

TO FACILITATE A PROPOSED PROJECT IN THE LOWER
ST. CROIX WILD AND SCENIC RIVER, AND FOR OTHER
PURPOSES

DECEMBER 1, 2011.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural
Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 850]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 850) to facilitate a proposed project in the Lower St. Croix Wild and Scenic River, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. ST. CROIX RIVER CROSSING PROJECT.

Notwithstanding section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)), the head of any Federal agency or department may authorize and assist in the construction of a new extradosed bridge crossing the St. Croix River approximately 6 miles north of the I-94 crossing, if the mitigation items described in paragraph 9 of the 2006 St. Croix River Crossing Project Memorandum of Understanding for Implementation of Riverway Mitigation Items, signed by the Federal Highway Administration on March 28, 2006, and by the National Park Service on March 27, 2006 (including any subsequent amendments to the Memorandum of Understanding), are included as enforceable conditions.

PURPOSE OF THE BILL

The purpose of H.R. 850, as ordered reported, is to facilitate a proposed project in the Lower St. Croix Wild and Scenic River.

BACKGROUND AND NEED FOR LEGISLATION

Built in 1931, the Stillwater Lift Bridge serves about 18,000 vehicles daily, connecting Stillwater, Minnesota, and Houlton, Wisconsin. The bridge's location and inadequate capacity cause severe gridlock in Stillwater. Furthermore, the bridge has been found "structurally deficient." In 1972, Congress included the Lower St. Croix River, over which the lift bridge crosses, into the Wild and Scenic Rivers System.

In the 1980s, work began to plan a replacement to the old lift bridge, and in 1995, a Record of Decision by the Federal Highway Administration spurred action on a final design, rights of way, and site preparation work. In 1996, the Sierra Club sued over the lack of evaluation by the National Park Service (NPS), who administers the Lower St. Croix Wild and Scenic River. Subsequently, NPS found the bridge would have adverse impacts on the river's values. In 2005, after years of work and collaboration with 28 stakeholders, NPS approved a plan that included mitigation work along the river. The Sierra Club sued again and in 2010, the courts ruled that the 2005 decision was arbitrary and capricious. NPS did not challenge the decision, but instead did another evaluation, this time finding that despite the planned mitigation, the project was not consistent with the Wild and Scenic Rivers Act.

H.R. 850, which has the bipartisan support of both states' senators and governors, allows the project to move forward, but requires implementation of a mitigation package agreed to by the stakeholders in 2006.

COMMITTEE ACTION

H.R. 850 was introduced on March 1, 2011 by Congresswoman Michelle Bachmann (R-MN). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on National Parks, Forests and Public Lands. On May 4, 2011, the Subcommittee on National Parks, Forests and Public Lands held a hearing on the bill. On October 5, 2011, the Full Natural Resources Committee met to consider the bill. The Subcommittee on National Parks, Forests and Public Lands was discharged by unanimous consent. Congressman Rob Bishop (R-UT) offered an amendment in the nature of a substitute. Congressman Rush Holt (D-NJ) offered an amendment to the amendment in the nature of a substitute designated .085; the amendment was not adopted by a record vote of 16 to 28, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: October 5, 2011

Recorded Vote #: 14

Meeting on / Amendment: **H.R. 850** – An amendment offered by Mr. Holt.085 to the Bishop amendment in the nature of a substitute was NOT AGREED TO by a roll call vote of 16 yeas and 28 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		<i>Mr. Heinrich, NM</i>	X		
<i>Mr. Markey, MA Ranking</i>	X			Mr. Benishke, MI		X	
Mr. Young, AK		X		<i>Mr. Lujan, NM</i>	X		
<i>Mr. Kildee, MI</i>	X			Mr. Rivera, FL		X	
Mr. Duncan of TN		X		<i>Mr. Sarbanes, MD</i>	X		
<i>Mr. Defazio, OR</i>		X		Mr. Duncan of SC		X	
Mr. Gohmert, TX		X		<i>Ms. Sutton, OH</i>			
<i>Mr. Faleomavaega, AS</i>	X			Mr. Tipton, CO		X	
Mr. Bishop, UT		X		<i>Ms. Tsongas, MA</i>	X		
<i>Mr. Pallone, NJ</i>	X			Mr. Gosar, AZ		X	
Mr. Lamborn, CO		X		<i>Mr. Pierluisi, PR</i>	X		
<i>Mrs. Napolitano, CA</i>	X			Mr. Labrador, ID		X	
Mr. Wittman, VA		X		<i>Mr. Garamendi, CA</i>	X		
<i>Mr. Holt, NJ</i>	X			Ms. Noem, SD		X	
Mr. Broun, GA		X		<i>Ms. Hanabusa, HI</i>	X		
<i>Mr. Grijalva, AZ</i>	X			Mr. Southerland, FL		X	
Mr. Fleming, LA		X		Mr. Flores, TX		X	
<i>Ms. Bordallo, GU</i>	X			Mr. Harris, TX		X	
Mr. Coffman, CO		X		Mr. Landry, LA		X	
<i>Mr. Costa, CA</i>		X		Mr. Fleischmann, TN			
Mr. McClintock, CA		X		Mr. Runyan, NJ		X	
<i>Mr. Boren, OK</i>				Mr. Johnson, OH		X	
Mr. Thompson, PA		X					
<i>Mr. Sablan, CNMI</i>	X						
Mr. Denham, CA		X					
				TOTALS	16	28	

