

YELLOWSTONE AND GRAND TETON PADDLING ACT

DECEMBER 8, 2015.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 974]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 974) to direct the Secretary of the Interior to promulgate regulations to allow the use of hand-propelled vessels on certain rivers and streams that flow in and through certain Federal lands in Yellowstone National Park, Grand Teton National Park, the John D. Rockefeller, Jr. Memorial Parkway, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Yellowstone and Grand Teton Paddling Act”.

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) **HAND-PROPELLED VESSEL.**—The term “hand-propelled vessel” means a vessel designed for river travel that is propelled by one or more people using paddles or oars, such as canoes, inflatable kayaks, kayaks, packrafts, and rafts.

(2) **PADDLING.**—The term “paddling” means the use of hand-propelled vessels for descending, crossing, or otherwise floating upon rivers and streams.

SEC. 3. PROMULGATION OF REGULATIONS.

(a) **IN GENERAL.**—Not later than 3 years after the date on which funds are first made available for this section, the Secretary of the Interior shall promulgate regulations to allow the use of hand-propelled vessels on waters within Yellowstone National Park in the States of Idaho, Montana, and Wyoming, and Grand Teton Na-

tional Park and the John D. Rockefeller, Jr. Memorial Parkway in the State of Wyoming. Waters where such use shall be allowed under the regulations shall include, at a minimum, the segments listed in subsection (b).

(b) APPLICABLE WATERS.—The waters referred to in subsection (a) are the following:

(1) BEAVERDAM CREEK.—The approximately 5.6-mile segment of Beaverdam Creek from 8085' to Yellowstone Lake.

(2) BECHLER RIVER.—The approximately 17.4-mile segment of Bechler River from Three River Junction to the confluence with Falls River.

(3) BOUNDARY CREEK.—The approximately 15.3-mile segment of Boundary Creek from 7455' to the confluence with Bechler River.

(4) CACHE CREEK.—The approximately 12.2-mile segment from 7737' to the confluence with Lamar River.

(5) COULTER CREEK.—The approximately .9-mile segment from the Yellowstone National Park south boundary to the confluence with the Snake River.

(6) FALLS RIVER.—The approximately 20.4-mile segment from 7316' to the Yellowstone National Park south boundary.

(7) FAN CREEK.—The approximately 7.7-mile segment from Fan Creek upper forks (7526') to the confluence with the Gallatin River.

(8) FERRIS FORK.—The approximately 1-mile segment from 7455' to Three River Junction.

(9) FIREHOLE RIVER.—The approximately 4.5-mile segment of campsite OA3 to Kepler Cascades.

(10) GALLATIN RIVER.—The approximately 22.3-mile segment from 7650' to the Yellowstone National Park northwest boundary.

(11) GARDNER RIVER.—The approximately 23.6-mile segment from Fawn Creek to the confluence with Yellowstone River.

(12) GRAYLING CREEK.—The approximately 7.4-mile segment from Grayling Creek canyon mouth (7088') to the Yellowstone National Park west boundary.

(13) GREGG FORK.—The approximately 1.7-mile segment from 7795' to Three River Junction.

(14) HEART RIVER.—The approximately 4.8-mile segment from Heart Lake to the confluence with Snake River.

(15) HELLROARING CREEK.—The approximately 6.4-mile segment from the Yellowstone National Park north boundary to the confluence with the Yellowstone River.

(16) HOWELL CREEK.—The approximately 5.4-mile segment from Howell Creek upper forks to the confluence with Mountain Creek.

(17) INDIAN CREEK.—The approximately 7.7-mile segment from 8030' meadow to the confluence with Gardner River.

(18) LAMAR RIVER.—The approximately 27.3-mile segment from 8167' to Specimen Ridge trail.

(19) LAMAR RIVER.—The approximately 7.5-mile segment from the top of Lamar Canyon (6478') to the confluence with Yellowstone River.

