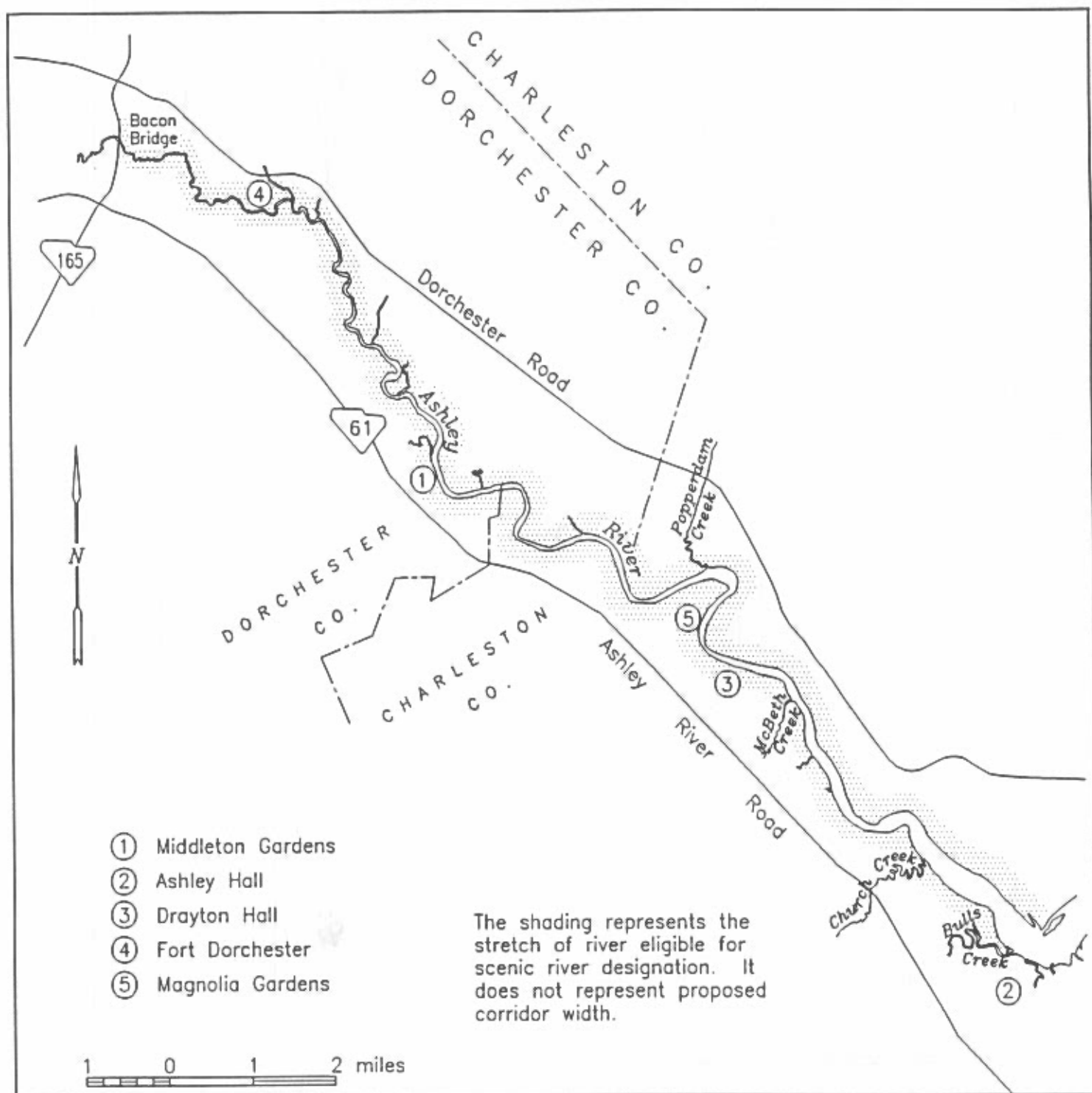


Figure 10. Ashley River

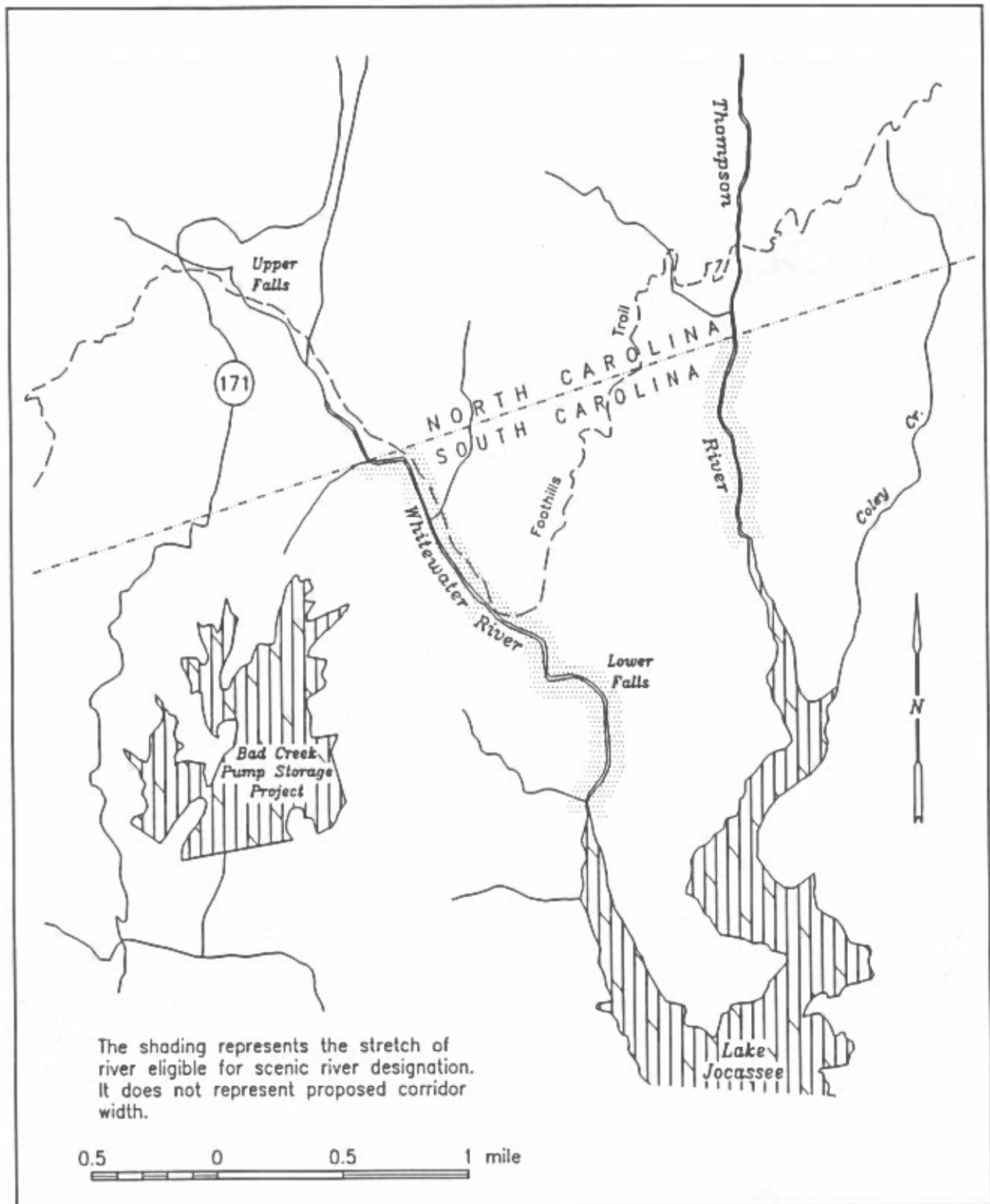


Figure 11. Whitewater and Thompson Rivers

The Whitewater and Thompson Rivers are two of the few rivers in South Carolina which display the topography and stream gradient characteristics of high mountain streams in the Blue Ridge. Based on these and other attributes, the Whitewater and Thompson Rivers became eligible for inclusion in the State Scenic Rivers Program as Natural River Area in January of 1986. The shared status in designation of these two rivers as an eligible Natural River Area is warranted because the rivers, by virtue of their proximity to one another, share common access, geologic, vegetative, and morphological features, in addition to a common outlet in Lake Jocassee.

Both the Whitewater and Thompson Rivers originate in North Carolina. The stretches proposed for the Scenic Rivers Program extend from the South Carolina border into Oconee County where each river meets Lake Jocassee. Saddled by the Coon Branch and Whitewater River Natural Areas, the rivers possess diverse biological communities in which several rare, threatened or endangered species exist. Most of the vicinity is classified by Duke Power Company as a Watershed Protection Zone.

Edisto River

The Edisto River is reported to be the longest free-flowing blackwater river in the United States. The mainstem of the Edisto River begins as the border of Bamberg and Orangeburg counties, flows past two state parks, Colleton and Givhans Ferry, and empties into the Atlantic Ocean in St. Helena Sound, a distance of 119 miles from the confluence of the North and South Forks. The 44-mile section of the Edisto from U.S. Highway 21 to Givhans Ferry State Park was designated as South Carolina's first canoe and kayak trail in 1988. The Edisto River Canoe and Kayak Trail Committee requested scenic river protection for this same stretch of river in 1988. The Commission gave approval for an eligibility study in 1989.

