

between Saulsberry and Freezeout Saddles is the hydrologic divide.

#### SEPARABILITY

Pub. L. 94-199, §17, Dec. 31, 1975, 89 Stat. 1123, provided that: "If any provision of this Act [this subchapter] is declared to be invalid, such declaration shall not affect the validity of any other provision hereof."

### § 460gg-1. Wilderness designation

#### (a) Map designation

The lands depicted as the "Hells Canyon Wilderness" on the map referred to in section 460gg(b) of this title are hereby designated as wilderness.

#### (b) Application of Wilderness Act

The wilderness designated by this subchapter shall be administered by the Secretary in accordance with the provisions of this subchapter or in accordance with the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.], whichever is the more restrictive, except that any reference in such provisions of the Wilderness Act to the effective date of that Act shall be deemed to be a reference to the effective date of this subchapter. The provisions of section 460gg-6(b) and section 460gg-8 of this title shall apply to the wilderness. The Secretary shall make such boundary revisions to the wilderness as may be necessary due to the exercise of his authority under subsection 3(b) of this Act.

(Pub. L. 94-199, §2, Dec. 31, 1975, 89 Stat. 1117.)

#### REFERENCES IN TEXT

This subchapter, referred to in subsec. (b), was in the original "this Act", which is Pub. L. 94-199, Dec. 31, 1975, 89 Stat. 1117, which enacted sections 460gg to 460gg-13 of this title, amended sections 1274 and 1276 of this title, and enacted provisions set out as notes under sections 460gg and 1274 of this title.

The Wilderness Act, referred to in subsec. (b), is Pub. L. 88-577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§1131 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of this title and Tables.

The effective date of the Wilderness Act, referred to in subsec. (b), means Sept. 3, 1964, the date of enactment of Pub. L. 88-577, which enacted chapter 23 of this title.

The effective date of this subchapter, referred to in subsec. (b), means Dec. 31, 1975, the date of enactment of Pub. L. 94-199.

Subsection 3(b) of this Act, referred to in subsec. (b), is subsec. 3(b) of Pub. L. 94-199, which is set out as a note under section 1274 of this title.

### § 460gg-2. Federal power and water resources projects

#### (a) Licenses by Federal Energy Regulatory Commission

Notwithstanding any other provision of law, or any authorization heretofore given pursuant to law, the Federal Energy Regulatory Commission may not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), within the recreation area: *Provided*, That the provisions of the Federal Power Act (41 Stat. 1063) shall continue to apply to any project (as defined in such Act),

and all of the facilities and improvements required or used in connection with the operation and maintenance of said project, in existence within the recreation area which project is already constructed or under construction on December 31, 1975.

#### (b) Assistance detrimental to protected waters

No department or agency of the United States may assist by loan, grant, license, or otherwise the construction of any water resource facility within the recreation area which the Secretary determines would have a direct and adverse effect on the values for which the waters of the area are protected.

(Pub. L. 94-199, §4, Dec. 31, 1975, 89 Stat. 1118; Pub. L. 95-91, title IV, §402(a)(1)(A), Aug. 4, 1977, 91 Stat. 583.)

#### REFERENCES IN TEXT

The Federal Power Act, referred to in subsec. (a), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

#### TRANSFER OF FUNCTIONS

"Federal Energy Regulatory Commission" substituted for "Federal Power Commission" in subsec. (a) pursuant to Pub. L. 95-91, §402(a)(1)(A), which is classified to section 7172(a)(1)(A) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and functions with regard to licenses and permits for dams, reservoirs, or other works for development and improvement of navigation and for development and utilization of power across, along, from, or in navigable waters under part I of Federal Power Act (16 U.S.C. 792 et seq.) transferred to Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42.

### § 460gg-3. Present and future use of Snake River

#### (a) Waters upstream from boundaries of area

No provision of the Wild and Scenic Rivers Act [16 U.S.C. 1271 et seq.], nor of this subchapter, nor any guidelines, rules, or regulations issued hereunder, shall in any way limit, restrict, or conflict with present and future use of the waters of the Snake River and its tributaries upstream from the boundaries of the Hells Canyon National Recreation Area created hereby, for beneficial uses, whether consumptive or non-consumptive, now or hereafter existing, including, but not limited to, domestic, municipal, stockwater, irrigation, mining, power, or industrial uses.

#### (b) Flow requirements

No flow requirements of any kind may be imposed on the waters of the Snake River below Hells Canyon Dam under the provisions of the Wild and Scenic Rivers Act [16 U.S.C. 1271 et seq.], of this subchapter, or any guidelines, rules, or regulations adopted pursuant thereto.

(Pub. L. 94-199, §6, Dec. 31, 1975, 89 Stat. 1118.)

