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105TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 105–781

TERMINATE FURTHER DEVELOPMENT AND IMPLEMENTATION OF THE AMERICAN HERITAGE RIVERS INITIATIVE

OCTOBER 6, 1998.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources, submitted the following

REPORT

[To accompany H.R. 1842]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1842) to terminate further development and implementation of the American Heritage Rivers Initiative, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 1842 is to terminate further development and implementation of the American Heritage Rivers Initiative.

BACKGROUND AND NEED FOR LEGISLATION

President Clinton's 1997 State of the Union speech announced the creation of the American Heritage Rivers Initiative (AHRI). With the Council of Environmental Quality (CEQ) as its coordinator, AHRI is based on Vice President Gore's government reinvention efforts and seeks to improve access and efficiency of existing federal programs for designated rivers. Each designated river will be assigned a "river navigator"—a federal employee who will serve as a liaison between the community and federal programs. This person will be selected by the sponsoring federal agency with input from the community. The position will be completely federally funded unless the community offers non-federal funds.

During April and May of 1997, federal agencies held meetings in 15 major cities throughout the Nation to promote AHRI. Less than 1000 people attended these meetings. Many were held in large cit-

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ies which are not representative of the Nation at large. Moreover, many believe these meetings were not properly noticed and open to all and thus did not comply with the Administrative Procedures Act and the National Environmental Policy Act.

CEQ published a four-page notice in the Federal Register on May 19, 1997, briefly describing AHRI and allowing an unusually short 21-day public comment period. The Resources Committee requested a 90 day extension for this public comment period and was granted a 60 day extension until August 20, 1997. CEQ, at the Committee's request, briefed Congressional staff on June 6, 1997. Because this briefing raised more questions than it answered, the Committee decided to hold an oversight hearing on July 15, 1997, and again on September 24, 1997.

At a September 11, 1997, White House press conference with Vice President Gore, President Clinton issued a four-page executive order (E.O. 13061) to implement AHRI. He cited authority under the National Environmental Policy Act as his legal basis. Later a 21-page description of AHRI was published in the Federal Register.

Executive Order 13061 created the American Heritage Interagency Committee which is composed of the Secretaries of Defense, Interior, Agriculture, Commerce, Housing and Urban Development, Transportation and Energy. The Attorney General, Administrator of the Environmental Protection Agency and Chairmen of the National Endowment for the Arts, National Endowment for Humanities and the Advisory Council in Historic Preservation are also included.

A nomination process was also outlined which allows "local communities"—a term never defined—until December 10, 1997, to submit a "nomination packet" for their river to be eligible for AHRI designation. Out of all nominations submitted, the President can select ten per year.[1] The nomination packet is to include a description of the river area, its notable resource qualities, the communities "plan of action," and a listing of who supports the nomination and what opportunities they had to discuss the nomination and the plan of action.

A panel of experts on river issues was authorized to recommend rivers for the President to designate. The panel is to include a broad range of interests ranging from environmental to agriculture, mining and labor. It was to closely review all nomination packets and make its recommendations to the President early in 1998. Because of AHRI's controversial nature and bureaucratic inertia, the President did not actually name American Heritage River selections until July 30, 1998.

Many believe that AHRI clearly violates the doctrine of separation of powers as intended by our Founding Fathers by completely bypassing the Congress. This was best stated by James Madison in Federalist Paper No. 46 that, "The accumulation of all powers, legislative, executive, and judiciary in the same hands, whether of one a few or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny." For example, Executive Order 13061 was drafted with no consultation

[1] A later issued executive order resulted in the naming of 14 rivers as American Heritage Rivers.

with the leadership of Congress. This illustrates yet another abuse of power by the President which is similar to that used to create the 1.7 million acre Escalante-Staircase National Monument in Utah without even consulting its Governor and Congressional delegation.

The Administration repeatedly stated that AHRI is completely voluntary, non-regulatory and honorary despite the fact that a multitude of federal departments and independent agencies are needed to implement it. However, the Committee never received solid commitments to back up this statement. For example, the Administration refused to assure Congress that river navigators would not meddle in local zoning and other issues involving property and water rights. Also, a voluntary program would only include private property with the landowner's permission. Despite several requests, no such provision was ever written into the program.

The Committee believes AHRI is a new federal program that creates a new layer of federal bureaucracy. The Administration argues it is merely a means of making new programs more efficient. As a result, the Committee on several occasions asked for a comprehensive review of all budgetary reprogramming required in Fiscal Year 1998 for the AHRI. The Administration was completely unresponsive to these requests.

Because of these concerns and the Administration's unwillingness to address them, H.R. 1842 was introduced. By eliminating funding for the program, H.R. 1842 would allow Congress to exercise its proper statutory and Constitutional authority.

