

House Subcommittee on Water, Power and Oceans
John Fleming, Chairman
Hearing Memo

July 21, 2015

To: House Subcommittee on Water, Power and Oceans

From: Water, Power and Oceans Subcommittee Republican Staff (x58331)

Subject: Legislative Hearing on H.R. 1772 (Carney D-DE) a bill *“To direct the Secretary of the Interior to establish a nonregulatory program to build on and help coordinate funding for restoration and protection efforts of the 4-State Delaware River Basin region, and for other purposes.”*

Hearing Overview:

On **July 23, 2015 at 10:00 a.m.** in 1334 Longworth, the House Water, Power and Oceans Subcommittee will hold a legislative hearing on H.R. 1772 (Carney), a bill establishing the Delaware River Basin Restoration Program and an associated grant program.

Bill Summary:

H.R. 1772 directs the Secretary of the Interior (Secretary) to establish the Delaware River Basin Restoration Program to draw on new and existing management plans for the same basin. The bill also establishes a federal grant program available to State and local governments, nonprofits, institutes of higher education, and other eligible entities. The bill also requires the Secretary to consult with outside groups and potentially eligible entities when developing criteria for the grant program.

Cosponsors:

Reps. Brendan Boyle (D-PA), Robert Brady (D-PA), Matt Cartwright (D-PA), Ryan Costello (R-PA), Charles Dent (R-PA), Chaka Fattah (D-PA), Michael Fitzpatrick (R-PA), Rodney Frelinghuysen (R-NJ), Christopher Gibson (R-NY), Leonard Lance (R-NJ), Frank LoBiondo (R-NJ), Thomas MacArthur (R-NJ), Sean Patrick Maloney (D-NY), Patrick Meehan (R-PA), Donald Norcross (D-NJ), Christopher Smith (R-NJ), Bonnie Watson Coleman (D-NJ).

Background:

The Delaware River Basin contains 13,539 square miles in the states of Delaware, New Jersey, New York, and Pennsylvania.¹ Pursuant to P.L. 87-328, these four states have entered into a compact establishing the Delaware River Basin Commission (Commission), which includes the Governors of each of the four states and a federal representative nominated by the President.² Aside from the five primary members, 39 full-time employees help carry out the Commission's directives.³ Commission programs include water quality protection, regulatory review, water conservation initiatives, and watershed planning, among others.⁴

The Commission receives most of its funding from signatory parties, including the United States. To date, notwithstanding federal grant awards, the Commission has received more than \$9.3 million in federally appropriated funding.⁵ The Commission also receives funding from project review fees, water use changes, fines, as well as existing federal, state, and private grants.⁶ The Commission received a total of \$783,647 in federal grants in its Fiscal Year 2014.⁷

According to former Executive Director Carol Collier, the greatest value to the Commission is: "that it serves as the coordinator of holistic watershed management and provides a forum to adapt policies and management strategies as issues change."⁸

H.R. 1772 indicates by its title that its main purpose is to "coordinate funding for restoration and protection efforts" of the river basin, specifically creating the Delaware River Basin Restoration Program. The U.S. Fish and Wildlife Service (FWS) would implement the program. The bill instructs the Secretary (through FWS) to enter into an agreement with the National Fish and Wildlife Foundation (NFWF) or "a similar entity" to administer a grant program. NFWF, currently unauthorized, is a congressionally created foundation that administers conservation grants and relies on federal



Figure 1: Delaware River Basin.
Source: www.state.nj.us

¹ <http://www.state.nj.us/drbc/basin/>

² [Public Law 87-328.](#)

³ [American Water Resources Association: *Water Resources Impact*, Vol. 16, Number 5, September 2014.](#)

⁴ <http://www.state.nj.us/drbc/about/>

⁵ <http://www.state.nj.us/drbc/library/documents/ContributionHistoryJan2015.pdf>

⁶ <http://www.state.nj.us/drbc/about/>

⁷ [Delaware River Basin Commission – Financial Statements with Independent Auditors’ Report and Reports on Internal Control and Compliance, Year Ended June 30, 2014, p. 65.](#)

⁸ [Submitted testimony of Executive Director Carol Collier, Delaware River Basin Commission, to the House Committee on Transportation and Infrastructure, June 24, 2008.](#)

appropriations for part of its operating budget – receiving \$7 million⁹ from FWS and \$3 million¹⁰ from the Bureau of Land Management in Fiscal Year 2015.

