

118TH CONGRESS
1ST SESSION

S. 162

To amend the Smith River National Recreation Area Act to include certain additions to the Smith River National Recreation Area, to amend the Wild and Scenic Rivers Act to designate certain wild rivers in the State of Oregon, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2023

Mr. MERKLEY (for himself, Mr. WYDEN, Mrs. FEINSTEIN, and Mr. PADILLA) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Smith River National Recreation Area Act to include certain additions to the Smith River National Recreation Area, to amend the Wild and Scenic Rivers Act to designate certain wild rivers in the State of Oregon, 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 “Smith River National
5 Recreation Area Expansion Act”.

1 **SEC. 2. ADDITIONS TO THE SMITH RIVER NATIONAL**
 2 **RECREATION AREA.**

3 (a) DEFINITIONS.—Section 3 of the Smith River Na-
 4 tional Recreation Area Act (16 U.S.C. 460bbb–1) is
 5 amended—

6 (1) in paragraph (1), by striking “referred to in
 7 section 4(b)” and inserting “entitled ‘Proposed
 8 Smith River National Recreation Area’ and dated
 9 July 1990”; and

10 (2) in paragraph (2), by striking “the Six Riv-
 11 ers National Forest” and inserting “an applicable
 12 unit of the National Forest System”.

13 (b) BOUNDARIES.—Section 4(b) of the Smith River
 14 National Recreation Area Act (16 U.S.C. 460bbb–2(b))
 15 is amended—

16 (1) in paragraph (1)—

17 (A) in the first sentence, by inserting “and
 18 on the map entitled ‘Proposed Additions to the
 19 Smith River National Recreation Area’ and
 20 dated January 23, 2023” after “1990”; and

21 (B) in the second sentence, by striking
 22 “map” and inserting “maps”; and

23 (2) in paragraph (2), by striking “map” and in-
 24 serting “maps described in paragraph (1)”.

1 (c) ADMINISTRATION.—Section 5 of the Smith River
 2 National Recreation Area Act (16 U.S.C. 460bbb–3) is
 3 amended—

4 (1) in subsection (b)—

5 (A) in paragraph (1), in the first sentence,
 6 by striking “the map” and inserting “the
 7 maps”; and

8 (B) in paragraph (2)—

9 (i) in subparagraph (A), by striking
 10 “area shall be on” and inserting “area and
 11 any portion of the recreation area in the
 12 State of Oregon shall be on roadless”; and

13 (ii) by adding at the end the fol-
 14 lowing:

15 “(I) The Kalmiopsis Wilderness shall be
 16 managed in accordance with the Wilderness Act
 17 (16 U.S.C. 1131 et seq.).”;

18 (2) in subsection (c), by striking “by the
 19 amendments made by section 10(b) of this Act” and
 20 inserting “within the recreation area”; and

21 (3) by adding at the end the following:

22 “(d) STUDY; REPORT.—

23 “(1) IN GENERAL.—Not later than 5 years
 24 after the date of enactment of this subsection, the
 25 Secretary shall conduct a study of the area depicted

on the map entitled ‘Proposed Additions to the Smith River National Recreation Area’ and dated January 23, 2023, that includes inventories and assessments of streams, fens, wetlands, lakes, other water features, and associated land, plants (including Port-Orford-cedar), animals, fungi, algae, and other values, and unstable and potentially unstable aquatic habitat areas in the study area.

“(2) MODIFICATION OF MANAGEMENT PLANS; REPORT.—On completion of the study under paragraph (1), the Secretary shall—

“(A) modify any applicable management plan to fully protect the inventoried values under the study, including to implement additional standards and guidelines; and

“(B) submit to Congress a report describing the results of the study.

“(e) WILDFIRE MANAGEMENT.—Nothing in this Act affects the authority of the Secretary (in cooperation with other Federal, State, and local agencies, as appropriate) to conduct wildland fire operations within the recreation area, consistent with the purposes of this Act.

“(f) VEGETATION MANAGEMENT.—Nothing in this Act prohibits the Secretary from conducting vegetation management projects (including wildfire resiliency and

1 forest health projects) within the recreation area, to the
 2 extent consistent with the purposes of the recreation area.

3 “(g) APPLICATION OF NORTHWEST FOREST PLAN
 4 AND ROADLESS RULE TO CERTAIN PORTIONS OF THE
 5 RECREATION AREA.—Nothing in this Act affects the ap-
 6 plication of the Northwest Forest Plan or part 294 of title
 7 36, Code of Federal Regulations (commonly referred to
 8 as the ‘Roadless Rule’) (as in effect on the date of enact-
 9 ment of this subsection), to portions of the recreation area
 10 in the State of Oregon that are subject to the plan and
 11 those regulations as of the date of enactment of this sub-
 12 section.

