

Chapter 7. Public Review, Alternatives, and Recommendation

7.1 Public Review

7.1.1 Administrative Draft Report

Key stakeholders have been involved during development of the administrative Draft Report given their level of interest. An administrative Draft Report was provided to the following key stakeholders on January 22, 2018 for review and informal comment:

- Amador Water Agency
- Calaveras County Public Utility District
- Calaveras County Water District
- Foothill Conservancy
- Friends of the River
- Jackson Valley Irrigation District

Meetings and phone calls were held individually with each stakeholder group to discuss and receive input on the administrative Draft Report.

7.1.2 Draft Report and Public Meetings

CNRA carefully considered input received on the administrative Draft Report and prepared the Draft Report. On January 26, 2018, CNRA took the following steps to notify the public and stakeholders of the availability of the Draft Report for a 34-day comment period ending February 28, 2018 and the Mokelumne Hill public meeting on February 15, 2018:

- CNRA issued a media advisory;
- CNRA sent an email alert to all stakeholders and individuals that have shown an interest in this study (see Appendix F-2, “Stakeholder Mailing List”); and
- CNRA posted an announcement in the Calaveras Enterprise, Ledger Dispatch, and Sacramento Bee.

On February 21, 2018, CNRA announced a second public meeting in Oakland on February 26, 2018 and extended the comment period to March 9, 2018. CNRA sent an email alert to all stakeholders and individuals shown in Appendix F-2, “Stakeholder Mailing List,” and posted an announcement in the San Francisco Chronicle, Oakland Tribune, and Alameda Times-Star.

The Mokelumne Hill public meeting was attended by about 100 people. The Oakland public meeting was attended by about 20 people. A large majority of attendees and comments on the Draft Report were in favor of including the five segments into the California Wild & Scenic River System, but several commenters in Mokelumne Hill were against designation or had specific concerns.

Out of the 1,646 comments received, CNRA received letters from the following organizations providing written comments and taking a position on designation:

- Amador County Board of Supervisors (noncommittal but supports special provisions)
- Amador Water Agency (can support designation with acceptable special provisions)
- American Whitewater (supports designation)
- Calaveras County Public Utility District (can support designation with acceptable special provisions)
- Calaveras County Republican Party (does not support designation as presented in Draft Report)
- Calaveras County Water District (can support designation with acceptable special provisions)
- Calaveras Planning Coalition (supports designation)
- California Wildlife Foundation/California Oaks (supports designation)
- Central Sierra Environmental Resource Center (supports designation)
- East Bay Municipal Utility District (supports designation)
- Foothill Conservancy (supports designation)
- Friends of the River (supports designation)
- Great Old Broads for Wilderness (supports designation)
- Jackson Valley Irrigation District (can support designation with acceptable special provisions)
- Pacific Gas and Electric Company (cannot support designation without acceptable special provisions)
- Trout Unlimited (supports designation)

Woodbridge Irrigation District provided a letter with factual corrections. The remaining 1,629 letters were received from individuals around the State. A large majority of these letters supported designation and provided similar input and reasons for support, though hundreds of letters provided unique input in support of designation. Approximately 15 letters provided unique input opposing designation.

CNRA has made factual corrections and minor edits in this Final Report as necessary to address comments received on the Draft Report. Furthermore, CNRA has made adjustments in this Final Report to address written and verbal comments on key issues in the Draft Report as follows:

- Special provisions must protect local county and water agency interests (existing and future infrastructure, water rights, and water supplies), but must be balanced with key provisions of the California Wild and Scenic Rivers Act such as the non-degradation clause (PRC Sec. 5093.56). *(CNRA has provided special provisions that balance these needs and address these comments.)*
- Roaring Camp must not be adversely affected by designation. *(CNRA has added language in a special provision to address these comments.)*
- Segment B should be classified as Scenic. *(CNRA has reclassified Segment B as Scenic to address this comment.)*
- Wildlife values should be considered to be extraordinary. *(CNRA has carefully considered additional information provided on the wildlife values but concludes that the wildlife values are not extraordinary. Section 4.1, “Wildlife Values,” was amended to provide additional information on this issue.)*
- Future designation as a Federal Wild and Scenic River is of much greater concern than State designation. *(CNRA has included Special Provision No. 4 to address these comments.)*
- Designation must not affect emergencies, such as use of Mokelumne River water or fire retardant to fight wildfires. *(CNRA has included additional analysis to address these comments and concludes that designation would in no way effect emergency actions, including using Mokelumne River water, aerial fire retardants, or other wildfire-fighting activities.)*
- The river is extraordinary under current conditions and does not need to be designated and further protected by regulations under the California Wild and Scenic Rivers Act. *(CNRA has carefully considered this comment but concludes that including the five river segments in the California Wild and Scenic Rivers System, with special provisions, is the highest and most beneficial use and is a reasonable and beneficial use of water within the meaning of Section 2 of Article X of the California Constitution as stated in PRC Sec. 5093.50.)*

7.1.3 Final Report

CNRA carefully considered all verbal and written comments received on the Draft Report, especially those summarized above; held phone conversations and individual meetings with key interested stakeholders; and prepared and issued the Final Report on March 30, 2018.