#### REFERENCES IN TEXT

The Wild and Scenic Rivers Act, referred to in text, is Pub. L. 90-542, Oct. 2, 1968, 82 Stat. 906, as amended, which is classified generally to chapter 28 (§1271 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1271 of this title and Tables.

**§ 460gg-4. Administration, protection, and development**

Except as otherwise provided in section 460gg-1 of this title and section 3 of this Act, and subject to the provisions of section 460gg-7 of this title, the Secretary shall administer the recreation area in accordance with the laws, rules, and regulations applicable to the national forests for public outdoor recreation in a manner compatible with the following objectives:

- (1) the maintenance and protection of the freeflowing nature of the rivers within the recreation area;
- (2) conservation of scenic, wilderness, cultural, scientific, and other values contributing to the public benefit;
- (3) preservation, especially in the area generally known as Hells Canyon, of all features and peculiarities believed to be biologically unique including, but not limited to, rare and endemic plant species, rare combinations of aquatic, terrestrial, and atmospheric habitats, and the rare combinations of outstanding and diverse ecosystems and parts of ecosystems associated therewith;
- (4) protection and maintenance of fish and wildlife habitat;
- (5) protection of archeological and paleontologic sites and interpretation of these sites for the public benefit and knowledge insofar as it is compatible with protection;
- (6) preservation and restoration of historic sites associated with and typifying the economic and social history of the region and the American West; and
- (7) such management, utilization, and disposal of natural resources on federally owned lands, including, but not limited to, timber harvesting by selective cutting, mining, and grazing and the continuation of such existing uses and developments as are compatible with the provisions of this subchapter.

(Pub. L. 94-199, § 7, Dec. 31, 1975, 89 Stat. 1118.)

REFERENCES IN TEXT

Section 3 of this Act, referred to in text, is section 3 of Pub. L. 94-199. Subsec. (a) of section 3 added pars. (11) and (12) of section 1274(a) of this title, relating to components of the national wild and scenic rivers system. Subsec. (b) of section 3, relating to the administration of those segments of the Snake and Rapid Rivers designated as wild or scenic river areas, is set out as a note under section 1274 of this title.

**§ 460gg-5. Management plan for recreation area**

**(a) Development and submission**

Within five years from December 31, 1975, the Secretary shall develop and submit to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives a comprehensive management plan for the recreation area which shall provide for a broad range of land uses and recreation opportunities.

**(b) Consideration of historic, archeological and paleontological resources; inventory; recommendation of areas for listing in National Register of Historic Places; recommendation for protection and research of resources**

In the development of such plan, the Secretary shall consider the historic, archeological, and

paleontological resources within the recreation area which offer significant opportunities for anthropological research. The Secretary shall inventory such resources and may recommend such areas as he deems suitable for listing in the National Register of Historic Places. The Secretary's comprehensive plan shall include recommendations for future protection and controlled research use of all such resources.

**(c) Scenic roads and other means of transit**

The Secretary shall, as a part of his comprehensive planning process, conduct a detailed study of the need for, and alternative routes of, scenic roads and other means of transit to and within the recreation area. In conducting such study the Secretary shall consider the alternative for upgrading existing roads and shall, in particular, study the need for and alternative routes of roads or other means of transit providing access to scenic views of and from the Western rim of Hells Canyon.

**(d) Wilderness areas; review by Secretary; recommendations of President to Congress; notice of hearings and meetings**

The Secretary shall review, as to their suitability or nonsuitability for preservation as wilderness, the areas generally depicted on the map referred to in section 460gg of this title as the "Lord Flat-Somers Point Plateau Wilderness Study Area", and the "West Side Reservoir Face Wilderness Study Area", and the "Mountain Sheep Wilderness Study Area" and report his findings to the President. The Secretary shall complete his review and the President shall, within five years from December 31, 1975, advise the United States Senate and House of Representatives of his recommendations with respect to the designation of lands within such area as wilderness. In conducting his review the Secretary shall comply with the provisions of section 1132(d) of this title and shall give public notice at least sixty days in advance of any hearings or other public meeting concerning the wilderness study area. The Secretary shall administer all Federal lands within the study areas so as not to preclude their possible future designation by the Congress as wilderness. Nothing contained herein shall limit the President in proposing, as part of this recommendation to Congress, the designation as wilderness of any additional area within the recreation area which is predominately of wilderness value.

**(e) Public participation in reviews and preparation of plan; cooperation of other Federal agencies**

In conducting the reviews and preparing the comprehensive management plan required by this section, the Secretary shall provide for full public participation and shall consider the views of all interested agencies, organizations, and individuals including but not limited to, the Nez Perce Tribe of Indians, and the States of Idaho, Oregon, and Washington. The Secretaries or Directors of all Federal departments, agencies, and commissions having a relevant expertise are hereby authorized and directed to cooperate with the Secretary in his review and to make such studies as the Secretary may request on a cost reimbursable basis.