

Dangerous precedent?

Environmental groups say removing Wild and Scenic status from a section of the Merced River would be an alarming first

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SAN ANDREAS - If dozens of California environmental groups are correct, then what happens to a small, half-mile section of the Merced River near McClure Lake Reservoir could be an omen of things to come for many other rivers.

Merced Irrigation District wants to raise the level of McClure by 10 feet. That would inundate a small stretch of the Merced, which is currently protected from such development under the Wild and Scenic Rivers Act.



With Half Dome in the distance, the Merced River meanders through the Yosemite Valley. Congressman Jeff Denham, R-Turlock, wants the Merced's Wild and Scenic River boundary moved so McClure Lake Reservoir's level can be raised.

Michael McCollum/The Record

Congressman Jeff Denham, R-Turlock, wrote a bill that would make that possible by adjusting the Wild and Scenic River boundary on the Merced, moving it a half-mile upstream. That bill passed the House of Representatives in June.

The Senate hasn't acted on it yet. Meanwhile, Senators are hearing from alarmed conservationists who say it would be the first time Wild and Scenic status had been revoked for a section of river and that it could set a precedent for removing other rivers from protection.

Denham disagrees. He has said repeatedly during deliberations in Congress that it won't set a precedent and that it is entirely reasonable for Congress to adjust the boundaries it has set for Wild and Scenic rivers.

"We should be able to adjust those boundaries, especially if it serves the greater good," Denham said when he introduced the measure.

Denham said that he believes allowing Merced Irrigation District to store and use an additional 70,000 acre feet of water a year would create 840 jobs. He calls critics of his proposal "extremists that are willing to ignore putting people back to work."

But Denham has also said that environmental restrictions are preventing many other worthy California projects from proceeding.

"We need many more projects like this," he said of the McClure Lake Reservoir plan.

That's what worries conservationists.

On Dec. 5, representatives of dozens of California environmental organizations, river-advocacy groups, tribes and businesses sent a letter to Sen. Jeff Bingaman, D-New Mexico, chairman of the Senate Committee on Energy and Natural Resources. That letter urged Bingaman to oppose any effort to remove Wild and Scenic Protection from even a small part of the Merced. Denham's bill is pending in Bingaman's committee.

Signers of that letter include Katherine Evatt, president of the Foothill Conservancy, which has long sought to win Wild and Scenic protection for the Mokelumne River, and George Wendt, founder of the Angels Camp-based company Outdoor Adventure River Specialists.

"This would be the first time a designation has been reversed. Of course this is a very big thing. This is why people are so upset about it. We see it as a very bad precedent," Evatt said.

But the possibility that Congress may from time to time remove rivers from protection does not mean that Foothill Conservancy will abandon its effort to get Wild and Scenic status for the Mokelumne.

"Right now we are going to continue to pursue the designation because it is the best way, of any way we have today in law, to protect the river in perpetuity," Evatt said.

Many of those signing the recent letter represent groups such as North Coast Rivers Alliance and Friends of the Eel River that focus on rivers on the north coast of California that currently enjoy Wild and Scenic protection.

Ron Stork, policy director for Friends of the River, said the north coast groups are worried because there simply isn't enough unallocated water in inland California to feed the enormous cross-Delta conveyance proposed to ship water to Southern California.

Stork says that logically, it would appear that at some point water agencies will try to remove the north coast rivers from protection, build reservoirs, and blast tunnels to allow that water to flow into the Central Valley.

"If permanent protection doesn't mean permanent protection anymore, then at least the first part of that problem is solved," Stork said.

Stork and other conservationists believe that California Senator Diane Feinstein plans to write legislation to remove part of the Merced from Wild and Scenic protection.

Feinstein's press office had not responded by Monday to a telephone message left Dec. 20. In June, Feinstein had said during a media interview that she favors raising McClure but that the proposal needs more environmental study.

Denham, meanwhile, remains the measure's most visible advocate. He notes that even with the half-mile section removed from protection, there will still be 122 miles of the Merced, which flows out of Yosemite National Park, that have full protection.

"To not adjust the boundary because it has never been done before is inadequate justification," Denham said.

Evatt, in contrast, says there is good reason why never before has there been a serious effort to roll back the protected status of a wild and scenic river.

"It is every bit as monumental an act as taking part of Yosemite National Park out of the National Park," Evatt said. "There are wild and scenic rivers all over the United States that were intended to be protected in perpetuity."

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