

118TH CONGRESS
1ST SESSION

S. 3346

To amend the Wild and Scenic Rivers Act to designate certain streams in the greater Yellowstone ecosystem and Smith River system in the State of Montana as components of the Wild and Scenic Rivers System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 27, 2023

Mr. TESTER introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Wild and Scenic Rivers Act to designate certain streams in the greater Yellowstone ecosystem and Smith River system in the State of Montana as components of the Wild and Scenic Rivers System, 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 “Montana Headwaters
5 Legacy Act”.

6 **SEC. 2. FINDINGS; PURPOSE.**

7 (a) FINDINGS.—Congress finds that—

1 (1) the streams designated as components of
2 the Wild and Scenic Rivers System by the amend-
3 ment made by section 4(a) are cherished by the peo-
4 ple of the State of Montana and visitors from across
5 the United States and around the world for their
6 clean water, abundant fish and wildlife, spectacular
7 natural settings, and outstanding recreational oppor-
8 tunities;

9 (2) Indian Tribes have used the streams re-
10 ferred to in paragraph (1) for hunting, fishing, gath-
11 ering, and other cultural purposes since time imme-
12 morial;

13 (3) recreational activities (including fishing,
14 hunting, camping, paddling, hiking, swimming, rock
15 climbing, horseback riding, and wildlife watching) on
16 the streams referred to in paragraph (1) and the
17 surrounding land generate billions of dollars annu-
18 ally for the economy of the State of Montana;

19 (4) the multi-billion dollar agricultural industry
20 in the State of Montana thrives on the availability
21 of clean water that originates in headwaters streams
22 on Federal public land;

23 (5) the streams referred to in paragraph (1)—
24 (A) are national treasures;

1 (B) possess outstandingly remarkable val-
 2 ues; and

3 (C) merit the high level of protection af-
 4 farded by the Wild and Scenic Rivers Act (16
 5 U.S.C. 1271 et seq.) in order to maintain the
 6 benefits provided by the streams described in
 7 paragraphs (1) through (3) for future genera-
 8 tions to enjoy; and

9 (6) designation of select public land segments of
 10 the streams referred to in paragraph (1) under the
 11 Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.)
 12 would recognize the importance of maintaining the
 13 values of each stream while—

14 (A) preserving public access;

15 (B) respecting private property rights;

16 (C) allowing appropriate maintenance of
 17 existing infrastructure; and

18 (D) allowing historical uses to continue.

19 (b) PURPOSE.—The purpose of this Act is to des-
 20 ignate certain segments and tributaries of the Missouri
 21 River and Yellowstone River Headwaters in the State of
 22 Montana as components of the National Wild and Scenic
 23 Rivers System to preserve and protect for present and fu-
 24 ture generations the outstandingly remarkable values of
 25 each stream and tributary.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) COVERED SEGMENT.—The term “covered
4 segment” means a river segment designated by para-
5 graphs (233) through (252) of section 3(a) of the
6 Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) (as
7 added by section 4(a)).

8 (2) INDIAN TRIBE.—The term “Indian Tribe”
9 has the meaning given the term in section 4 of the
10 Indian Self-Determination and Education Assistance
11 Act (25 U.S.C. 5304).

12 (3) SECRETARY CONCERNED.—The term “Sec-
13 retary concerned” means—

14 (A) the Secretary of the Interior, with re-
15 spect to a covered segment under the jurisdic-
16 tion of the Secretary of the Interior; and

17 (B) the Secretary of Agriculture, with re-
18 spect to a covered segment under the jurisdic-
19 tion of the Secretary of Agriculture.

20 (4) STATE.—The term “State” means the State
21 of Montana.

22 **SEC. 4. DESIGNATION OF WILD AND SCENIC RIVER SEG-**
23 **MENTS.**

24 (a) IN GENERAL.—Section 3(a) of the Wild and Sce-
25 nic Rivers Act (16 U.S.C. 1274(a)) is amended by adding
26 at the end the following:

1 “(233) SMITH RIVER, MONTANA.—The portion
2 of the Smith River consisting of the approximately
3 24-mile segment from the confluence of Tenderfoot
4 Creek downstream to the confluence of Deep Creek,
5 to be administered by the Secretary of Agriculture
6 as a scenic river.

