

WHITE CLAY CREEK WILD AND SCENIC RIVERS SYSTEM
ACT

SEPTEMBER 6, 2000.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

[To accompany H.R. 3520]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 3520) to designate segments and tributaries of White Clay Creek, Delaware and Pennsylvania, as a component of the National Wild and Scenic Rivers System, having considered the same, reports favorably thereon with an amendment and recommends 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 “White Clay Creek Wild and Scenic Rivers System Act”.

SEC. 2. FINDINGS.

Congress finds that—

(1) Public Law 102-215 (105 Stat. 1664) directed the Secretary of the Interior, in cooperation and consultation with appropriate State and local governments and affected landowners, to conduct a study of the eligibility and suitability of White Clay Creek, Delaware and Pennsylvania, and the tributaries of the creek for inclusion in the National Wild and Scenic Rivers System;

(2) as a part of the study described in paragraph (1), the White Clay Creek Wild and Scenic Study Task Force and the National Park Service prepared a watershed management plan for the study area entitled “White Clay Creek and Its Tributaries Watershed Management Plan”, dated May 1998, that establishes goals and actions to ensure the long-term protection of the outstanding values of, and compatible management of land and water resources associated with, the watershed; and

(3) after completion of the study described in paragraph (1), Chester County, Pennsylvania, New Castle County, Delaware, Newark, Delaware, and 12 Pennsylvania municipalities located within the watershed boundaries passed resolutions that—

- (A) expressed support for the White Clay Creek Watershed Management Plan;
- (B) expressed agreement to take action to implement the goals of the Plan; and
- (C) endorsed the designation of the White Clay Creek and the tributaries of the creek for inclusion in the National Wild and Scenic Rivers System.

SEC. 3. DESIGNATION OF WHITE CLAY CREEK.

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:

“(162) WHITE CLAY CREEK, DELAWARE AND PENNSYLVANIA.—The 190 miles of river segments of White Clay Creek (including tributaries of White Clay Creek and all second order tributaries of the designated segments) in the States of Delaware and Pennsylvania, as depicted on the recommended designation and classification maps (dated June 2000), to be administered by the Secretary of the Interior, as follows:

“(A) 30.8 miles of the east branch, including Trout Run, beginning at the headwaters within West Marlborough township downstream to a point that is 500 feet north of the Borough of Avondale wastewater treatment facility, as a recreational river.

“(B) 15.0 miles of the east branch beginning at the southern boundary line of the Borough of Avondale to a point where the East Branch enters New Garden Township at the Franklin Township boundary line, including Walnut Run and Broad Run outside the boundaries of the White Clay Creek Preserve, as a recreational river.

“(C) 4.0 miles of the east branch that flow through the boundaries of the White Clay Creek Preserve, Pennsylvania, beginning at the northern boundary line of London Britain township and downstream to the confluence of the middle and east branches, as a scenic river.

“(D) 6.8 miles of the middle branch, beginning at the headwaters within Londonderry township downstream to a point that is 500 feet north of the Borough of West Grove wastewater treatment facility, as a recreational river.

“(E) 14 miles of the middle branch, beginning at a point that is 500 feet south of the Borough of West Grove wastewater treatment facility downstream to the boundary of the White Clay Creek Preserve in London Britain township, as a recreational river.

“(F) 2.1 miles of the middle branch that flow within the boundaries of the White Clay Creek Preserve in London Britain township, as a scenic river.

“(G) 17.2 miles of the west branch, beginning at the headwaters within Penn township downstream to the confluence with the middle branch, as a recreational river.

“(H) 12.7 miles of the main stem, excluding Lamborn Run, that flow through the boundaries of the White Clay Creek Preserve, Pennsylvania and Delaware, and White Clay Creek State Park, Delaware, beginning at the confluence of the east and middle branches in London Britain township, Pennsylvania, downstream to the northern boundary line of the city of Newark, Delaware, as a scenic river.

“(I) 5.4 miles of the main stem (including all second order tributaries outside the boundaries of the White Clay Creek Preserve and White Clay Creek State Park), beginning at the confluence of the east and middle branches in London Britain township, Pennsylvania, downstream to the northern boundary of the city of Newark, Delaware, as a recreational river.

“(J) 16.8 miles of the main stem beginning at Paper Mill Road downstream to the Old Route 4 bridge, as a recreational river.