The amendment in the nature of a substitute offered by Mr. Bishop was adopted by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by a bipartisan vote of 30 to 14, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: October 5, 2011

Recorded Vote #: 15

Meeting on / Amendment: **H.R. 850** – Favorably reported to the House of Representatives, as amended, by a roll call vote of 30 yeas and 14 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman	X			<i>Mr. Heinrich, NM</i>		X	
<i>Mr. Markey, MA Ranking</i>		X		Mr. Benishek, MI	X		
Mr. Young, AK	X			<i>Mr. Lujan, NM</i>		X	
<i>Mr. Kildee, MI</i>		X		Mr. Rivera, FL	X		
Mr. Duncan of TN	X			<i>Mr. Sarbanes, MD</i>		X	
<i>Mr. Defazio, OR</i>	X			Mr. Duncan of SC	X		
Mr. Gohmert, TX	X			<i>Ms. Sutton, OH</i>			
<i>Mr. Faleomavaega, AS</i>		X		Mr. Tipton, CO	X		
Mr. Bishop, UT	X			<i>Ms. Tsongas, MA</i>		X	
<i>Mr. Pallone, NJ</i>		X		Mr. Gosar, AZ	X		
Mr. Lamborn, CO	X			<i>Mr. Pierluisi, PR</i>		X	
<i>Mrs. Napolitano, CA</i>		X		Mr. Labrador, ID	X		
Mr. Wittman, VA	X			<i>Mr. Garamendi, CA</i>	X		
<i>Mr. Holt, NJ</i>		X		Ms. Noem, SD	X		
Mr. Broun, GA	X			<i>Ms. Hanabusa, HI</i>		X	
<i>Mr. Grijalva, AZ</i>		X		Mr. Southerland, FL	X		
Mr. Fleming, LA	X			Mr. Flores, TX	X		
<i>Ms. Bordallo, GU</i>		X		Mr. Harris, TX	X		
Mr. Coffman, CO	X			Mr. Landry, LA	X		
<i>Mr. Costa, CA</i>	X			Mr. Fleischmann, TN			
Mr. McClintock, CA	X			Mr. Runyan, NJ	X		
<i>Mr. Boren, OK</i>				Mr. Johnson, OH	X		
Mr. Thompson, PA	X						
<i>Mr. Sablan, CNMI</i>	X						
Mr. Denham, CA	X						
				TOTALS	30	14	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 850—A bill to facilitate a proposed project in the Lower St. Croix Wild and Scenic River, and for other purposes

H.R. 850 would waive section 7 of the Wild and Scenic Rivers Act to permit the construction of a bridge over the St. Croix River between Minnesota and Wisconsin. Allowing construction of the bridge would permit those states to spend Federal-Aid Highway funds appropriated and designated exclusively for construction of that bridge. As a result, CBO estimates that enacting the bill would increase direct spending by \$8 million over the 2012–2021 period; therefore, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

Under section 7 of the Wild and Scenic Rivers Act, the National Park Service has determined that construction of a bridge over the St. Croix River between Minnesota and Wisconsin would have an adverse effect on the river. As a result, federal agencies are prohibited from obligating any additional funds or providing any necessary permits to construct that bridge. By waiving section 7, H.R. 850 would permit construction of the bridge and would allow Minnesota and Wisconsin to use Federal-Aid Highway funds designated exclusively for that purpose. Based on information from the states involved, CBO estimates that those federal funds total about \$8 million.

