

Calendar No. 618

117TH CONGRESS
2^D SESSION

S. 1538

[Report No. 117-241]

To amend the Smith River National Recreation Area Act to include certain additions to the Smith River National Recreation Area, to amend the Wild and Scenic Rivers Act to designate certain wild rivers in the State of Oregon, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 10, 2021

Mr. MERKLEY (for himself, Mr. WYDEN, Mr. PADILLA, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

DECEMBER 12, 2022

Reported by Mr. MANCHIN, without amendment

A BILL

To amend the Smith River National Recreation Area Act to include certain additions to the Smith River National Recreation Area, to amend the Wild and Scenic Rivers Act to designate certain wild rivers in the State of Oregon, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Smith River National
3 Recreation Area Expansion Act”.

4 **SEC. 2. ADDITIONS TO THE SMITH RIVER NATIONAL**
5 **RECREATION AREA.**

6 (a) DEFINITIONS.—Section 3 of the Smith River Na-
7 tional Recreation Area Act (16 U.S.C. 460bbb–1) is
8 amended—

9 (1) in paragraph (1), by striking “referred to in
10 section 4(b)” and inserting “entitled ‘Proposed
11 Smith River National Recreation Area’ and dated
12 July 1990”; and

13 (2) in paragraph (2), by striking “the Six Riv-
14 ers National Forest” and inserting “an applicable
15 unit of the National Forest System”.

16 (b) BOUNDARIES.—Section 4(b) of the Smith River
17 National Recreation Area Act (16 U.S.C. 460bbb–2(b))
18 is amended—

19 (1) in paragraph (1)—

20 (A) in the first sentence, by inserting “and
21 on the map entitled ‘Proposed Additions to the
22 Smith River National Recreation Area’ and
23 dated November 14, 2019” after “1990”; and

24 (B) in the second sentence, by striking
25 “map” and inserting “maps”; and

1 (2) in paragraph (2), by striking “map” and in-
 2 serting “maps described in paragraph (1)”.

3 (c) ADMINISTRATION.—Section 5 of the Smith River
 4 National Recreation Area Act (16 U.S.C. 460bbb–3) is
 5 amended—

6 (1) in subsection (b)—

7 (A) in paragraph (1), in the first sentence,
 8 by striking “the map” and inserting “the
 9 maps”; and

10 (B) in paragraph (2)—

11 (i) in subparagraph (A), by striking
 12 “area shall be on” and inserting “area and
 13 any portion of the recreation area in the
 14 State of Oregon shall be on roadless”; and

15 (ii) by adding at the end the fol-
 16 lowing:

17 “(I) The Kalmiopsis Wilderness shall be
 18 managed in accordance with the Wilderness Act
 19 (16 U.S.C. 1131 et seq.).”;

20 (2) in subsection (c), by striking “by the
 21 amendments made by section 10(b) of this Act” and
 22 inserting “within the recreation area”; and

23 (3) by adding at the end the following:

24 “(d) STUDY; REPORT.—

1 “(1) IN GENERAL.—Not later than 5 years
 2 after the date of enactment of this subsection, the
 3 Secretary shall conduct a study of the area depicted
 4 on the map entitled ‘Proposed Additions to the
 5 Smith River National Recreation Area’ and dated
 6 November 14, 2019, that includes inventories and
 7 assessments of streams, fens, wetlands, lakes, other
 8 water features, and associated land, plants (includ-
 9 ing Port-Orford-cedar), animals, fungi, algae, and
 10 other values, and unstable and potentially unstable
 11 aquatic habitat areas in the study area.

12 “(2) MODIFICATION OF MANAGEMENT PLANS;
 13 REPORT.—On completion of the study under para-
 14 graph (1), the Secretary shall—

15 “(A) modify any applicable management
 16 plan to fully protect the inventoried values
 17 under the study, including to implement addi-
 18 tional standards and guidelines; and

19 “(B) submit to Congress a report describ-
 20 ing the results of the study.”;

21 “(e) WILDFIRE MANAGEMENT.—Nothing in this Act
 22 affects the authority of the Secretary (in cooperation with
 23 other Federal, State, and local agencies, as appropriate)
 24 to conduct wildland fire operations within the recreation
 25 area, consistent with the purposes of this Act.

1 “(f) VEGETATION MANAGEMENT.—Nothing in this
 2 Act prohibits the Secretary from conducting vegetation
 3 management projects (including wildfire resiliency and
 4 forest health projects) within the recreation area, to the
 5 extent consistent with the purposes of the recreation area.

