

Committee on Natural Resources

Rob Bishop Chairman
Mark-Up Memorandum

January 12, 2018

To: All Natural Resources Committee Members

From: Majority Committee Staff – Will Layden
Subcommittee on Federal Lands (x6-7736)

Mark-Up: **H.R. 3961 (Rep. Darren Soto)**, To amend the Wild and Scenic Rivers Act to designate segments of the Kissimmee River and its tributaries in the State of Florida for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes.
January 17, 2018 at 10:00 a.m.; 1324 Longworth House Office Building

H.R. 3961, Kissimmee River Wild and Scenic River Study Act of 2017

Summary of the Bill

H.R. 3961, introduced by Representative Darren Soto [D-FL-09], would designate segments of the Kissimmee River in Central Florida for study for potential inclusion into the National Wild and Scenic Rivers System.

Background

Stretching over 100 miles from Lake Kissimmee to Lake Okeechobee in Central Florida, the Kissimmee River is a naturally winding river that serves as both the headwaters for the Everglades and the main drainage route for the expansive Kissimmee River Basin. The river was historically characterized by an extensive floodplain, reaching up to three miles wide in certain areas, which was seasonally inundated by heavy rains.

Following widespread flooding and property damage in the 1940's, public outcry prompted Congress to direct the U.S. Army Corps of Engineers to step in and channelize the waterway. This led to the Central and South Florida Project, which resulted in engineering changes to deepen and straighten the Kissimmee River, which drained much of the surrounding floodplain. In 1992, citing public outcry and biological changes to the region, Congress approved efforts to restore the original flow of the Kissimmee River. At a cost of more than \$1 billion, the Kissimmee River Restoration Project is expected to be completed in 2020, at which point it is expected to reestablish historic conditions of 44 miles of the river, and restore nearly 63,000 acres of wetlands.

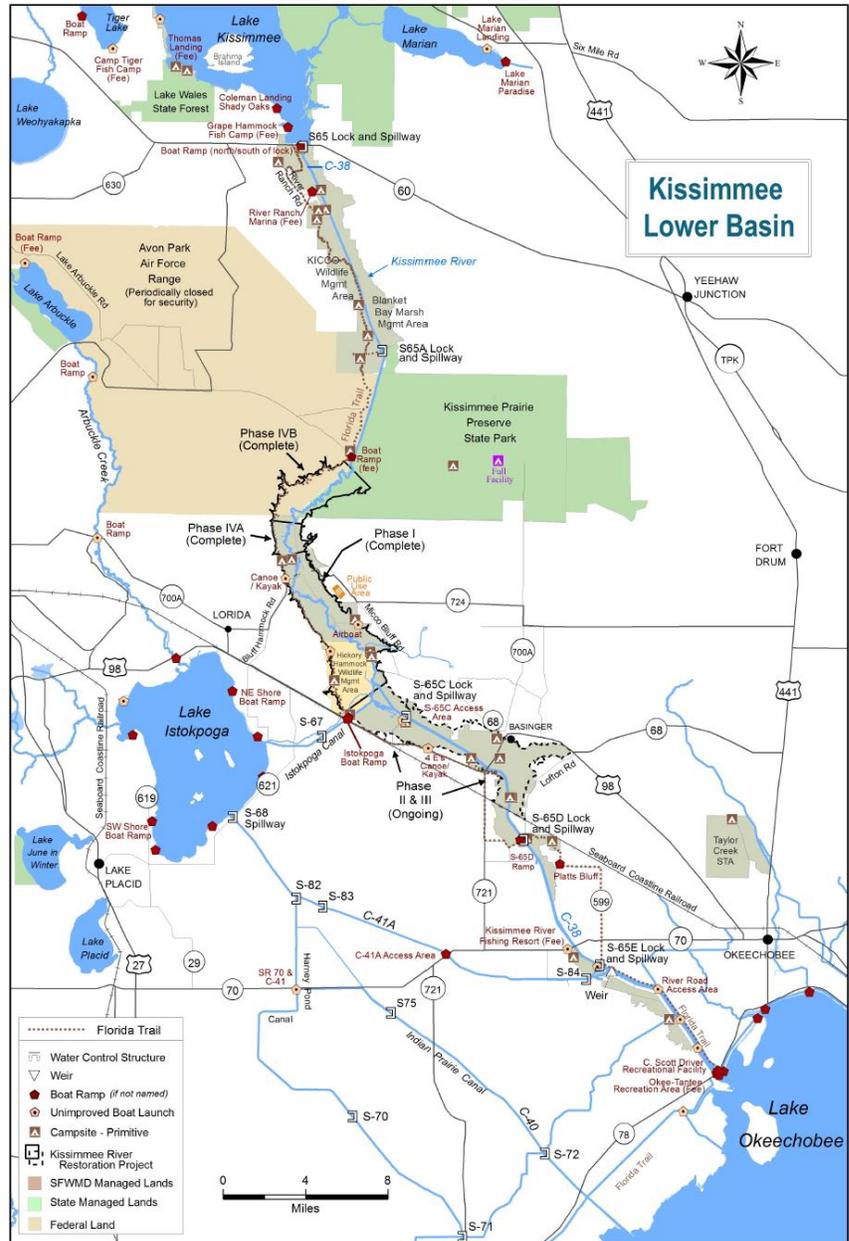
Representative Soto's bill would designate the entire Kissimmee River for study under the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.), in attempt to preserve the billion-dollar taxpayer investment in the river restoration project. Importantly, designating a river for study grants the river protection under the Act until it can later be classified or removed from study. Additionally, because much of the river above and below the 44-mile restored segment is already impounded, the Kissimmee River is likely only eligible for a "recreational" designation under the Wild and Scenic River act.

