

Calendar No. 396

113TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 113-170

UPPER MISSISQUOI AND TROUT WILD AND SCENIC RIVERS ACT

MAY 22, 2014.—Ordered to be printed

Ms. LANDRIEU, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany S. 1252]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1252) to amend the Wild and Scenic Rivers Act to designate segments of the Missisquoi River and the Trout River in the State of Vermont, as components of the National Wild and Scenic Rivers System, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 1252 is to amend the Wild and Scenic Rivers Act to designate segments of the Missisquoi River and the Trout River in the State of Vermont as components of the National Wild and Scenic Rivers System.

BACKGROUND AND NEED

In 2009, Congress enacted Public Law 111-11, the Omnibus Public Land Management Act. Section 5101 of that Act (123 Stat. 1153) directed the Secretary of the Interior to conduct a study of two 25-mile stretches of the Upper Missisquoi River in Vermont, along with a 20-mile segment of the Trout River, also in Vermont, for potential addition to the National Wild and Scenic Rivers System.

The National Park Service has prepared a draft study, which has determined that segments of the Upper Missisquoi and Trout rivers are eligible for inclusion in the National Wild and Scenic Rivers System. The draft study is consistent with recommendations of the Upper Missisquoi and Trout Rivers Study Committee in its Draft

Management Plan for the rivers. The Draft Management Plan identified the Upper Missisquoi and Trout Rivers as possessing a number of outstandingly remarkable values including working landscapes, recreational opportunities, and significant geological features.

The Study Committee recommended that the sections of the two rivers be designated as components of the Wild and Scenic River System: the Missisquoi River, from the confluence of Burgess Branch and the East Branch of the Missisquoi in Lowell to the Canadian border in North Troy (excluding the project areas of the Troy and North Troy Hydroelectric Facilities), from the Canadian border in Richford to the beginning of the project area of the Enosburg Falls Hydroelectric facility; and the Trout River from the confluence of Jay and Wade Brooks in Montgomery to where it joins the Missisquoi in East Berkshire.

In accordance with the Draft Management Plan, S. 1252 designates these sections as components of the National Wild and Scenic Rivers System.

LEGISLATIVE HISTORY

S. 1252 was introduced by Senators Sanders and Leahy on June 27, 2013. The Subcommittee on National Parks held a hearing on S. 1252 on July 31, 2013 (S. Hrg. 113–93). At its business meeting on November 21, 2013, the Committee ordered S. 1252 favorably reported.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on November 21, 2013, by a voice vote of a quorum present, recommends that the Senate pass S. 1252.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title, the “Upper Missisquoi and Trout Wild and Scenic River Act.”

Section 2 amends section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) to designate two separate sections of the Missisquoi River, that are 20.5-miles and 14.6-miles long; and an 11-mile section of the Trout River as components of the Wild and Scenic Rivers System. The Secretary of the Interior (Secretary) is directed to administer these segments as recreational rivers under the Wild and Scenic Rivers Act.

Section 3(a)(1) requires that the river segments described in section 2 be managed in accordance with the Upper Missisquoi and Trout Rivers Management Plan, including any amendments to the management plan that are determined by the Secretary to be consistent with the Act and approved by the Upper Missisquoi and Trout Rivers Wild and Scenic Committee.

Paragraph (2) provides that the management plan finalized in March 2013, as may be amended, be considered to satisfy the requirements of section 3(d) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(d)).

Subsection (b) directs the Secretary to coordinate management responsibility with the Upper Missisquoi and Trout Rivers Wild and Scenic Committee.

Subsection (c) provides that the Secretary may enter into cooperative agreements that are consistent with the management plan to provide for the long-term protection, preservation, and enhancement of the designated river sections with the State of Vermont and certain municipalities, as well as appropriate local, regional, statewide, or multi-state planning, environmental, or recreational organizations, including provisions for financial or other assistance from the United States.

Subsection (d)(1) clarifies that the designation of the river segments as components of the Wild and Scenic Rivers System does not preclude the Federal Energy Regulatory Commission from licensing, relicensing, or otherwise authorizing the operation, or continued operation of the Troy Hydroelectric, North Troy, or Enosburg Falls hydroelectric project under terms of licenses or exemptions in effect on the date of enactment. The subsection also provides that the designation of the Missisquoi and Trout Rivers shall not limit modernization, upgrades, or other changes to the hydroelectric projects, subject to the written determination of the Secretary.

