

109TH CONGRESS
2^D SESSION

S. 3762

To designate segments of Fossil Creek, a tributary to the Verde River in the State of Arizona, as wild and scenic rivers.

IN THE SENATE OF THE UNITED STATES

JULY 28 (legislative day, JULY 26), 2006

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

A BILL

To designate segments of Fossil Creek, a tributary to the Verde River in the State of Arizona, as wild and scenic rivers.

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 “Fossil Creek Wild and
5 Scenic River Act of 2005”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the restoration of stream flow to Fossil
9 Creek resulting from the decommissioning of the

1 Childs-Irving Hydroelectric Project by the Arizona
2 Public Service Company is a demonstration of re-
3 markable corporate stewardship resulting in the re-
4 birth of a river;

5 (2) the spring-fed waters of Fossil Creek are
6 exceptional for central Arizona and the travertine
7 geological formations are rarely found anywhere in
8 the United States;

9 (3) the restoration of stream flow to Fossil
10 Creek will provide riparian habitat for native fish,
11 birds, plants, mammals, amphibians, and reptiles;

12 (4) the Yavapai-Apache Nation considers Fossil
13 Creek to be a sacred place, with significant spiritual
14 and cultural values;

15 (5) the Verde River, into which Fossil Creek
16 flows, has previously been added to the National
17 Wild and Scenic Rivers System;

18 (6) the Northern Arizona University has in-
19 vested significant resources in studying the restora-
20 tion of Fossil Creek and the unique geological,
21 hydrological, and biological characteristics of Fossil
22 Creek;

23 (7) State and Federal land and resource man-
24 agement agencies have invested significant resources
25 in restoring the native fish populations of Fossil

1 Creek through barrier construction and stream ren-
2 ovation activities;

3 (8) the Fossil Creek watershed will continue to
4 provide opportunities for hiking, swimming, camp-
5 ing, horseback riding, wildlife viewing, hunting, and
6 livestock grazing;

7 (9) the Forest Service has determined that Fos-
8 sil Creek is eligible for inclusion into the National
9 Wild and Scenic Rivers System based on the free-
10 flowing condition and outstandingly remarkable geol-
11 ogy, ecology, fish, wildlife, cultural, and scenic values
12 of the creek; and

13 (10) this reborn river deserves long-term pro-
14 tection secured by a sustainable management plan
15 that recognizes and maintains the remarkable values
16 of the Fossil Creek area.

17 **SEC. 3. DESIGNATION OF WILD AND SCENIC RIVERS.**

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

20 (1) by redesignating the last paragraph (relat-
21 ing to the White Salmon River, Washington) as
22 paragraph (167); and

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

24 “(168) FOSSIL CREEK, ARIZONA.—

1 “(A) UPPER FOSSIL CREEK.—From the
2 source at Fossil Springs below Sand Rock and
3 Calf Pen Canyons to where the water leaves the
4 Fossil Spring Wilderness Area, as a wild river.

5 “(B) MIDDLE FOSSIL CREEK.—From the
6 border of the Fossil Spring Wilderness Area to
7 the Mazatzal Wilderness Boundary, as a scenic
8 river.

9 “(C) SEGMENT.—The 6.6 miles from the
10 Mazatzal Wilderness Boundary down to the
11 confluence with the Verde River, as a wild
12 river.”.

13 **SEC. 4. MANAGEMENT OF RIVER SEGMENTS.**

14 The Secretary of Agriculture shall—

15 (1) manage the river segments designated in
16 section 3; and

17 (2) submit a river management plan for the
18 designated segments to Congress not later than 2
19 years after the date of enactment of this Act.

20 **SEC. 5. ALLOWANCE FOR RESTORATION ACTIVITIES.**

21 (a) ARIZONA PUBLIC SERVICE COMPANY.—Without
22 further consultation under section 7 of the Wild and Sce-
23 nic Rivers Act (16 U.S.C. 1278), Arizona Public Service
24 Company, the former licensee for the Childs-Irving Hydro-
25 electric Project (FERC project number 2069), may con-

1 duct project decommissioning and restoration activities
2 agreed to in the surrender application and relevant dock-
3 eted filings with the Federal Energy Regulatory Commis-
4 sion.

5 (b) FEDERAL AND STATE AGENCIES.—Any Federal
6 or State agency may conduct stream restoration and bar-
7 rier maintenance activities in accordance with the environ-
8 mental assessment and finding of no significant impact
9 for the Fossil Creek Native Fish Restoration Project dated
10 2004.

11 **SEC. 6. STREAM MONITORING.**

12 Notwithstanding the amendment made by section 3,
13 the United States Geological Survey or any permittee of
14 the Forest Service may undertake any necessary activities,
15 including access by any existing road, to install, operate,
16 maintain, or otherwise manage 1 or more stream flow
17 gauges on Fossil Creek in cooperation with the Forest
18 Service for the purpose of monitoring and collecting
19 stream flow and other water resource information.

20 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

21 There are authorized to be appropriated such sums
22 as are necessary for each fiscal year—

23 (1) to prepare management plans for all river
24 segments designated as wild or scenic rivers under
25 section 3 not later than 2 years after the date of

1 designation, in accordance with section 3(d)(1) of
2 the Wild and Scenic Rivers Act (16 U.S.C.
3 1274(d)(1));

4 (2) to fund a river ranger to oversee Fossil
5 Creek; and

6 (3) to otherwise carry out this Act.

○