

## Calendar No. 327

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### LOWER FARMINGTON RIVER AND SALMON BROOK WILD AND SCENIC RIVER ACT

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DECEMBER 16, 2015.—Ordered to be printed

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Ms. MURKOWSKI, from the Committee on Energy and Natural  
Resources, submitted the following

### R E P O R T

[To accompany S. 329]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 329) to amend the Wild and Scenic Rivers Act to designate certain segments of the Farmington River and Salmon Brook in the State of Connecticut as components of the National Wild and Scenic Rivers System, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

1. On page 7, line 23, strike “Act; or” and insert the following:

“Act, provided that the Commission may, in the discretion of the Commission and consistent with this Act, establish such reasonable terms and conditions in a hydropower license for Rainbow Dam as are necessary to reduce impacts identified by the Secretary as invading or unreasonably diminishing the scenic, recreational, and fish and wildlife values of the segments designated by section 3; or”.

#### PURPOSE

The purpose of S. 329 is to amend the Wild and Scenic Rivers Act to designate certain segments of the Farmington River and Salmon Brook in the State of Connecticut as components of the National Wild and Scenic Rivers System.

## BACKGROUND AND NEED

The lower Farmington River, fed by the Salmon Brook tributaries, flows through Connecticut from the upper Farmington River into the Connecticut River. The Farmington River is considered to support natural, cultural, and recreational values, including biodiversity, prehistoric archaeological sites, and multiple outdoor recreational opportunities.

In 1994, P.L. 103–313 designated 14 miles of the upper Farmington River as a recreational river in the National Wild and Scenic Rivers System. In 2005, P.L. 109–370 authorized a study of the lower Farmington River and the east and west Salmon Brook tributaries for potential inclusion into the National Wild and Scenic Rivers System. The study area begins downstream from the 1994 designation, includes the main Salmon Brook tributaries, and terminates at the Connecticut River.

In November 2011, the National Park Service (NPS) released the Lower Farmington River and Salmon Brook Wild and Scenic River Study, which recommends “recreational” designation of 63.4 miles of the lower Farmington River and Salmon Brook that were found eligible for designation into the National Wild and Scenic Rivers System. The study determined that a 2.9 mile segment of the Lower Farmington River, including the Upper and Lower Collinsville dams, as unsuitable for designation, and the river segment that includes the Rainbow Dam and reservoir as ineligible.

Concurrently with the preparation of the study, the Lower Farmington River and Salmon Brook Wild and Scenic Study Committee developed the Lower Farmington River and Salmon Brook Management Plan (June 2011) as part of the overall study effort. The plan serves as the comprehensive plan required of all Wild and Scenic Rivers, and functions as a blueprint for conservation actions and management practices whether the rivers are designated as Wild and Scenic or not.

S. 329 would complete the Wild and Scenic River designation of the Farmington River in Connecticut by designating all of the mainstem Farmington River segments found to meet the criteria of eligibility and suitability. At the same time, S. 329 would affirm the compatibility of the Rainbow Dam and Reservoir with the proposed wild and scenic designations.

## LEGISLATIVE HISTORY

In the 113th Congress, Senators Murphy and Blumenthal introduced a bill similar to S. 329, S. 1253, on June 27, 2013. The Subcommittee on National Parks held a hearing on the bill on July 31, 2013 (S. Hrg. 113–93). A companion bill, H.R. 2555, was introduced in the House of Representatives by Representatives Esty and Larson.

S. 329 was introduced by Senators Murphy and Blumenthal on February 2, 2015. A companion bill, H.R. 646, was introduced in the House of Representatives by Representatives Esty and Larson on February 2, 2015. The Senate Subcommittee on National Parks held a hearing on S. 329 on June 10, 2015.

At its business meeting on November 19, 2015, the Committee on Energy and Natural Resources on a voice vote ordered S. 329 favorably reported as amended.

## COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on November 19, 2015, by a majority voice vote of a quorum present, recommends that the Senate pass S. 329, if amended as described herein.

## COMMITTEE AMENDMENTS

During its consideration of S. 329, the Committee adopted an amendment to minimize the impact that the operation of Rainbow Dam will have on the scenic, recreational, and fish and wildlife values of the newly designated river segments.