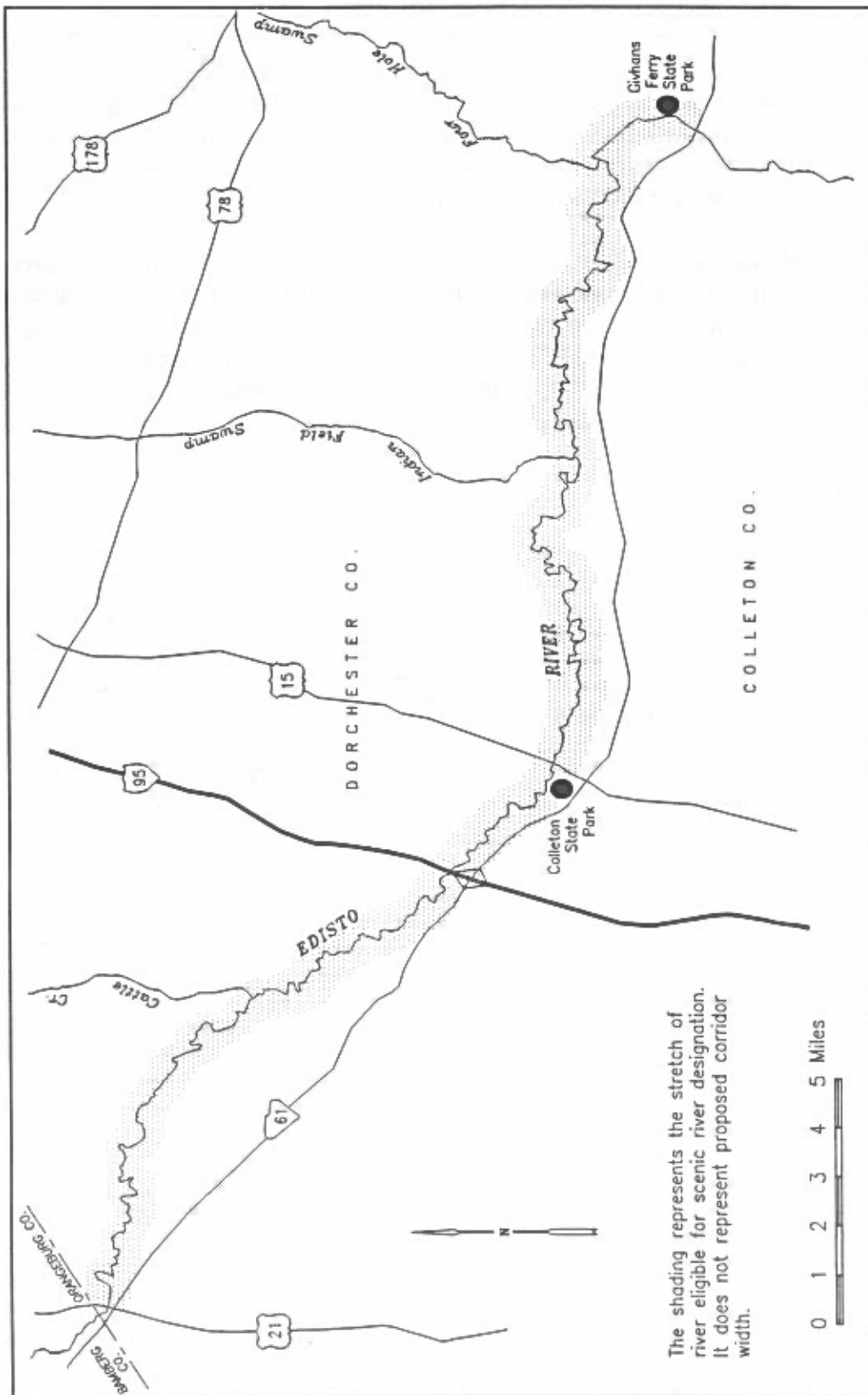


Figure 12. Edisto River

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APPENDIX A

South Carolina Scenic Rivers Act of 1989

AN ACT TO AMEND TITLE 49, CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 29 SO AS TO ENACT THE SOUTH CAROLINA SCENIC RIVERS ACT OF 1989; AND TO REPEAL CHAPTER 5 OF TITLE 51 RELATING TO SCENIC RIVERS.