COMMITTEE ACTION

H.R. 1842 was introduced by Congressman Helen Chenoweth (R–ID) on June 10, 1997, and referred to the Committee on Resources. The bill has 52 cosponsors. On July 15, 1997, the Full Committee conducted an oversight hearing on the American Heritage Rivers Initiative. Testimony was presented by Administration witnesses only (Committee on Resources Printed Hearing 105–36). On September 24, 1997, the Committee conducted a second hearing on H.R. 1842. Testimony was heard from Representatives Nancy Johnson (R–CT), Wally Herger (R–CA), Cliff Stearns (R–FL), Robert Scott (D–VA), Doc Hastings (R–WA), Jo Ann Emerson (R–MO), Paul Kanjorski (D–PA) and Silvestre Reyes (D–TX). Other witnesses included Ms. Kathleen McGinty, Chair, Council on Environmental Quality; Mr. Dan Bloomquist, Montanans for Multiple Use; Mr. David L. Bright, Sr. of Harrison, Arkansas; Mr. Bill DeVeny, Idaho Farm Bureau Federation; Mr. David Allan Ealy of Perrysville, Indiana; Ms. Lois Van Hoover, Idaho Multiple Use Coalition; Ms. Carol LaGrasse, Property Rights Foundation of America; Mr. Robert S. Lynch, Central Arizona Project Association; Ms. Linda Borque Moss, Western Heritage Center; Mr. Reginald William Nelson of Richmond, Virginia; Mr. William Perry Pendley, Mountain States Legal Foundation; Mr. Gordon Ross, Commissioner, Coos County, Oregon; Mr. Peter Samuel, Schuylkill River Greenway and Heritage Corridor; Mr. Desmond K. Smith, Trans Texas Heritage Association; Mr. David Young, Commissioner, Buncombe County, North Carolina; and Ms. Mary A. Yturria of

Brownsville, Texas (Committee on Resources printed Hearing 105–70).

On October 22, 1997, the Committee on Resources met to consider H.R. 1842. No amendments were offered and the bill was ordered favorably reported to the House of Representatives by a roll-call vote of 15–8, as follows:

Committee on Resources
U.S. House of Representatives
105th Congress

Full Committee

Date 10-22-97

Roll No. 1

Bill No. H.R. 1842 Short Title American Heritage Rivers Initiative

Amendment or matter voted on: FINAL PASSAGE

Member	Yea	Nay	Pres	Member	Yea	Nay	Pres
Mr. Young (Chairman)	X			*Mr. Miller*			
Mr. Tauzin				*Mr. Markey*			
Mr. Hansen	X			*Mr. Rahall*			
Mr. Saxton		X		*Mr. Vento*		X	
Mr. Gallegly				*Mr. Kildee*			
Mr. Duncan				*Mr. DeFazio*			
Mr. Hefley				*Mr. Faleomavaega*		X	
Mr. Doolittle	X			*Mr. Abercrombie*			
Mr. Gilchrest				*Mr. Ortiz*		X	
Mr. Calvert	X			*Mr. Pickett*			
Mr. Pombo	X			*Mr. Pallone*			
Mrs. Cubin				*Mr. Dooley*			
Mrs. Chenoweth	X			*Mr. Romero-Barcelo*			
Mrs. Linda Smith				*Mr. Hinchey*		X	
Mr. Radanovich				*Mr. Underwood*		X	
Mr. Jones	X			*Mr. Farr*			
Mr. Thornberry				*Mr. Kennedy*		X	
Mr. Shadegg	X			*Mr. Adam Smith*			
Mr. Ensign	X			*Mr. Delahunt*			
Mr. Bob Smith				*Mr. John*			
Mr. Cannon	X			*Ms. Green*		X	
Mr. Brady	X			*Mr. Kind*			
Mr. Peterson	X			*Mr. Doggett*			
Mr. Hill	X						
Mr. Schaffer	X						
Mr. Gibbons							
Mr. Crapo	X			**TOTAL**	15	8	

At the next Full Committee meeting for consideration of bills, November 5, 1997, a motion to reconsider the vote by which H.R. 1842 was reported was agreed to by voice vote. The bill was then ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8, and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact H.R. 1842.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 1842. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1842 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 1842.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1842 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 3, 1997.

Hon. DON YOUNG,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1842, a bill to terminate further development and implementation of the American Heritage Rivers Initiative.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

H.R. 1842—A bill to terminate further development and implementation of the American Heritage Rivers Initiative

H.R. 1842 would prohibit the use of funds appropriated or otherwise made available to any federal agency, including the Council on Environmental Quality, to develop or carry out the American Heritage Rivers Initiative.

CBO estimates that enacting H.R. 1842 would have no impact on federal spending because the bill would not affect federal appropriations. Fiscal year 1998 appropriations for the Council on Environmental Quality do not contain any funding for this program and prohibit the council from using the funds of any other federal agency for this or other purposes. No specific funding for the initiative was requested by the President, and no funds have ever been provided to any agency.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would have no significant impact on the budgets of state, local, or tribal governments. H.R. 1842 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

The CBO staff contact is Deborah Reis. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

H.R. 1842 contains no unfunded mandates.

CHANGES IN EXISTING LAW

If enacted, H.R. 1842 would make no changes in existing law.

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