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YORK WILD AND SCENIC RIVER

DECEMBER 16, 2021.—Ordered to be printed

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

R E P O R T

[To accompany S. 491]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 491) to amend the Wild and Scenic Rivers Act to designate certain river segments in the York River watershed in the State of Maine as components of the National Wild and Scenic Rivers System, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 491 is to designate approximately 30.8 miles of the York River in Maine and its tributaries as a recreational component of the National Wild and Scenic Rivers System.

BACKGROUND AND NEED

Enacted in 2014, section 3074 of Public Law 113-291 authorized a study of the York River in Maine to assess its suitability for potential designation under the Wild and Scenic Rivers Act.

The York River, located in southern Maine near the border between Maine and New Hampshire, is one of the smallest of the 60 rivers that flow into the Gulf of Maine. The Gulf of Maine is fringed by coastal marshes and estuaries along the coast of Massachusetts, New Hampshire, and Maine that serve as feeding grounds and nurseries for fish, crustaceans, and tidal and migratory birds. Along with coastal habitat, this area supports a long history of fishing, recreation, and coastal development, and continues to provide resources for the people who live, work, and visit the region.

In January 2020, the National Park Service released its study, which it prepared in partnership with local stakeholders. The study found that the free-flowing segments of the York River and its tributaries are eligible for designation as a Wild and Scenic River based on the presence of multiple outstandingly remarkable values. These segments meet the classification under the Wild and Scenic Rivers Act of a “recreational river” due to the existing level of human development.

The study found that the York River watershed includes the river and numerous wetlands, ponds, and tributaries, as well as drinking water reservoirs and one of the Gulf of Maine’s least disturbed marsh-estuarine ecosystems. The entire estuary provides habitat for roosting and feeding tidal wading birds and waterfowl as well as migratory birds including the rare saltmarsh sharp-tailed sparrow, which inhabits only coastal salt marshes of the eastern United States.

The York River supports 28 species of diadromous fish including smelt, alewives, eel, bluefish, striped bass, and Atlantic herring. Its headwaters are characterized by numerous biologically important wetlands and riverine forests. Home to rare and threatened species like the ringed boghaunter, one of the rarest dragonflies in North America, these forests and wetlands are at the northernmost extent of the geographic range of many plant and animal species.

The York River would be the second designated Wild and Scenic River in Maine, along with the Allagash, and the 13th designated river in New England.

LEGISLATIVE HISTORY

S. 491 was introduced by Senators King and Collins on March 1, 2021. The Subcommittee on National Parks held a hearing on the bill on June 23, 2021. Senators King and Collins introduced similar legislation in the 116th Congress, S. 4938, although no action was taken on that bill.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on November 18, 2021, by a majority voice vote of a quorum present, recommends that the Senate pass S. 491. Senator Lee asked to be recorded as voting no.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 establishes the short title of the Act, as the “York Wild and Scenic River Act of 2021.”

Section 2. Designation of York Wild and Scenic River, Maine

Section 2 amends section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) to add a new paragraph designating 30.8 miles of the York River and its tributaries (including portions of Bass Cove Creek, Cider Hill Creek, Cutts Ridge Brook, Dolly Gordon Brook, Libby Brook, Rogers Brook, and Smelt Brook) in Maine to be administered by the Secretary of the Interior as a recreational river.

Section 3. Management of York Wild and Scenic River, Maine

Subsection (a) provides definitions for the section.

Subsection (b) requires the Secretary of the Interior to manage the designated river segments in accordance with a river stewardship plan developed by the York River Stewardship Committee in consultation with the National Park Service.

Subsection (c) requires the Secretary to coordinate the management responsibilities with the Stewardship Committee, as provided in the stewardship plan.

Subsection (d) authorizes the Secretary to enter into cooperative agreements with the State of Maine and local communities and organizations to provide for the long-term protection, preservation, and enhancement of the designated river segments.

Subsection (e) clarifies zoning ordinances in relation to the covered segments, and also states that the Secretary's authority to acquire land is limited to donation or acquisition with consent of the landowner and subject to additional criteria in the stewardship plan. It further states that land may not be acquired by condemnation.

Subsection (f) provides that the designated river segments will not be administered as a unit of the National Park System or subject to the laws applicable to units of the National Park System.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office has not estimated the costs of S. 491 as passed by the Senate. The Committee has requested, but has not yet received, the Congressional Budget Office's estimate of the cost of S. 491 as ordered reported. When the Congressional Budget Office completes its cost estimate, it will be posted on the Internet at www.cbo.gov.

