

CRS Report for Congress

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American Heritage Rivers

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Summary

On July 30, 1998, President Clinton designated 14 rivers as “American Heritage Rivers,” and declared that each “will receive help over the next five years tapping federal resources to carry out their plans for revitalizing their rivers and riverfronts.” The American Heritage Rivers Initiative was first proposed in the President’s February 4, 1997 State of the Union address. In the accompanying press release, the Administration stated that this initiative will deliver federal resources more effectively and efficiently to support voluntary community efforts to enhance and protect 10 rivers or river segments to be designated. It emphasized that this initiative would not involve any new regulatory requirements or federal funding. In response to this proposal, sponsors in 46 states and the District of Columbia submitted 126 nominations by the December 1997 deadline.

This initiative has been challenged by some who fear that designations could lead to greater federal intrusion into local affairs and on management of private lands. It has attracted considerable congressional interest, including oversight hearings, a legislative proposal to halt it, and language in some appropriations bills that prohibits using federal funds to implement the initiative since it has not been authorized by Congress. This report will be updated as events warrant.

Program History

President Clinton based his American Heritage Rivers Initiative on 6 principles, according to the press release that accompanied the February 4, 1997 announcement. These principles are that the initiative:

- is voluntary and will be led by local communities;
- will meet the diverse needs of different types of communities;

- will integrate federal, state, local and private expertise and resources to achieve community-identified goals;
- will make information and services accessible to all river communities;
- will encourage partnerships and investment in river communities; and
- will support efforts to improve river health and revitalize local communities.

Shortly thereafter, the Administration announced the appointment of a federal interagency task force, coordinated at the Council on Environmental Quality (CEQ), to implement the initiative. CEQ issued an implementing proposal with a request for comments on May 19 in the *Federal Register*, then reissued the request on June 20 with some clarifications and a revised schedule for implementation. The proposal was based, in part, on input gathered during 12 meetings in April and May around the country, attended by approximately 700 people. The proposal emphasized that a nomination must demonstrate broad local support for participation and include a mechanism for comment on the nomination, and that a community could terminate a designation at any time in the future. It also stated that this is a domestic program; no foreign governments or international organizations may participate.

The proposal identified the benefits of designation. Designated communities would be identified in a presidential proclamation. Each designation would be assigned a “river navigator” who would provide a single liaison for all federal resources and help to implement the community’s vision for the river. All river navigators would be federal employees and their appointment would be limited to 5 years. An interagency task force would pay particular attention to designated rivers as it works to reduce duplication and increase coordination and efficiency of federal programs. Agencies in the task force would assist designated communities with planning and technical assistance, and supply field staff and resources to support implementation. Federal agencies would commit to a “good neighbor policy” under which they would help ensure that their actions have a positive effect on local resources. The Administration would encourage the search for other opportunities to develop and expand partnerships to restore, protect and revitalize the designated rivers. In the July 30, 1998 press release accompanying the announcement of the designated rivers, the Administration summarized its view of the benefits of participation, stating that “Federal assistance could include economic development or pollution cleanup funds, and will be provided only at a community’s request.”

Nominating criteria were spelled out in the *Federal Register* notice. The proposal noted that the criteria were intended to be broad, flexible, and credible. All nominations must demonstrate:

- broad community support;
- the presence of notable resource qualities;
- the presence and expansion of local and regional partnerships;
- the inclusion of a strategy that will lead to action; and
- an ability to achieve measurable results.

More than 1,700 comments on the proposal were submitted. They were considered before the final design of the initiative was announced on September 11, 1997. The Administration responded to many of the concerns about property rights and local control by more thoroughly spelling out what the program would not be, such as a more explicit statement that private property rights would not be affected.

The materials the Administration subsequently provided to communities considering participation reflected the final design of the initiative and stated that the primary basis for evaluating nominations would be the community's plan of action and the demonstration of support for the nomination. The deadline for nominations was December 10, 1997.

Nominations, which totaled 126, were submitted from groups in 46 states and the District of Columbia. No nominations were received from Alaska, Maine, Mississippi, and Nevada. The submissions varied widely. Some sites were urban, others rural. Nominations included long segments of the largest rivers in the country, and short segments or small rivers as well. These nominations were reviewed by a panel of 12 members appointed by the Administration in April 1998. Members ranged widely in backgrounds, from local civic activists and public officials to business leaders and academics. The panel recommended 10 rivers to the President in June. The President officially announced the designated rivers in a press conference along the New River in North Carolina on July 30, 1998. The first 10 in the list below were recommended by the panel, and the final 4 were added subsequently by the Administration. The Administration's press release characterized the selected rivers as reflecting "the extraordinary diversity and splendor of America's rivers. Some flow through pristine forests, others the inner city. Although some have been largely restored, there are still those that remain polluted." The final list (and states where the river segments are located) includes:

- Connecticut River (CT, MA, NH, and VT);
- Detroit River (MI);
- Hanalei River (HI);
- Hudson River (NY);
- Upper Mississippi River (IL, IA, MN, MO, WI)--includes 58 communities between St Louis and St Paul;
- New River (NC, VA, WV);
- Potomac River (DC, MD, PA, VA, WV)
- Rio Grande (TX)--includes river portions in El Paso, Laredo, and Brownsville;
- St. Johns River (FL);
- Willamette River (OR)--between Portland and Springfield;
- Blackstone and Woonasquatucket Rivers (MA, RI);
- Cuyahoga River (OH)
- Lower Mississippi River (LA, TN)--stretches through Memphis, and from Baton Rouge to New Orleans; and
- Upper Susquehanna and Lackawanna Rivers (PA).