(20) LEWIS RIVER.—The approximately 8.5-mile segment from the top of Lewis Canyon (7730') to the confluence with Snake River.

(21) LITTLE LAMAR RIVER.—The approximately 3.7-mile segment from 8200' to the confluence with the Lamar River.

(22) MIDDLE CREEK.—The approximately 4-mile segment from 7265' to the Yellowstone National Park east boundary.

(23) MILLER CREEK.—The approximately 10-mile segment from 7655' to the confluence with Lamar River.

(24) MOUNTAIN ASH CREEK.—The approximately 5.7-mile segment from 6555' to the confluence with Falls River.

(25) MOUNTAIN CREEK.—The approximately 7.9-mile segment from the Yellowstone National Park east boundary to the confluence with Yellowstone River.

(26) NEZ PERCE CREEK.—The approximately 8.2-mile segment from 7310' to Grand Loop Road.

(27) PEBBLE CREEK.—The approximately 10.3-mile segment from 7954' trail crossing to the confluence with Soda Butte Creek.

(28) POLECAT CREEK.—The approximately 2-mile segment from 7050' to the Yellowstone National Park south boundary.

(29) ROBINSON CREEK.—The approximately 4.4-mile segment from 6555' to the Yellowstone National Park southwest boundary.

(30) SLOUGH CREEK.—The approximately 13.4-mile segment from the Yellowstone National Park north boundary to Slough Creek trail head/campground.

(31) SNAKE RIVER.—The approximately 31.8-mile segment from the Yellowstone National Park southeast boundary (8059') to the Yellowstone National Park south boundary (6867').

(32) SODA BUTTE CREEK.—The approximately 10.3-mile segment from the Yellowstone National Park northeast boundary to the confluence with Amphitheater Creek.

(33) SPECIMEN CREEK.—The approximately 2.6-mile segment from 7170' to the confluence with the Gallatin River.

(34) THOROFARE CREEK.—The approximately 4.4-mile segment from the Yellowstone National Park southeast boundary to the confluence with Yellowstone River.

(35) TRAIL CREEK.—The approximately 3-mile segment from Trail Lake to Yellowstone Lake.

(36) YELLOWSTONE RIVER.—The approximately 36-mile segment, including Grand and Black canyons, from Sevenmile Hole to the Yellowstone National Park north boundary.

(37) YELLOWSTONE RIVER.—The approximately 26.7-mile segment from Yellowstone National Park southeast boundary to Yellowstone Lake.

(38) ARIZONA CREEK.—The approximately 4.8-mile segment from the Grand Teton National Park east boundary to Jackson Lake.

(39) BERRY CREEK.—The approximately 9.9-mile segment from 7560' to Jackson Lake.

(40) BUFFALO FORK RIVER.—The approximately 8.7-mile segment from the Grand Teton National Park east boundary to the confluence with Snake River.

(41) COTTONWOOD CREEK.—The approximately 7.3-mile segment from Jenny Lake to the confluence with Snake River.

(42) DITCH CREEK.—The approximately 7.3-mile segment from the Grand Teton National Park east boundary to the confluence with Snake River.

(43) GROS VENTRE RIVER.—The approximately 12.7-mile segment from the Grand Teton National Park southeast boundary to the Grand Teton National Park south boundary.

(44) LAKE CREEK.—The approximately 3.9-mile segment from Phelps Lake to the Grand Teton National Park south boundary.

(45) OWL CREEK.—The approximately 2.2-mile segment from 7312' to the confluence with Berry Creek.

(46) PACIFIC CREEK.—The approximately 4.6-mile segment from the Grand Teton National Park northeast boundary to the confluence with Snake River.

(47) PILGRIM CREEK.—The approximately 6.8-mile segment from Grand Teton National Park northeast boundary to Jackson Lake.

(48) PILGRIM CREEK EAST FORK.—The approximately .8-mile segment from the Grand Teton National Park northeast boundary to the confluence with Pilgrim Creek.