13 “(h) PROTECTION OF TRIBAL RIGHTS.—

14 “(1) IN GENERAL.—Nothing in this Act dimin-
 15 ishes any right of an Indian Tribe.

16 “(2) MEMORANDUM OF UNDERSTANDING.—The
 17 Secretary shall seek to enter into a memorandum of
 18 understanding with applicable Indian Tribes with re-
 19 spect to—

20 “(A) providing the Indian Tribes with ac-
 21 cess to the portions of the recreation area in
 22 the State of Oregon to conduct historical and
 23 cultural activities, including the procurement of
 24 noncommercial forest products and materials
 25 for traditional and cultural purposes; and

1 “(B) the development of interpretive infor-
 2 mation to be provided to the public on the his-
 3 tory of the Indian Tribes and the use of the
 4 recreation area by the Indian Tribes.”.

5 (d) ACQUISITION.—Section 6(a) of the Smith River
 6 National Recreation Area Act (16 U.S.C. 460bbb–4(a))
 7 is amended—

8 (1) in the fourth sentence, by striking “All
 9 lands” and inserting the following:

10 “(4) APPLICABLE LAW.—All land”;

11 (2) in the third sentence—

12 (A) by striking “The Secretary” and in-
 13 serting the following:

14 “(3) METHOD OF ACQUISITION.—The Sec-
 15 retary”;

16 (B) by striking “or any of its political sub-
 17 divisions” and inserting “, the State of Oregon,
 18 or any political subdivision of the State of Cali-
 19 fornia or the State of Oregon”; and

20 (C) by striking “donation or” and insert-
 21 ing “purchase, donation, or”;

22 (3) in the second sentence, by striking “In exer-
 23 cising” and inserting the following:

24 “(2) CONSIDERATION OF OFFERS BY SEC-
 25 RETARY.—In exercising”;

1 (4) in the first sentence, by striking “The Sec-
2 retary” and inserting the following:

3 “(1) IN GENERAL.—The Secretary”; and

4 (5) by adding at the end the following:

5 “(5) ACQUISITION OF CEDAR CREEK PARCEL.—

6 On the adoption of a resolution by the State Land
7 Board of Oregon and subject to available funding,
8 the Secretary shall acquire all right, title, and inter-
9 est in and to the approximately 555 acres of land
10 known as the ‘Cedar Creek Parcel’ located in sec.
11 16, T. 41 S., R. 11 W., Willamette Meridian.”.

12 (e) FISH AND GAME.—Section 7 of the Smith River
13 National Recreation Area Act (16 U.S.C. 460bbb–5) is
14 amended—

15 (1) in the first sentence, by inserting “or the
16 State of Oregon” after “State of California”; and

17 (2) in the second sentence, by inserting “or the
18 State of Oregon, as applicable” after “State of Cali-
19 fornia”.

20 (f) MANAGEMENT PLANNING.—Section 9 of the
21 Smith River National Recreation Area Act (16 U.S.C.
22 460bbb–7) is amended—

23 (1) in the first sentence, by striking “The Sec-
24 retary” and inserting the following:

1 “(a) REVISION OF MANAGEMENT PLAN.—The Sec-
2 retary”; and

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

4 “(b) SMITH RIVER NATIONAL RECREATION AREA
5 MANAGEMENT PLAN REVISION.—As soon as practicable
6 after the date of the first revision of the forest plan after
7 the date of enactment of this subsection, the Secretary
8 shall revise the management plan for the recreation
9 area—

10 “(1) to reflect the expansion of the recreation
11 area into the State of Oregon under the Smith River
12 National Recreation Area Expansion Act; and

13 “(2) to include an updated recreation action
14 schedule to identify specific use and development
15 plans for the areas described in the map entitled
16 ‘Proposed Additions to the Smith River National
17 Recreation Area’ and dated January 23, 2023.”.

18 (g) STREAMSIDE PROTECTION ZONES.—Section
19 11(b) of the Smith River National Recreation Area Act
20 (16 U.S.C. 460bbb–8(b)) is amended by adding at the end
21 the following:

22 “(24) Each of the river segments described in
23 subparagraph (B) of section 3(a)(92) of the Wild
24 and Scenic Rivers Act (16 U.S.C. 1274(a)(92)).”.