## SECTION-BY-SECTION ANALYSIS

*Section 1* contains the short title, the “Lower Farmington River and Salmon Brook Wild and Scenic River Act.”

*Section 2* contains Congressional findings.

*Section 3* designates approximately 62 miles of the Farmington River and its tributary, Salmon Brook, as components of the National Wild and Scenic Rivers System.

*Section 4* directs the Secretary of the Interior to manage the new river segments in accordance with the management plan and to coordinate management responsibilities with the Lower Farmington River and Salmon Brook Wild and Scenic Committee. Section 4(c) authorizes the Secretary to enter into cooperative agreements to provide for the long-term protection, preservation, and enhancement of the rivers. Section 4(d) deems certain local zoning ordinances to satisfy the standards and requirements of the Wild and Scenic Rivers Act. It further prohibits land acquisition by Federal condemnation in the designated river segments and limits such acquisitions to those by donation or from a willing seller. Section 4(e) clarifies that the designation does not affect future licensing of the Rainbow Dam and Reservoir or impact the operation of the unlicensed hydroelectric facility at Rainbow Dam and Reservoir, although the Federal Energy Regulatory Commission may establish reasonable terms and conditions in a hydropower license to reduce impacts to the scenic, recreational, and fish and wildlife values of the new river segments. The newly designated river segments will not be administered as part of the National Park System.

*Section 5* extends the existing Farmington National Wild and Scenic River by 1.1 miles.

*Section 6* contains definitions.

## COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

## 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. 329. 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. 329, as ordered reported.

#### CONGRESSIONALLY DIRECTED SPENDING

S. 329, 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 NPS at the June 10, 2015 Subcommittee on National Parks hearing on S. 329 follows:

#### STATEMENT OF VICTOR KNOX, ASSOCIATE DIRECTOR, PARK PLANNING, FACILITIES AND LANDS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before your committee today to present the views of the Department of the Interior on S. 329, a bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Farmington River and Salmon Brook in the State of Connecticut as components of the Wild and Scenic Rivers System, and for other purposes.

The Department supports enactment of S. 329 with an amendment that is described later in this statement. The National Park Service's study of the Lower Farmington River and Salmon Brook, transmitted to Congress on October 17, 2013, determined that the segments proposed for designation under this bill are eligible for inclusion into the National Wild and Scenic Rivers System.

S. 329 would designate 35.3 miles of the Farmington River and the entire 26.4 miles of its major tributary, Salmon Brook, as part of the Wild and Scenic Rivers System, to be administered by the Secretary of the Interior. The segments would be managed in accordance with the Lower Farmington River and Salmon Brook Management Plan (June 2011) with the Secretary coordinating administration and management with a locally based management committee, as specified in the plan. The bill would authorize the Secretary to enter into cooperative agreements with the State of Connecticut, the adjoining communities, and appropriate local planning and environmental organizations. S. 329 would also make an adjustment to the upper Farmington Wild and Scenic River, which was designated in 1994, by adding 1.1 miles to the lower end of that 14-mile designation.

S. 329 would complete the wild and scenic river designation of the Farmington River in Connecticut by designating all of the mainstem Farmington River segments found to meet the criteria of eligibility and suitability. At the same

time, S. 329 would provide for the continued operation of one existing hydroelectric facility—Rainbow Dam in Windsor—and allow for potential hydroelectric development of existing dams in the Collinsville stretch of the river, which is currently the subject of an active Federal Energy Regulatory Commission (FERC) licensing proceeding sponsored by the Town of Canton.

P.L. 109–370, the Lower Farmington River and Salmon Brook Study Act of 2005, authorized the study of the segments proposed for designation in S. 329. The National Park Service conducted the study in close cooperation with the adjoining communities, the State of Connecticut, the Farmington River Watershed Association, the Stanley Black & Decker Corporation (owner of Rainbow Dam) and other interested local parties.

