

that they cannot zone land, but the Wild and Scenic Rivers Act has mandated that the lead agency has the authority to enact a river corridor management plan, they can issue notices of non-compliance, and if absolutely necessary to protect the ORVs, they can as a last resort condemn land and acquire it at fair market value to protect threatened ORVs. (Usually condemnation is not necessary, because the land owner chooses to comply, or a compromise is worked out, or they just decide to sell their property.) These are the types of "regulations" referred to in the recent extensive law review titled "Wild and Scenic Act at 50: Overlooked Watershed Protection" published in "9 Michigan Journal of environmental and Administrative Law 1," states, "Reviewing courts have consistently required managing agencies to protect and enhance ORVs, prioritizing the overriding goal of the statute over any inference that the Wild and Scenic River Act lacks intent to authorize regulation of non-federal lands. For actions on non-federal lands within river corridors that substantially threaten the protection and enhancement of the ORVs, managing agencies possess sufficient regulatory power to avoid these effects." (p.61) It is absolutely disingenuous for the Forest Service to pretend that they lack the authority and means to protect ORVs. Footnote 278 in the above legal review specifically refers to the situation on the White Salmon River: "Failure to keep Comprehensive Management Plans up to date could equate to a failure to protect and enhance ORV." The Forest Service has failed to do two mandatory reviews that should have been done within the corridor during the last 33 years, reviews that are required in their own management plan. Also, the Forest Service has not done the biodiversity studies that were required in the plan. In this manner, essential mechanisms for monitoring the protection and enhancement of the Outstanding Remarkable Values have been shoved aside and ignored.

The Forest Service says that the Management Plan "calls for us to work on a willing basis with sellers..." (p.8) Because the Forest Service does not have a clue what is going on in their management corridor, they cannot be proactive purchasers of land when it is offered for sale. But worse, they actually have vigorously resisted critical acquisitions when they have been offered, and have failed to acquire any conservation easements, even when offered. One critical easement within the management corridor was offered by a local ranching family, but the Forest Service failed to consummate the easement. That property has been converted to residential development.

The Forest Service claims, "Anything that is not the river itself, we monitor from the river. That's the only legal place that we can monitor because we don't have jurisdiction to go on the land." (p. 9) The implication here is that the Forest Service would have to trespass to monitor what they cannot see from the river. The fact is, they do not need to leave their office to monitor goings-on within the river corridor. From their office they can monitor zone change requests, land sales, permit requests for forest practices, permits for short plats or sub-divisions, building permits, utility permits, well permits, and road construction permits. If the Forest Service is determined to remain ignorant of what is going on within the management corridor, how can they hope to "protect and enhance" the Outstanding and Remarkable Values within the corridor? The answer is, they can't.

The center piece of this story had to do with how the Forest Service would handle the Weyerhaeuser property that is now for sale. The Forest Service says, "we were asked to