“(K) 4.4 miles of the main stem beginning at the southern boundary of the property of the corporation known as United Water Delaware downstream to the confluence of White Clay Creek with the Christina River, as a recreational river.

“(L) 1.3 miles of Middle Run outside the boundaries of the Middle Run Natural Area, as a recreational river.

“(M) 5.2 miles of Middle Run that flow within the boundaries of the Middle Run Natural Area, as a scenic river.

“(N) 15.6 miles of Pike Creek, as a recreational river.

“(O) 38.7 miles of Mill Creek, as a recreational river.”.

SEC. 4. BOUNDARIES.

With respect to each of the segments of White Clay Creek and its tributaries designated by the amendment made by section 3, in lieu of the boundaries provided for in section 3(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(b)), the bound-

aries of the segment shall be 250 feet as measured from the ordinary high water mark on both sides of the segment.

SEC. 5. ADMINISTRATION.

(a) **BY SECRETARY OF THE INTERIOR.**—The segments designated by the amendment made by section 3 shall be administered by the Secretary of the Interior (referred to in this Act as the “Secretary”), in cooperation with the White Clay Creek Watershed Management Committee as provided for in the plan prepared by the White Clay Creek Wild and Scenic Study Task Force and the National Park Service, entitled “White Clay Creek and Its Tributaries Watershed Management Plan” and dated May 1998 (referred to in this Act as the “Management Plan”).

(b) **REQUIREMENT FOR COMPREHENSIVE MANAGEMENT PLAN.**—The Management Plan shall be considered to satisfy the requirements for a comprehensive management plan under section 3(d) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(d)).

(c) **COOPERATIVE AGREEMENTS.**—In order to provide for the long-term protection, preservation, and enhancement of the segments designated by the amendment made by section 3, the Secretary shall offer to enter into a cooperative agreement pursuant to sections 10(c) and 11(b)(1) of the Wild and Scenic Rivers Act (16 U.S.C. 1281(e), 1282(b)(1)) with the White Clay Creek Watershed Management Committee as provided for in the Management Plan.

SEC. 6. FEDERAL ROLE IN MANAGEMENT.

(a) **IN GENERAL.**—The Director of the National Park Service (or a designee) shall represent the Secretary in the implementation of the Management Plan, this Act, and the Wild and Scenic Rivers Act with respect to each of the segments designated by the amendment made by section 3, including the review, required under section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)), of proposed federally-assisted water resources projects that could have a direct and adverse effect on the values for which the segment is designated.

(b) **ASSISTANCE.**—To assist in the implementation of the Management Plan, this Act, and the Wild and Scenic Rivers Act with respect to each of the segments designated by the amendment made by section 3, the Secretary may provide technical assistance, staff support, and funding at a cost to the Federal Government in an amount, in the aggregate, of not to exceed \$150,000 for each fiscal year.

(c) **COOPERATIVE AGREEMENTS.**—Any cooperative agreement entered into under section 10(e) of the Wild and Scenic Rivers Act (16 U.S.C. 1281(e)) relating to any of the segments designated by the amendment made by section 3—

- (1) shall be consistent with the Management Plan; and
- (2) may include provisions for financial or other assistance from the United States to facilitate the long-term protection, conservation, and enhancement of the segments.

(d) **NATIONAL PARK SYSTEM.**—Notwithstanding section 10(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1281(c)), any portion of a segment designated by the amendment made by section 3 that is not in the National Park System as of the date of the enactment of this Act shall not, under this Act—

- (1) be considered a part of the National Park System;
- (2) be managed by the National Park Service; or
- (3) be subject to laws (including regulations) that govern the National Park System.

SEC. 7. STATE REQUIREMENTS.

State and local zoning laws and ordinances, as in effect on the date of the enactment of this Act, shall be considered to satisfy the standards and requirements under section 6(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(c)) with respect to the segment designated by the amendment made by section 3.

SEC. 8. NO LAND ACQUISITION.

The Federal Government shall not acquire, by any means, any right or title in or to land, any easement, or any other interest along the segments designated by the amendment made by section 3 for the purpose of carrying out the amendment or this Act.

PURPOSE OF THE BILL

The purpose of H.R. 3520 is to designate segments and tributaries of White Clay Creek, Delaware and Pennsylvania, as a component of the National Wild and Scenic Rivers System.