7.2 Alternatives

Several alternatives are available for recommendation by the Secretary to the Legislature and Governor as discussed below.

Alternative 1 is to recommend that none of the five study segments of the North Fork Mokelumne River and Mokelumne River under consideration for designation be included in the California Wild and Scenic Rivers System.

Available data, however, support justification to include all five study segments as part of the System. All segments under consideration were found to be eligible for inclusion. While the river system has

existing infrastructure developments, there are no significant structures within the eligible segments. In addition, operations of existing infrastructure are managed under a stream ecology program which ensures that patterns of flow through the eligible segments mimic the annual flow cycle and interannual variability of the natural flow of the river but with flow volumes reduced. Nondesignation would potentially allow future water impoundments and diversions which could upset the balance between water uses and instream flows which support the river's relatively free-flowing status, immediate environments, natural character, and extraordinary scenic and recreational values for the benefit and enjoyment of the people of the State. The free-flowing status, immediate environments, natural character, and extraordinary scenic and recreational values would remain at risk to future water impoundments and diversions with this alternative.

Alternative 2 is to include only a subset of the five eligible segments of the North Fork Mokelumne River and Mokelumne River under consideration for designation be included in the California Wild and Scenic Rivers System.

The number of subsets is large and it is unnecessary to evaluate any or all of these subsets because all segments are eligible and the differences in impacts of designating a few segments versus all five segments is small. The eligible segments traverse several Sierra Nevada ecological communities as the stream descends from approximately 3,600 feet to approximately 580 feet over a distance of nearly 40 river miles through a diversity of high scenic values, in a viewshed that is generally intact and harmonious. The combination and unique integrity of the geologic, hydrologic, vegetation, recreation, and cultural resources provide recreational values along the five river segments that give a continuum of diverse and at times unique recreational opportunities which are extraordinary when considered as a whole. The free-flowing conditions, immediate environments, natural character, and extraordinary scenic and recreational values of any eligible but non-designated segments would remain at risk to future water impoundments and diversions with this alternative.

Alternative 3 is to not include the study segments of the Mokelumne River in the California Wild and Scenic Rivers System, but to only apply the standards used with the McCloud River, Deer Creek, and Mill Creek that preclude future dams and impoundments on the specified segments.

In these cases, specific eligibility and suitability studies similar to this one for the Mokelumne River were conducted that found specific segments to be eligible and suitable for inclusion in the System, but the Legislature and Governor chose to exclude the segments from the System but adopt special language that recognizes the extraordinary values; the importance of maintaining the free-flowing conditions; balances potential beneficial uses; and precludes new dams, reservoirs, diversions, or other water impoundment facilities on the study segments. Under this alternative, the five Mokelumne River study segments would not be included in the System; no segments would be designated as wild, scenic, or recreational; and the study segments would not be subject to the California Wild and Scenic Rivers Act language but only to whatever special language is ultimately adopted by the Legislature and the Governor. In the case of the Mokelumne River, the CNRA believes the designated segments should be included in the System (similar to the West Walker River and East Fork Carson River after similar studies) because (1) the study segments fully meet eligibility requirements, (2) the study segments are suitable for designation especially with the application of special provisions to meet specific needs, and (3) the entirety of the State Act appropriately applies to the designated segments.

Alternative 4 is to include all eligible segments of the North Fork Mokelumne River and Mokelumne River in the California Wild and Scenic Rivers System without any special provisions.

Each of the segments considered for designation has been found to be eligible either individually (Segments A, B, C1, and E) or when considered as a whole (Segments A, B, C1 and C2, D, and E). Wild and Scenic River designation of all eligible segments would preserve the free-flowing conditions, immediate environments, natural character, and extraordinary scenic and recreational values. The certainty that would be desired by PG&E and local water stakeholders to access potential future water rights with new or modified facilities, could be potentially compromised with this alternative, although existing water rights and facilities would be unaffected.

The existing balance between agricultural water and domestic water use for communities within the Counties of Alpine, Amador, and Calaveras where the water originates, and continued management of instream flows that support the free-flowing condition, natural character, and extraordinary values of the eligible river segments, could be preserved if special provisions are included to ensure PG&E and local water users can continue to access their existing water rights using existing or comparable infrastructure with designation of all eligible river segments, operations and maintenance of existing facilities are maintained, and potential future water rights and water projects are not foreclosed with inclusion of the five river segments into the State System.

Alternative 5 (Recommended Approach) is to include all five eligible river segments in the California Wild and Scenic Rivers System, similar to Alternative 4, but with special provisions. See Section 7.3, “Recommendation,” for further information.

