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UPPER MISSISQUOI AND TROUT WILD AND SCENIC RIVERS ACT

JUNE 30, 2014.—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. 2569]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2569) 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, 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 "Upper Missisquoi and Trout Wild and Scenic Rivers Act".

SEC. 2. DESIGNATION OF WILD AND SCENIC RIVER SEGMENTS.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

"(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 in 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.".

SEC. 3. MANAGEMENT.

(a) MANAGEMENT.—

(1) IN GENERAL.—The river segments designated by paragraph (208) of section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) shall be managed in accordance with—

(A) the Upper Missisquoi and Trout Rivers Management Plan developed during the study described in section 5(b)(19) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)(19)) (referred to in this section as the "management plan"); and

(B) such amendments to the management plan as the Secretary determines are consistent with this Act and as are approved by the Upper Missisquoi and Trout Rivers Wild and Scenic Committee (referred to in this section as the "Committee").

(2) COMPREHENSIVE MANAGEMENT PLAN.—The management plan, as finalized in March 2013, and as amended, shall be considered to satisfy the requirements for a comprehensive management plan pursuant to section 3(d) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(d)).

(b) COMMITTEE.—The Secretary shall coordinate management responsibility of the Secretary of the Interior under this Act with the Committee, as specified in the management plan.

(c) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—In order to provide for the long-term protection, preservation, and enhancement of the river segments designated by paragraph (208) of section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)), the Secretary of the Interior may enter into cooperative agreements pursuant to sections 10(e) and 11(b)(1) (16 U.S.C. 1281(e), 1282(b)(1)) of the Wild and Scenic Rivers Act with—

(A) the State of Vermont;

(B) the municipalities of Berkshire, Enosburg Falls, Enosburgh, Montgomery, North Troy, Richford, Troy, and Westfield; and

(C) appropriate local, regional, statewide, or multi-state planning or recreational organizations consistent with the management plan.

(2) CONSISTENCY.—Each cooperative agreement entered into under this section shall be consistent with the management plan and may include provisions for financial or other assistance from the United States.

(d) EFFECT ON EXISTING HYDROELECTRIC FACILITIES.—

(1) IN GENERAL.—The designation of the river segments by paragraph (208) of section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)), does not—

(A) preclude, prohibit, or restrict 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 the terms of licenses or exemptions in effect on the date of enactment of this Act; or

(B) limit modernization, upgrade, or other changes to the projects described in paragraph (1).

(2) HYDROPOWER PROCEEDINGS.—Resource protection, mitigation, or enhancement measures required by Federal Energy Regulatory Commission hydropower proceedings—

(A) shall not be considered to be project works for purposes of this Act; and

(B) may be located within the river segments designated by paragraph (208) of section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)).

(e) LAND MANAGEMENT.—

(1) ZONING ORDINANCES.—For the purpose of the segments designated in paragraph (208) of section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)), the zoning ordinances adopted by the towns of Berkshire, Enosburg Falls, Enosburgh, Montgomery, North Troy, Richford, Troy, and Westfield in the State of Vermont, including provisions for conservation of floodplains, wetlands, and watercourses associated with the segments, 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)).

(2) ACQUISITIONS OF LAND.—The authority of the Secretary to acquire land for the purposes of the segments designated in paragraph (208) of section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) shall be—

(A) limited to acquisition by donation or exchange; and

(B) subject to the additional criteria set forth in the management plan.

(3) NO CONDEMNATION.—The Secretary of the Interior may not acquire by condemnation any land or interest in land within the boundaries of the river

segments designated by paragraph (208) of section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)).

(4) WRITTEN CONSENT OF OWNER REQUIRED.—No private property or non-Federal public property shall be included within the boundaries of the river segments designated by paragraph (208) of section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) without the written consent of the owner of that property.

(f) RELATION TO NATIONAL PARK SYSTEM.—Notwithstanding section 10(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1281(c)), the Missisquoi and Trout Rivers shall not be administered as part of the National Park System or be subject to regulations that govern the National Park System.