Be it enacted by the General Assembly of the State of South Carolina:

Scenic Rivers Act

SECTION 1. Title 49 of the 1976 Code is amended by adding:

"CHAPTER 29

South Carolina Scenic Rivers Act

Section 49-29-10. This chapter may be cited as the 'South Carolina Scenic Rivers Act of 1989'.

Section 49-29-20. Except as otherwise required by the context:

- (1) 'Commission' means the South Carolina Water Resources Commission.
- (2) 'Free flowing' means existing or flowing in natural condition without impoundment, (diversion) straightening, riprapping, or other modification of the waterway. The existence of low dams, diversion works, and other minor structures at the time a river is proposed for inclusion in the State Scenic Rivers Program does not automatically bar its consideration for inclusion, but this may not be construed to authorize, intend, or encourage future construction of those structures within components of the State Scenic Rivers Program.
- (3) 'Management agency' means the South Carolina Water Resources Commission.
- (4) 'Mean highwater line' means that line which intersects with the shore in tidal waters representing the average height of high waters over an eighteen and one-half year tidal cycle. Benchmarks purporting to have established mean high or low water values must be verified by the commission as meeting state and national ocean survey standards.
- (5) 'Ordinary highwater mark' means the natural or clear line impressed on the shore or bank in nontidal waters representing the ordinary height of water. It may be determined by bank shelving, changes in the character of the soil, destruction or absence of terrestrial vegetation, the presence of litter or debris, or a combination of the above or

other appropriate criteria that consider the characteristics of the surrounding area. Ordinary highwater mark is not the line reached by floods, but it is the line to which ordinary high water usually reaches.

(6) 'Perpetual easement' means a perpetual right in land of less than fee simple which:

(a) obligates the grantor and his heirs and assigns to certain restrictions constituted to maintain the scenic qualities of those lands bordering the river as determined by the State under this chapter;

(b) is restricted to the area defined in the easement deed;

(c) grants a privilege to those charged with the administration or enforcement of the provisions of this chapter to go upon the land for the purpose of compliance inspection.

(7) 'River' means a flowing body of water or a section, portion, or tributary of it including rivers, streams, creeks, branches, or small natural lakes.

(8) 'Road' means a highway or any hard-surface road.

Section 49-29-30. The General Assembly finds that certain selected rivers and river segments of this State possess unique or outstanding scenic, recreational, geologic, botanical, fish, wildlife, historic, or cultural values. It is the policy of the General Assembly to provide for the protection of these selected diminishing values and to preserve the state's natural heritage for the benefit and enjoyment of present and future generations. The provisions of this chapter complement and are considered part of the State Water Resources Plan as formulated by the commission.

Section 49-29-40. The following types of rivers are eligible for inclusion in the State Scenic Rivers Program:

Natural rivers: those free-flowing rivers or river segments generally inaccessible except by trail or river, with adjacent lands and shorelines essentially undeveloped and its waters essentially unpolluted.

Scenic rivers: those rivers or river segments which are essentially free flowing and possess shorelines largely undeveloped and with limited road access. Adjacent lands are partially or predominantly used for agriculture, silviculture, or other dispersed human activity which does not disturb substantially the natural character of the river corridor.

Recreational rivers: those rivers or river segments accessible by road and that possess development along shorelines and adjacent lands. Included are rivers with developed or partially developed shorelines and adjacent lands for residential, commercial, or industrial purposes, rivers with parallel roads or railroads, and rivers with some impoundments. These rivers or river segments provide outstanding river-related recreational opportunities.

Section 49-29-50. (A) The commission shall inventory and study all South Carolina

rivers and identify the rivers or river segments which possess unique or outstanding scenic, recreational, geological, botanical, fish, wildlife, historic, or cultural values in accordance with Section 51-5-70.

(B) Rivers or river segments identified in the inventory as possessing unique or outstanding scenic, recreational, geologic, botanical, fish, wildlife, historic, or cultural values are eligible for the State Scenic Rivers Program and may be designated as an eligible state scenic river by the commission. Rivers or river segments so designated are subject to the completion of a management plan and the acquisition of management rights on adjacent riparian lands.

(C) Proposals for including additional rivers or river segments may be made by state agencies, local governments, and other governmental or citizen's groups and submitted to the commission for evaluation and study.

Section 49-29-60. The commission shall hold a public meeting in the vicinity of the river or river segment proposed for addition to the State Scenic Rivers Program. This public meeting must be conducted before any action by the commission to designate the river or river segment as an eligible state scenic river. The purpose of this meeting is to solicit comments from the public concerning the proposed designation of a river or river segment. Notice of this meeting must be published at least thirty days before the meeting in the State Register and in a newspaper having general circulation in each county containing or bordering the river or river segment under study and in a newspaper having general circulation in the State. Landowners along the proposed river or river segment also must be notified by letter.