H.R. 850 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 Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 850, A BILL TO FACILITATE A PROJECT IN THE LOWER ST. CROIX WILD AND SCENIC RIVER, AND FOR OTHER PURPOSES, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATURAL RESOURCES ON OCTOBER 5, 2011

	By fiscal year, in millions of dollars—											2012– 2016	2012– 2021	
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021				
	NET INCREASE OR DECREASE (–) IN THE DEFICIT													
Statutory Pay-As-You-Go Im- pact	0	2	4	1	1	0	0	0	0	0	0	8	8	

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

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. CBO estimates that enacting the bill would increase direct spending by \$8 million over the 2012–2021 period; therefore, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill, as ordered reported, is to facilitate a proposed project in the Lower St. Croix Wild and Scenic River.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

DISSENTING VIEWS

The 90th Congress designated the St. Croix National Scenic Riverway for study as part of the original Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.). The River was subsequently designated pursuant to the Act in two stages in 1972 and 1976.

Since 1931, a lift bridge has crossed the St. Croix connecting Houghton, Wisconsin and Stillwater, Minnesota. When the lift bridge is raised to allow for boat passage, or closed due to high water, traffic backs up in Stillwater; a situation projected to worsen with population growth. Multiple plans to construct larger bridges, with significantly higher clearance, have been proposed at different points along the river. In each case, the Wild and Scenic Rivers Act has required the Secretary of the Interior, acting through the National Park Service, to determine whether these bridge plans were consistent with the wild and scenic river designation.

Different Administrations have reached different conclusions regarding the potential to mitigate the impacts of different bridge proposals. Not surprisingly, this resulted in the District Court of Minnesota finding the actions of the Department arbitrary and capricious. The most recent evaluation, ordered by the Court, concluded that the current bridge project would adversely impact the St. Croix in ways that *cannot* be mitigated.

As a result, legislation will be required to allow a bridge construction project to move forward. A bridge designed to minimize potential impacts to the St. Croix would obviously lessen the controversy surrounding this proposal. H.R. 850 is not an example of a minimal impact project.

Rather, H.R. 850 would authorize an exemption to the Wild and Scenic Rivers Act for the largest, most expensive bridge ever built in the state. The question before us is not whether to build a *bridge* in the middle of a Wild and Scenic River—the question is whether to allow construction of a *monument* in the middle of a Wild and Scenic River.

According to figures from the Minnesota Department of Transportation, this enormous, “signature,” “extradosed,” bridge will cost \$700 million and serve 18,000 cars a day. To provide some perspective, the complete reconstruction of the I-35 bridge, which serves 145,000 cars per day, cost \$234 million. This gargantuan bridge—in the middle of a Wild and Scenic River—will cost three times as much and serve 1/8 the number of cars.

The impacts from such an enormous project would be unprecedented. The Congress has made small changes to existing wild and scenic designations—for things like lamprey eel remediation or contouring of river banks—but *never* to authorize a massive transportation project that will permanently alter the designated stretch of the river.

It is true that the river is not pristine—that is why the river was designated as a “recreational” river rather than wild or scenic. However, the National Park Service study found that this massive, record-breaking bridge will further degrade this river, destroying the values for which it was designated.

Furthermore, it is ironic that the Majority has consistently opposed small National Park expansions or Forest land acquisitions based on fiscal concerns and yet would support legislation in this Committee that will result in the expenditure of more than half a billion dollars. In a time of severe budget cuts—to Medicare and Social Security for example—moving legislation for a half billion dollar highway project in Representative Bachmann’s district is short sighted at best. Spending that amount to destroy a Wild and Scenic River is even worse.

According to the estimate prepared by the Congressional Budget Office, enactment of H.R. 850 will increase federal, mandatory spending by \$8 million in the first ten years alone.

A reasonable bridge proposal could be developed in this case that might garner broader support; that is not H.R. 850. Representative Holt offered an amendment to authorize a reasonable bridge proposal to move forward but that amendment was rejected by the Majority. Instead, proponents are urging this Committee to make the first-ever transportation exemption to the Wild and Scenic Rivers Act on behalf of an oversized, under-used monument to fiscal irresponsibility.

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RAÚL M. GRIJALVA.
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