

117TH CONGRESS  
1ST SESSION

# S. 1538

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

MAY 10, 2021

Mr. MERKLEY (for himself, Mr. WYDEN, Mr. PADILLA, and Mrs. FEINSTEIN) 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 November 14, 2019” 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

1 on the map entitled ‘Proposed Additions to the  
2 Smith River National Recreation Area’ and dated  
3 November 14, 2019, that includes inventories and  
4 assessments of streams, fens, wetlands, lakes, other  
5 water features, and associated land, plants (includ-  
6 ing Port-Orford-cedar), animals, fungi, algae, and  
7 other values, and unstable and potentially unstable  
8 aquatic habitat areas in the study area.

9 “(2) MODIFICATION OF MANAGEMENT PLANS;  
10 REPORT.—On completion of the study under para-  
11 graph (1), the Secretary shall—

12 “(A) modify any applicable management  
13 plan to fully protect the inventoried values  
14 under the study, including to implement addi-  
15 tional standards and guidelines; and

16 “(B) submit to Congress a report describ-  
17 ing the results of the study.”;

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

23 “(f) VEGETATION MANAGEMENT.—Nothing in this  
24 Act prohibits the Secretary from conducting vegetation  
25 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 November 14, 2019.”.

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-

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

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

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

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

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

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

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

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

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

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

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

1 flume 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-

1 ber 1 to the confluence with Chrome  
2 Creek, 0.82 miles upstream from the  
3 mouth of Chrome Creek in the Kalmiopsis  
4 Wilderness, flowing south from sec. 15, T.  
5 40 S., R. 11 W., Willamette Meridian, as  
6 a wild river.

7 “(xxi) The 2.19-mile segment from  
8 the headwaters of Chrome Creek tributary  
9 number 2 to the confluence with Chrome  
10 Creek, 3.33 miles upstream from the  
11 mouth of Chrome Creek in the Kalmiopsis  
12 Wilderness, flowing south from sec. 12, T.  
13 40 S., R. 11 W., Willamette Meridian, as  
14 a wild river.

15 “(xxii) The 1.27-mile segment from  
16 the headwaters of Chrome Creek tributary  
17 number 3 to the confluence with Chrome  
18 Creek, 4.28 miles upstream from the  
19 mouth of Chrome Creek in the Kalmiopsis  
20 Wilderness, flowing north from sec. 18, T.  
21 40 S., R. 10 W., Willamette Meridian, as  
22 a wild river.

23 “(xxiii) The 2.27-mile segment from  
24 the headwaters of Chrome Creek tributary  
25 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.”.

○