

Calendar No. 561

105TH CONGRESS }
2d Session }

SENATE

{ REPORT
105-320

SUDBURY, ASSABET, AND CONCORD WILD AND SCENIC RIVERS ACT

SEPTEMBER 9, 1998.—Ordered to be printed

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

REPORT

[To accompany S. 469]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 469) to designate a portion of the Sudbury, Assabet, and Concord Rivers 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:

On page 4, strike lines 7 through 21 and insert in lieu thereof the following:

“() SUDBURY, ASSABET AND CONCORD RIVERS, MASSACHUSETTS.—The 29 miles of river segments in Massachusetts, as follows:

“(A) The 14.9-mile segment of the Sudbury River beginning at the Danforth Street Bridge in the town of Framingham, downstream to the Route 2 Bridge in Concord, as a scenic river;

“(B) The 1.7-mile segment of the Sudbury River from the Route 2 Bridge downstream to its confluence with the Assabet River at Egg Rock, as a recreational river;

“(C) The 4.4-mile segment of the Assabet River beginning 1,000 feet downstream from the Damon Mill Dam in the town of Concord, to its confluence with the Sudbury River at Egg Rock in Concord, as a recreational river; and

“(D) The 8-mile segment of the Concord River from Egg Rock at the confluence of the Sudbury and Assabet Rivers downstream to the Route 3 bridge in town of Billerica, as a recreational river.
 “The segments shall be administered by the Secretary of the Interior in cooperation with the SUASCO River Stewardship.”

PURPOSE OF THE MEASURE

The purpose of S. 469 as ordered reported, is to designate 29 miles of the Sudbury, Assabet, and Concord Rivers in the Commonwealth of Massachusetts as components of the Wild and Scenic Rivers System.

BACKGROUND AND NEED

Local and State interest in a national wild and scenic river study for the Sudbury, Assabet and Concord Rivers date back to the mid 1980's when a proposal was discussed to reactivate the Sudbury Reservoir in order to supply water to the Boston metropolitan area. Fears developed over withdrawals from the reservoir that could create impacts on downstream areas, including prime wildlife habitat. At the same time, surging real estate values in the area triggered concerns about impacts of development along the rivers irreplaceable natural and cultural resources.

In 1990, Public Law 101-628 designated segments of the Sudbury, Assabet, and Concord Rivers in Massachusetts for study as potential components of the Wild and Scenic Rivers System. As a result of the study, 29 miles of the Sudbury, Assabet, and Concord Rivers were found eligible for inclusion in the Wild and Scenic Rivers System. The recommendation was based on the free-flowing character of the rivers and the presence of outstanding ecological, historical, literary, recreational, and scenic values. The eligible segments include 16.6 miles of the Sudbury River, 4.4 miles of the Assabet River, and 8 miles of the Concord River.

The eligible segments of the Sudbury, Assabet, and Concord Rivers are remarkably undeveloped, providing recreational opportunities in a natural setting less than an hour's drive from several million people living in the Boston area. Ten of the river miles lie within the boundaries of Great Meadows National Wildlife Refuge, established to protect the waterfowl habitat and associated riparian wetlands. The rivers also feature prominently in the works of nineteenth century authors Hawthorne, Emerson, and Thoreau.

The Wild and Scenic Rivers Act provides for three possible classifications of eligible river segments: wild, scenic, and recreational. These classifications are based on the degree of human modification of the river and adjacent shorelands. Under these guidelines, 14.9 miles of the Sudbury River would be classified as scenic, and the remaining 14.1 miles of the Sudbury, Assabet, and Concord Rivers as recreational. During the spring of 1995, eight towns along the study segments held meetings and each passed resolutions requesting Congress to designate the rivers as components of the Wild and Scenic Rivers System.

A "River Stewardship Council" would coordinate the actions of the State, local, and Federal Governments, along with participation by local river protection groups. Under this partnership approach, the Federal Government would retain responsibility for ensuring that Federal water resource projects do not impair the rivers' free-flowing character or outstanding resources. The towns and State would retain their existing land use authorities, along with primary responsibility for recreation management. This arrangement would be formalized and funded through cooperative agreements between the National Park Service and other members of the Stewardship Council.

