

Calendar No. 284

111TH CONGRESS
2d Session "

SENATE

REPORT
111-134

WHITE CLAY CREEK WILD AND SCENIC RIVER EXPANSION ACT

MARCH 2, 2010.—Ordered to be printed

Mr. BINGAMAN, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany S. 853]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 853) to designate additional segments and tributaries of White Clay Creek, in the States of Delaware and Pennsylvania, as a component of the National Wild and Scenic Rivers System, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Beginning on page 1, strike line 6 and all that follows through page 3, line 10, and insert the following:

SEC. 2. DESIGNATION OF SEGMENTS OF WHITE CLAY CREEK, AS SCENIC AND RECREATIONAL RIVERS.

2. On page 3, strike lines 16 and 17 and insert the following:

(B) by striking “the recommended designation and classification maps (dated June 2000)” and inserting “the map entitled ‘White Clay Creek Wild and Scenic River Designated Area Map’ and dated July 2008, the map entitled ‘White Clay Creek Wild and Scenic River Classification Map’ and dated July 2008, and the map entitled ‘White Clay Creek National Wild and Scenic River Proposed Additional Designated Segments—July 2008’”;

3. On page 4, strike line 12 and insert the following:

SEC. 3. ADMINISTRATION OF WHITE CLAY CREEK.

4. On page 4, line 16, strike “section 3” and insert “section 2”.

PURPOSE

The purpose of S. 853 is to designate approximately 9 miles of additional segments and tributaries of White Clay Creek, in the States of Delaware and Pennsylvania, as a component of the National Wild and Scenic Rivers System.

BACKGROUND AND NEED

The White Clay Creek Watershed is located between the urban regions of New York and Washington, D.C. The Watershed covers approximately 107 square miles and drains over 69,000 acres in Delaware and Pennsylvania. Of those 69,000 acres, 5,000 acres are public lands owned by state and local governments, and the rest is privately owned.

In 2000, Public Law 106–357 designated 190 miles of the White Clay Creek River and its tributaries in the States of Delaware and Pennsylvania as a component of the National Wild and Scenic Rivers System. White Clay Creek became Delaware's first and only Federally-designated Wild and Scenic River.

At the time Public Law 106–357 was enacted, the Lamborn Run in Delaware and the East Branch and Egypt Run in Pennsylvania, were not included in the Wild and Scenic River designation. New Garden Township in Pennsylvania passed a resolution in 2007 in support of the designation within the township and the Delaware River Basin Commission amended its Comprehensive Water Resources Plan by removing Lamborn Run in Delaware as a potential water supply reservoir.

With the recent support of the affected local governments, S. 853 adds two additional segments to the previous White Clay Creek Wild and Scenic River designation.

LEGISLATIVE HISTORY

Senators Kaufman, Carper, and Casey introduced S. 853 on April 22, 2009. The subcommittee on National Parks held a hearing on S. 853 on July 15, 2009. (S. Hrg. 111–92.) On December 16, 2009, the Committee on Energy and Natural Resources ordered S. 853 favorably reported, with amendments.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on December 16, 2009, by a voice vote of a quorum present, recommends that the Senate pass S. 853, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 853, the Committee adopted four amendments. The first amendment strikes the findings section, and makes a technical correction to a map reference, and the third and fourth amendments make conforming changes.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title for the bill, the “White Clay Creek Wild and Scenic River Expansion Act of 2009”.

Section 2 amends section 3(a)(163) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(163)) and designates an additional 9 miles of White Clay Creek as Scenic and Recreational Rivers and makes a conforming amendment to update the map reference.

Section 3 states that sections 4 through 8 of Public Law 106–357 (16 U.S.C. 1274 note; 114 Stat. 1393), relating to the administra-

tion and management of the river segments, shall be applicable to the additional segments of the White Clay Creek.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

S. 853—White Clay Creek Wild and Scenic River Expansion Act of 2009

S. 853 would add nine miles of the White Clay Creek in Delaware and Pennsylvania to the National Wild and Scenic Rivers System. Based on information provided by the National Park Service, which administers the White Clay Creek unit of the system, CBO estimates that implementing the bill would have no effect on the federal budget. The affected segments are already protected for wilderness values and would remain in private or state hands. Enacting the bill would not affect revenues or direct spending.

S. 853 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 853.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 853, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 853, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of the Interior was included in testimony received by the Committee at a hearing on S. 853 on July 15, 2009.

STATEMENT OF KATHERINE H. STEVENSON, ACTING DEPUTY
DIRECTOR, SUPPORT SERVICES, NATIONAL PARK SERVICE,
DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before your committee today to discuss the views of the Department of the Interior on S. 853, a bill to amend the

Wild and Scenic Rivers Act by designating additional segments and tributaries of the White Clay Creek in Delaware and Pennsylvania as components of the National Wild and Scenic Rivers System.

The Department supports enactment of this legislation with one technical amendment.

S. 853 would designate nine additional miles of segments and tributaries of the White Clay Creek as part of the National Wild and Scenic Rivers System, to be administered by the Secretary of the Interior (Secretary). The additional tributaries will be managed in accordance with the "White Clay Creek and Its Tributaries Watershed Management Plan" (amended Summer 2001) with the Secretary coordinating the White Clay Creek Watershed Management Committee.

