

TESTIMONY OF AMERICAN WHITEWATER

UNITED STATES HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE
SUBCOMMITTEE ON NATIONAL PARKS, FOREST AND PUBLIC LANDS
ROB BISHOP, CHAIRMAN

HEARING ON H.R. 2578
PROPOSED AMENDMENTS TO THE WILD AND SCENIC RIVERS ACT

JULY 26, 2011

Mr. Chairman and members of the Subcommittee on National Parks, Forest and Public Lands:

American Whitewater is a non-profit, 501(c)(3) organization devoted to protecting and restoring America's whitewater resources and to enhancing the public's ability to enjoy them safely. American Whitewater is a membership organization with over 5,000 members and 100 affiliate clubs nationwide. Our organization represents thousands of river enthusiasts who enjoy human-powered river recreation on our nation's public waters. Our staff and members spend much of their free time enjoying Wild and Scenic Rivers throughout the country, including the Wild and Scenic Merced River in California.

In 1968, Congress passed the Wild and Scenic Rivers Act, saying "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."¹ (emphasis added)

HR 2578 (and similar bill HR 869) allows for the expansion of Lake McClure and inundation of a segment of the currently protected free-flowing Merced River, which is a river of national and local significance. This action is in fundamental conflict with the purposes of the Wild and Scenic Rivers Act, which protects the values of free flowing rivers for current and future generations. Never before has Congress rolled back Wild and Scenic River protections to put a reservoir in a designated reach. If passed, HR 2578 would set a new and unacceptable precedent that a Wild and Scenic designation is a temporary protection that can be changed at any time.

¹ 16 U.S.C. § 1271

As part of the original Wild and Scenic designation of the Merced River from 1987 to 1992, accommodations were made for Merced Irrigation District (MID) to secure its support for the legislation. MID was concerned that designation of the Merced River above Lake McClure might affect their operations of the New Exchequer Project. Section 3 was added, making clear that designation of the river as a component of the Wild and Scenic Rivers System would not affect the continued operation and maintenance of the project, but it also explicitly stated Congress' intent that "the normal maximum operating pool water surface level...shall not exceed elevation 867.0 mean sea level."²

For more than 20 years, this agreement has balanced protection of the Merced River with operation of MID's hydropower project. Stripping long-accepted environmental protections for a portion of the Merced National Wild and Scenic River would set a disconcerting precedent for our nation's Wild and Scenic Rivers system.

If passed, HR 2578 would also establish a practice of using FERC project boundaries as the main factor for determining the boundary between a reservoir and a Wild and Scenic River. As seen throughout the Act, the intent of Congress has been to use the boundary of the reservoir itself. We do not support efforts to change this practice on the Merced or any of the other Wild and Scenic Rivers that flow into FERC reservoirs. This practice would place the authority of designating the boundary of a Wild and Scenic River in the hands of FERC, as FERC can change the boundary of a project without Congressional approval. The decision-making authority regarding the boundary of Wild and Scenic Rivers should remain in the hands of Congress.

American Whitewater has an interest in the protection of Wild and Scenic Rivers for several reasons:

- Wild and Scenic Rivers provide high quality recreational opportunities: High quality opportunities for human-powered recreation on our nation's waterways have been severely limited by the construction of dams, reservoirs, and diversions. The National Wild and Scenic River System was established to counterbalance our nation's policy of dam building and protect the free flowing condition of selected rivers, and provides reliable recreation opportunities for all to enjoy. If HR 2578 passes, these outstanding recreation areas will be threatened by future potential development that will ruin the special qualities of the waterways enjoyed by our members.
- Wild and Scenic Rivers are important for quality of life: The quality of Wild and Scenic Rivers and the superb scenic, recreational, geologic, fish and wildlife, historic, cultural and other similar values they protect significantly add to high quality of life for communities in proximity to them. These waterways provide

² P.L. 102-432 October 23, 1992

solitude and unparalleled opportunities to engage in activities that refresh the soul and body, and reinvigorate the mind. This is an important consideration across the nation - these waterways are found in 39 states and Puerto Rico.

- Wild and Scenic River designation provides economic certainty: The certainty of protection afforded by a National Wild and Scenic River also creates regulatory certainty in the business environment. For example, raft and fish guiding companies draw valuable economic stimulus to local economies, and rely on free flowing and healthy rivers for their businesses to thrive. Those near Wild and Scenic Rivers have the assurance that their economic livelihood will be available well into the future. The Merced Wild & Scenic River has certainly been important to tourism businesses around Yosemite National Park.

Congress did not create the National Wild and Scenic River System as a national reserve for future reservoirs but as a system to protect living free-flowing rivers for posterity. Since the creation of the system, the United States Congress has never removed the protections from dams and impoundments so central to the Act from a previously designated National Wild and Scenic River. It should not do so now. We urge you to oppose HR 2578.

Thank you for your consideration.