Section 49-29-70. The commission shall establish and publish minimum criteria for assessing a river's eligibility and classification under the State Scenic Rivers Program. To qualify as eligible, the river or river segment must possess unique or outstanding scenic, recreational, geological, botanical, fish, wildlife, historic or cultural values. The level of pollution of a river's waters must be considered in determining eligibility for qualification as a scenic river. A river with relatively polluted waters may qualify as eligible as a scenic river if other values are considered outstanding. The river or river segment must be managed permanently for the preservation or enhancement of its values.

Section 49-29-80. After eligibility procedures for a river or river segment are completed by the commission, and the General Assembly ratifies such designation, the commission, through the executive director, shall establish an advisory council for that scenic river. The advisory council must be appointed as early as possible to assist the work of the commission. Each advisory council must consist of not less than six nor more than ten members who must be selected from local government, riparian landowners, community interests, and the commission, whose staff member must serve as chairman. The riparian landowners must constitute a majority of the membership on each council. The duties of the advisory councils are to assist and advise the commission concerning protection and management of each scenic river.

Section 49-29-90. No river or river segment may be eligible as a state scenic river and accorded the protection of this chapter, except upon formal action by the commission. Following action by the commission declaring a river or river segment eligible as a state scenic river, the commission shall publish a notice of the eligibility in the State Register and provide written notice to the State Budget and Control Board, the South Carolina Tax Commission, and the affected units of local government. Notice of eligibility also must be published in a newspaper of general circulation in the State to apprise interested parties of the opportunities under Section 49-29-100. The notice must describe the boundaries of the river or river segment. Following notice of eligibility, the commission shall submit the same to the General Assembly for review. No river or river segment may be designated a state scenic river until the General Assembly has duly enacted legislation ratifying such designation.

Section 49-29-100. After ratification by the General Assembly of the designation of a river or river segment as a scenic river under the State Scenic Rivers Program, the State, through the Budget and Control Board, and with the consent of the governing body of the county in which the land is located, may purchase with donated or appropriated funds, exchange lands for, or otherwise accept donations of certain lands adjacent to the eligible river or section of a river either in fee simple or perpetual easement from an owner. Unless unusual circumstances warrant, purchases of land adjacent to scenic and recreational rivers may not be less than one hundred feet in width from the ordinary highwater mark or mean highwater line of the river in normal conditions. Purchases of land for natural rivers may not be less than three hundred feet in width from the ordinary highwater mark or mean highwater line of the river.

For landowners donating perpetual easements to the State under the Scenic Rivers Program, a deduction from state income tax may be taken equal to the fair market value of the easement granted. The value of a perpetual easement is determined as the difference between the fair market value of the total property before the land is burdened with the easement and the fair market value of the property after the easement is granted. After the grant of a perpetual easement, land subject to a permanent easement is exempt from all property taxes. Donors of land in fee simple may elect to take a deduction from state income tax equal to the value of the fee donated. For both donations in fee simple or easement, the donor may elect to take the deduction during a five-year period following the donation. The total deduction may be taken during any one year of the five-year period or the deduction may be taken in proportionate amounts during the five-year period. The value of the fee or easement must be assessed at the time of the donation.

Land placed in the Scenic Rivers Program which is owned by the State may be restricted in conformance with this chapter by executed easement or deed restriction executed by the donating agency and approved by the Budget and Control Board.

The Budget and Control Board shall submit annually a report of the property included in the Scenic Rivers Program to the South Carolina Tax Commission and the auditor of each county in which the property is situated.

The limitations of the liability of titleholders, as provided under Section 29-3-50, apply to all land purchased or donated in easement under the Scenic Rivers Program.

Section 49-29-110. There is created the Scenic Rivers Trust Fund which must be kept separate from other funds of the State. The fund must be administered by the commission for the purpose of acquiring fee simple or lesser interest in land adjacent to scenic rivers and river segments, legal fees, appraisals, surveys, or other costs involved in the acquisition of those interests.

Unexpended balances, including interest derived from the fund, must be carried forward each year and used for the purposes provided in this chapter.

No fund money may be expended to acquire an interest in land by eminent domain nor may the funds be expended to acquire interest in land without a recommendation from the commission and the approval of the Budget and Control Board.

The commission shall report by letter to the presiding officers of the General Assembly and chairmen of the House and Senate Agriculture and Natural Resources Committees each year all funds expended pursuant to this chapter for the previous year, including the amount of funds expended and the uses to which the expenditures were applied.

