

117TH CONGRESS
1ST SESSION

S. 2254

To amend the Wild and Scenic Rivers Act to designate certain streams in the greater Yellowstone ecosystem and Smith River system in the State of Montana as components of the Wild and Scenic Rivers System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 24, 2021

Mr. TESTER introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Wild and Scenic Rivers Act to designate certain streams in the greater Yellowstone ecosystem and Smith River system in the State of Montana as components of the Wild and Scenic Rivers System, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Montana Headwaters
5 Legacy Act”.

6 **SEC. 2. FINDINGS; PURPOSE.**

7 (a) FINDINGS.—Congress finds that—

1 (1) the streams designated as components of
2 the Wild and Scenic Rivers System by the amend-
3 ment made by section 4(a) are cherished by the peo-
4 ple of the State of Montana and visitors from across
5 the United States and around the world for their
6 clean water, abundant fish and wildlife, spectacular
7 natural settings, and outstanding recreational oppor-
8 tunities;

9 (2) Indian Tribes have used the streams re-
10 ferred to in paragraph (1) for hunting, fishing, gath-
11 ering, and other cultural purposes since time imme-
12 morial;

13 (3) recreational activities (including fishing,
14 hunting, camping, paddling, hiking, swimming, rock
15 climbing, horseback riding, and wildlife watching) on
16 the streams referred to in paragraph (1) and the
17 surrounding land generate billions of dollars annu-
18 ally for the economy of the State of Montana;

19 (4) the multi-billion dollar agricultural industry
20 in the State of Montana thrives on the availability
21 of clean water that originates in headwaters streams
22 on Federal public land;

23 (5) the streams referred to in paragraph (1)—
24 (A) are national treasures;

1 (B) possess outstandingly remarkable val-
2 ues; and

3 (C) merit the high level of protection af-
4 farded by the Wild and Scenic Rivers Act (16
5 U.S.C. 1271 et seq.) in order to maintain the
6 benefits provided by the streams described in
7 paragraphs (1) through (3) for future genera-
8 tions to enjoy; and

9 (6) designation of select public land segments of
10 the streams referred to in paragraph (1) under the
11 Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.)
12 would recognize the importance of maintaining the
13 values of each stream while—

14 (A) preserving public access;

15 (B) respecting private property rights;

16 (C) allowing appropriate maintenance of
17 existing infrastructure; and

18 (D) allowing historical uses to continue.

19 (b) PURPOSE.—The purpose of this Act is to des-
20 ignate certain segments and tributaries of the Missouri
21 River and Yellowstone River Headwaters in the State of
22 Montana as components of the National Wild and Scenic
23 Rivers System to preserve and protect for present and fu-
24 ture generations the outstandingly remarkable values of
25 each stream and tributary.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) COVERED SEGMENT.—The term “covered
4 segment” means a river segment designated by para-
5 graphs (231) through (250) of section 3(a) of the
6 Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as
7 added by section 4(a)).

8 (2) INDIAN TRIBE.—The term “Indian Tribe”
9 has the meaning given the term “Indian tribe” in
10 section 4 of the Indian Self-Determination and Edu-
11 cation Assistance Act (25 U.S.C. 5304).

12 (3) SECRETARY CONCERNED.—The term “Sec-
13 retary concerned” means—

14 (A) the Secretary of the Interior, with re-
15 spect to a covered segment under the jurisdic-
16 tion of the Secretary of the Interior; and

17 (B) the Secretary of Agriculture, with re-
18 spect to a covered segment under the jurisdic-
19 tion of the Secretary of Agriculture.

20 (4) STATE.—The term “State” means the State
21 of Montana.

22 **SEC. 4. DESIGNATION OF WILD AND SCENIC RIVER SEG-**
23 **MENTS.**

24 (a) IN GENERAL.—Section 3(a) of the Wild and Sce-
25 nic Rivers Act (16 U.S.C. 1274(a)) is amended by adding
26 at the end the following:

1 “(231) SMITH RIVER, MONTANA.—The portion
2 of the Smith River consisting of the approximately
3 24-mile segment from the confluence of Tenderfoot
4 Creek downstream to the confluence of Deep Creek,
5 to be administered by the Secretary of Agriculture
6 as a scenic river.

7 “(232) TENDERFOOT CREEK, MONTANA.—The
8 portion of Tenderfoot Creek consisting of the ap-
9 proximately 21-mile segment from the confluence
10 with Iron Mines Creek downstream to the confluence
11 with the Smith River, to be administered by the Sec-
12 retary of Agriculture as a scenic river.

13 “(233) GALLATIN RIVER, MONTANA.—The por-
14 tion of the Gallatin River in the State of Montana
15 consisting of the approximately 39-mile segment
16 from the Yellowstone National Park boundary down-
17 stream to the confluence of Spanish Creek, to be ad-
18 ministered by the Secretary of Agriculture as a rec-
19 reational river.

