



# Albemarle County

## Legislation Text

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**File #:** 22-105, **Version:** 1

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**AGENDA DATE:** 1/12/2022

**TITLE:**

Resolution for Scenic River Designation for the James River

**SUBJECT/PROPOSAL/REQUEST:** Adopt a resolution to support extending the State Scenic River designation for the James River to include the remaining portion within Albemarle County, from the Nelson County line at Howardsville to one mile upstream of the Warren boat ramp.

**ITEM TYPE:** Consent Action Item

**STAFF CONTACT(S):** Richardson, Walker, Kamptner, Herrick, Filardo, McCulley, Rapp, Maliszewski, Biasioli

**PRESENTER (S):** N/A

**LEGAL REVIEW:** Yes

**REVIEWED BY:** Jeffrey B. Richardson

**BACKGROUND:** In 2019, the County of Albemarle and the Town of Scottsville, together with the Counties of Buckingham, Fluvanna, and Nelson, requested that the Department of Conservation and Recreation (DCR) study whether the James River from Allen's Creek to Columbia qualified for designation as a State Scenic River. In October 2019, the DCR completed its study from one mile upstream of the Warren boat ramp running approximately 20 miles to New Canton and concluded that that section was eligible for designation.

Attachment A is the County's letter of request to DCR and Attachment B is DCR's 2019 James Scenic River Report (updated in April 2020), which includes this study of eligibility, as well as a description of the process in making the determination and impacts of a designation.

Following DCR's initial study, on January 15, 2020, the Board adopted a resolution to support State Scenic River designation for the Warren-New Canton section, approximately seven miles of which is located in Albemarle County. The 2020 Virginia General Assembly added the Warren-New Canton section to the James State Scenic River.

In September of 2020, the DCR completed its study of the remaining River sections and determined that two remaining sections also qualify for designation. A letter from the DCR confirming this qualification is provided as Attachment C. The two new sections, combined with the original 20 miles, would create a total of 65 miles of the Middle James River, from Allen's Creek to Columbia, qualified for designation as a Scenic River. Attachment D is a 2021 DCR memo confirming these findings and recommending designation. A map showing the full 65 miles is provided as Attachment E.

**STRATEGIC PLAN:** Rural Area Character - Preserve the character of rural life with thriving farms and forests, traditional crossroad communities, and protected scenic areas, historic sites, and biodiversity.

**DISCUSSION:** The next step would be for the Board to adopt a resolution of support to extend the designation to include the remaining portion of the James River in Albemarle County. If the resolution were adopted, upon the recommendation of the DCR Director, the DCR would then request that the General Assembly adopt legislation to make that designation in the 2022 session. The Board may (but is not required to) hold a public hearing on the proposed designation.

The designation of a river as “scenic” by the General Assembly is governed by the “State Scenic Rivers Act” (Virginia Code Section 10.1-400 *et seq.*). The only applicable limitation contained in the enabling legislation is as follows: *After designation of any river or section of river as a scenic river by the General Assembly, no dam or other structure impeding the natural flow thereof shall be constructed, operated or maintained in such river or section of the river unless specifically authorized by an act of the General Assembly.* (Virginia Code § 10.1-407(B))

DCR staff has clarified that bridges are typically not considered structures that would “impede the natural flow,” with the possible exception of unique “bridge” structures such as low level/water level bridges or constructed fords. DCR staff advised that while the Scenic River status would not prevent a road or pedestrian crossing from being constructed, if Federal or State funds were used for the construction of such a project, an emphasis would be placed on the aesthetic design of the crossing to be in harmony with the scenic status of the river. Projects might be expected to use design features such as see-through guardrails and other features that would provide easy visual access to the river.

The following summarizes the impact of a designation:

- A designation does not impose any restrictions on private property.
- The only legislative prohibition of Scenic River designation is that no dam or other structure “impeding the natural flow” shall be constructed without General Assembly authorization.
- A designation does NOT give the public any right to use privately owned land.
- In general, designation is intended to recognize the scenic, natural, and historic values of the river and encourage present and future owners to continue to exercise good stewardship of the land and resources along the river. It informs County officials about the special attributes of the river, so that they can work with landowners to protect them.

Because a designation would not establish any new restrictions on private properties (except restrictions on the construction of dams or other structures impeding the flow of the river), staff does not believe a public hearing is necessary to support this designation. The intent of the designation is consistent with the County’s Comprehensive Plan goals to protect natural, cultural, and historic resources and to designate eligible streams for Scenic River designation. A resolution recommending Scenic River designation for Albemarle County’s section of the James River is attached (Attachment F).

**BUDGET IMPACT:** There is no direct budget impact from establishing the Scenic River designation. The designation would provide opportunities for grants related to enhancing and protecting this section of the river.

**RECOMMENDATION:**

Staff recommends the Board adopt the resolution (Attachment F) supporting State Scenic River designation for the entire James River in Albemarle County, including the approximately 4.5 currently undesignated miles from the Nelson County line at Howardsville to one mile upstream of the Warren boat ramp.

**ATTACHMENTS:**

- A - Letter from County Executive to DCR of August 8, 2019
- B - James Scenic River Report
- C - DCR Letter of October 6, 2020
- D - DCR Middle James River Scenic River Designation Memo

E - Map of Designated and Proposed Sections of the Middle James River  
F - Resolution