6 “(g) APPLICATION OF NORTHWEST FOREST PLAN
 7 AND ROADLESS RULE TO CERTAIN PORTIONS OF THE
 8 RECREATION AREA.—Nothing in this Act affects the ap-
 9 plication of the Northwest Forest Plan or part 294 of title
 10 36, Code of Federal Regulations (commonly referred to
 11 as the ‘Roadless Rule’) (as in effect on the date of enact-
 12 ment of this subsection), to portions of the recreation area
 13 in the State of Oregon that are subject to the plan and
 14 those regulations as of the date of enactment of this sub-
 15 section.

16 “(h) PROTECTION OF TRIBAL RIGHTS.—

17 “(1) IN GENERAL.—Nothing in this Act dimin-
 18 ishes any right of an Indian Tribe.

19 “(2) MEMORANDUM OF UNDERSTANDING.—The
 20 Secretary shall seek to enter into a memorandum of
 21 understanding with applicable Indian Tribes with re-
 22 spect to—

23 “(A) providing the Indian Tribes with ac-
 24 cess to the portions of the recreation area in
 25 the State of Oregon to conduct historical and

1 cultural activities, including the procurement of
 2 noncommercial forest products and materials
 3 for traditional and cultural purposes; and

4 “(B) the development of interpretive infor-
 5 mation to be provided to the public on the his-
 6 tory of the Indian Tribes and the use of the
 7 recreation area by the Indian Tribes.”.

8 (d) ACQUISITION.—Section 6(a) of the Smith River
 9 National Recreation Area Act (16 U.S.C. 460bbb–4(a))
 10 is amended—

11 (1) in the fourth sentence, by striking “All
 12 lands” and inserting the following:

13 “(4) APPLICABLE LAW.—All land”;

14 (2) in the third sentence—

15 (A) by striking “The Secretary” and in-
 16 serting the following:

17 “(3) METHOD OF ACQUISITION.—The Sec-
 18 retary”;

19 (B) by striking “or any of its political sub-
 20 divisions” and inserting “, the State of Oregon,
 21 or any political subdivision of the State of Cali-
 22 fornia or the State of Oregon”; and

23 (C) by striking “donation or” and insert-
 24 ing “purchase, donation, or”;

1 (3) in the second sentence, by striking “In exer-
2 cising” and inserting the following:

3 “(2) CONSIDERATION OF OFFERS BY SEC-
4 RETARY.—In exercising”;

5 (4) in the first sentence, by striking “The Sec-
6 retary” and inserting the following:

7 “(1) IN GENERAL.—The Secretary”; and

8 (5) by adding at the end the following:

9 “(5) ACQUISITION OF CEDAR CREEK PARCEL.—
10 On the adoption of a resolution by the State Land
11 Board of Oregon and subject to available funding,
12 the Secretary shall acquire all right, title, and inter-
13 est in and to the approximately 555 acres of land
14 known as the ‘Cedar Creek Parcel’ located in sec.
15 16, T. 41 S., R. 11 W., Willamette Meridian.”.

16 (e) FISH AND GAME.—Section 7 of the Smith River
17 National Recreation Area Act (16 U.S.C. 460bbb–5) is
18 amended—

19 (1) in the first sentence, by inserting “or the
20 State of Oregon” after “State of California”; and

21 (2) in the second sentence, by inserting “or the
22 State of Oregon, as applicable” after “State of Cali-
23 fornia”.

1 (f) MANAGEMENT PLANNING.—Section 9 of the
 2 Smith River National Recreation Area Act (16 U.S.C.
 3 460bbb–7) is amended—

4 (1) in the first sentence, by striking “The Sec-
 5 retary” and inserting the following:

6 “(a) REVISION OF MANAGEMENT PLAN.—The Sec-
 7 retary”; and

8 (2) by adding at the end the following:

9 “(b) SMITH RIVER NATIONAL RECREATION AREA
 10 MANAGEMENT PLAN REVISION.—As soon as practicable
 11 after the date of the first revision of the forest plan after
 12 the date of enactment of this subsection, the Secretary
 13 shall revise the management plan for the recreation
 14 area—

15 “(1) to reflect the expansion of the recreation
 16 area into the State of Oregon under the Smith River
 17 National Recreation Area Expansion Act; and

18 “(2) to include an updated recreation action
 19 schedule to identify specific use and development
 20 plans for the areas described in the map entitled
 21 ‘Proposed Additions to the Smith River National
 22 Recreation Area’ and dated November 14, 2019.”.

23 (g) STREAMSIDE PROTECTION ZONES.—Section
 24 11(b) of the Smith River National Recreation Area Act

1 (16 U.S.C. 460bbb–8(b)) is amended by adding at the end
 2 the following:

3 “(24) Each of the river segments described in
 4 subparagraph (B) of section 3(a)(92) of the Wild
 5 and Scenic Rivers Act (16 U.S.C. 1274(a)(92)).”.