20 “(234) HYALITE CREEK, MONTANA.—The por-
21 tion of Hyalite Creek consisting of the approximately
22 6-mile segment from the source in the Gallatin
23 Range downstream to Hyalite Reservoir, to be ad-
24 ministered by the Secretary of Agriculture as a sce-
25 nic river.

“(235) TAYLOR CREEK, MONTANA.—The portion of Taylor Creek consisting of—

“(A) the approximately 3-mile segment from the source in the Madison Range downstream to the Lee Metcalf Wilderness boundary, to be administered by the Secretary of Agriculture as a wild river; and

“(B) the approximately 15-mile segment from the Lee Metcalf Wilderness boundary downstream to the Gallatin River, to be administered by the Secretary of Agriculture as a recreational river, with the boundary of the corridor flowing through the private land of Nine Quarter Circle Ranch being the ordinary high water mark.

“(236) MADISON RIVER, MONTANA.—The portions of the Madison River in the State of Montana, consisting of—

“(A) the approximately 2-mile segment from the Yellowstone National Park boundary to the inlet in the Madison arm of Hebgen Lake, to be administered by the Secretary of Agriculture as a scenic river;

“(B) the approximately 37-mile segment from 2,000 feet downstream of the Hebgen

1 Lake Dam downstream to the point at which
 2 the river leaves Bureau of Land Management
 3 land at the north boundary of T. 8 S., R. 1 W.,
 4 sec. 10, approximately 1 mile north of the con-
 5 fluence of Cherry Creek, to be administered by
 6 the Secretary of Agriculture and the Secretary
 7 of the Interior as a recreational river;

8 “(C) the approximately 7-mile segment
 9 from 800 feet downstream of Madison Dam
 10 Powerhouse downstream to the Lee Metcalf
 11 Wilderness boundary, to be administered by the
 12 Secretary of the Interior as a wild river; and

13 “(D) the approximately 7-mile segment
 14 from the Lee Metcalf Wilderness Boundary
 15 downstream to the Bureau of Land Manage-
 16 ment boundary at the Black’s Ford Fishing Ac-
 17 cess Site, to be administered by the Secretary
 18 of the Interior as a recreational river.

19 “(237) BEAR CREEK, MONTANA.—The portions
 20 of Bear Creek consisting of—

21 “(A) the approximately 2-mile segment
 22 from the source downstream to the Absaroka-
 23 Beartooth Wilderness boundary, to be adminis-
 24 tered by the Secretary of Agriculture as a wild
 25 river; and

1 “(B) the approximately 7-mile segment
 2 from the Absaroka-Beartooth Wilderness
 3 boundary to the confluence with the Yellow-
 4 stone River, to be administered by the Sec-
 5 retary of Agriculture as a recreational river.

6 “(238) BOULDER RIVER, MONTANA.—The por-
 7 tions of the Boulder River consisting of—

8 “(A) the approximately 3-mile segment
 9 from the source in the Absaroka-Beartooth Wil-
 10 derness downstream to the Absaroka-Beartooth
 11 Wilderness boundary, to be administered by the
 12 Secretary of Agriculture as a wild river; and

13 “(B) the approximately 30-mile segment
 14 from the Absaroka-Beartooth Wilderness
 15 boundary downstream to the Custer Gallatin
 16 National Forest boundary downstream of Nat-
 17 ural Bridge Falls, to be administered by the
 18 Secretary of Agriculture as a recreational river.

19 “(239) HELLROARING CREEK, MONTANA.—The
 20 portion of Hellroaring Creek consisting of the ap-
 21 proximately 19-mile segment from the source in the
 22 Absaroka-Beartooth Wilderness downstream to the
 23 Custer Gallatin National Forest boundary, to be ad-
 24 ministered by the Secretary of Agriculture as a wild
 25 river.

1 “(240) LAKE FORK ROCK CREEK, MONTANA.—

2 The portions of Lake Fork Rock Creek consisting
3 of—

4 “(A) the approximately 11-mile segment
5 from the source in the Absaroka-Beartooth Wil-
6 derness downstream to the Absaroka-Beartooth
7 Wilderness boundary, to be administered by the
8 Secretary of Agriculture as a wild river; and

9 “(B) the approximately 2-mile segment
10 from the Absaroka-Beartooth Wilderness
11 boundary to the confluence with Rock Creek, to
12 be administered by the Secretary of Agriculture
13 as a recreational river.

14 “(241) ROCK CREEK, MONTANA.—The portion
15 of Rock Creek in the State of Montana consisting of
16 the approximately 14-mile segment from the border
17 between the States of Montana and Wyoming to the
18 Custer Gallatin National Forest boundary, to be ad-
19 ministered by the Secretary of Agriculture as a rec-
20 reational river.