LEGISLATIVE HISTORY

S. 469 was introduced on March 18, 1997 by Senators Kerry and Kennedy and referred to the Committee on Energy and Natural Resources. The Subcommittee on National Parks, Historic Preservation, and Recreation held a hearing on June 18, 1998.

At its business meeting on July 29, 1998, the Committee on Energy and Natural Resources ordered S. 469, as amended, favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on July 29, 1998, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 469, if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 469, the Committee adopted an amendment clarifying the boundaries of the 29 miles of river segments to be designated as components of the Wild and Scenic Rivers System.

River segments to be designated include: 14.9 miles of the Sudbury River beginning at the Danforth Street Bridge in the town of Framington, downstream to the Route 2 Bridge in Concord, as a scenic river; 1.7 miles of the Sudbury River from the Route 2 Bridge downstream to its confluence with the Assabet River at Egg Rock, as a recreational river; 4.4 miles of the Assabet River beginning 1,000 feet downstream from the Damon Mill Dam in the town of Concord, to its confluence with the Sudbury River at Egg Rock in Concord, as a recreational river; and 8.0 miles of the Concord River from Egg Rock at the confluence of the Sudbury and Assabet Rivers downstream to the Route 3 bridge in the town of Billerica, as a recreational river.

SECTION-BY-SECTION ANALYSIS

Section 1 designates the bill's short title as the "Sudbury, Assabet, and Concord Wild and Scenic Rivers Act."

Section 2 contains congressional findings that the study and management plan (plan), completed by the River Study Committee and the Secretary of the Interior, determined that segments of the Sudbury, Assabet, and Concord Rivers are eligible for inclusion in

the National Wild and Scenic Rivers System based on their outstanding scenic, recreation, wildlife, cultural, and historic values. Section 2 also states that towns along the river segments endorse this designation.

Section 3 amends section 3(9) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) to designate 29 miles of river segments in Massachusetts consisting of the Sudbury, Assabet, and Concord Rivers as components of the Wild and Scenic Rivers System. This section states that the river segments will be administered by the Secretary of Interior in cooperation with the Sudbury, Assabet, Concord River Stewardship Council through cooperative agreements between the Secretary and the Commonwealth of Massachusetts.

Section 4(a) states that the Director of the National Park Service (Director) shall implement the plan in accordance with the provisions of this Act and the Wild and Scenic Rivers Act. This section authorizes the Director to review any Federally-assisted water resources projects that could have an effect on the values for which the river segments were established and consider whether the projects are consistent with the plan. Section 4 also states that the plan will be the primary source of information regarding flows in determining compatibility between resource protection and water withdrawals along the rivers.

Subsection (b) authorizes the Director to enter into cooperative agreements with the Commonwealth of Massachusetts, the Sudbury Valley Trustees, and the Organization for the Assabet River to provide technical assistance, staff support, and funding to assist in the implementation of the plan. This section also states that the cost to the Federal Government may not exceed \$100,000 per year and that any segment not already within the National Park System may not become part of the System; be acquired through condemnation; be managed by the National Park Service; or be subject to National Park Service Regulations.

Section 5 defines certain key terms used in the Act.

Section 6 authorizes appropriations of \$100,000 for each fiscal year.

COST AND BUDGETARY CONSIDERATIONS

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 7, 1998.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 469, the Sudbury, Assabet, and Concord Wild and Scenic Rivers Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Victoria V. Heid (for federal costs), and Marjorie Miller (for the state and local impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 469—Sudbury, Assabet, and Concord Wild and Scenic Rivers Act

CBO estimates that implementing S. 469 would not have a significant impact on the federal budget. Because S. 469 would not affect direct spending or receipts, pay-as-you-go procedures would not apply. S. 469 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no impact on the budgets of state, local, or tribal governments.