In December 1991, Congress directed the National Park Service to undertake a study of the headwaters of the White Clay Creek in the Commonwealth of Pennsylvania to its confluence with the Christina River in the State of Delaware. The study was also to include the East, West, and Middle Branches, Middle Run, Pike Creek, Mill Creek and other tributaries of the White Clay, as identified by the Secretary, to determine their eligibility for inclusion in the National Wild and Scenic Rivers System. The study was to be done in cooperation and consultation with various federal, state, regional, and local governments and affected landowners. In addition, a river management plan was to be prepared that would provide recommendations as to the protection and management of the White Clay Creek and its tributaries. The plan was to outline roles for the state and local governments and affected landowners to play in the management of the White Clay Creek as a designated component of the National Wild and Scenic Rivers System.

In 1998, a watershed management plan was prepared that contained six goals for management of the White Clay Creek and its tributaries. These goals include improving and conserving water quality and quantity, and conserving open space, woodlands, wetlands, and geologic features. The plan was done cooperatively and calls for a management framework for the White Clay Creek and its tributaries that relies heavily on local land use decisions.

In 1999, the National Park Service issued the "White Clay Creek and Its Tributaries National Wild and Scenic River Study Draft Report." In the report, the National Park Service found that the majority of the river segments identified in the study met the eligibility requirements of the Wild and Scenic Rivers Act by virtue of their free-flowing condition and presence of one or more outstandingly remarkable resource values. For example, the watershed includes open space and recreational opportunities for hiking, jogging, canoeing and fishing; in fact, the White Clay Creek is the most heavily stocked and heavily used put-and-take trout stream in the State of Delaware. In 2000, Public Law 106-357 designated 190 miles of the White

Clay Creek and its tributaries as components of the National Wild and Scenic River System.

The study report also identified additional segments and tributaries, which are the subject of S. 853, that would be eligible and suitable for designation. These segments are eligible and suitable because they are free-flowing streams with outstandingly remarkable values including the Cockeysville marble geologic formation that supports a high-yielding aquifer, a major source of drinking water, and threatened and endangered species including the Muhlenberg's (bog) turtle and cerulean warbler. However, these segments were removed from consideration because the Delaware River Basin Commission was looking at these areas as possible locations for reservoirs under their comprehensive plan. In addition, there was not demonstrated municipal support for such a designation, a requirement under the Wild and Scenic Rivers Act.

In 2007, these segments and tributaries were removed from the comprehensive plan of the Delaware River Basin Commission. In addition, the New Garden Township in Pennsylvania, the only affected municipality, passed a resolution in support of the designation. With these two issues resolved, the Department now supports these segments, totaling nine miles, be added to the National Wild and Scenic River System.

The Department would like to work with the committee to make a technical correction to a map reference in Section 3 of the bill.

This concludes my prepared remarks, Mr. Chairman. I will be happy to answer any questions you or other committee members may have regarding this bill.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 853, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

WILD AND SCENIC RIVERS ACT

(Public Law 90-542; Approved October 2, 1968)

[16 U.S.C 1271 et seq.]

AN ACT To provide a National Wild and Scenic Rivers System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act be cited as the "Wild and Scenic Rivers Act".

* * * * *

SEC. 3(a) The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system:

* * * * *

(163) WHITE CLAY CREEK, DELAWARE AND PENNSYLVANIA.—The 190 miles 199 miles of river segments of White Clay Creek (including tributaries of White Clay Creek and all second order tributaries of the designated segments) in the States of Delaware and Pennsylvania, as depicted on the recommended designation and classification maps (dated June 2000) the map entitled “White Clay Creek Wild and Scenic River Designated Area Map” and dated July 2008, the map entitled “White Clay Creek Wild and Scenic River Classification Map” and dated July 2008, and the map entitled “White Clay Creek National Wild and Scenic River Proposed Additional designated Segments—July 2008”, to be administered by the Secretary of the Interior, as follows:

(A) 30.8 miles of the east branch, including Trout Run, beginning at the headwaters within West Marlborough township downstream to a point that is 500 feet north of the Borough of Avondale wastewater treatment facility, as a recreational river.

(B) 15.0 miles of the east branch beginning at the southern boundary line of the Borough of Avondale to a point where the East Branch enters New Garden Township at the Franklin Township boundary line, including Walnut Run and Broad Run outside the boundaries of the White Clay Creek Preserve, as a recreational river.

(B) 22.4 miles of the east branch beginning at the southern boundary line of the Borough of Avondale, including Walnut Run, Broad Run, and Egypt Run, outside the boundaries of the White Clay Creek Preserve, as a recreational river.

* * * * *

(G) 17.2 miles of the west branch, beginning at the headwaters within Penn township downstream to the confluence with the middle branch, as a recreational river.

(H) 12.7 miles of the main stream, excluding Lamborn Run, the flow through the boundaries of the White Clay Creek Preserve, Pennsylvania and Delaware, and White Clay Creek State Park, Delaware, beginning at the confluence of the east and middle branches in London Britain township, Pennsylvania, downstream to the northern boundary line of the city of Newark, Delaware, as a scenic river.

(H) 14.3 miles of the main stream, including Lamborn Run, that flow through the boundaries of the White Clay Creek Preserve, Pennsylvania and Delaware, and White Clay Creek State Park, Delaware beginning at the confluence of the east and middle branches in London Britain Township, Pennsylvania, downstream to the northern

*boundary line of the City of Newark, Delaware, as a scenic
river.*

* * * * *