21 “(242) SLOUGH CREEK, MONTANA.—The por-
22 tion of Slough Creek consisting of the approximately
23 19-mile segment from the source in the Absaroka-
24 Beartooth Wilderness downstream to the Custer

1 Gallatin National Forest boundary, to be adminis-
2 tered by the Secretary of Agriculture as a wild river.

3 “(243) STILLWATER RIVER, MONTANA.—The
4 portions of the Stillwater River consisting of—

5 “(A) the approximately 26-mile segment
6 from the source in the Absaroka-Beartooth Wil-
7 derness downstream to the Wilderness bound-
8 ary, to be administered by the Secretary of Ag-
9 riculture as a wild river; and

10 “(B) the approximately 3-mile segment
11 from the Absaroka-Beartooth Wilderness
12 boundary downstream to Flume Creek, to be
13 administered by the Secretary of Agriculture as
14 a recreational river.

15 “(244) WEST BOULDER RIVER, MONTANA.—
16 The portion of the West Boulder River consisting of
17 the approximately 11-mile segment from the source
18 in the Absaroka-Beartooth Wilderness downstream
19 to the Wilderness boundary, to be administered by
20 the Secretary of Agriculture as a wild river.

21 “(245) WEST FORK STILLWATER RIVER, MON-
22 TANA.—The portion of the West Fork Stillwater
23 River consisting of the approximately 14-mile seg-
24 ment from the source in the Absaroka-Beartooth
25 Wilderness downstream to the Absaroka-Beartooth

1 Wilderness boundary, to be administered by the Sec-
2 retary of Agriculture as a wild river.

3 “(246) WEST FORK OF ROCK CREEK, MON-
4 TANA.—The portions of West Fork of Rock Creek
5 consisting of—

6 “(A) the approximately 9-mile segment
7 from the source in the Absaroka-Beartooth Wil-
8 derness downstream to the Absaroka-Beartooth
9 Wilderness boundary, to be administered by the
10 Secretary of Agriculture as a wild river; and

11 “(B) the approximately 11-mile segment
12 from the Absaroka-Beartooth Wilderness
13 boundary downstream to the Custer Gallatin
14 National Forest boundary, to be administered
15 by the Secretary of Agriculture as a rec-
16 reational river.

17 “(247) YELLOWSTONE RIVER, MONTANA.—The
18 portion of the Yellowstone River in the State of
19 Montana, consisting of the approximately 19-mile
20 segment from the Yellowstone National Park bound-
21 ary in Gardiner, Montana, downstream to the con-
22 fluence with Rock Creek at the Cabella Fishing Ac-
23 cess Site, to be administered by the Secretary of Ag-
24 riculture and the Secretary of the Interior as a rec-
25 reational river.

1 “(248) CABIN CREEK, MONTANA.—The portions
2 of Cabin Creek in the State of Montana, consisting
3 of—

4 “(A) the approximately 6.3-mile segment
5 from the source in the Madison Range down-
6 stream to the fish barrier, to be administered
7 by the Secretary of Agriculture as a wild river;
8 and

9 “(B) the approximately 1-mile segment
10 from the fish barrier downstream to the con-
11 fluence with the Madison River, to be adminis-
12 tered by the Secretary of Agriculture as a rec-
13 reational river, subject to the condition that the
14 designation of the segment shall not preclude
15 maintenance or management of the fish barrier
16 by cooperating Federal and State agencies.

17 “(249) MIDDLE FORK OF CABIN CREEK, MON-
18 TANA.—The portion of the Middle Fork of Cabin
19 Creek in the State of Montana, consisting of the ap-
20 proximately 5.1-mile segment from the source in the
21 Madison Range downstream to the confluence with
22 Cabin Creek, to be administered by the Secretary of
23 Agriculture as a wild river.

24 “(250) CLARKS FORK OF THE YELLOWSTONE
25 RIVER, MONTANA.—The portions of the Clarks Fork

1 of the Yellowstone River in the State of Montana,
2 consisting of—

3 “(A) the approximately 0.5-mile segment
4 from Broadwater River downstream to the Ab-
5 saroka-Beartooth Wilderness boundary, to be
6 administered by the Secretary of Agriculture as
7 a scenic river; and

8 “(B) the approximately 2.1-mile segment
9 from Absaroka-Beartooth Wilderness boundary
10 downstream to the Montana-Wyoming State
11 line, to be administered by the Secretary of Ag-
12 riculture as a wild river.”.

13 (b) CONSENT OF OWNER OF LAND REQUIRED.—No
14 land or interest in land located within the boundary of
15 a covered segment may be acquired by the Secretary con-
16 cerned without the consent of the owner of the land or
17 interest in land.

18 (c) EFFECT OF DESIGNATIONS.—Nothing in this Act
19 or an amendment made by this Act affects valid existing
20 rights, including—

21 (1) Federal, Tribal, and interstate water com-
22 pacts in existence on the date of enactment of this
23 Act (including full development of any apportion-
24 ment made in accordance with the compacts);

25 (2) water rights in the State; and

1 (3) water rights held by the United States.

2 (d) AUTHORIZATION OF APPROPRIATIONS.—There
3 are authorized to be appropriated such sums as are nec-
4 essary to carry out this Act (including the amendments
5 made by this Act).

