

106TH CONGRESS
1ST SESSION

S. 1849

To designate segments and tributaries of White Clay Creek, Delaware and Pennsylvania, as a component of the National Wild and Scenic Rivers System.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 3, 1999

Mr. BIDEN (for himself and Mr. ROTH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To designate segments and tributaries of White Clay Creek, Delaware and Pennsylvania, as a component of the National Wild and Scenic Rivers System.

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 “White Clay Creek Wild
5 and Scenic Rivers System Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) Public Law 102–215 (105 Stat. 1664) di-
9 rected the Secretary of the Interior, in cooperation

1 and consultation with appropriate State and local
2 governments and affected landowners, to conduct a
3 study of the eligibility and suitability of White Clay
4 Creek, Delaware and Pennsylvania, and the tribu-
5 taries of the creek for inclusion in the National Wild
6 and Scenic Rivers System;

7 (2) as a part of the study described in para-
8 graph (1), the White Clay Creek Study Wild and
9 Scenic Study Task Force and the National Park
10 Service prepared a watershed management plan for
11 the study area entitled “White Clay Creek and Its
12 Tributaries Watershed Management Plan”, dated
13 May 1998, that establishes goals and actions to en-
14 sure the long-term protection of the outstanding val-
15 ues of, and compatible management of land and
16 water resources associated with, the watershed; and

17 (3) after completion of the study described in
18 paragraph (1), Chester County, Pennsylvania, New
19 Castle County, Delaware, Newark, Delaware, and 12
20 Pennsylvania municipalities located within the wa-
21 tershed boundaries passed resolutions that—

22 (A) expressed support for the White Clay
23 Creek Watershed Management Plan;

24 (B) expressed agreement to take action to
25 implement the goals of the Plan; and

1 (C) endorsed the designation of the White
2 Clay Creek and the tributaries of the creek for
3 inclusion in the National Wild and Scenic Riv-
4 ers System.

5 **SEC. 3. DESIGNATION OF WHITE CLAY CREEK.**

6 Section 3(a) of the Wild and Scenic Rivers Act (16
7 U.S.C. 1274(a)) is amended by adding at the end the fol-
8 lowing:

9 “(161) WHITE CLAY CREEK, DELAWARE AND PENN-
10 SYLVANIA.—

11 “(A) SEGMENTS.—The 191 miles of river seg-
12 ments of White Clay Creek (including tributaries of
13 the Creek and all second order tributaries of the
14 designated segments) in the States of Delaware and
15 Pennsylvania (referred to in this paragraph as the
16 ‘Creek’), as depicted on the recommended designa-
17 tion and classification maps, as follows:

18 “(i) 30.8 miles of the east branch, includ-
19 ing Trout Run, beginning at the headwaters
20 within West Marlborough township downstream
21 to a point that is 500 feet north of the Borough
22 of Avondale wastewater treatment facility, as a
23 recreational river.

24 “(ii) 15.0 miles of the east branch begin-
25 ning at the southern boundary line of the Bor-

ough 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.

“(iii) 4.0 miles of the east branch that flow through the boundaries of the White Clay Creek Preserve, Pennsylvania, beginning at the northern boundary line of London Britain township and downstream to the confluence of the middle and east branches, as a scenic river.

“(iv) 20.9 miles of the middle branch, beginning at the headwaters within Londonderry township downstream to the boundary of the White Clay Creek Preserve in London Britain township, as a recreational river.

“(v) 2.1 miles of the west branch that flow within the boundaries of the White Clay Creek Preserve in London Britain township, as a scenic river.

“(vi) 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.

“(vii) 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.

“(viii) 27.5 miles of the main stem (including all second order tributaries outside the boundaries of the White Clay Creek Preserve and White Clay Creek State Park), beginning at the confluence of the east and middle branches in London Britain township, Pennsylvania, downstream to the confluence of the White Clay Creek with the Christina River, as a recreational river.

“(ix) 1.3 miles of Middle Run outside the boundaries of the Middle Run Natural Area, as a recreational river.

“(x) 5.2 miles of Middle Run that flow within the boundaries of the Middle Run Natural Area, as a scenic river.

1 “(xi) 15.6 miles of Pike Creek, as a rec-
2 reational river.

3 “(xii) 38.7 miles of Mill Creek, as a rec-
4 reational river.

5 “(B) BOUNDARIES.—

6 “(i) IN GENERAL.—Except as provided in
7 clause (ii), action required to be taken under
8 subsection (b) shall be taken not later than 1
9 year after the date of enactment of this para-
10 graph, except that, with respect to the segments
11 designated by subparagraph (A), in lieu of the
12 boundaries provided for in subsection (b), the
13 boundaries of the segments shall be the greater
14 of—

15 “(I) the 500-year floodplain; or

16 “(II) 250 feet as measured from the
17 ordinary high water mark on both sides of
18 the segment.