A representative from the CEQ stated that future nomination and designation opportunities are anticipated, although it may be some time before this process is repeated so that the initial designations can be observed and adjustments to the program can be made based on these observations.

Public Response

Sharply contrasting views have been expressed about this initiative, and are displayed in the 1,700 comments that were submitted in response to the proposal. On one side are many expressions of support, including some support for the general concept and

some support for the potential benefits that may accrue to a specific location. One measure of broad support is the 126 nominations from 46 states, each sponsored by at least one but almost always many local groups, elected officials, and others. For example, the nomination of the upper Mississippi River was reportedly sponsored by 53 mayors.

In the July 30, 1998 press release that accompanied the announcement of the designations, the Administration reported that written support for the initiative had been received from 21 governors, more than 200 Members of Congress, and 500 mayors.

Other supporters include organizations that deal with local governance and numerous environmental organizations concerned with river conservation, water pollution, or watershed management. For example, the Conference of Mayors passed a resolution of support during its June 1997 annual meeting, and American Rivers and the National Trust for Historic Preservation released a letter of support signed by 220 member groups before a September 24, 1997 House Resources Committee hearing. Just as this initiative appears to be able to take many forms, so too do the reasons behind the support.

On the other side are expressions of opposition from individuals and organizations who fear that this initiative is a new effort to enable the federal government to infringe on the prerogatives of local government and on the rights of private property owners to manage the use of their land. Perhaps the most visible opposition has come from a Texas-based organization, Liberty Matters, and from some state chapters of the American Farm Bureau Federation. Concern is also raised when general suspicions by those skeptical about more government programs are combined with what critics view as vague and undefined descriptions of what will actually occur in designated places. Many of the groups speaking in opposition fear the potential for the federal agencies to go beyond the stated objectives of the program or for initially voluntary processes to become mandatory. Some have cited the presidential use of the Antiquities Act of 1906 to establish the Grand Staircase-Escalante National Monument in southern Utah during the 1996 election campaign as an example of federal high-handedness that has fueled suspicion, resentment, and a determination not to be bypassed again.

Congressional Response

Some Members of Congress have expressed opposition to this initiative in several ways. At a July 15, 1997 House Resources Committee hearing to learn more about how the Administration justified and defined this initiative, views were largely split along party lines, with Democrats generally in support and Republicans in opposition.

Four members (Representatives Chenoweth of Idaho, Young of Alaska, Pombo of California, and Schaffer of Colorado) filed a lawsuit in December to halt implementation. The Mountain States Legal Foundation is representing the Members in this suit. The basis of the suit is that the initiative violates the separation of powers between the Congress and the executive branch because the Administration is implementing a program that has not been authorized by Congress. The lawsuit also argues that this initiative will allow the federal government to become involved with the control of local land use planning and zoning, which are reserved to the states under the Constitution. The U.S. District Court for the District of Columbia has requested more information before proceeding with the case.

Legislation to halt funding for this initiative was considered both in free-standing legislation and within various FY1998 and FY1999 appropriations bills. A bill sponsored by Representative Chenoweth (H.R. 1842) that would eliminate funding passed a House Resources Subcommittee on October 22, 1997, and the full Committee on November 5, 1997. The bill has about 50 cosponsors. The most recent hearing on this initiative was held by the Forests and Forest Health Subcommittee of the House Resources Committee on June 9, 1998. Testimony was offered at this hearing by representatives from rural communities.

At a September 22, 1997 House Resources Committee hearing, CEQ Chair Kathleen McGinty asked any Members who did not want the Administration to consider designating rivers nominated in their districts or states to contact her. More than two dozen Members reportedly responded to her call, and close to two dozen nominations were not considered as a result. Included in this group are the entire Idaho congressional delegation, eight Members from Texas, and Members primarily from other western states. But this does not seem to be a partisan question, as a number of Republicans in the east, including Senator D'Amato of New York and Representative Nancy Johnson of Connecticut supported nominations in their states or districts. At least one nomination, the Willamette River in Oregon, was chosen even though one member of the delegation, Senator Gordon Smith, objected. But since Senator Ron Wyden and the affected Representatives supported the nomination, CEQ decided to continue to consider it.¹

An amendment offered by Senator Tim Hutchinson to block funding for the initiative during Senate consideration of FY1998 Interior Appropriations was defeated when Senators voted, 57-42, to table the amendment. In the House, FY1998 Agriculture Appropriations, as reported by the committee, included language that prohibited funds for unauthorized initiatives such as this one, until the appropriations committees of both Chambers are notified of justifications and proposals for reprogramming of funds. Language making this point was included in §727 of the general provisions of P.L. 105-86, the FY1998 Agriculture Appropriations. Neither the initiative nor CEQ were mentioned by name, but the Department of Agriculture was to be an important participant in implementation of the American Heritage Rivers Program. Support for the initiative reportedly proceeded after the required notification to the appropriations committees was provided. Similar language is being considered in the FY1999 appropriations for some of the key federal agencies that would be involved in implementing this program.

For More Information

A home page maintained by the Administration to provide more information about the American Heritage Rivers Initiative is available at:

[<http://www.epa.gov/rivers>]

¹ The support for the initiative by some northeastern Republicans was reported in a May, 9, 1998 article in the **National Journal**, titled *A choppy start for heritage rivers*, and the debate over inclusion of the Willamette River was reported in the June 23, 1998 issue of the **Land Letter**, a publication of the Environment and Energy Study Institute.