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### WHITE CLAY CREEK WILD AND SCENIC RIVER EXPANSION ACT

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JANUARY 13, 2012.—Ordered to be printed

Filed, under authority of the order of the Senate of December 17, 2011

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

### R E P O R T

[To accompany S. 970]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 970) to designate additional segments and tributaries of White Clay Creek, in the States of Delaware and Pennsylvania, as a component of the National Wild and Scenic Rivers Systems, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE

The purpose of S. 970 is to designate approximately 9.9 miles of additional segments and tributaries of White Clay Creek, in the States of Delaware and Pennsylvania, as a component of the National Wild and Scenic Rivers System.

#### BACKGROUND AND NEED

The White Clay Creek watershed is located between the urban regions of New York and Washington, D.C., and covers approximately 107 square miles and drains over 69,000 acres in Delaware and Pennsylvania. Of those 69,000 acres, 5,000 acres are public lands owned by state and local governments, and the rest is privately owned.

In 1991, Public Law 102-215 directed the Secretary of the Interior to conduct a study of the eligibility and suitability of including White Clay Creek and its tributaries in the States of Delaware and Pennsylvania in the National Wild and Scenic Rivers System (Sys-

tem). In 2000, Public Law 106–357 designated 190 miles of the White Clay Creek River and its tributaries in the States of Delaware and Pennsylvania as a component of the System. White Clay Creek became Delaware’s first and only Federally-designated Wild and Scenic River.

At the time Public Law 106–357 was enacted, the Lamborn Run in Delaware and the East Branch and Egypt Run in Pennsylvania, were not included in the Wild and Scenic River designation. New Garden Township in Pennsylvania passed a resolution in 2007 in support of designation within the township and the Delaware River Basin Commission amended its Comprehensive Water Resources Plan by removing Lamborn Run in Delaware as a potential water supply reservoir.

With the support of the affected local governments, S. 970 adds two additional segments to the previous White Clay Creek Wild and Scenic River designation, which would increase the total number of designated river miles within the watershed to 199.9 miles, an addition of 9.9 river miles.

#### LEGISLATIVE HISTORY

Senators Coons, Carper, and Casey introduced S. 970 on May 12, 2011. The Subcommittee on National Parks held a hearing on S. 970 on July 28, 2011. On November 10, 2011, the Committee on Energy and Natural Resources ordered S. 970 favorably reported without amendment.

The Committee considered similar legislation during the 111th Congress, S. 883, sponsored by Senator Kaufman and cosponsored by Senators Carper and Casey. The Subcommittee on National Parks held a hearing on S. 853 on July 15, 2009 (S. Hrg. 111–92), and the Committee ordered the bill reported with amendments on December 16, 2009 (S. Rept. 111–134).

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on November 10, 2011, by a voice vote of a quorum present, recommends that the Senate pass S. 970.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* contains the short title.

*Section 2* amends section 3(a)(163) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(163)) to designate an additional 9 miles of White Clay Creek as components of the Wild and Scenic Rivers Systems.

Subsection (1)(B) amends the map reference to reflect the additions.

Subsection (2) designates 22.4 miles of the east branch of White Clay Creek beginning at the southern boundary line of the Borough of Avondale, including Walnut Run, Broad Run, and Egypt Run, outside the boundaries of the White Clay Creek Preserve, as a recreational river.

Subsection (3) designates 14.3 miles of the main stem, including Lamborn Run, which 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.

*Section 3* states that sections 4 through 8 of Public Law 106–357 (16 U.S.C. 1274 note; 114 Stat. 1393), shall be applicable to the additional segments of the White Clay Creek designated by the amendments made by section 2. Those sections address the administration of the designated river segments.

#### COST AND BUDGETARY CONSIDERATIONS

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

##### *S. 970—White Clay Creek Wild and Scenic River Expansion Act of 2011*

S. 970 would add 9 miles of the White Clay Creek in Delaware and Pennsylvania to the National Wild and Scenic Rivers System. Based on information provided by the National Park Service, which administers the White Clay Creek unit of the system, CBO estimates that implementing the bill would have no effect on the federal budget. The affected segments are already protected for wilderness values and would remain in private or state hands. Enacting the bill would not affect revenues or direct spending; therefore, pay-as-you-go procedures do not apply.

S. 970 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 Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy Assistant Director 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. 970.

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. 970, as ordered reported.

#### CONGRESSIONALLY DIRECTED SPENDING

S. 970, 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 Department of the Interior was included in testimony received by the Committee at a hearing on S. 970 on July 28, 2011.

