



# Albemarle County

## Legislation Text

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**File #:** 20-152, **Version:** 1

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**AGENDA DATE:** 1/15/2020

**TITLE:**

Resolution for Scenic River Designation for James River

**SUBJECT/PROPOSAL/REQUEST:** Adopt resolution supporting State Scenic River designation for the James River from the Town of Scottsville to the boat launch one mile upstream of Warren

**ITEM TYPE:** Consent Information Item

**STAFF CONTACT(S):** Richardson, Henry, Kamptner, DeLoria, Crickenberger, Mahon

**PRESENTER:** NA

**LEGAL REVIEW:** Yes

**REVIEWED BY:** Jeffrey B. Richardson

**BACKGROUND:** At the request of the County of Albemarle and the Town of Scottsville, the Department of Conservation and Recreation (DCR) conducted an evaluation of the James River from the Town of Scottsville to the boat launch one mile upstream of Warren. The evaluation criteria for Scenic River designation include stream corridor vegetation; streambed and stream flow modifications; human development of visual corridor; historic features; landscape; quality of fishery; rare, threatened or endangered species; water quality; parallel roads; crossings; and special features affecting aesthetics.

Attachment A is the 2019 James Scenic River Report with information from DCR describing the process in making the determination and includes the impacts of a Scenic Stream designation. The next step in the designation process would be for the Board of Supervisors to adopt a resolution supporting the designation. If the resolution is adopted, the County, upon the recommendation of the Director, DCR would then request the General Assembly adopt legislation to make a formal designation in the 2020 session.

The Board may hold a public hearing on the proposed designation, but a public hearing is not required.

This request began as a larger community effort involving Buckingham County, Fluvanna County, and the Town of Scottsville joining to represent a portion of the river designated as the Middle James. Attachment B is the DCR's qualification letter.

**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 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.* DCR staff have clarified that bridges are typically not considered a structure that would "impede the

natural flow,” with the possible exception of unique “bridge” structures such as a low level/water level bridge or a constructed ford. 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, there would be an emphasis 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 guardrail and other features that provide easy visual access to the river.

The following summarizes the impact of the designation:

- The 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.
- It 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 to encourage present and future owners to continue to exercise good stewardship of the land and resources along the river. It also informs County officials about the special attributes of the river, so that they can work with landowners to protect those attributes.

Since the designation does 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 C).

**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 attached resolution (attachment C) supporting State Scenic River designation for the James River from the Town of Scottsville to the boat launch one mile above Warren.

**ATTACHMENTS:**

- A - James Scenic River Report
- B - DCR Letter
- C - Resolution