Supporters of the bill, including a former biologist of the New Jersey Department of Environmental Protection, Mr. Larry Niles, have argued that FWS's involvement would "raise the standard of conservation work" in the Basin and that the agency "is now the last hope for wildlife and conservation in many parts of the country."¹¹ Mr. Niles has argued that many state environment agencies are controlled by groups such as farmers or hunters but that FWS runs a conservation-led policy. "To have the federal government create an infrastructure for the management and coordination of conservation would be the best thing that could happen for the Delaware Bay," Niles said.¹²

A press release from eleven organizations supporting the bill stated: "The bill would bring additional resources to the entire Basin; the Delaware watershed has historically received comparatively little federal attention despite being home to more than 8 million people and providing drinking water, recreation, and \$22 billion in annual economic benefit to nearly 16 million."¹³

Bill detractors, on the other hand, believe that the bill is a federal "power grab."¹⁴ In a response to last Congress's bill, a commentator in the Marcellus Drilling News stated: "[T]he feds want to trample over the states and take over the Delaware River Basin, which means there never will be any shale drilling in places like Wayne County, PA which happens to sit in the basin. It's a horrible bill—a federal power grab—and it needs to be opposed. Vigorously."¹⁵

Major Provisions/Analysis of H.R. 1772:

Section 4 of the bill directs the Secretary of the Interior, in cooperation with the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the Natural Resources Conservation Service, and the Army Corps of Engineers, Governors of the Basin States, and "fish and wildlife joint venture partnerships," among others, to establish the non-regulatory Delaware River Basin Restoration Program. The purpose of this program would be to draw on existing and new management plans for the Basin while also working in consultation with applicable entities such as the Partnership for the Delaware Estuary and the Delaware River Basin Commission to identify, prioritize and implement restoration and protection activities within the Basin.

⁹ [Department of the Interior – Fiscal Year 2016 Fish and Wildlife Service Budget Justification, p. GO-9.](#)

¹⁰ [Department of the Interior – Fiscal Year 2016 Bureau of Land Management Budget Justification, p. VII-1.](#)

¹¹ <http://www.njspolight.com/stories/15/02/08/delaware-river-advocates-seek-support-for-revived-federal-bill/>

¹² Id

¹³ [Delaware Riverkeeper Network Press Release "Delaware River Protection Legislation Introduced by Federal Lawmakers," June 23, 2011](#)

¹⁴ <http://marcellusdrilling.com/2014/05/feds-attempt-a-power-grab-of-delaware-river-basin/>

¹⁵ Id

Section 5 establishes the Delaware River Basin Restoration Grant Program. Grants under this new program would be available to State and local governments, nonprofit organizations, institutions of higher education, and “other eligible entities” which are not defined in the bill. This section directs the Secretary to work in consultation with the heads of specific Federal agencies, Governors of Basin States, “fish and wildlife joint venture partnerships,” and “other public agencies and organizations” to create criteria for the grant program. This Section also authorizes the Secretary to enter into an agreement with the National Fish and Wildlife Foundation or a “similar organization” to administer the grant program. If an agreement is made, the Secretary would be required to administer administrative costs to the organization in advanced payments for the entire cost of that fiscal year. The Federal share of the grant program is 50 percent.

Section 6 instructs the Secretary to submit an annual report to Congress on implementation of the act, including description of projects that have received funding under the act.

Section 7 authorizes annual appropriations of \$5 million for each of Fiscal Years 2016 through 2021. This section also requires that 75 percent of funds appropriated shall be used to carry out the Delaware River Basin Restoration Grant Program.

Cost:

The Congressional Budget Office (CBO) has yet to complete a cost assessment of the bill. However, CBO estimated that a similar bill (S. 1266) in the 111th Congress would cost \$30 million in discretionary funding.¹⁶

Administration Position:

Unknown.

Witnesses:

Mr. Collin O'Mara
President and CEO
National Wildlife Federation
Merrifield, Virginia

Ms. Wendi Weber
Northeast Regional Director
U.S. Fish and Wildlife Service
Hadley, Massachusetts

¹⁶ [Congressional Budget Office Cost Estimate of S. 1266, December 20, 2011.](#)