S. 469 would designate 29 miles of river segments in Massachusetts as scenic and recreational rivers. The segments would be administered by the Secretary of the Interior in cooperation with the SUASCO River Stewardship Council, as provided for in a river conservation plan prepared by the National Park Service (NPS) and the Sudbury, Assabet, and Concord River Study Committee. The bill would authorize the NPS to provide financial and other assistance to the Commonwealth of Massachusetts and relevant local governments under cooperative agreements aimed at facilitating the management of the newly designated river segments.

The bill would authorize the appropriation of up to \$100,000 each year to implement the river conservation plan, including financial and other assistance to the state and local governments. For purposes of this estimate, CBO assumes that S. 469 will be enacted by the end of the 105th Congress and that the authorized funding will be appropriated for fiscal year 2000 and each subsequent year. We estimate that outlays to implement the plan would total about \$400,000 over the 2000–2003 period, assuming appropriation of the authorized amounts.

On August 7, 1998, CBO prepared a cost estimate for H.R. 1110, the Sudbury, Assabet, and Concord Wild and Scenic Rivers Act, as ordered reported by the House Committee on Resources on July 29, 1998. The two bills are similar, and the estimated costs are the same.

The CBO staff contacts are Victoria V. Heid (for federal costs), and Marjorie Miller (for the state and local impact). This estimate was approved by Robert A. Sunshine, 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. 469. 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 enactment of S. 469, as ordered reported.

EXECUTIVE COMMUNICATIONS

The testimony of the Department of the Interior at the Subcommittee hearing follows:

STATEMENT OF DESTRY JARVIS, ASSISTANT DIRECTOR FOR
EXTERNAL AFFAIRS, NATIONAL PARK SERVICE, DEPARTMENT
OF THE INTERIOR

Mr. Chairman and members of the committee, thank you for the opportunity to appear before you today to discuss the views of the Department of the Interior on S. 469, a bill to designate portions of the Sudbury, Assabet and Concord Rivers in the Commonwealth of Massachusetts as a component of the Wild and Scenic Rivers System. The Department of the Interior supports S. 469.

S. 469 would designate segments of the Sudbury, Assabet and Concord Rivers, totaling 29 river miles, in the Commonwealth of Massachusetts as components of the National Wild and Scenic Rivers System. Management of the scenic and recreational river segments would be accomplished by the Secretary of the Interior in cooperation with a coordinating committee required to be established by the bill. Management would be in accordance with a river management plan dated March 16, 1995 and adopted by the Sudbury, Assabet and Concord River Study Committee. The plan is deemed to satisfy the Wild and Scenic Rivers Act's comprehensive management plan requirement.

The bill directs the Secretary to cooperate with the SUASCO River Stewardship Council to oversee management of the river segments. S. 469 provides authority for the National Park Service to enter into cooperative agreements with the Commonwealth of Massachusetts and relevant political subdivisions to facilitate the long-term protection, conservation and enhancement of the segments. The bill also provides that no portion of the segments not already in the National Park System shall become part of the National Park System or be managed by the National Park Service. S. 469 recognizes that the zoning ordinances in the eight Massachusetts towns prohibit Federal acquisition by condemnation within these towns. The bill provides that the United States Government shall not acquire land along the segments for the purposes of wild and scenic river designation and that no lateral boundary shall be established for the river segments.

In 1990, Title VII of Public Law 101-628 designated the segments of the Sudbury, Assabet and Concord Rivers in Massachusetts for study as potential components of the National Wild and Scenic Rivers System. That law required a report of the study at the end of three fiscal years. It establishes a 13-member study committee appointed by the Secretary of the Interior to advise the Secretary in conducting the study and providing management alternatives should be river be included in the National Wild and Scenic Rivers System.

The National Park Service has prepared a draft study report recommending designation of the river study segments. This report has undergone extensive public review. Although the final report has not yet been completed, no comments have been received from the public or other federal agencies opposing the recommendation to designate the study rivers as components of the National Wild and Scenic Rivers System. We look forward to completing this study as soon as possible. In addition, a comprehensive river management plan required for designated rivers has been prepared and has been endorsed by all local governments along the segments proposed for designation. The river management plan was developed in cooperation with the study committee. This plan, the River Conservation Plan, establishes standards for resource protection and river management and identifies the actions required to be taken by local interests.