Wild and Scenic Rivers Act

The National Wild and Scenic Rivers Act was created by Congress in 1968 to "preserve certain rivers with outstanding natural, cultural, and recreational values in a free-flowing condition for the enjoyment of present and future generations."

Authorized at the time to compliment then-current policy of hydroelectric dam building, the Act is designed to provide land management agencies the authority to protect and preserve designated rivers from future degradation.

Wild and Scenic rivers designated by Congress generally are managed by one of the four federal land management agencies—the Bureau of Land Management, the U.S. Forest Service, the National Park Service, or the U.S. Fish and Wildlife Service. By law, federal agencies must work in cooperation with State and local management agencies to develop corridor management plans for the region. Further, the Wild and Scenic Rivers Act provides authority for the federal



government to acquire land surrounding the river by purchase, donation, or in some instances, condemnation.

Proponents of Wild and Scenic river expansion assert that designation helps balance future development and recreational uses with ecological preservation. Opponents point out that with previous such designations, the Act has often resulted in the federal government’s overreach into local management decisions, and can be used to control everything from agriculture development within the designated river basin to restricted access to recreational activities on the river.

Additionally, Representative Soto’s bill would likely require the local municipalities and water management districts to develop management plans prior to the designation, potentially increasing the cost at the local level.

Cost

A Congressional Budget Office cost estimate has not yet been completed for this bill.

Administration Position

The Administration’s position is currently unknown.

Anticipated Amendments

- Rep. Darren Soto (D-FL) – Amending the text to include “military operations” in Section B, Subsection (I), and to ensure nothing in the Act has a negative effect on agricultural production in the Kissimmee River floodplain.

Effect on Current Law (Ramseyer)

Showing Current Law as Amended by H.R. 3961

[text to be added highlighted in yellow]

Section 5 of the Wild and Scenic Rivers Act (16 U.S.C. 1276)

§1276. Rivers constituting potential additions to national wild and scenic rivers system

(a) Enumeration of designated rivers

The following rivers are hereby designated for potential addition to the national wild and scenic rivers system:

* * * * *

(XX) KISSIMMEE RIVER, FLORIDA- The segment from the southern shore of Lake Kissimmee to its confluence with Lake Okeechobee.

(b) Studies and reports

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(XX) KISSIMMEE RIVER, FLORIDA-

(A) IN GENERAL- Not later than 3 years after the date on which funds are made available to carry out this paragraph, the Secretary of the Interior shall complete a study of the Kissimmee River, as described in subsection (a)(XX), and submit a report describing the results of such study to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(B) REPORT REQUIREMENTS- The report required under subparagraph (A) shall--

(i) include a discussion of the effect of the designation of the segment to be studied under subsection (a)(XX) on--

(I) existing commercial and recreational activities, such as cattle ranching, dairy production, hunting, fishing, trapping, recreational shooting, motor boat use, or bridge construction;

(II) the authorization, construction, operation, maintenance, or improvement of energy production and transmission infrastructure; and

(III) the authority of State and local governments to manage the activities described in subclauses (I) and (II); and

(ii) identify--

(I) all authorities that will authorize or require the Secretary of the Interior to influence local land use decisions (such as zoning) or place restrictions on non-Federal land if the area studied under subsection (a)(XX) is designated under the Wild and Scenic Rivers Act;

(II) all authorities that the Secretary of the Interior may use to condemn property if the area studied under subsection (a)(XX) is designated under the Wild and Scenic Rivers Act; and

(III) all private property located in the area to be studied under subsection (a)(XX).

(C) NONINTERFERENCE- This study shall not interfere with the Kissimmee River Restoration Project authorized under section

101(8) of the Water Resources Development Act of 1992 (Public Law 102-580).