19 “(ii) EXCEPTIONS.—The boundary limita-
20 tions described in clause (i) are inapplicable
21 to—

22 “(I) the areas described in subpara-
23 graph (D)(i); and

24 “(II) the properties, as generally de-
25 picted on the map entitled “White Clay

1 Creek Wild and Scenic River Study Area
2 Recommended Designated Area”, dated
3 June 1999, on which are located the sur-
4 face water intakes and water treatment
5 and wastewater treatment facilities of—

6 “(aa) the City of Newark, Dela-
7 ware;

8 “(bb) the corporation known as
9 United Water Delaware; and

10 “(cc) the Borough of West
11 Grove, Pennsylvania.

12 “(C) ADMINISTRATION.—

13 “(i) IN GENERAL.—The segments des-
14 ignated by subparagraph (A) shall be adminis-
15 tered by the Secretary of the Interior (referred
16 to in this paragraph as the ‘Secretary’), in co-
17 operation with the White Clay Creek Watershed
18 Management Committee as provided for in the
19 plan prepared by the White Clay Creek Wild
20 and Scenic Study Task Force and the National
21 Park Service, entitled “White Clay and Its
22 Tributaries Watershed Management Plan” and
23 dated May 1998 (referred to in this paragraph
24 as the ‘Management Plan’).

1 “(ii) REQUIREMENT FOR COMPREHENSIVE
2 MANAGEMENT PLAN.—The Management Plan
3 shall be considered to satisfy the requirements
4 for a comprehensive management plan under
5 subsection (d).

6 “(D) CHURCHMAN’S MARSH, LAMBORN RUN,
7 AND OTHER PROPERTIES.—

8 “(i) IN GENERAL.—Churchman’s Marsh,
9 Lamborn Run, and the properties on which the
10 intake structures and pipelines for the proposed
11 Thompson’s Station Reservoir shall be located
12 shall be considered suitable for designation as
13 components of the National Wild and Scenic
14 Rivers System only at such time as those areas
15 are removed from consideration as locations for
16 the reservoir under the comprehensive plan of
17 the Delaware River Basin Commission.

18 “(ii) SUBSEQUENT DESIGNATIONS.—Noth-
19 ing in this paragraph prohibits the designation
20 of an area described in clause (i) as a compo-
21 nent of the National Wild and Scenic Rivers
22 System if, on a date after the date of enact-
23 ment of this paragraph, the additional segment
24 is determined to be suitable for such designa-
25 tion.

1 “(iii) ASSISTANCE FOR SUBSEQUENT DES-
2 IGNATIONS.—The Secretary shall offer assist-
3 ance to the State of Delaware and New Castle
4 County, Delaware, if an area described in
5 clause (i) is designated a component of the Na-
6 tional Wild and Scenic Rivers System.

7 “(E) MANAGEMENT.—

8 “(i) IN GENERAL.—The segments des-
9 ignated by subparagraph (A) shall be managed
10 in accordance with the Management Plan.

11 “(ii) FEDERAL ROLE.—

12 “(I) IN GENERAL.—The Director of
13 the National Park Service (or a designee)
14 shall represent the Secretary in the imple-
15 mentation of the Management Plan and
16 this paragraph (including the review, re-
17 quired under section 7(a), of proposed fed-
18 erally-assisted water resources projects
19 that could have a direct and adverse effect
20 on the values for which the segments were
21 designated and authorized).

22 “(II) ASSISTANCE.—To assist in the
23 implementation of the Management Plan
24 and to carry out this paragraph, the Sec-
25 retary may provide technical assistance,

1 staff support, and funding at a cost to the
2 Federal Government in an amount, in the
3 aggregate, of not to exceed \$150,000 for
4 each fiscal year.

5 “(iii) COOPERATIVE AGREEMENTS.—Any
6 cooperative agreement entered into under sec-
7 tion 10(e) relating to any of the segments des-
8 ignated by subparagraph (A)—

9 “(I) shall be consistent with the Man-
10 agement Plan; and

11 “(II) may include provisions for finan-
12 cial or other assistance from the United
13 States to facilitate the long-term protec-
14 tion, conservation, and enhancement of the
15 segments.

16 “(iv) STATE REQUIREMENTS.—State and
17 local zoning laws and ordinances, as in effect on
18 the date of enactment of this paragraph, shall
19 be considered to satisfy the standards and re-
20 quirements under section 6(c).

21 “(v) NATIONAL PARK SYSTEM.—Notwith-
22 standing section 10(c), any portion of a seg-
23 ment designated by subparagraph (A) that is
24 not in the National Park System as of the date

1 of enactment of this paragraph shall not, under
2 this paragraph—

3 “(I) be considered a part of the Na-
4 tional Park System;

5 “(II) be managed by the National
6 Park Service; or

7 “(III) be subject to laws (including
8 regulations) that govern the National Park
9 System.

10 “(vi) NO LAND ACQUISITION.—The Fed-
11 eral Government shall not acquire, by any
12 means, any right or title in or to land, any
13 easement, or any other interest for the purpose
14 of carrying out this paragraph.”.

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