Although the Wild and Scenic Rivers Act requires the development of a comprehensive river management plan within three years of the date of designation, it has become the practice of the National Park Service to prepare this plan as part of a study of potential wild and scenic rivers when much of the river runs through private lands. This allows the National Park Service to consult widely with local landowners, federal and state land management agencies, local governments, river authorities, and other groups that have interests related to the river prior to any recommendation for designation. Early preparation of the plan also assures input from these entities as well as users of the river on the management strategies that would be needed to protect the river's resources.

Technical assistance provided as a part of the study made possible the development of the Lower Farmington River and Salmon Brook Management Plan (June 2011). This plan is based primarily around local partner actions designed to guide the management of the Lower Farmington River and Salmon Brook with or without a National Wild and Scenic River designation.

The study concluded that the proposed segments of the Lower Farmington River and Salmon Brook are eligible and suitable for inclusion in the National Wild and Scenic Rivers System because of their free-flowing nature and outstandingly remarkable geology, water quality, biological diversity, cultural landscape, recreation values and local authority to protect and enhance these values. These findings substantiate the widely held view of the Farmington River as Connecticut's premier, free-flowing river resource for a diversity of natural and cultural values, including one of New England's most significant whitewater boating runs, regionally unique freshwater mussel populations, and outstanding examples of archaeological and historical sites and districts spanning Native American, colonial and early manufacturing periods. Salmon Brook is, in its own right, highly significant for outstanding water quality and significant cold water fishery.

If S. 329 is enacted, the Lower Farmington River and Salmon Brook 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. This approach emphasizes local and state management solutions, and has proven effective as a means of protecting outstandingly remarkable natural, cultural and recreational resource values without the need for direct federal management or land acquisition.

We recommend amending S. 329 to ensure that if operations of the Rainbow Dam were to be changed, wild and scenic river values upstream and downstream of the hydro project would be protected. We would be pleased to work with the sponsor and the committee on the appropriate language for that purpose.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions you or other committee members may have regarding this bill.

#### 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 original 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):

### **Wild and Scenic Rivers Act**

Public Law 90-542, as amended

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#### **SEC. 3. COMPONENT RIVERS AND ADJACENT LANDS**

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

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(156) FARMINGTON RIVER, CONNECTICUT.—The **[14-mile]** *15.1 mile* segment of the West Branch and mainstem extending from immediately below the Goodwin Dam and Hydroelectric Project in Hartland, Connecticut, **[to the downstream end of the New Hartford-Canton, Connecticut, town line]** *to the confluence with the Nepaug River* (hereinafter in this paragraph referred to as the “segment”), as a recreational river, to be administered by the Secretary of the Interior through cooperative agreements between the Secretary of the Interior and the State of Connecticut and its relevant political subdivisions, namely the Towns of Colebrook, Hartland, Barkhamsted, New Hartford, and Canton and the Hartford Metropolitan District Commission, pursuant to section 10(e) of this Act. The segment shall be managed in accordance with the Upper Farmington River Management Plan, dated April 29, 1993, and such amendments thereto as the Secretary of the Interior determines are consistent with this Act. Such plan shall be deemed

to satisfy the requirement for a comprehensive management plan pursuant to section 3(d) of this Act

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(213) LOWER FARMINGTON RIVER AND SALMON BROOK, CONNECTICUT.—Segments of the main stem and its tributary, Salmon Brook, totaling approximately 62 miles, to be administered by the Secretary of the Interior as follows:

(A) The approximately 27.2-mile segment of the Farmington River beginning 0.2 miles 14 below the tailrace of the Lower Collinsville Dam and extending to the site of the Spoonville Dam in Bloomfield and East Granby as a recreational river.

(B) The approximately 8.1-mile segment of the Farmington River extending from 0.5 miles below the Rainbow Dam to the confluence with the Connecticut River in Windsor as a recreational river.

(C) The approximately 2.4-mile segment of the main stem of Salmon Brook extending from the confluence of the East and West Branches to the confluence with the Farmington River as a recreational river.

(D) The approximately 12.6-mile segment of the West Branch of Salmon Brook extending from its headwaters in Hartland, Connecticut to its confluence with the East Branch of Salmon Brook as a recreational river.

(E) The approximately 11.4-mile segment of the East Branch of Salmon Brook extending from the Massachusetts-Connecticut State line to the confluence with the West Branch of Salmon Brook as a recreational river.

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