

Calendar No. 635110TH CONGRESS
2D SESSION**S. 86****[Report No. 110-283]**

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

JANUARY 4, 2007

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

APRIL 10, 2008

Reported by Mr. BINGAMAN, with an amendment and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in *italic*]

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fossil Creek Wild and
3 Scenic River Act of 2007”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) the restoration of stream flow to Fossil
7 Creek resulting from the decommissioning of the
8 Childs-Irving Hydroelectric Project by the Arizona
9 Public Service Company is a demonstration of re-
10 markable corporate stewardship resulting in the re-
11 birth of a river;

12 (2) the spring-fed waters of Fossil Creek are
13 exceptional for central Arizona and the travertine
14 geological formations are rarely found anywhere in
15 the United States;

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

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

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

25 (6) the Northern Arizona University has in-
26 vested significant resources in studying the restora-

1 tion of Fossil Creek and the unique geological,
2 hydrological, and biological characteristics of Fossil
3 Creek;

4 (7) State and Federal land and resource man-
5 agement agencies have invested significant resources
6 in restoring the native fish populations of Fossil
7 Creek through barrier construction and stream ren-
8 ovation activities;

9 (8) the Fossil Creek watershed will continue to
10 provide opportunities for hiking, swimming, camp-
11 ing, horseback riding, wildlife viewing, hunting, and
12 livestock grazing;

13 (9) the Forest Service has determined that Fos-
14 sil Creek is eligible for inclusion into the National
15 Wild and Scenic Rivers System based on the free-
16 flowing condition and outstandingly remarkable geol-
17 ogy, ecology, fish, wildlife, cultural, and scenic values
18 of the creek; and

19 (10) this reborn river deserves long-term pro-
20 tection secured by a sustainable management plan
21 that recognizes and maintains the remarkable values
22 of the Fossil Creek area.

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

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

1 (1) by redesignating the last 3 paragraphs as
 2 paragraphs (167) through (169), respectively; and

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

4 “(170) FOSSIL CREEK, ARIZONA.—

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

9 “(B) MIDDLE FOSSIL CREEK.—From the
 10 border of the Fossil Spring Wilderness Area to
 11 the Mazatzal Wilderness Boundary, as a scenic
 12 river.

13 “(C) SEGMENT.—The 6.6 miles from the
 14 Mazatzal Wilderness Boundary down to the
 15 confluence with the Verde River, as a wild
 16 river.”.

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

18 The Secretary of Agriculture shall—

19 (1) manage the river segments designated in
 20 section 3; and

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

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

2 (a) ARIZONA PUBLIC SERVICE COMPANY.—Without
3 further consultation under section 7 of the Wild and Scenic
4 Rivers Act (16 U.S.C. 1278), Arizona Public Service
5 Company, the former licensee for the Childs-Irving Hydro-
6 electric Project (FERC project number 2069), may con-
7 duct project decommissioning and restoration activities
8 agreed to in the surrender application and relevant dock-
9 eted filings with the Federal Energy Regulatory Commis-
10 sion.

11 (b) FEDERAL AND STATE AGENCIES.—Any Federal
12 or State agency may conduct stream restoration and bar-
13 rier maintenance activities in accordance with the environ-
14 mental assessment and finding of no significant impact
15 for the Fossil Creek Native Fish Restoration Project dated
16 2004.

17 **SEC. 6. STREAM MONITORING.**

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

1 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums
3 as are necessary for each fiscal year—

4 (1) to prepare management plans for all river
5 segments designated as wild or scenic rivers under
6 section 3 not later than 2 years after the date of
7 designation, in accordance with section 3(d)(1) of
8 the Wild and Scenic Rivers Act (16 U.S.C.
9 1274(d)(1));

10 (2) to fund a river ranger to oversee Fossil
11 Creek; and

12 (3) to otherwise carry out this Act.

13 **SECTION 1. SHORT TITLE.**

14 *This Act may be cited as the “Fossil Creek Wild and*
15 *Scenic River Act”.*

16 **SEC. 2. DESIGNATION OF WILD AND SCENIC RIVER SEG-**
17 **MENTS.**

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

20 (1) *by redesignating paragraph (167) (relating*
21 *to the Musconetcong River, New Jersey) as paragraph*
22 *(169);*

23 (2) *by designating the undesignated paragraph*
24 *relating to the White Salmon River, Washington, as*
25 *paragraph (167);*

1 (3) by designating the undesignated paragraph
2 relating to the Black Butte River, California, as
3 paragraph (168); and

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

5 “(170) FOSSIL CREEK, ARIZONA.—Approximately
6 16.8 miles of Fossil Creek from the confluence
7 of Sand Rock and Calf Pen Canyons to the confluence
8 with the Verde River, to be administered by the Secretary
9 of Agriculture in the following classes:

10 “(A) The approximately 2.7-mile segment
11 from the confluence of Sand Rock and Calf Pen
12 Canyons to the point where the segment exits the
13 Fossil Spring Wilderness, as a wild river.

14 “(B) The approximately 7.5-mile segment
15 from where the segment exits the Fossil Creek
16 Wilderness to the boundary of the Mazatzal Wilderness,
17 as a recreational river.

18 “(C) The 6.6-mile segment from the boundary
19 of the Mazatzal Wilderness downstream to
20 the confluence with the Verde River, as a wild
21 river.”.

22 **SEC. 3. RESTORATION ACTIVITIES.**

23 (a) ARIZONA PUBLIC SERVICE COMPANY.—Without
24 further consultation under section 7 of the Wild and Scenic
25 Rivers Act (16 U.S.C. 1278), Arizona Public Service Com-

1 pany, the former licensee for the Childs-Irving Hydro-
 2 electric Project (FERC project number 2069), may conduct
 3 project decommissioning and restoration activities agreed
 4 to in the surrender application and relevant docketed filings
 5 with the Federal Energy Regulatory Commission.

6 (b) *FEDERAL AND STATE AGENCIES.*—Federal and
 7 State agencies may conduct native fish restoration and bar-
 8 rier maintenance activities in accordance with the Envi-
 9 ronmental Assessment, Decision Notice, and Finding of No
 10 Significant Impact for the document entitled “Native Fish
 11 Restoration in Fossil Creek” and dated 2004.

12 **SEC. 4. STREAM MONITORING.**

13 Notwithstanding the amendment made by section 2,
 14 the United States Geological Survey or any other entity
 15 that has been given written permission for the activity from
 16 the Secretary of Agriculture may undertake any necessary
 17 activities, including access by any existing road, to install,
 18 operate, maintain, or otherwise manage 1 or more stream
 19 flow gauges in Fossil Creek in cooperation with the Forest
 20 Service for the purpose of monitoring and collecting stream
 21 flow and other water resource information.

22 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

23 There are authorized to be appropriated such sums as
 24 are necessary to carry out this Act.

Amend the title so as to read: “A bill to designate Fossil Creek, a tributary of the Verde River in the State

of Arizona, as a component of the National Wild and Scenic Rivers System.”.

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