The study committee voted unanimously in January 1995 to recommend designation of all 29 miles of the study rivers, to be managed in accordance with the then draft River Conservation Plan, which was completed and approved by the study committee in March 1995. During March, April and May 1995, the eight towns along the study segments held their annual town meetings. All eight towns voted through resolutions or warrant articles to request Congress to designate the rivers as components of the National Wild and Scenic Rivers System.

Based on the interest expressed by the study committee and local community leaders in maintaining local control over riverfront land use, and based on the strong existing protection afforded to riverfront lands through a combination of ownership and regulatory controls, the study team recommended that the rivers be administered by the Secretary of the Interior in cooperation with state and local governments. The study team further recommended that neither land acquisition nor National Park System unit status were necessary or appropriate to protect the rivers and their resources.

The "River Stewardship Council" described in the River Conservation Plan would coordinate the actions of the state, local, and federal governments, along with two local river protection groups, in the implementation of the Plan. Under this partnership approach, the federal government would retain responsibility for ensuring that federal water resource projects do not impair the rivers' free-flowing character or outstanding resources, while the towns and state would retain their existing land use authorities, along with primary responsibility for recreation management. This arrangement would be formalized and funded through cooperative agreements between the federal government and other members of the Stewardship Council (state and local governments and two river protection organizations). Existing National Park Service and Fish and Wildlife Service land acquisition and management authori-

ties at Minute Man National Historical Park and Great Meadows National Wildlife Refuge would not be affected by the prohibitions on federal land acquisition and management outlined in the River Conservation Plan.

Given the unanimous support for the river management plan and wild and scenic river designation by the Massachusetts towns, we support S. 469.

Mr. Chairman, the river segments, totaling 29 miles, designated in this bill are free-flowing and significant for their recreation, scenic, historic, literary, and ecological values. The citizens of the eight towns that would be affected by this legislation have spoken clearly in support of designation, and have been awaiting congressional action for three years. We join with them in recommending that Congress proceed with passage.

This concludes my prepared remarks. I would be pleased to respond to any questions you may have.

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 bill S. 469, as ordered 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):

(Public Law 90-542, October 2, 1968)

* * * * *

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

* * * * *

"() *SUDBURY, ASSABET, AND CONCORD RIVERS, MASSACHUSETTS.*—*The 29 miles of river segments in Massachusetts, as follows:*

"(A) The 14.9 mile segment of the Sudbury River beginning at the Danforth Street Bridge in the town of Framingham, downstream to the Route 2 Bridge in Concord, as a scenic river;

"(B) The 1.7 mile segment of the Sudbury River from the Route 2 Bridge downstream to its confluence with the Assabet River at Egg Rock, as a recreational river;

"(C) The 4.4 mile segment of the Assabet River beginning 1,000 feet downstream from the Damon Mill Dam in the town of Concord, to its confluence with the Sudbury River at Egg Rock in Concord, as a recreational river; and

"(D) The 8.0 mile segment of the Concord River from Egg Rock at the confluence of the Sudbury and Assabet Rivers downstream to the Route 3 bridge in the town of Billerica, as a recreational river.

"The segments shall be administered by the Secretary of the Interior in cooperation with the SUASCO River Stewardship Council provided for in the plan through cooperative agreements under section 10(e) between the Secretary and the Commonwealth of Massa-

chusetts and its relevant political subdivisions (including the towns of Framingham, Wayland, Sudbury, Lincoln, Concord, Carlisle, Bedford, and Billerica). The segments shall be managed in accordance with the plan entitled 'Sudbury, Assabet and Concord Wild and Scenic River Study, River Conservation Plan' dated March 16, 1995. The plan is deemed to satisfy the requirement for a comprehensive management plan under section 3(d)."