BACKGROUND AND NEED FOR LEGISLATION

White Clay Creek is the watershed for more than 69,000 acres in southeastern Pennsylvania and northwestern Delaware, eventually draining into the Christina River and hence to the Delaware River. In 1991 the White Clay Creek Study Act (Public Law 102-215) was passed which directed the National Park Service (NPS) to prepare a study of the eligibility and suitability of White Clay Creek as a Wild and Scenic River. This law also directed the NPS and White Clay Creek Study Task Force to develop a watershed management plan for the area. White Clay Creek is an important source of drinking water and also contains recreational, cultural, and scenic resources. Although much of the land around these segments is privately owned, surveys by private property owners have indicated general support for this legislation. Furthermore, all of the 15 local governmental entities within the watershed have passed resolutions supporting the designation and implementation of the management plan.

H.R. 3520 would designate segments and tributaries of the White Clay Creek (approximately 191 miles of river), in the States of Delaware and Pennsylvania, as a component of the National Wild and Scenic Rivers System. This bill provides that 24 miles of rivers would be designated as scenic while the other 167 miles would be designated as recreational. When designated, the watershed would be permanently protected from federally-licensed or assisted dams, diversions, channelizations, and other water projects that would have a direct and adverse effect on the rivers' free-flowing condition and special resources.

A study done by the NPS in 1999 recommended the boundaries of these segments be established at the highest of either the 500-year floodplain or 250 feet from the ordinary high water mark. H.R. 3520 would implement this recommendation. H.R. 3520 also assures that the federal government cannot acquire land or interests for the purposes of this bill.

H.R. 3520 provides that two segments, Churchman's Marsh and Lamborn Run, and associated properties (including intake structures and pipelines for the proposed Thompson's Station Reservoir) will only be considered for designation pending the completion of the reservoir comprehensive plan. If the plan removes these segments from the reservoir consideration, then they would be eligible for designation. H.R. 3520 also specifies that the watershed management plan, completed in 1998, would suffice as the comprehensive management plan required under section (d) of the Wild and Scenic Rivers Act (Public Law 90-542).

COMMITTEE ACTION

H.R. 3520 was introduced by Congressman Joseph Pitts (R-PA) on January 24, 2000. The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks and Public Lands. On June 8, 2000, the Subcommittee held a hearing on the bill. On June 22, 2000, the Subcommittee met to consider the bill. An amendment in the nature of a substitute was offered by Congressman Joel Hefley (R-CO). The amendment removed the 500-year floodplain requirement and segments that are not currently eligible. The amendment was adopted

by voice vote and the bill, as amended, was ordered favorably reported to the Resources Committee by voice vote. On July 26, 2000, the Resources Committee met to consider the bill. No further amendments were offered and the bill, as amended, was 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 Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) 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)(3)(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.

2. 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.

3. Government Reform Oversight Findings. Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. Congressional Budget Office Cost Estimate. 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:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 2, 2000.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3520, the White Clay Creek Wild and Scenic Rivers System Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

STEVEN M. LIEBERMAN
(For Dan L. Crippen, Director).

Enclosure.

H.R. 3520—White Clay Creek Wild and Scenic Rivers System Act

Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 3520 would cost the federal government \$150,000 annually beginning in fiscal year 2001. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply. H.R. 3520 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no significant costs on state, local, or tribal governments.

H.R. 3520 would designate several segments of the White Clay Creek in Delaware and Pennsylvania as recreational or scenic rivers under the Wild and Scenic Rivers Act. The bill also would direct the National Park Service to offer technical or financial assistance to the White Clay Creek Watershed Management Committee to implement a management plan for the newly designated river segments. Such aid could not exceed \$150,000 annually.

On April 11, 2000, CBO transmitted a cost estimate for S. 1849, similar legislation as ordered reported by the Senate Committee on Energy and Natural Resources on April 5, 2000. The two bills are substantively the same, and the cost estimates are identical.

The CBO staff contact is Megan Carroll. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

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 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 (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):

SECTION 3 OF 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:

(1) * * *

* * * * *

(162) *WHITE CLAY CREEK, DELAWARE AND PENNSYLVANIA.—The 190 miles of river segments of White Clay Creek (including tributaries of White Clay Creek and all second order tributaries of the*

designated segments) in the States of Delaware and Pennsylvania, as depicted on the recommended designation and classification maps (dated June 2000), to be administered by the Secretary of the Interior, as follows:

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