Paragraph (2) provides that resource protection, mitigation, or enhancement measures, that are required by the Federal Energy Regulatory Commission shall not be considered to be project works and that, subject to a written determination of the Secretary, these measures may be located within the river segments designated under this Act.

Subsection (e)(1) states that zoning ordinances adopted by the listed towns, including provisions for conservation of floodplains, wetlands, and watercourses, shall be considered to satisfy the standards and requirements of section 6(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(c)) (which prohibits the Secretary by acquiring lands by condemnation within a designated Wild and Scenic River boundary when valid local zoning ordinances are in place which are consistent with the Wild and Scenic Rivers Act.)

Paragraph (2) limits the Secretary's authority to acquire land for the purposes of the segments designated by this Act to acquisition by donation or purchase with the consent of the land owner, subject to additional criteria set forth in the management plan.

Subsection (f) provides that the Missisquoi and Trout rivers shall not be administered as part of the National Park System and that they not be subject to the regulations that govern the National Park System, notwithstanding section 10(c) of the Wild and Scenic Rivers Act.

Subsection (g)(1) and (2) contains a Congressional finding that a 3.8-mile segment of the Missisquoi River from the confluence of the Burgess Branch and East Branch in Lowell to the Lowell/Westfield town line is eligible and suitable for designation as a recreational river if the Secretary determines that there is adequate local support for the designation.

Paragraph (3) directs the Secretary, upon the determination that there is adequate local support for the additional segment, to publish a notice of the designation in the Federal Register, designate the additional segment in accordance with the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.), and administer the additional segment as a recreational river.

Paragraph (4) requires that the Secretary determine that there is adequate local support for the designation of the additional segment, if the voters of the town of Lowell, Vermont express by a majority vote a desire for the designation.

COST AND BUDGETARY CONSIDERATIONS

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

S. 1252—Upper Missisquoi and Trout Wild and Scenic Rivers Act

S. 1252 would designate segments of the Missisquoi and Trout Rivers in the state of Vermont as components of the National Wild and Scenic Rivers System. The legislation would exclude certain hydroelectric projects from the designation. Based on information provided by the National Park Service (NPS), CBO estimates that implementing the bill would cost about \$1 million over the 2014–2018 period, assuming the availability of the necessary amounts. Under the legislation, the NPS would administer the river segments in partnership with an advisory committee composed of local representatives. Based on similar management partnerships in the region, CBO estimates that the NPS would provide \$175,000 annually to the advisory committee to manage the river segments. Enacting S. 1252 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 1252 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Martin von Gnechten. 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. 1252.

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. 1252, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 1252, as 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 National Park Service at the July 31, 2013, Subcommittee on National Parks hearing on S. 1252 follows:

STATEMENT OF STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR, CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before your committee today to present the views of the Department of the Interior on S. 1252, a bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Missisquoi River and the Trout River in the State of Vermont, as components of the Wild and Scenic Rivers System.

The Department has preliminarily determined through the National Park Service's draft study of the Upper Missisquoi and Trout rivers that the segments proposed for designation under this bill are eligible for inclusion into the National Wild and Scenic Rivers System. However, the study report is only in the preliminary internal review stage. We recommend that the committee defer action on S. 1252 until the study is completed, which is consistent with the Department's general policy on legislation designating additions to the Wild and Scenic Rivers System when a study of the subject is pending.

S. 1252 would designate two segments of the Upper Missisquoi River totaling 35.1 miles and the entire mainstem of its tributary, the Trout River, totaling 11 miles, as part of the Wild and Scenic Rivers System, to be administered by the Secretary of the Interior as recreational rivers. The segments would be managed in accordance with the Upper Missisquoi and Trout Rivers Management Plan (March 2013) prepared as a part of the study, with the Secretary coordinating administration and management with a locally based management committee, as specified in the plan. The bill would authorize the Secretary to enter into cooperative agreements with the State of Vermont, the adjoining communities, and appropriate local planning and environmental organizations. The legislation follows the model of other recent New England Wild and Scenic River designations based on a "partnership" model emphasizing locally based management solutions and a limited federal role.