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. 491. 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. 491, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 491, 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 at the June 23, 2021, hearing on S. 491 follows:

STATEMENT OF MICHAEL A. CALDWELL, ACTING ASSOCIATE
DIRECTOR, PARK PLANNING, FACILITIES AND LANDS, NA-
TIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTE-
RIOR

Chairman King, Ranking Member Daines, and members of the Subcommittee, thank you for the opportunity to present the views of the Department of the Interior on S. 491, a bill to amend the Wild and Scenic Rivers Act to designate certain river segments within the York watershed in the State of Maine as components of the National Wild and Scenic River System, and for other purposes.

Initial review indicates that the segments proposed for designation under this bill may be eligible for inclusion into the National Wild and Scenic Rivers System. However, the study report is currently under internal review. We respectfully recommend that the committee defer action on S. 491 until the review is completed and the final report is issued, which we anticipate will occur in the near future.

S. 491 would designate eight segments of the York River totaling 30.8 miles as part of the System, to be administered by the Secretary of the Interior as a recreational river. The segments would be managed in accordance with the York River Watershed Stewardship Plan (August 2018) prepared as a part of the study, with the Secretary coordinating administration and management with a locally based stewardship committee, as specified in the plan.

The bill would authorize the Secretary to enter into cooperative agreements with the State of Maine, the municipalities of Eliot, Kittery, South Berwick, and York, and appropriate local, regional, or State planning, environmental, or recreational 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.

The study of the York River was authorized by P.L. 113–291, the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015. The National Park Service has conducted the study in close cooperation with the adjoining communities, the State of Maine, the Wells National Estuarine Research Reserve, and other interested local parties. Technical assistance provided as a part of the study made possible the development of the York River Watershed Stewardship Plan (August 2018).

This plan is based primarily around local partner actions designed to guide the stewardship of certain segments the York River with or without a National Wild and Scenic River designation. The draft York Wild and Scenic River Study Report was made available for public review and comment from January 10 to April 10, 2020. Public comments received on the draft were overwhelmingly in support of designation. If S. 491 is enacted, segments of the

York River and its tributaries would be administered as a partnership wild and scenic river, similar to several other designations in the Northeast, including the upper Farmington River and the Eightmile River in Connecticut, and the Lamprey River in New Hampshire.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions you or other members of the Subcommittee may have.

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. 491, 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:

* * * * *

"(231) YORK RIVER, MAINE.—The following segments of the main stem and tributaries (including portions of Bass Cove Creek, Cider Hill Creek, Cutts Ridge Brook, Dolly Gordon Brook, Libby Brook, Rogers Brook, and Smelt Brook) in the State of Maine, totaling approximately 30.8 miles, to be administered by the Secretary of the Interior, as a recreational river:

"(A) The approximately 0.95-mile segment of Bass Cove Creek from the outlet of Boulter Pond in York, Maine, and extending downstream to the confluence with the York River in York, Maine."

"(B) The approximately 3.77-mile segment of Cider Hill Creek from the Middle Pond dam in York, Maine, and extending downstream to the confluence with the York River in York, Maine."

"(C) The approximately 2.15-mile segment of Cutts Ridge Brook from the headwaters in Kittery, Maine, and extending downstream to the confluence with the York River in York, Maine."

"(D) The approximately 3.17-mile segment of Dolly Gordon Brook from the headwaters in York, Maine, and ex-

tending downstream to the confluence with the York River in York, Maine.”

“(E) The approximately 1.65-mile segment of Libby Brook from the headwaters in Kittery, Maine, and extending downstream to the confluence with Dolly Gordon Brook in York, Maine.”

“(F) The approximately 2.43-mile segment of Rogers Brook from the headwaters in Eliot, Maine, and extending downstream to the confluence with the York River in York, Maine.”

“(G) The approximately 4.54-mile segment of Smelt Brook from the Bell Marsh Reservoir dam in York, Maine, and extending downstream to the confluence with the York River in York, Maine.”

“(H) The approximately 12.14-mile segment of the York River from the outlet of York Pond in Eliot, Maine, and extending downstream to the Route 103 Bridge in York, including Barrell Mill Pond in York Maine.”

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