(g) NO BUFFER ZONE CREATED.—Nothing in this Act or the Upper Missisquoi and Trout Rivers Management Plan shall be construed to create buffer zones outside the designated river segment boundaries designated by paragraph (208) of section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)). That activities or uses can be seen, heard, or detected from areas within the designated river segments shall not preclude, limit, control, regulate or determine the conduct of management of activities or uses outside those designated river segments.

PURPOSE OF THE BILL

The purpose of H.R. 2569 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 FOR LEGISLATION

The Wild and Scenic Rivers Act became law in 1968 with the goal of protecting the free-flowing characteristics of select rivers. The purpose of the Act was to combat the increase in the construction of dams around the country. In many ways, the Act puts a development freeze on, over and next to a designated river.

H.R. 2569 designates in the State of Vermont two segments of the Upper Missisquoi River totaling 35.1 miles and the entire main stem 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.

Congress authorized a study of the Missisquoi and Trout Rivers in Public Law 111–11. While the study endorses the designations in H.R. 2569, it is very clear that the community does not want federal management or ownership on or around the 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. The management plan repeatedly emphasized that the recommendations in the plan should be carried out on voluntary basis down to the property owner level.

During Natural Resources Committee consideration of the bill, the Committee adopted an amendment to clarify the intent that this designation be voluntary in nature by requiring that property only be included into the boundaries with the written consent of the owner. Additionally, federal land acquisition may occur only by donation or exchange, with condemnation specifically prohibited. If this proposal is locally supported and managed, there is no need for federal coercion.

H.R. 2569 also excludes several hydro-electric projects from the boundaries of the designation and the amendment further limits

the Secretary of the Interior's influence on the ongoing and future activities of those facilities.

The Committee has included language to prevent the administrative or perceived creation of buffer zones. Even during the study period the proposed boundaries were cited as rationale to limit an unrelated energy project, highlighting the need for this provision.

Finally, the amendment removed the ability of the Secretary of the Interior to include a town within the designated area that has already voted against participating in the legislation.

COMMITTEE ACTION

H.R. 2569 was introduced on June 27, 2013, by Congressman Peter Welch (D–VT). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Public Lands and Environmental Regulation. On February 26, 2014, the Subcommittee held a hearing on the bill. On May 29, 2014, the Natural Resources Committee met to consider the bill. The Subcommittee on Public Lands and Environmental Regulation was discharged by unanimous consent. Congressman Rob Bishop (R–UT) offered an amendment designated #1 to the bill; the amendment was adopted by unanimous consent. No further amendments were offered and the bill, as amended, was then adopted and 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. 2569—Upper Missisquoi and Trout Wild and Scenic Rivers Act

H.R. 2569 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 2015–2019 period, assuming the availability of the necessary amounts.

Under the legislation, NPS would administer the river segments in partnership with an advisory committee composed of local representatives. Based on the cost of similar management partnerships in the region, CBO estimates that NPS would provide $175,000 annually to the advisory committee to manage the river segments.

Enacting H.R. 2569 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 2569 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.

On January 8, 2014, CBO transmitted a cost estimate for S. 1252, the Upper Missisquoi and Trout Wild and Scenic Rivers Act, as ordered reported by the Senate Committee on Energy and Natural Resources on November 21, 2013. The two pieces of legislation are similar, and the CBO cost estimates are the same.

The CBO staff contact for this estimate is Martin von Gnechten. 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, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. Based on information provided by the National Park Service (NPS), CBO estimates that implementing the bill would cost about $1 million over the 2015–2019 period, assuming the availability of the necessary amounts. Under the legislation, NPS would administer the river segments in partnership with an advisory committee composed of local representatives. Based on the cost of similar management partnerships in the region, CBO estimates that NPS would provide $175,000 annually to the advisory committee to manage the river segments.

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 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.

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.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

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

(1) * * *

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(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 in 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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