7 “(234) TENDERFOOT CREEK, MONTANA.—The
8 portion of Tenderfoot Creek consisting of the ap-
9 proximately 21-mile segment from the confluence
10 with Iron Mines Creek downstream to the confluence
11 with the Smith River, to be administered by the Sec-
12 retary of Agriculture as a scenic river.

13 “(235) GALLATIN RIVER, MONTANA.—The por-
14 tion of the Gallatin River in the State of Montana
15 consisting of the approximately 39-mile segment
16 from the Yellowstone National Park boundary down-
17 stream to the confluence of Spanish Creek, to be ad-
18 ministered by the Secretary of Agriculture as a rec-
19 reational river.

20 “(236) HYALITE CREEK, MONTANA.—The por-
21 tion of Hyalite Creek consisting of the approximately
22 6-mile segment from the source in the Gallatin
23 Range downstream to Hyalite Reservoir, to be ad-
24 ministered by the Secretary of Agriculture as a sce-
25 nic river.

1 “(237) TAYLOR CREEK, MONTANA.—The por-
2 tion of Taylor Creek consisting of—

3 “(A) the approximately 3-mile segment
4 from the source in the Madison Range down-
5 stream to the Lee Metcalf Wilderness boundary,
6 to be administered by the Secretary of Agri-
7 culture as a wild river; and

8 “(B) the approximately 15-mile segment
9 from the Lee Metcalf Wilderness boundary
10 downstream to the Gallatin River, to be admin-
11 istered by the Secretary of Agriculture as a rec-
12 reational river, with the boundary of the cor-
13 ridor flowing through the private land of Nine
14 Quarter Circle Ranch being the ordinary high
15 water mark.

16 “(238) MADISON RIVER, MONTANA.—The por-
17 tions of the Madison River in the State of Montana,
18 consisting of—

19 “(A) the approximately 42-mile segment
20 from the confluence of Cabin Creek downstream
21 to the point at which the river leaves Bureau of
22 Land Management land at the north boundary
23 of T. 8 S., R. 1 W., sec. 10, approximately 1
24 mile north of the confluence of Cherry Creek, to
25 be administered by the Secretary of Agriculture

1 and the Secretary of the Interior as a rec-
2 reational river;

3 “(B) the approximately 7-mile segment
4 from 800 feet downstream of Madison Dam
5 Powerhouse downstream to the Lee Metcalf
6 Wilderness boundary, to be administered by the
7 Secretary of the Interior as a wild river; and

8 “(C) the approximately 7-mile segment
9 from the Lee Metcalf Wilderness Boundary
10 downstream to the Bureau of Land Manage-
11 ment boundary at the Black’s Ford Fishing Ac-
12 cess Site, to be administered by the Secretary
13 of the Interior as a recreational river.

14 “(239) BEAR CREEK, MONTANA.—The portions
15 of Bear Creek consisting of—

16 “(A) the approximately 2-mile segment
17 from the source downstream to the Absaroka-
18 Beartooth Wilderness boundary, to be adminis-
19 tered by the Secretary of Agriculture as a wild
20 river; and

21 “(B) the approximately 7-mile segment
22 from the Absaroka-Beartooth Wilderness
23 boundary to the confluence with the Yellow-
24 stone River, to be administered by the Sec-
25 retary of Agriculture as a recreational river.

1 “(240) BOULDER RIVER, MONTANA.—The por-
2 tions of the Boulder River consisting of—

3 “(A) the approximately 3-mile segment
4 from the source in the Absaroka-Beartooth Wil-
5 derness downstream to the Absaroka-Beartooth
6 Wilderness boundary, to be administered by the
7 Secretary of Agriculture as a wild river; and

8 “(B) the approximately 30-mile segment
9 from the Absaroka-Beartooth Wilderness
10 boundary downstream to the Custer Gallatin
11 National Forest boundary downstream of Nat-
12 ural Bridge Falls, to be administered by the
13 Secretary of Agriculture as a recreational river.