(49) POLECAT CREEK.—The approximately 3.9-mile segment from the Yellowstone National Park south boundary to the confluence with Snake River.

(50) SPREAD CREEK.—The approximately 4.3-mile segment, including both channels of Spread Creek, from the Grand Teton National Park east boundary to the Snake River.

(c) APPLICABLE WATERS BY BOUNDARIES.—The boundaries of any river proposed in subsection (b) shall generally comprise that area measured within one-quarter mile from the ordinary high water mark on each side of the listed rivers and streams. This subsection shall not be construed to limit the scope of the regulation to address areas which may lie more than one-quarter mile from the ordinary high water mark on each side of the river.

(d) APPLICABLE LAWS.—The regulations required by subsection (a) shall be promulgated in accordance with—

(1) laws, regulations, and policies generally applicable to units of the National Park System; and

(2) sections 551 through 559 of title 5, United States Code (commonly known as the "Administrative Procedure Act").

(e) COMMERCIAL USE.—

(1) NO EXPANSION OF USE.—The regulations issued under this section shall not consider any expansion of commercial use of hand-propelled vessels in the parks.

(2) SAVINGS PROVISIONS.—Nothing in this Act shall be construed as authorizing the commercial use of hand-propelled vessels.

(f) COORDINATION OF RECREATIONAL USE.—When promulgating regulations under this section, the Secretary of the Interior shall consult with the Director of the United States Fish and Wildlife Service and the Director of the National Park Service to help ensure that the regulations provide that recreational use of hand-propelled vessels on the Gros Ventre River within the National Elk Refuge adjacent to Grand Teton National Park is consistent with the requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

(g) PREVIOUS REGULATIONS.—Upon issuance of the final regulations required by subsection (a), the following regulations shall have no force or effect:

(1) Section 7.13(d)(4)(ii) of title 36, Code of Federal Regulations (regarding vessels on streams and rivers in Yellowstone National Park).

(2) Section 7.22(e)(3) of title 36, Code of Federal Regulations (regarding vessels on lakes and rivers in Grand Teton National Park).

(h) COST RECOVERY.—The Secretary is authorized to recover all costs, in accordance with section 103104 of title 54, United States Code, associated with monitoring the use of hand-propelled vessels, including the cost of inspecting and decontaminating vessels to prevent the introduction or spread of invasive or injurious species in Yellowstone National Park, Grand Teton National Park, and the John D. Rockefeller, Jr. Memorial Parkway.

PURPOSE OF THE BILL

The purpose of H.R. 974 is to direct the Secretary of the Interior to promulgate regulations to allow the use of hand-propelled vessels on certain rivers and streams that flow in and through certain federal lands in Yellowstone National Park, Grand Teton National Park, and the John D. Rockefeller, Jr. Memorial Parkway.

BACKGROUND AND NEED FOR LEGISLATION

On the opening day of fishing season in 1950, the rivers and streams of Yellowstone National Park were closed to paddling to reduce fishing pressure exerted on park waters during the post-war period. In 1962, Grand Teton National Park implemented a similar policy prohibiting paddling on all park rivers and streams, except the Snake River and the stream connecting Bearpaw Lake and Jackson Lake.

Each park policy was codified in federal regulations, which are now over 50 years old. Numerous Americans have been subjected to arrest and fines for paddling these rivers. The National Park Service (NPS) has other common management tools to prevent overfishing, rendering the original purpose of the paddling closures and the regulations moot.

Hand-propelled paddling is typically considered an appropriate activity in National Parks and other protected federal lands, and is usually managed commensurate with other similar forms of recreation. H.R. 974, as amended, opens 50 specified river and stream segments throughout Yellowstone and Grand Teton National Parks, as well as the John D. Rockefeller Jr. Memorial Parkway in the states of Idaho, Montana, and Wyoming, to paddling. It would be under full discretion of the NPS, and encourages the NPS to actively manage paddling as an appropriate and sustainable activity.