6 (h) STATE AND LOCAL JURISDICTION AND ASSIST-
 7 ANCE.—Section 12 of the Smith River National Recre-
 8 ation Area Act (16 U.S.C. 460bbb–9) is amended—

9 (1) in subsection (a), by striking “California or
 10 any political subdivision thereof” and inserting
 11 “California, the State of Oregon, or a political sub-
 12 division of the State of California or the State of Or-
 13 egon”;

14 (2) in subsection (b), in the matter preceding
 15 paragraph (1), by striking “California or its political
 16 subdivisions” and inserting “California, the State of
 17 Oregon, or a political subdivision of the State of
 18 California or the State of Oregon”; and

19 (3) in subsection (c), in the first sentence—

20 (A) by striking “California and its political
 21 subdivisions” and inserting “California, the
 22 State of Oregon, and any political subdivision of
 23 the State of California or the State of Oregon”;
 24 and

(B) by striking “State and its political subdivisions” and inserting “State of California, the State of Oregon, and any political subdivision of the State of California or the State of Oregon”.

SEC. 3. WILD AND SCENIC RIVER DESIGNATIONS.

(a) NORTH FORK SMITH ADDITIONS, OREGON.—

(1) FINDING.—Congress finds that the source tributaries of the North Fork Smith River in the State of Oregon possess outstandingly remarkable wild anadromous fish and prehistoric, cultural, botanical, recreational, and water quality values.

(2) DESIGNATION.—Section 3(a)(92) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(92)) is amended—

(A) in subparagraph (B), by striking “scenic” and inserting “wild”;

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and indenting appropriately;

(C) in the matter preceding clause (i) (as so redesignated), by striking “The 13-mile” and inserting the following:

“(A) IN GENERAL.—The 13-mile”; and

(D) by adding at the end the following:

1 “(B) ADDITIONS.—The following segments
2 of the source tributaries of the North Fork
3 Smith River, to be administered by the Sec-
4 retary of Agriculture in the following classes:

5 “(i) The 13.26-mile segment of
6 Baldface Creek from its headwaters, in-
7 cluding all perennial tributaries, to the
8 confluence with the North Fork Smith in
9 T. 39 S., R 10 W., T. 40 S., R. 10 W.,
10 and T. 41 S., R. 11 W., Willamette Merid-
11 ian, as a wild river.

12 “(ii) The 3.58-mile segment from the
13 headwaters of Taylor Creek to the con-
14 fluence with Baldface Creek, as a wild
15 river.

16 “(iii) The 4.38-mile segment from the
17 headwaters of the unnamed tributary to
18 Biscuit Creek and the headwaters of Bis-
19 cuit Creek to the confluence with Baldface
20 Creek, as a wild river.

21 “(iv) The 2.27-mile segment from the
22 headwaters of Spokane Creek to the con-
23 fluence with Baldface Creek, as a wild
24 river.

1 “(v) The 1.25-mile segment from the
2 headwaters of Rock Creek to the con-
3 fluence with Baldface Creek, flowing south
4 from sec. 19, T. 40 S., R. 10 W., Willam-
5 ette Meridian, as a wild river.

6 “(vi) The 1.31-mile segment from the
7 headwaters of the unnamed tributary num-
8 ber 2 to the confluence with Baldface
9 Creek, flowing north from sec. 27, T. 40
10 S., R. 10 W., Willamette Meridian, as a
11 wild river.

12 “(vii) The 3.6-mile segment from the
13 2 headwaters of the unnamed tributary
14 number 3 to the confluence with Baldface
15 Creek, flowing south from secs. 9 and 10,
16 T. 40 S., R. 10 W., Willamette Meridian,
17 as a wild river.

18 “(viii) The 1.57-mile segment from
19 the headwaters of the unnamed tributary
20 number 4 to the confluence with Baldface
21 Creek, flowing north from sec. 26, T. 40
22 S., R. 10 W., Willamette Meridian, as a
23 wild river.

24 “(ix) The 0.92-mile segment from the
25 headwaters of the unnamed tributary num-

1 ber 5 to the confluence with Baldface
2 Creek, flowing north from sec. 13, T. 40
3 S., R. 10 W., Willamette Meridian, as a
4 wild river.

5 “(x) The 4.90-mile segment from the
6 headwaters of Cedar Creek to the con-
7 fluence with North Fork Smith River, as a
8 wild river.

9 “(xi) The 2.38-mile segment from the
10 headwaters of Packsaddle Gulch to the
11 confluence with North Fork Smith River,
12 as a wild river.

13 “(xii) The 2.4-mile segment from the
14 headwaters of Hardtack Creek to the con-
15 fluence with North Fork Smith River, as a
16 wild river.