14 “(241) HELLROARING CREEK, MONTANA.—The
15 portion of Hellroaring Creek consisting of the ap-
16 proximately 19-mile segment from the source in the
17 Absaroka-Beartooth Wilderness downstream to the
18 Custer Gallatin National Forest boundary, to be ad-
19 ministered by the Secretary of Agriculture as a wild
20 river.

21 “(242) LAKE FORK ROCK CREEK, MONTANA.—
22 The portions of Lake Fork Rock Creek consisting
23 of—

24 “(A) the approximately 11-mile segment
25 from the source in the Absaroka-Beartooth Wil-

1 derness downstream to the Absaroka-Beartooth
2 Wilderness boundary, to be administered by the
3 Secretary of Agriculture as a wild river; and

4 “(B) the approximately 2-mile segment
5 from the Absaroka-Beartooth Wilderness
6 boundary to the confluence with Rock Creek, to
7 be administered by the Secretary of Agriculture
8 as a recreational river.

9 “(243) ROCK CREEK, MONTANA.—The portion
10 of Rock Creek in the State of Montana consisting of
11 the approximately 14-mile segment from the border
12 between the States of Montana and Wyoming to the
13 Custer Gallatin National Forest boundary, to be ad-
14 ministered by the Secretary of Agriculture as a rec-
15 reational river.

16 “(244) SLOUGH CREEK, MONTANA.—The por-
17 tion of Slough Creek consisting of the approximately
18 19-mile segment from the source in the Absaroka-
19 Beartooth Wilderness downstream to the Custer
20 Gallatin National Forest boundary, to be adminis-
21 tered by the Secretary of Agriculture as a wild river.

22 “(245) STILLWATER RIVER, MONTANA.—The
23 portions of the Stillwater River consisting of—

24 “(A) the approximately 26-mile segment
25 from the source in the Absaroka-Beartooth Wil-

1 derness downstream to the Wilderness bound-
2 ary, to be administered by the Secretary of Ag-
3 riculture as a wild river; and

4 “(B) the approximately 3-mile segment
5 from the Absaroka-Beartooth Wilderness
6 boundary downstream to Flume Creek, to be
7 administered by the Secretary of Agriculture as
8 a recreational river.

9 “(246) WEST BOULDER RIVER, MONTANA.—
10 The portion of the West Boulder River consisting of
11 the approximately 15-mile segment from the source
12 in the Absaroka-Beartooth Wilderness downstream
13 to the Wilderness boundary, to be administered by
14 the Secretary of Agriculture as a wild river.

15 “(247) WEST FORK STILLWATER RIVER, MON-
16 TANA.—The portion of the West Fork Stillwater
17 River consisting of the approximately 14-mile seg-
18 ment from the source in the Absaroka-Beartooth
19 Wilderness downstream to the Absaroka-Beartooth
20 Wilderness boundary, to be administered by the Sec-
21 retary of Agriculture as a wild river.

22 “(248) WEST FORK OF ROCK CREEK, MON-
23 TANA.—The portions of West Fork of Rock Creek
24 consisting of—

1 “(A) the approximately 9-mile segment
2 from the source in the Absaroka-Beartooth Wil-
3 derness downstream to the Absaroka-Beartooth
4 Wilderness boundary, to be administered by the
5 Secretary of Agriculture as a wild river; and

6 “(B) the approximately 11-mile segment
7 from the Absaroka-Beartooth Wilderness
8 boundary downstream to the Custer Gallatin
9 National Forest boundary, to be administered
10 by the Secretary of Agriculture as a rec-
11 reational river.

12 “(249) YELLOWSTONE RIVER, MONTANA.—The
13 portion of the Yellowstone River in the State of
14 Montana, consisting of the approximately 19-mile
15 segment from the Yellowstone National Park bound-
16 ary in Gardiner, Montana, downstream to the con-
17 fluence with Rock Creek at the Cabella Fishing Ac-
18 cess Site, to be administered by the Secretary of Ag-
19 riculture and the Secretary of the Interior as a rec-
20 reational river.

