

NASHUA RIVER WILD AND SCENIC RIVER STUDY ACT

SEPTEMBER 10, 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. 5319]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 5319) to amend the Wild and Scenic Rivers Act to designate segments of the mainstem of the Nashua River and its tributaries in the Commonwealth of Massachusetts for study for potential addition to the National Wild and Scenic Rivers System, 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. SHORT TITLE.

This Act may be cited as the “Nashua River Wild and Scenic River Study Act”.

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:

“() NASHUA RIVER, MASSACHUSETTS.—(A) The approximately 19-mile segment of the mainstem of the Nashua River from the confluence of the North and South Nashua Rivers in Lancaster, Massachusetts, north to the Massachusetts/New Hampshire State line, and its tributaries, except the approximately 4.8-mile segment of the mainstem of the Nashua River from the Route 119 bridge in Groton, Massachusetts downstream to its confluence with the Nissitissit River in Pepperell, Massachusetts.

“(B) The 10-mile segment of the Squannacook River from its headwaters at Ash Swamp downstream to its confluence with the Nashua River in Shirley/Ayer, Massachusetts.

“(C) The 3.5-mile segment of the Nissitissit River from the Massachusetts/New Hampshire State line downstream to its confluence with the Nashua River in Pepperell, Massachusetts.”.

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:

“(_____) STUDY AND REPORT.—Not later than 3 years after the date on which funds are made available to carry out this paragraph, the Secretary of the Interior shall complete the study of the Nashua River in Massachusetts and New Hampshire, as described in subsection (a)(_____), and submit a report describing the results of that study to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.”.

SEC. 4. REPORT REQUIREMENTS.

The report required under section 3 of this Act shall—

(1) include a discussion of the effect of the designation of the area to be studied under this Act under the Wild and Scenic Rivers Act on—

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

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

(C) the authority of State and local governments to manage those activities encompassed in subparagraphs (A) and (B); and

(2) identify—

(A) all authorities that will authorize or require the Secretary of the Interior to influence local land use decisions (such as zoning) or place restrictions on non-Federal land if the area studied under this Act is designated under the Wild and Scenic Rivers Act;

(B) all authorities that the Secretary of the Interior may use to condemn property if the area studied under this Act is designated under the Wild and Scenic Rivers Act; and

(C) all private property located in the area to be studied under this Act.

PURPOSE OF THE BILL

The purpose of H.R. 5319, as ordered reported, is to amend the Wild and Scenic Rivers Act to designate segments of the mainstem of the Nashua River and its tributaries in the Commonwealth of Massachusetts for study for potential addition to the National Wild and Scenic Rivers System.

BACKGROUND AND NEED FOR LEGISLATION

Typically, rivers that may be included into the Wild and Scenic Rivers program operated by the National Park Service (NPS) are first studied for their suitability. H.R. 5319 authorizes a study of 32.5 miles of the Nashua, Squannacook and Nissitissit Rivers and their tributaries, but would except a 4.8-mile segment that is currently the subject of a Federal Energy Regulatory Commission licensing proceeding for an existing hydroelectric facility. The rivers will be evaluated on their “free-flowing” condition and classified as wild, scenic or recreational depending on the amount of development on and near the river segment.

The Wild and Scenic Rivers Act of 1968 was intended to put a development freeze on rivers to preserve their “free-flowing” values against the influx of manmade dams being constructed at the time. Temporary restrictions of actions involving federal participation accompany the designation of a river during the study period.

During markup of H.R. 5319, 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 trans-

mission. 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 Nashua, Squannacook and Nissitissit Rivers 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 Nashua, Squannacook and Nissitissit Rivers, but their tributaries as well. The size and scope of the resulting designation could be well beyond what is currently anticipated in the impacted towns.

COMMITTEE ACTION

H.R. 5319 was introduced on April 27, 2012, by Congresswoman Niki Tsongas (D-MA). 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 June 28, 2012, the Subcommittee on National Parks, Forests and Public Lands held a hearing on the bill. On August 1, 2012, the Full 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 designated #1 to the bill; the amendment was adopted by unanimous consent. 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:

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H.R. 5319 would require the National Park Service (NPS) to study segments of the Nashua River in Massachusetts and New Hampshire 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 about \$300,000 over the next three years, assuming availability of appropriated funds. Enacting H.R. 5319 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 5319 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.

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 about \$300,000 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 mainstem of the Nashua River and its tributaries in the Commonwealth of Massachusetts for study for potential addition to 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) * * *
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() NASHUA RIVER, MASSACHUSETTS.—(A) *The approximately 19-mile segment of the mainstem of the Nashua River from the confluence of the North and South Nashua Rivers in Lancaster, Massachusetts, north to the Massachusetts/New Hampshire State line, and its tributaries, except the approximately 4.8-mile segment of the mainstem of the Nashua River from the Route 119 bridge in Groton, Massachusetts downstream to its confluence with the Nissitissit River in Pepperell, Massachusetts.*

(B) *The 10-mile segment of the Squannacook River from its headwaters at Ash Swamp downstream to its confluence with the Nashua River in Shirley/Ayer, Massachusetts.*

(C) *The 3.5-mile segment of the Nissitissit River from the Massachusetts/New Hampshire State line downstream to its confluence with the Nashua River in Pepperell, Massachusetts.*

(b)(1) * * *
* * * * *

() STUDY AND REPORT.—*Not later than 3 years after the date on which funds are made available to carry out this paragraph, the Secretary of the Interior shall complete the study of the Nashua River in Massachusetts and New Hampshire, as described in subsection (a)(), and submit a report describing the results of that study to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.*

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