17 “(xiii) The 2.21-mile segment from
18 the headwaters of the unnamed creek to
19 the confluence with North Fork Smith
20 River, flowing east from sec. 29, T. 40 S.,
21 R. 11 W., Willamette Meridian, as a wild
22 river.

23 “(xiv) The 3.06-mile segment from
24 the headwaters of Horse Creek to the con-

1 fluence with North Fork Smith River, as a
2 wild river.

3 “(xv) The 2.61-mile segment of Fall
4 Creek from the Oregon State border to the
5 confluence with North Fork Smith River,
6 as a wild river.

7 “(xvi)(I) Except as provided in sub-
8 clause (II), the 4.57-mile segment from the
9 headwaters of North Fork Diamond Creek
10 to the confluence with Diamond Creek, as
11 a wild river.

12 “(II) Notwithstanding subclause (I),
13 the portion of the segment described in
14 that subclause that starts 100 feet above
15 Forest Service Road 4402 and ends 100
16 feet below Forest Service Road 4402 shall
17 be administered as a scenic river.

18 “(xvii) The 1.02-mile segment from
19 the headwaters of Diamond Creek to the
20 Oregon State border in sec. 14, T. 40 S.,
21 R. 10 W., Willamette Meridian, as a wild
22 river.

23 “(xviii) The 1.14-mile segment from
24 the headwaters of Acorn Creek to the con-
25 fluence with Horse Creek, as a wild river.

1 “(xix) The 8.58-mile segment from
2 the headwaters of Chrome Creek to the
3 confluence with North Fork Smith River,
4 as a wild river.

5 “(xx) The 2.98-mile segment from the
6 headwaters Chrome Creek tributary num-
7 ber 1 to the confluence with Chrome
8 Creek, 0.82 miles upstream from the
9 mouth of Chrome Creek in the Kalmiopsis
10 Wilderness, flowing south from sec. 15, T.
11 40 S., R. 11 W., Willamette Meridian, as
12 a wild river.

13 “(xxi) The 2.19-mile segment from
14 the headwaters of Chrome Creek tributary
15 number 2 to the confluence with Chrome
16 Creek, 3.33 miles upstream from the
17 mouth of Chrome Creek in the Kalmiopsis
18 Wilderness, flowing south from sec. 12, T.
19 40 S., R. 11 W., Willamette Meridian, as
20 a wild river.

21 “(xxii) The 1.27-mile segment from
22 the headwaters of Chrome Creek tributary
23 number 3 to the confluence with Chrome
24 Creek, 4.28 miles upstream from the
25 mouth of Chrome Creek in the Kalmiopsis

1 Wilderness, flowing north from sec. 18, T.
 2 40 S., R. 10 W., Willamette Meridian, as
 3 a wild river.

4 “(xxiii) The 2.27-mile segment from
 5 the headwaters of Chrome Creek tributary
 6 number 4 to the confluence with Chrome
 7 Creek, 6.13 miles upstream from the
 8 mouth of Chrome Creek, flowing south
 9 from Chetco Peak in the Kalmiopsis Wil-
 10 derness in sec. 36, T. 39 S., R. 11 W.,
 11 Willamette Meridian, as a wild river.

12 “(xxiv) The 0.6-mile segment from
 13 the headwaters of Wimer Creek to the bor-
 14 der between the States of Oregon and Cali-
 15 fornia, flowing south from sec. 17, T. 41
 16 S., R. 10 W., Willamette Meridian, as a
 17 wild river.”.

18 (b) EXPANSION OF SMITH RIVER, OREGON.—Section
 19 3(a) of the Wild and Scenic Rivers Act (16 U.S.C.
 20 1274(a)) is amended by striking paragraph (111) and in-
 21 serting the following:

22 “(111) SMITH RIVER, CALIFORNIA AND OR-
 23 EGON.—The segment from the confluence of the
 24 Middle Fork Smith River and the North Fork Smith
 25 River to the Six Rivers National Forest boundary,

1 including the following segments of the mainstem
2 and certain tributaries, to be administered by the
3 Secretary of Agriculture in the following classes:

4 “(A) MAINSTEM.—The segment from the
5 confluence of the Middle Fork Smith River and
6 the South Fork Smith River to the Six Rivers
7 National Forest boundary, as a recreational
8 river.

9 “(B) ROWDY CREEK.—

10 “(i) UPPER.—The segment from and
11 including the headwaters to the California-
12 Oregon State line, as a wild river.

13 “(ii) LOWER.—The segment from the
14 California-Oregon State line to the Six
15 Rivers National Forest boundary, as a rec-
16 reational river.”.

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