21 “(250) CABIN CREEK, MONTANA.—The portions
22 of Cabin Creek in the State of Montana, consisting
23 of—

24 “(A) the approximately 7-mile segment
25 from the source in the Madison Range down-

1 stream to the fish barrier, to be administered
2 by the Secretary of Agriculture as a wild river;
3 and

4 “(B) the approximately 1-mile segment
5 from the fish barrier downstream to the con-
6 fluence with the Madison River, to be adminis-
7 tered by the Secretary of Agriculture as a rec-
8 reational river, subject to the condition that the
9 designation of the segment shall not preclude
10 maintenance or management of the fish barrier
11 by cooperating Federal and State agencies.

12 “(251) MIDDLE FORK OF CABIN CREEK, MON-
13 TANA.—The portion of the Middle Fork of Cabin
14 Creek in the State of Montana, consisting of the ap-
15 proximately 5-mile segment from the source in the
16 Madison Range downstream to the confluence with
17 Cabin Creek, to be administered by the Secretary of
18 Agriculture as a wild river.

19 “(252) CLARKS FORK OF THE YELLOWSTONE
20 RIVER, MONTANA.—The portions of the Clarks Fork
21 of the Yellowstone River in the State of Montana,
22 consisting of—

23 “(A) the approximately 1-mile segment
24 from Broadwater River downstream to the Ab-
25 saroka-Beartooth Wilderness boundary, to be

1 administered by the Secretary of Agriculture as
2 a scenic river; and

3 “(B) the approximately 2-mile segment
4 from Absaroka-Beartooth Wilderness boundary
5 downstream to the Montana-Wyoming State
6 line, to be administered by the Secretary of Ag-
7 riculture as a wild river.”.

8 (b) CONSENT OF OWNER OF LAND REQUIRED.—No
9 land or interest in land located within the boundary of
10 a covered segment may be acquired by the Secretary con-
11 cerned without the consent of the owner of the land or
12 interest in land.

13 (c) EFFECT OF DESIGNATIONS ON WATER
14 RIGHTS.—Nothing in this Act or an amendment made by
15 this Act affects valid existing rights, including—

16 (1) Federal, Tribal, and interstate water com-
17 pacts in existence on the date of enactment of this
18 Act (including full development of any apportion-
19 ment made in accordance with the compacts);

20 (2) water rights in the State; and

21 (3) water rights held by the United States.

22 (d) EFFECT OF DESIGNATIONS ON HEBGEN AND
23 MADISON DEVELOPMENTS.—The designation of a covered
24 segment by section 4(a) shall not—

1 (1) prohibit, preempt, or abridge the licensing
2 by the Federal Energy Regulatory Commission as a
3 current or future federally licensed hydroelectric
4 generation project under part I of the Federal
5 Power Act (16 U.S.C. 792 et seq.) of any hydro-
6 electric project (including any aspect of existing or
7 future facilities, operations, and transmission lines
8 of the hydroelectric project) constructed on the
9 Madison River as of the date of enactment of this
10 Act;

11 (2) prohibit, preempt, or abridge the licensing
12 or development by the Federal Energy Regulatory
13 Commission as a federally licensed generation
14 project under part I of the Federal Power Act (16
15 U.S.C. 792 et seq.) of any future hydroelectric gen-
16 eration that might be added to the Hebgen and
17 Madison Developments (Federal Energy Commission
18 project number 2188) (including any aspect of exist-
19 ing or future facilities, operations, and transmission
20 lines); or

21 (3) affect the operation of, or impose any, flow
22 release requirements at the Hebgen and Madison
23 Developments described in paragraph (2) that are
24 intended to satisfy current or future—

1 (A) Federal Energy Regulatory Commis-
2 sion license conditions; or

3 (B) compliance or management plans ap-
4 proved by the Federal Energy Regulatory Com-
5 mission.

6 (e) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated such sums as are nec-
8 essary to carry out this Act (including the amendments
9 made by this Act).

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