STATEMENT OF PEGGY O'DELL, DEPUTY DIRECTOR,  
NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to appear before your committee today to discuss the views of the Department of the Interior on S. 970, a bill to amend the Wild and Scenic Rivers Act by designating additional segments and tributaries of the White Clay Creek in Delaware and Pennsylvania as components of the National Wild and Scenic Rivers System.

The Department supports enactment of this legislation with one technical amendment.

S. 970 would amend the White Clay Creek Wild and Scenic River designation to add nine additional miles of segments and tributaries to the designation, to be administered by the Secretary of the Interior (Secretary). The additional segments and tributaries will be managed in accordance with the "White Clay Creek and Its Tributaries Watershed Management Plan" (amended Summer 2001) with the Secretary coordinating the White Clay Creek Watershed Management Committee.

In December 1991, Congress directed the National Park Service to undertake a study of the headwaters of the White Clay Creek in the Commonwealth of Pennsylvania to its confluence with the Christina River in the State of Delaware. The study was also to include the East, West, and Middle Branches; Middle Run; Pike Creek; Mill Creek; and other tributaries of the White Clay, as identified by the Secretary, to determine their eligibility for inclusion in the National Wild and Scenic Rivers System. The study was to be done in cooperation and consultation with various federal, state, regional, and local governments and affected landowners. In addition, a river management plan was to be prepared that would provide recommendations as to the protection and management of the White Clay Creek and its tributaries. The plan was to outline roles for the state and local governments and affected landowners to play in the management of the White Clay Creek as a designated component of the National Wild and Scenic Rivers System.

In 1998, a watershed management plan was prepared that contained six goals for management of the White Clay Creek and its tributaries. These goals include improving and conserving water quality and quantity, and conserving open space, woodlands, wetlands, and geologic features. The plan was done cooperatively and calls for a management framework for the White Clay Creek and its tributaries that rely heavily on local land use decisions.

In 1999, the National Park Service issued the "White Clay Creek and Its Tributaries National Wild and Scenic River Study Draft Report." In the report, the National Park Service found that the majority of the river segments identified in the study met the eligibility requirements of the Wild and Scenic Rivers Act by virtue of their free-flowing condition and presence of one or more outstandingly

remarkable resource values. The watershed also includes open space and recreational opportunities for hiking, jogging, canoeing and fishing; in fact, the White Clay Creek is the most heavily stocked and heavily used put-and-take trout stream in the State of Delaware. In 2000, Public Law 106-357 designated 190 miles of the White Clay Creek and its tributaries as components of the National Wild and Scenic River System.

The study report also identified additional segments and tributaries, which are the subject of S. 970, that would be eligible and suitable for designation. These segments and tributaries are eligible and suitable because they are free-flowing streams with outstandingly remarkable values including the Cockeysville marble geologic formation that supports a high-yielding aquifer, a major source of drinking water, and threatened and endangered species including the Muhlenberg's (bog) turtle and cerulean warbler. However, these segments and tributaries were removed from consideration because the Delaware River Basin Commission was looking at these areas as possible locations for reservoirs under their comprehensive plan. In addition, there was not demonstrated municipal support for such a designation.

In 2007, these segments and tributaries were removed from the comprehensive plan of the Delaware River Basin Commission. In addition, the New Garden Township in Pennsylvania, the only affected municipality, passed a resolution in support of the designation. With these two issues resolved, the Department now supports these segments and tributaries, totaling nine miles, be added to the National Wild and Scenic River System.

The Department would like to work with the committee to make a technical correction to a map reference in Section 3 of the bill.

This concludes my prepared remarks, Mr. Chairman. I will 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 bill S. 970, 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):

## WILD AND SCENIC RIVERS ACT

(Public Law 90–542; Approved October 2, 1968)

[16 U.S.C. 1271 et seq.]

AN ACT To provide a National Wild and Scenic Rivers System, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act be cited as 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:

\* \* \* \* \*

(163) WHITE CLAY CREEK, DELAWARE AND PENNSYLVANIA.—The ~~190 miles~~ 199 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)~~ the map entitled “White Clay Creek Wild and Scenic River Designated Area Map” and dated July 2008, the map entitled “White Clay Creek Wild and Scenic River Classification Map” and dated July 2008, and the map entitled “White Clay Creek National Wild and Scenic River Proposed Additional Designated Segments—July 2008”, 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.]

(B) 22.4 miles of the east branch beginning at the southern boundary line of the Borough of Avondale, including Walnut Run, Broad Run, and Egypt Run, outside the boundaries of the White Clay Creek Preserve, as a recreational 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.】

*(H) 14.3 miles of the main stem, including 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.*

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