H.R. 974 builds upon legislation introduced by Congresswoman Cynthia Lummis in the 113th Congress. The previous bill, H.R. 3492, was favorably reported from the Committee on Natural Resources by unanimous consent on February 28, 2014 (House Report 113–369).

COMMITTEE ACTION

H.R. 974 was introduced on February 13, 2015, by Congresswoman Cynthia M. Lummis (R-WY). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Federal Lands and the Subcommittee on Water, Power and Oceans. On October 7, 2015, the Natural Resources Committee met to consider the bill. The Subcommittees were dis-

charged by unanimous consent. Congresswoman Lummis offered an amendment designated .025, which was adopted by voice vote. No additional amendments were offered and the bill, as amended, was ordered favorably reported to the House of Representatives on October 8, 2017, a roll call vote of 23–15, as follows:

Committee on Natural Resources
U.S. House of Representatives
114th Congress

Date: 10-08-15

Recorded Vote # 8

Meeting on / Amendment on: **On favorably reporting H.R. 974 (Rep. Cynthia Lummis), "Yellowstone and Grand Teton Paddling Act"**

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman	X			Mr. LaMalfa, CA	X		
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mrs. Dingell, MI</i>			
Mr. Young, AK	X			Mr. Denham, CA	X		
<i>Mrs. Napolitano, CA</i>		X		<i>Mr. Gallego, AZ</i>		X	
Mr. Gohmert, TX	X			Mr. Cook, CA	X		
<i>Mrs. Bordallo, Guam</i>		X		<i>Mrs. Capps, CA</i>		X	
Mr. Lamborn, CO	X			Mr. Westerman, AR	X		
<i>Mr. Costa, CA</i>	X			<i>Mr. Polis, CO</i>			
Mr. Wittman, VA	X			Mr. Graves, LA	X		
<i>Mr. Sablan, CNMI</i>		X		<i>Mr. Clay, MO</i>		X	
Mr. Fleming, LA	X			Mr. Newhouse, WA			
<i>Mrs. Tsongas, MA</i>		X		Mr. Zinke, MT	X		
Mr. McClintock, CA	X			Mr. Hice, GA	X		
<i>Mr. Peirluisi, Puerto Rico</i>		X		Ms. Radewagen, AS	X		
Mr. Thompson, PA				Mr. MacArthur, NJ	X		
<i>Mr. Huffman, CA</i>		X		Mr. Mooney, WV	X		
Mrs. Lummis, WY	X			Mr. Hardy, NV	X		
<i>Mr. Ruiz, CA</i>		X		Mr. LaHood, IL	X		
Mr. Benishek, MI							
<i>Mr. Lowenthal, CA</i>		X					
Mr. Duncan, SC	X						
<i>Mr. Cartwright, PA</i>		X					
Mr. Gosar, AZ	X						
<i>Mr. Beyer, VA</i>		X					
Mr. Labrador, ID							
<i>Mrs. Torres, CA</i>		X		TOTALS	23	15	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 974—Yellowstone and Grand Teton Paddling Act

H.R. 974 would nullify, within three years of the bill's enactment, existing regulations prohibiting hand-propelled vessels on various streams and rivers in the Yellowstone and Grand Teton National Parks as well as the John D. Rockefeller Jr. Memorial Parkway in the states of Idaho, Montana, and Wyoming. Hand propelled vehicles include canoes, kayaks, and rafts propelled by paddles. The legislation also would direct the Fish and Wildlife Service and the National Park Service (NPS) to coordinate policies allowing the use of hand-propelled vessels on waterways in those areas. Under existing regulations, NPS has prohibited boating on certain waterways within the parks. The bill would require NPS to promulgate new regulations concerning the affected streams and rivers and conduct environmental and feasibility studies.

Based on information provided by NPS, CBO estimates that implementing H.R. 974 would cost about \$4 million over the 2016–2020 period, subject to the availability of appropriated funds. Because the legislation would allow NPS to recover increased operating costs through special permits, H.R. 974 would increase collections from permit fees and associated direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that the net effect on direct spending would be insignificant in any given year. The legislation would not affect revenues.