S. 1252 would exclude from designation the property and project boundaries associated with the Troy and North Troy hydroelectric projects, both of which are small, run-of-river projects that have Federal Energy Regulatory Commission (FERC) exemptions—permanent authority to operate under existing terms. A third hydroelectric facility, the Enosburg Falls project, lies immediately downstream of the lower endpoint of the Missisquoi mainstem proposed designation. The Department does not view these projects as being in conflict with the proposed designation.

S. 1252 also contains language that would allow the Secretary to designate an additional 3.8 mile segment at the headwaters of the Missisquoi within the Town of Lowell, subject to a finding of sufficient local support. This provi-

sion would allow the Town of Lowell, which did not support designation at its March 2013 Town Meeting, to opt into the designation at some future point without the need for additional congressional action.

The study of the Upper Missisquoi and Trout was authorized by P.L. 111–11, the Omnibus Public Land Management Act of 2009. The National Park Service has conducted the study in close cooperation with the adjoining communities, the State of Vermont, the Missisquoi River Basin Association, and other interested local parties. Technical assistance provided as a part of the study made possible the development of the Upper Missisquoi and Trout Rivers Management Plan (March 2013). This plan is based primarily around local partner actions designed to guide the management of the Upper Missisquoi and Trout rivers with or without a National Wild and Scenic River designation. Although the Wild and Scenic Rivers Act requires the development of a comprehensive river management plan within three years of the date of designation, it has become the practice of the National Park Service to prepare this plan as part of a study of potential wild and scenic rivers when much of the river runs through private lands. This allows the National Park Service to consult widely with local landowners, federal and state land management agencies, local governments, river authorities, and other groups that have interests related to the river prior to any recommendation for designation. Early preparation of the plan also assures input from these entities as well as users of the river on the management strategies that would be needed to protect the river's resources.

While the study has not been finalized, the data collected and presented in the preparation of the Management Plan support the conclusion that the segments proposed for designation by S. 1252 exhibit free-flowing character and the presence of outstandingly remarkable natural, cultural and recreation resource values consistent with Wild and Scenic River eligibility. The study process, which culminated in town meeting votes supporting both the Management Plan and Wild and Scenic River designation, has also demonstrated strong local, state and partner support crucial to successful long-term management and protection of partnership-based Wild and Scenic Rivers. Resource values of note include the Northern Forest Canoe Trail which utilizes a portion of the Upper Missisquoi, and is developing substantial momentum as a regional and national canoe route. Big Falls State Park on the Missisquoi is home to Vermont's largest undammed falls and is one of numerous spectacular falls and gorges exhibited by the river and its tributaries. The Trout River in Montgomery is also the location of a collection of National Register-listed covered bridges considered one of the most significant assemblages in the State of Vermont.

If S. 1252 is enacted, the Upper Missisquoi and Trout would be administered as a partnership wild and scenic river, similar to several other designations in the North-

east, including the upper Farmington River and the Eightmile River in Connecticut, and the Lamprey River in New Hampshire. This approach emphasizes local and state management solutions, and has proven effective as a means of protecting outstandingly remarkable natural, cultural, and recreational resource values without the need for direct federal management or land acquisition.

Mr. Chairman, this concludes my prepared remarks. I would 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. 1252, 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

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 may 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:

* * * * *

(208) *MISSISQUOI RIVER AND TROUT RIVER, VERMONT.*—*The following segments in the State of Vermont, to be administered by the Secretary of the Interior as a recreational river:*

(A) *The 20.5-mile segment of the Missisquoi River from the Lowell/Westfield town line to the Canadian Border on North Troy, excluding the property and project boundary of the Troy and North Troy hydroelectric facilities.*

(B) *The 14.6-mile segment of the Missisquoi River from the Canadian border in Richford to the upstream project boundary of the Enosburg Falls hydroelectric facility in Sampsonville.*

(C) *The 11-mile segment of the Trout River from the confluence of the Jay and Wade Brooks in Montgomery to where the Trout River joins the Missisquoi River in East Berkshire.*

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