The fund is eligible to receive appropriations of state general funds, federal funds, donations, gifts, bond issue receipts, securities, and other monetary instruments of value. A reimbursement for monies expended from this fund must be deposited in this fund. A fund received through sale, exchange, or otherwise of land acquired under this chapter accrues to the fund.

Section 49-29-120. The lands to be placed in the Scenic Rivers Program may be obtained only from private or corporate owners voluntarily in the manner specified in Section 51-5-100. Neither the State nor an agency or department of it may obtain by eminent domain land for the Scenic Rivers Program either in fee simple or in perpetual easement.

Section 49-29-130. Whenever land or a portion of it donated pursuant to this chapter ceases to be used for the purpose for which it was donated, the title to the land reverts to the donor.

Section 49-29-140. Management of scenic river areas may differ in degree within a given class of rivers based on the special attributes of the river but must adhere to the following management policies:

- (1) Natural rivers must be managed in a manner which:
 - (a) would best maintain and enhance those conditions which are attributed to wilderness type areas;
 - (b) would allow camping and river access only at designated public access areas; and
 - (c) would allow certain public uses only within prescribed public access areas.

(2) Scenic rivers must be managed in a manner which best maintains and enhances the scenic values of the river and the adjacent land while at the same time preserving the right of riparian landowners to use the river for customary agricultural, silvicultural, or other similar purposes.

(3) Recreational rivers must be managed in a manner which would best maintain and enhance the scenic values of the river while at the same time preserving the right of riparian landowners to use the river for customary agricultural, silvicultural, residential, recreational, commercial, and industrial purposes.

To the extent practicable and consistent with the objectives of this chapter to preserve and maintain scenic rivers, public access and use must be open in all classes of scenic rivers. The level and nature of public use must not interfere with the rights retained by the titleholders or detract from the natural scenic qualities of the land, but the State may purchase lands or accept donations of easements, in accordance with Section 49-29-100, which restricts public access and use when necessary to implement this chapter.

Section 49-29-150. The provisions of this chapter regarding restrictive use or zoning of lands apply only to those lands which have been accepted into the State Scenic Rivers Program by donation, perpetual easement, or purchase.

Section 49-29-160. The commission shall formulate comprehensive water and related land use plans for the three classes of scenic rivers. Each plan must address access of electricity, natural gas, and communication lines or other facilities for permitted uses for each class of river facilities. Each plan must also address criteria for permitting the crossing of each class of scenic river by sellers of electric energy, natural gas, or communication services. In developing these criteria, the commission must consider the state of available technology, the economics of the various alternatives, and that electric, natural gas, and communication suppliers are required to deliver their services. The commission must recognize that emergency situations will arise that require immediate action and must make provision in the management plan to allow this action.

In the comprehensive plan for the river classes, the following general land and water use practices are permitted or prohibited depending on the class:

(1) In natural river areas, no new roads or buildings may be constructed and there may be no mining and no commercial timber harvesting.

(2) In scenic and recreational river areas, the continuation of present agricultural practices such as grazing and the propagation of crops, including timber, is permitted. The construction of farm-use buildings is permitted if it is found to be compatible with the maintenance of scenic qualities of the stream and its banks. There may be no construction of roads paralleling the river within the limits of a scenic easement or public access area. The harvesting of timber is permitted provided the landowner follows the best management practices for forested wetlands as approved by the South Carolina Forestry Commission. Mining activities are permitted pursuant to a mining permit issued under the provisions of Chapter 19 of the South Carolina Mining Act. Construction for

public access related to recreational use of these scenic river areas is allowed in accordance with Section 49-29-140.

Section 49-29-170. Sellers of electric energy, natural gas, or communication services may cross on, over, or under lands designated as part of the Scenic River System provided that the commission certifies that such crossing is consistent with the management plan for those lands. A certificate of consistency shall be issued by the commission upon a finding:

- (1) that the crossing is necessary to provide electric, natural gas, or communication service; and either
 - (a) that the crossing is consistent with the management plan; or
 - (b) that the extent of deviation from the management plan for the construction, operation, and maintenance of the facility across the scenic river is justified, considering the state of available technology and the nature and economics of the various alternatives, and that the entity responsible for the encroachment will make reasonable mitigation for the impacts caused by the construction, operation, and maintenance of the facility. The commission shall issue a certification of consistency or nonconsistency within thirty days from the receipt of an application. A time extension may be granted upon a mutual agreement of both parties. Certification does not preclude the necessity to obtain other required state and federal authorizations. All administrative proceedings are subject to Article I, Chapter 23 of Title 1 (the Administrative Procedures Act), as amended.

