

**Statement of
Ned Farquhar
Deputy Assistant Secretary
Land and Minerals Management
Department of the Interior
House Natural Resources Committee
Subcommittee on Public Lands and Environmental Regulations
H.R. 934, Lower Merced Wild and Scenic River Amendment
April 18, 2013**

Thank you for inviting me to testify on H.R. 934, a bill amending the Wild and Scenic Rivers Act to reduce the length of the Merced River which is designated as a component of the National Wild and Scenic Rivers System, while increasing the allowed level of Lake McClure in central California. H.R. 934 would, for the first time in the system's history, de-designate a segment of river previously designated by Congress. The Wild and Scenic Rivers Act prohibits the Federal Energy Regulatory Agency (FERC) from licensing any project works "on or directly affecting any river which is designated" under that Act. H.R. 934 would remove the "Wild and Scenic River" designation of this segment of the Merced River and would enable the FERC to consider the relicensing of FERC hydroelectric project No. 2179 on this newly de-designated segment. The Department of the Interior believes this action would deprive the public of the opportunity to evaluate the potential loss of the wild and scenic values previously accorded to the River and opposes H.R. 934.

Background

Section 1 of the 1968 Wild and Scenic Rivers Act (Public Law 90-542) sets forth Congress' vision for management of the Nation's rivers:

"It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or section thereof in their free-flowing condition to protect the water quality for such rivers and to fulfill other vital national conservation purposes."

From its headwaters in the snow-fed streams of the Yosemite National Park high country, the Merced plunges thousands of feet through boulder lined canyons before emptying into Lake McClure. Over 122 miles of the Merced River in central California have been designated by Congress as components of the National Wild and Scenic River System.

In 1992, Public Law 102-432, extended the previously designated Merced Wild and Scenic River by an additional eight miles to the 867 feet spillover level of Lake McClure. The Bureau of Land Management (BLM) manages the upper five miles as a recreational river and the lower three miles as a wild river. Under the provisions of P.L. 102-432, the level of Lake McClure may not exceed an elevation of 867 feet above mean sea level, a level intended to balance water and power needs

of the local community with protection of the outstanding remarkable values of the lower Merced River.

The lower Merced River is noted for having some of the most outstanding scenery and whitewater boating opportunities in California and the nation. Every summer over 10,000 whitewater enthusiasts test their skills on the river. The BLM currently permits 9 commercial businesses, which guide most of these recreationists on this section of the Merced River.

The communities of Mariposa and El Portal benefit from these whitewater boaters who contribute to the local tourism economies. Boaters generate important economic activity during the traditionally lower visitation times of spring and early summer, expanding the length of the Yosemite region tourism season. This river-dependent tourism provides a greater level of economic and employment stability for these communities.

H.R. 934

The full implications of H.R. 934 are not clear, but the potential impacts from inundation could be substantial to both natural resources and local economies. H.R. 934 would reduce the current designated segment of river from 8 miles to 7.4 miles and allow an increase in the water surface level of Lake McClure from 867 feet mean sea level to the current Federal Energy Regulatory Commission (FERC) project boundary at 879 feet. The increase in the size of the reservoir would result in approximately six-tenths of a mile of inundation

Before the Committee takes action on the legislation, the BLM recommends that the impacts of de-designation and inundation to the values of the Merced River that BLM manages as part of the Wild and Scenic River System be fully analyzed including an opportunity for public comment.

Among the potential resource implications of this inundation are habitat loss and a finding of taking for the limestone salamander (a California designated Fully Protected Species) and habitat loss for the elderberry longhorn beetle (a federally listed threatened species under the Endangered Species Act). Portions of the BLM Limestone Salamander Area of Critical Environmental Concern and the BLM Bagby Serpentine Area of Critical Environmental Concern would be flooded where the species has been found in recent studies. Inundation would also include the destruction of thousands of individual BLM sensitive listed plants and their seed banks. Habitat for the foothill yellow-legged frog, a BLM sensitive species, would be inundated from reservoir levels backing up and into the Sherlock Creek drainage. Impacts would also include loss of riparian vegetation and degradation of the scenic values of the corridor. Additionally, significant cultural and historic resources in the area, including the remains of the Yosemite Valley Railroad and historic gold- mining sites would be degraded.

A variety of recreation activities within the river corridor could also be impacted by the legislation. For whitewater boaters, inundation would add another six tenths of a mile to an already arduous paddle across flat water to an alternate take-out. In addition to boaters, the canyon is becoming increasingly utilized as a recreational destination for hikers, mountain bikers, and equestrian riders who could be displaced by a likely inundation of five miles of the existing Merced River trail.

H.R. 934 would, for the first time, weaken the Wild and Scenic Rivers Act by de-designating a

segment of a river and allowing for the inundation of portions of the remaining Wild and Scenic River, and could set a troublesome precedent. Such an unprecedented action would result in a wild river segment becoming more like a lake than a river and could compromise the integrity of the Wild and Scenic River System, the purpose of which is to preserve rivers in their “free-flowing condition.”

Conclusion

Before further action is taken on H.R. 934, the BLM recommends that all of these implications of de-designation of a portion of the Lower Merced and changes to the level of Lake McClure be more fully explored. The Department believes the values for which Congress initially designated the Merced Wild and Scenic River should not be sacrificed without a full analysis.

Thank you for the opportunity to testify