1 (h) STATE AND LOCAL JURISDICTION AND ASSIST-
 2 ANCE.—Section 12 of the Smith River National Recre-
 3 ation Area Act (16 U.S.C. 460bbb–9) is amended—

4 (1) in subsection (a), by striking “California or
 5 any political subdivision thereof” and inserting
 6 “California, the State of Oregon, or a political sub-
 7 division of the State of California or the State of Or-
 8 egon”;

9 (2) in subsection (b), in the matter preceding
 10 paragraph (1), by striking “California or its political
 11 subdivisions” and inserting “California, the State of
 12 Oregon, or a political subdivision of the State of
 13 California or the State of Oregon”; and

14 (3) in subsection (c), in the first sentence—

15 (A) by striking “California and its political
 16 subdivisions” and inserting “California, the
 17 State of Oregon, and any political subdivision of
 18 the State of California or the State of Oregon”;
 19 and

20 (B) by striking “State and its political
 21 subdivisions” and inserting “State of Cali-
 22 fornia, the State of Oregon, and any political
 23 subdivision of the State of California or the
 24 State of Oregon”.

1 **SEC. 3. WILD AND SCENIC RIVER DESIGNATIONS.**

2 (a) NORTH FORK SMITH ADDITIONS, OREGON.—

3 (1) FINDING.—Congress finds that the source
4 tributaries of the North Fork Smith River in the
5 State of Oregon possess outstandingly remarkable
6 wild anadromous fish and prehistoric, cultural, bo-
7 tanical, recreational, and water quality values.

8 (2) DESIGNATION.—Section 3(a)(92) of the
9 Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(92))
10 is amended—

11 (A) in subparagraph (B), by striking “sce-
12 nic” and inserting “wild”;

13 (B) by redesignating subparagraphs (A)
14 through (C) as clauses (i) through (iii), respec-
15 tively, and indenting appropriately;

16 (C) in the matter preceding clause (i) (as
17 so redesignated), by striking “The 13-mile” and
18 inserting the following:

19 “(A) IN GENERAL.—The 13-mile”; and

20 (D) by adding at the end the following:

21 “(B) ADDITIONS.—The following segments
22 of the source tributaries of the North Fork
23 Smith River, to be administered by the Sec-
24 retary of Agriculture in the following classes:

25 “(i) The 13.26-mile segment of
26 Baldface Creek from its headwaters, in-

cluding all perennial tributaries, to the
confluence with the North Fork Smith in
T. 39 S., R 10 W., T. 40 S., R. 10 W.,
and T. 41 S., R. 11 W., Willamette Merid-
ian, as a wild river.

“(ii) The 3.58-mile segment from the
headwaters of Taylor Creek to the con-
fluence with Baldface Creek, as a wild
river.

“(iii) The 4.38-mile segment from the
headwaters of the unnamed tributary to
Biscuit Creek and the headwaters of Bis-
cuit Creek to the confluence with Baldface
Creek, as a wild river.

“(iv) The 2.27-mile segment from the
headwaters of Spokane Creek to the con-
fluence with Baldface Creek, as a wild
river.

“(v) The 1.25-mile segment from the
headwaters of Rock Creek to the con-
fluence with Baldface Creek, flowing south
from sec. 19, T. 40 S., R. 10 W., Willam-
ette Meridian, as a wild river.

“(vi) The 1.31-mile segment from the
headwaters of the unnamed tributary num-

ber 2 to the confluence with Baldface Creek, flowing north from sec. 27, T. 40 S., R. 10 W., Willamette Meridian, as a wild river.

“(vii) The 3.6-mile segment from the 2 headwaters of the unnamed tributary number 3 to the confluence with Baldface Creek, flowing south from secs. 9 and 10, T. 40 S., R. 10 W., Willamette Meridian, as a wild river.

“(viii) The 1.57-mile segment from the headwaters of the unnamed tributary number 4 to the confluence with Baldface Creek, flowing north from sec. 26, T. 40 S., R. 10 W., Willamette Meridian, as a wild river.

“(ix) The 0.92-mile segment from the headwaters of the unnamed tributary number 5 to the confluence with Baldface Creek, flowing north from sec. 13, T. 40 S., R. 10 W., Willamette Meridian, as a wild river.

“(x) The 4.90-mile segment from the headwaters of Cedar Creek to the con-

1 fluence with North Fork Smith River, as a
2 wild river.

3 “(xi) The 2.38-mile segment from the
4 headwaters of Packsaddle Gulch to the
5 confluence with North Fork Smith River,
6 as a wild river.