Section 49-29-180. The commission shall administer the provisions of this chapter. The commission may promulgate regulations to carry out the provisions of this chapter. In addition to general regulations, the commission may promulgate further regulations based on the individual attributes of each designated scenic river area if regulations do not defeat, conflict with, or minimize the provisions of the general regulations for each class of scenic river. No scenic river may be managed in a manner that would result in the river corridor falling into a less restrictive class. Nothing in this chapter or its implementation may restrict reasonable utilization of the rivers in the program for fishing from the banks of the rivers or river segments.

Section 49-29-190. The commission may enter into agreements with local, state, and federal agencies, and private landowners, for the mutual management of a scenic river.

An agency which has administrative jurisdiction over lands or interests in land along a state scenic river must assist the commission to implement the policies and practices of this chapter.

Section 49-29-200. The law enforcement sections of the South Carolina Wildlife and Marine Resources Department and the State Forestry Commission, as well as local sheriffs, constables, and special officers, shall cooperate in the inspection and enforcement of the provisions of this chapter.

Section 49-29-210. A person who violates a provision of this chapter, the regulations promulgated by the management agency under it, or the conditions of the perpetual easements granted to the State under this chapter is guilty of a misdemeanor and may be compelled to comply with or obey the provisions of this chapter by injunction or other appropriate remedy and, upon conviction, must be punished by a fine of not more than five hundred dollars or imprisonment for not more than thirty days for each day of a violation. The provisions of this section do not preclude any applicable action by the South Carolina Tax Commission to remove or recover property or income tax due it under Section 49-29-100."

Repeal

SECTION 2. Chapter 5, Title 51 of the 1976 Code is repealed.

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Approved the 22nd day of May, 1989.

APPENDIX B

Advisory Council Responsibilities

Introduction

The State Scenic Rivers Program assures perpetual river corridor management for each designated scenic river through a specific management plan for each river in the program. A river management plan is devised to maintain the river's overall natural, scenic and cultural qualities, and is developed for each scenic river by a local advisory council appointed by the program administrator.

Structure and Function

Soon after a river is designated as a State Scenic River by the General Assembly, the executive director of the South Carolina Water Resources Commission (the program administrator) appoints the advisory council. Advisory council members are selected from among local government, riparian landowners, and community interests.

The advisory council is formed as a public-private partnership to guide the development of the river's management plan, detailing strategies and procedures for implementation and perpetual maintenance of a scenic river corridor. Advisory council membership for each scenic river is limited in size to not less than six nor more than ten members. The council of ten includes a Scenic River Program staff member who serves as council chair. Advisory councils may be augmented by non-voting ex officio members, subcommittee members and voices in the community or other interests.

The duties of advisory councils are to assist and advise the South Carolina Water Resources Commission (the Commission) concerning protection and management of each scenic river. Therefore advisory council members are appointed who are knowledgeable about the river, concerned about its conservation and able to maintain citizen involvement throughout the management plan development process. Advisory councils remain associated after formation of a river management plan to help implement and consider changes in the plan. Advisory council membership is voluntary, and terms are indefinite.

The river management plan is the principal instrument with which the advisory council assists and advises the Commission concerning protection and management of each scenic river. Responsibilities of advisory council members in developing the

management plan include being receptive and responsive to local or outside interests, and assuring that relevant concerns to the river are addressed in the plan. The advisory council incorporates individual roles, group roles and common goals into a cohesive package.

Ideally the advisory council, in developing a river management plan, creates a broad spectrum of support for the plan and arrives at a consensus on long term river management techniques. However, with broad-based support as the objective, perpetual river management plans should accommodate the flexibility to incorporate changes that can take place over time in river management issues and advisory council membership. Therefore while the scope of a management plan is long range, it is also designed to be mutable over time by means of advisory council consideration.

Advisory Council Process

Decisions made in devising a comprehensive plan for a scenic river are joint and coordinated among advisory council members, with consensus as the ideal. Decisions made at meetings carry the weight of council approval. Thus attendance at the periodic if not frequent meetings is important during development of the management plan. Meetings should be scheduled both regularly and as necessary, with regular meetings at approximately monthly intervals during management plan creation. Meetings continue until a draft is approved and ratified as a final scenic river management plan by the council.

As best as possible, subsequent meeting times and places will be scheduled during current meetings to best accommodate advisory council members. Meeting summaries and announcements of upcoming meetings will be sent by the chair to all advisory council members and other interested parties prior to regularly scheduled meetings. When an irregularly scheduled meeting is planned, likewise notice will also be sent unless time will not allow it, in which case telephone notice will be given.

