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EAST ROSEBUD WILD AND SCENIC RIVERS ACT

MAY 3, 2017.—Ordered to be printed

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

R E P O R T

[To accompany S. 501]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 501) to amend the Wild and Scenic Rivers Act to designate certain segments of East Rosebud Creek in Carbon County, Montana, as components of the Wild and Scenic Rivers System, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 501 is to amend the Wild and Scenic Rivers Act to designate certain segments of East Rosebud Creek in Carbon County, Montana, as components of the Wild and Scenic Rivers System.

BACKGROUND AND NEED

Montana's East Rosebud Creek flows through glacial-carved valleys and originates in the Absaroka-Beartooth Wilderness. During its journey to the Yellowstone River, East Rosebud Creek flows into Rosebud Lake. The segment that flows from the lake provides opportunity for whitewater paddling.

In 1998, the U.S. Forest Service conducted a study which determined that the East Rosebud Creek was eligible for inclusion in the Wild and Scenic Rivers System. The study found that two areas of East Rosebud Creek contained remarkable values in the geologic, recreational, and scenic categories. A 13-mile segment was recognized for its wild characteristics running from the source of

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the creek in the wilderness area to East Rosebud Lake. A second section of the creek flows northwest from the lake, and is significant for its recreational values. Featuring a significant number of category five rapids, the creek is a popular section of whitewater for kayakers.

In 2009, a Montana company proposed building a hydroelectric dam on the East Rosebud, including a two-mile penstock. The company received a preliminary permit from the Federal Energy Regulatory Commission but allowed it to expire after facing significant local opposition. Designation as a wild and scenic river under S. 501 would prohibit any future development.

LEGISLATIVE HISTORY

Senators Tester and Daines introduced S. 501 on March 2, 2017.

Senators Tester and Daines also introduced similar legislation in the 114th Congress, S. 1577, on June 15, 2015. The Subcommittee on National Parks held a hearing on the bill on March 17, 2016. The Committee on Energy and Natural Resources met in open business session on July 13, 2016, and ordered S. 1577 favorably reported as amended. H.R. 2787, the companion bill to S. 1577, was introduced in the House of Representatives by Representative Zinke on June 15, 2015.

In the 113th Congress, Senator Walsh introduced S. 2392 on May 22, 2014. The Subcommittee on National Parks held a hearing on S. 2392 on July 23, 2014. In the House of Representatives, Representative Daines introduced a similar bill, H.R. 5543, on September 18, 2014.

The Committee on Energy and Natural Resources met in open business session on March 30, 2017, and ordered S. 501 favorably reported.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on March 30, 2017, by a majority voice vote of a quorum present, recommends that the Senate pass S. 501.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides a short title.

Section 2. Findings; Purpose

Section 2 contains Congressional findings and the purpose of the Act.

Section 3. Designation of Wild and Scenic River Segments

Section 3(a) amends section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274) to designate portions of the East Rosebud Creek in the state of Montana as wild and scenic.

Subsection (b) clarifies that the designation does not create a perimeter or buffer zone outside of the designated boundary of the river segment. It further specifies that activities outside of the Wild and Scenic River System shall not be precluded as a result of the

designation even if the authorized activity or use can be seen or heard within the designated boundary of the river segment.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the costs of this measure has been provided by the Congressional Budget Office:

S. 501 would designate two segments of the East Rosebud Creek in Carbon County, Montana, as components of the Wild and Scenic Rivers System. Under the legislation, the Forest Service would administer the river segments. Based on an analysis of information provided by the Forest Service about typical costs involved in administering such river segments, CBO estimates that implementing the bill would cost less than $500,000. Such spending, which CBO expects would begin one year after the designation occurs, would be subject to the availability of appropriated funds.

Enacting S. 501 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting S. 501 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 501 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 Jacob Fabian. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

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. 501. 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. 501, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 501, 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

Because S. 501 is similar to legislation considered by the Committee in the 114th Congress, the Committee did not request Executive Agency views. The testimony provided by the U.S. Forest Service at the hearing before the Subcommittee on Public Lands, Forests and Mining on October 8, 2015, follows:

STATEMENT OF GLENN CASAMASSA, ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM, U.S. FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding S. 414, S. 1592, and S. 2069.

S. 1592, "A BILL TO CLARIFY THE DESCRIPTION OF CERTAIN FEDERAL LAND UNDER THE NORTHERN ARIZONA LAND EXCHANGE AND VERDE RIVER BASIN PARTNERSHIP ACT OF 2005 TO INCLUDE ADDITIONAL LAND IN THE KAIBAB NATIONAL FOREST"

S. 1592 would authorize the Secretary of Agriculture to convey an additional 25 acres to Young Life Lost Canyon Organizational Camp. The Department can support enactment of S. 1592, if a technical amendment is included that would provide an easement for a proposed extension for the Water Storage Tank Road.

This legislation clarifies the Northern Arizona Land Exchange and Verde River Basin Partnership Act of 2005. The original Act authorized a land exchange with Yavapai Ranch and the United States that was not completed. The Act also authorized the sale of a parcel of National Forest System lands to Young Life Lost Canyon Organizational Camp on the Kaibab National Forest. The legislative map referenced by the Act for the Young Life private property showed an area of only approximately 212 acres to be conveyed, instead of the approximately 237.5 acres stated in the Act. The area shown on the legislative map excluded a particular 25-acre parcel. Because the legislative map controlled over the reference to approximately 237.5 acres, the Act did not authorize conveyance of the 25-acre parcel excluded by the map. S. 1592 was introduced to clarify that conveyance of the 25-acre parcel is also authorized, allowing the United States to convey a total of approximately 237.5 acres to Young Life.

In summary, S. 1592 would resolve the disparity between the legislative map and the total acreage authorized for conveyance, allowing the Secretary to proceed with the direct sale of a total of approximately 237.5 acres to Young Life Lost Canyon Organizational Camp. In order to ensure agreement between the acreage and the legal description, the Agency is willing to provide additional technical assistance to the Committee, and wants to work with the Committee to include the easement for the Water Tank Road Extension.

We look forward to working with the Committee and the Sponsor to resolve these issues. This concludes my remarks. I would be happy to answer any questions. Thank you for the opportunity to testify.

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. (a) 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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(213) EAST ROSEBUD CREEK, MONTANA.—The portions of East Rosebud Creek in the State of Montana, consisting of—

(A) the 13-mile segment exclusively on public land within the Custer National Forest from the source in the Absaroka-Beartooth Wilderness downstream to the point at which the Creek enters East Rosebud Lake, including the stream reach between Twin Outlets Lake and Fossil Lake, to be administered by the Secretary of Agriculture as a wild river; and

(B) the 7-mile segment exclusively on public land within the Custer National Forest from immediately below, but not including, the outlet of East Rosebud Lake downstream to the point at which the Creek enters private property for the first time, to be administered by the Secretary of Agriculture as a recreational river.

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