

YORK RIVER WILD AND SCENIC RIVER STUDY ACT
OF 2011

JANUARY 18, 2012.—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

[To accompany H.R. 2336]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2336) to amend the Wild and Scenic Rivers Act to designate segments of the York River and associated tributaries for study for potential inclusion in the National Wild and Scenic Rivers System, 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. SHORT TITLE.

This Act may be cited as the “York River Wild and Scenic River Study Act of 2011”.

SEC. 2. DESIGNATION FOR STUDY.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end the following:

“() YORK RIVER, MAINE.—(A) The York River that flows 11.25 miles from its headwaters at York Pond to the mouth of the river at York Harbor, and all associated tributaries.

“(B) The study conducted under this paragraph shall—

“(i) determine the effect of the designation on—

“(I) existing commercial and recreational activities, such as hunting, fishing, trapping, recreational shooting, motor boat use, bridge construction;

“(II) the authorization, construction, operation, maintenance, or improvement of energy production and transmission infrastructure; and

“(III) the authority of State and local governments to manage those activities; and

“(ii) identify—

“(I) all authorities that will authorize or require the Secretary to influence local land use decisions (such as zoning) or place restrictions on non-Federal land if designated under this Act;

“(II) all authorities that the Secretary may use to condemn property; and

“(III) all private property located in the area studied under this paragraph.”.

SEC. 3. STUDY AND REPORT.

Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)) is amended by adding at the end the following:

“() YORK RIVER, MAINE.—The study of the York River, Maine, named in paragraph () of subsection (a) shall be completed by the Secretary of the Interior and the report thereon submitted to Congress not later than 3 years after the date on which funds are made available to carry out this paragraph.”.

PURPOSE OF THE BILL

The purpose of H.R. 2336, as ordered reported, is to amend the Wild and Scenic Rivers Act to designate segments of the York River and associated tributaries for study for potential inclusion in the National Wild and Scenic Rivers System.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 2336 authorizes the National Park Service (NPS) to study 11.25 miles of the York River, in the State of Maine, from its headwaters at York Pond to the mouth of the river at York Harbor plus its tributaries. The Wild and Scenic Rivers Act of 1968 intended to put a development freeze on rivers to preserve their “free-flowing” values against the influx of man-made dams being constructed at the time. Temporary restrictions on actions involving federal participation accompany the designation of a river during the study period.

Although no risks to the York River necessitating federal designation were identified, proponents of the study explained that they would benefit from the expertise of NPS and the interaction with the community and students.

Typically, rivers that may be included into the Wild and Scenic Rivers program operated by NPS are first studied for their suitability. The river is evaluated on its “free-flowing” condition and classified as wild, scenic or recreational, depending on the amount of development on and near the river.

During markup, the Natural Resources Committee adopted an amendment offered by Congressman Rob Bishop (R-UT) to add several requirements to the study that will be undertaken by the NPS. NPS is required to consider the effect of designation on commercial and recreational uses, such as hunting, fishing and boating. Also, the study must look at the impact on construction and maintenance of energy production and transmission. Finally, the amendment requires that the study identify private property within the study area and identify all authorities that could be utilized to condemn land.

Concerns have been raised that the Wild and Scenic Rivers Act contains several authorities allowing the condemnation of private property. As Wild and Scenic Rivers are purported to be locally driven projects, the Committee sees no reason why property owners should be left in the dark regarding the inclusion of their property in a federal designation. For the study process to be authentically

derived from the community, the facts and limitations on property rights that may result from a designation must be revealed.

Finally, the study will identify those authorities that compel NPS to involve itself in local zoning. While federal designation of the York River may be appealing to some, the community should be aware that the Wild and Scenic Rivers Act requires local zoning to conform to the dictates of the Act. Representatives of the federal government would have a role in the development of local zoning ordinances. It should be noted that the study not only includes the York River, but tributaries as well. The size scope of the resulting designation could be well beyond what is currently anticipated in the impacted towns.

COMMITTEE ACTION

H.R. 2336 was introduced on June 23, 2011, by Congresswoman Chellie Pingree (D-ME). 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 September 15, 2011, the Subcommittee held a hearing on the bill. On November 17, 2011, the 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 en bloc amendment designated .044 to the bill; the amendment was adopted by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

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. 2336—York River Wild and Scenic River Study Act of 2011

H.R. 2336 would require the National Park Service (NPS) to study a segment of the York River in southwest Maine for potential addition to the Wild and Scenic Rivers System. Based on information provided by the NPS, CBO estimates that implementing the legislation would cost less than \$250,000 over the next three years, assuming availability of appropriated funds. Enacting H.R. 2336

would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 2336 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 Jeff LaFave. 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. Based on information provided by the National Park Service, CBO estimates that implementing the legislation would cost less than \$250,000 over the next three years, assuming availability of appropriated funds.

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 amend the Wild and Scenic Rivers Act to designate segments of the York River and associated tributaries for study for potential inclusion in the National Wild and Scenic Rivers System.

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 MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

WILD AND SCENIC RIVERS ACT

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SEC. 5. (a) The following rivers are hereby designated for potential addition to the national wild and scenic rivers system:

(1) * * *

* * * * *

() YORK RIVER, MAINE.—(A) *The York River that flows 11.25 miles from its headwaters at York Pond to the mouth of the river at York Harbor, and all associated tributaries.*

(B) *The study conducted under this paragraph shall—*

(i) *determine the effect of the designation on—*

(I) existing commercial and recreational activities, such as hunting, fishing, trapping, recreational shooting, motor boat use, bridge construction;

(II) the authorization, construction, operation, maintenance, or improvement of energy production and transmission infrastructure; and

(III) the authority of State and local governments to manage those activities; and

(ii) *identify—*

(I) all authorities that will authorize or require the Secretary to influence local land use decisions (such as zoning) or place restrictions on non-Federal land if designated under this Act;

(II) all authorities that the Secretary may use to condemn property; and

(III) all private property located in the area studied under this paragraph.

* * * * *

(b)(1) * * *

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() YORK RIVER, MAINE.—*The study of the York River, Maine, named in paragraph () of subsection (a) shall be completed by the Secretary of the Interior and the report thereon submitted to Congress not later than 3 years after the date on which funds are made available to carry out this paragraph.*

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