If consensus cannot be reached on a particular decision, a vote among advisory council members present at the meeting will be recorded. The chairman abstains from voting in such cases unless it is necessary for the chairman to vote to break a tie vote among advisory council members.

Management Plan Basics

Two sets of guidance are given the advisory council in developing a perpetual river management plan: the Scenic Rivers Act of 1989 itself and the management plan guidelines contained in the Scenic Rivers Administrative Handbook.

The Act defines the three classes of scenic river as natural rivers, scenic rivers and recreational rivers. Management of designated scenic river areas may differ in degree within a given class of river based on the special attributes of the river but must adhere to the following management policies:

1. Natural rivers must be managed in a manner which:
 - a) would best maintain and enhance those conditions which are attributed to wilderness type areas;
 - b) would allow camping and river access only at designated public access areas; and
 - c) would allow certain public uses only within prescribed public access areas.
2. Scenic rivers must be managed in a manner which best maintains and enhances the scenic values of the river and the adjacent land while at the same time preserving the right of riparian landowners to use the river for customary agricultural, silvicultural or other similar purposes.
3. Recreational rivers must be managed in a manner which would best maintain and enhance the scenic values of the river while at the same time preserving the right of riparian landowners to use the river for customary agricultural, silvicultural, residential, recreational, commercial and industrial purposes.

To the extent practicable and consistent with the objectives of the Act to preserve and maintain scenic rivers, public access and use must be open in all classes of scenic rivers. The level and nature of public use must not interfere with the rights retained by the titleholders or detract from the natural scenic qualities of the land, but the State may purchase lands or accept donations of easements, in accordance with Section 49-29-100, which restricts public access and use when necessary to implement the Act. Power of eminent domain may not be used by the Commission to acquire scenic river properties.

In addition, the management plan for a designated scenic river must reflect the following general land and water use practices as defined in the Act according to river class:

1. In natural river areas, no new roads or buildings may be constructed and there may be no mining and no commercial timber harvesting.
2. In scenic and recreational river areas, the continuation of present agricultural practices such as grazing and the propagation of crops, including timber, is permitted. The construction of farm-use buildings is permitted if it is found (by the Commission) to be compatible with the maintenance of scenic qualities of the stream and its banks. There may be

no construction of roads paralleling the river within the limits of a scenic easement or public access area. The harvesting of timber is permitted provided the landowner follows the best management practices for forested wetlands as approved by the South Carolina Forestry Commission. Mining activities are permitted pursuant to a mining permit issued under the provisions of Chapter 19 of the "South Carolina Mining Act". Construction for public access related to recreational use of these scenic river areas is allowed in accordance with Section 49-29-140 of the Scenic Rivers Act.

Each management plan must address access of electricity, natural gas and communication lines or other facilities for permitted uses for each class of river facilities. Each plan must also address criteria for permitting the crossing of the particular class of scenic river by sellers of electric energy, natural gas or communication services. Provisions must be made in the management plan to allow for emergency situations in electric, gas or communications siting that require immediate action. Sellers of electric energy, natural gas or communication services may cross on, over, or under lands designated as part of the Scenic River System provided that the Commission certifies that such crossing is consistent with the management plan for those lands. A certificate of consistency shall be issued by the commission when such crossing is found to meet criteria for certification.

Violations of the law or of perpetual easements granted to the State are misdemeanors punishable by a fine of not more than five hundred dollars or imprisonment for not more than thirty days for each day of a violation.

Beyond the mandatory provisions in the law for the different classes of river, the Commission has formulated comprehensive water and related land use plans for the three classes of scenic rivers, and these are contained in the Scenic Rivers Program Administrative Handbook. These guidelines serve as models for advisory councils in formulating individual management plans for scenic rivers, although all the provisions for a river class may not necessarily apply to a given river.

The general purposes of the management guidelines are:

1. To protect the scenic, aesthetic, historic and ecological values of a designated scenic river corridor;
2. to provide for consistent management practices within each class of river in conformance with the purposes of the Scenic Rivers Act;
3. to assure that the management of each river or river segment would not result in that area falling into a less restrictive river class.

Handling Change

While river management plans are designed for perpetual management of scenic rivers, needs may arise to change a management plan to reflect contemporary concerns. In such a case, the current advisory council will consider amending the plan as necessary and appropriate. Also, in considering the perpetual nature of scenic river preservation, it is recognized that advisory council membership may change over the long term. Replacing members of the advisory council in such cases is the responsibility of the Commission. Changes necessitated in advisory council membership and in a management plan itself are specific to each scenic river and will be handled contemporarily as required.