7 “(xii) The 2.4-mile segment from the
8 headwaters of Hardtack Creek to the con-
9 fluence with North Fork Smith River, as a
10 wild river.

11 “(xiii) The 2.21-mile segment from
12 the headwaters of the unnamed creek to
13 the confluence with North Fork Smith
14 River, flowing east from sec. 29, T. 40 S.,
15 R. 11 W., Willamette Meridian, as a wild
16 river.

17 “(xiv) The 3.06-mile segment from
18 the headwaters of Horse Creek to the con-
19 fluence with North Fork Smith River, as a
20 wild river.

21 “(xv) The 2.61-mile segment of Fall
22 Creek from the Oregon State border to the
23 confluence with North Fork Smith River,
24 as a wild river.

1 “(xvi)(I) Except as provided in sub-
2 clause (II), the 4.57-mile segment from the
3 headwaters of North Fork Diamond Creek
4 to the confluence with Diamond Creek, as
5 a wild river.

6 “(II) Notwithstanding subclause (I),
7 the portion of the segment described in
8 that subclause that starts 100 feet above
9 Forest Service Road 4402 and ends 100
10 feet below Forest Service Road 4402 shall
11 be administered as a scenic river.

12 “(xvii) The 1.02-mile segment from
13 the headwaters of Diamond Creek to the
14 Oregon State border in sec. 14, T. 40 S.,
15 R. 10 W., Willamette Meridian, as a wild
16 river.

17 “(xviii) The 1.14-mile segment from
18 the headwaters of Acorn Creek to the con-
19 fluence with Horse Creek, as a wild river.

20 “(xix) The 8.58-mile segment from
21 the headwaters of Chrome Creek to the
22 confluence with North Fork Smith River,
23 as a wild river.

24 “(xx) The 2.98-mile segment from the
25 headwaters Chrome Creek tributary num-

ber 1 to the confluence with Chrome Creek, 0.82 miles upstream from the mouth of Chrome Creek in the Kalmiopsis Wilderness, flowing south from sec. 15, T. 40 S., R. 11 W., Willamette Meridian, as a wild river.

“(xxi) The 2.19-mile segment from the headwaters of Chrome Creek tributary number 2 to the confluence with Chrome Creek, 3.33 miles upstream from the mouth of Chrome Creek in the Kalmiopsis Wilderness, flowing south from sec. 12, T. 40 S., R. 11 W., Willamette Meridian, as a wild river.

“(xxii) The 1.27-mile segment from the headwaters of Chrome Creek tributary number 3 to the confluence with Chrome Creek, 4.28 miles upstream from the mouth of Chrome Creek in the Kalmiopsis Wilderness, flowing north from sec. 18, T. 40 S., R. 10 W., Willamette Meridian, as a wild river.

“(xxiii) The 2.27-mile segment from the headwaters of Chrome Creek tributary number 4 to the confluence with Chrome

1 Creek, 6.13 miles upstream from the
 2 mouth of Chrome Creek, flowing south
 3 from Chetco Peak in the Kalmiopsis Wil-
 4 derness in sec. 36, T. 39 S., R. 11 W.,
 5 Willamette Meridian, as a wild river.

6 “(xxiv) The 0.6-mile segment from
 7 the headwaters of Wimer Creek to the bor-
 8 der between the States of Oregon and Cali-
 9 fornia, flowing south from sec. 17, T. 41
 10 S., R. 10 W., Willamette Meridian, as a
 11 wild river.”.

12 (b) EXPANSION OF SMITH RIVER, OREGON.—Section
 13 3(a) of the Wild and Scenic Rivers Act (16 U.S.C.
 14 1274(a)) is amended by striking paragraph (111) and in-
 15 serting the following:

16 “(111) SMITH RIVER, CALIFORNIA AND OR-
 17 EGON.—The segment from the confluence of the
 18 Middle Fork Smith River and the North Fork Smith
 19 River to the Six Rivers National Forest boundary,
 20 including the following segments of the mainstem
 21 and certain tributaries, to be administered by the
 22 Secretary of Agriculture in the following classes:

23 “(A) MAINSTEM.—The segment from the
 24 confluence of the Middle Fork Smith River and
 25 the South Fork Smith River to the Six Rivers

1 National Forest boundary, as a recreational
2 river.

3 “(B) ROWDY CREEK.—

4 “(i) UPPER.—The segment from and
5 including the headwaters to the California-
6 Oregon State line, as a wild river.

7 “(ii) LOWER.—The segment from the
8 California-Oregon State line to the Six
9 Rivers National Forest boundary, as a rec-
10 reational river.”.

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