CBO estimates that enacting H.R. 974 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2026.

H.R. 974 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Mann Burnett. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representa-

tives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, implementing H.R. 974 would cost about \$4 million over the 2016–2020 period, subject to the availability of appropriated funds. The bill would also allow the NPS to recover increased operating costs through permit fees; the net effect of this authority on direct spending would be insignificant in any given year. The legislation would not affect revenues.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to direct the Secretary of the Interior to promulgate regulations to allow the use of hand-propelled vessels on certain rivers and streams that flow in and through certain federal lands in Yellowstone National Park, Grand Teton National Park, and the John D. Rockefeller, Jr. Memorial Parkway.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman believes that this bill directs the Secretary of Interior to conduct one specific rule-making proceeding.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

DISSENTING VIEWS

H.R. 974—"YELLOWSTONE AND GRAND TETON PADDLING ACT"

H.R. 974 would require the Secretary of Interior to authorize paddling and other non-motorized boating in certain streams and rivers within Yellowstone and Grand Teton National Parks. On its face, this seems like a reasonable objective; however, the bill dictates a predetermined management outcome that jeopardizes the authority of the National Park Service (NPS) to determine when and where it is appropriate for certain recreational activities to occur. Proponents of H.R. 974 claim that it provides the NPS with ample flexibility to manage paddling on these rivers. In reality, the bill would require access for paddling, whether it is appropriate or not.

As amended, the bill lists 50 separate river segments that must be opened to recreational paddling without consideration under the National Environmental Policy Act (NEPA) or any other environmental review. While paddling is a legitimate recreational use in national parks and other federal lands—many lakes and rivers throughout Yellowstone and Grand Teton are open to paddling—decisions about recreational access must be made by professional land managers, not according to the whims of Congress or narrow special interests. NPS currently has the flexibility it needs to make management decisions about park resources.

The river segments forced open by this bill are some of the most remote and pristine in the world; they provide habitat for iconic endangered species, like grizzly bears and wolves, and are an important breeding grounds for native cutthroat trout. For example, the Lamar River, which would be open to paddling under this bill, is a popular destination for both recreational fishing and backcountry wildlife viewing. This bill would change the management of this remote and wild river, without any review or consideration of the on-the-ground resource needs, forcing a new use that may detract from the current visitor experience and possibly damage park resources. The introduction of boats could lead to conflict with wildlife and even the introduction of invasive species.

Furthermore, given that many of the river segments identified in the bill are extremely remote, far removed from population centers and medical services, safety is another major concern. Search and rescue efforts related to paddling activities authorized under this legislation could bear on management costs, diverting resources from other important priorities. According to NPS, the last two rescue efforts that occurred on river segments impacted by this bill cost Yellowstone National Park \$112,401 and \$140,756, respectively. In just the past ten years, the NPS budget has shrunk by approximately 22 percent; opening these areas to non-motorized

boating is a potential strain on an already financially stretched agency.

This bill did not receive a hearing in the 114th Congress. In advance of markup, the Committee received several letters outlining opposition to the bill from the Greater Yellowstone Coalition, American Rivers, the Montana Chapter of Trout Unlimited, and the National Parks Conservation Association.

Striking a balance between resource preservation and public access is a critical component of the park service's mission that should be left up to professional land managers. H.R. 974 threatens that authority and could lead to lasting resource damage at two of the nation's most well-known national parks. At best, this amendment is Congressional micro-managing. At worst, it is special interest legislation that could damage the special character of the very resources that these parks were established to protect. For these reasons, we strongly oppose H.R. 974.

RAÚL M. GRIJALVA,
Ranking Member,
Committee on Natural Re-
sources.

NIKI TSONGAS,
Ranking Member,
Subcommittee on Federal
Lands.

ALAN S. LOWENTHAL,
Member of Congress.

GRACE F. NAPOLITANO,
Member of Congress.