7.3 Recommendation

Alternative 5 (Recommended Approach) is to include all five eligible river segments in the California Wild and Scenic Rivers System, similar to Alternative 4, but with special provisions that better ensure the suitability of the designation to critical stakeholders in the watershed. The five segments contain extraordinary scenic and/or recreational values and would represent unique additions to the California System. Preservation of these segments in their existing free-flowing condition, natural character, and with their extraordinary scenic and/or recreational values is considered to be the highest and most beneficial use of the water for the people of the State. Local land and water uses generally would be maintained, particularly if special provisions are included as part of the designation to ensure water users can continue to use existing or comparable infrastructure to access water available under existing water rights, and potentially develop future water rights and projects that do not adversely affect the free-flowing condition, natural character, and extraordinary scenic and/or recreational values for which the river segments are designated. It is therefore recommended that the following segments of the Mokelumne River be classified and added to the California Wild and Scenic Rivers System as follows:

- **Segment A1:** North Fork Mokelumne River from 0.50 mile downstream of the Salt Springs Dam to Bear River confluence (**Recreational**); **Segment A2:** Bear River confluence to 0.50 mile upstream of the Tiger Creek Powerhouse (**Wild**).
- **Segment B:** North Fork Mokelumne River from 1,000 feet downstream of the Tiger Creek Afterbay Dam to State Highway Route 26 (SR-26) (**Scenic**).
- **Segment C1:** North Fork Mokelumne River from 400 feet downstream of the small reregulating dam at the outlet of the West Point Powerhouse to the southern boundary of Section 12, T6N R12E (**Wild**); **Segment C2:** Section 12 boundary to confluence of the North and Middle Forks Mokelumne River (**Recreational**).

- **Segment D:** Mokelumne River from the confluence of the North and Middle Forks to 300 feet upstream of the Electra Powerhouse (**Scenic**).
- **Segment E:** Mokelumne River from 300 feet downstream of the small reregulating dam downstream of the Electra Powerhouse to the Pardee Reservoir flood surcharge pool at 580 feet elevation above mean sea level (**Recreational**).

Classifications of eligible river segments for this recommended alternative are shown in **Figure 7-1**.

This study recommends including the segments listed above into the System with five special provisions that address local concerns regarding proposed designation: (1) existing water rights including application 5647X03, (2) future water rights and project development, (3) designated activities of PG&E and Roaring Camp Mining Company, (4) potential future designation into the National Wild and Scenic Rivers System, and (5) relationship between these special provisions and the State Act.

- **Special Provision No. 1.** The designation of the identified segments of the Mokelumne River into the System shall not prejudice, alter, delay, interfere with, or affect in any way, the existing water rights of the Pacific Gas and Electric Company or public water agencies in Alpine, Amador, and Calaveras Counties, including Amador Water Agency’s pending water right application 5647X03; the range of operations permitted under these existing water rights; any historic consumptive water use practices within existing water rights; full utilization of existing water rights, including changes in the purposes of use, places of use, points of diversion, quantities of water diverted or ownership; or the replacement, maintenance, repair, rehabilitation or alteration, or operation of facilities with no or negligible expansion of capacity within existing water rights of existing diversion, storage, powerhouse, or conveyance facilities or other works by the Pacific Gas and Electric Company or public water agencies in Alpine, Amador, and Calaveras Counties. Nothing in this subdivision shall preclude the issuance of any governmental authorization or financial assistance needed for full utilization of those rights. No such changes shall cause an adverse effect upon the free-flowing condition, natural character, immediate environments, or extraordinary scenic or recreational values of the river segments designated herein, provided that the existing water rights and facilities may be utilized to their fullest extent in accordance with applicable law. For the purposes of this designation, an adverse effect will be considered to be significant impairment to flows that would otherwise exist within designated segments.
- **Special Provision No. 2.** The designation of the identified segments of the Mokelumne River into the System shall not prejudice, alter, delay, interfere with, or affect any applications for new water rights by the Pacific Gas and Electric Company, or any applications for new water rights or unappropriated water that may be available under State Filings 5647 and 5648 by public water agencies in Alpine, Amador, and Calaveras Counties provided that the applications do not involve the construction of a dam, reservoir, other water impoundment facility within the designated segments, impound water on a designated segment, or diversion on a designated segment in a manner inconsistent with the California Wild and Scenic Rivers Act, nor cause an adverse effect upon the free-flowing condition, natural character, immediate environments, or extraordinary scenic and/or recreational values of the river segments designated herein. Any change, application, or future new projects or existing projects with significant expansion in capacity under this subdivision shall be subject to a determination that any such future changes will not cause an adverse effect upon the free-flowing condition, natural character, immediate environments, or extraordinary scenic or recreational values of the river segments designated herein. Nothing in this subdivision shall preclude the issuance of any governmental authorization or financial assistance needed for the

feasibility study and review pursuant to the California Environmental Quality Act (PRC Sec. 21000 *et seq.*) of any such change, application, or projects. For the purposes of this designation, an adverse effect will be considered to be significant impairment to flows that would otherwise exist within designated segments.

- **Special Provision No. 3.** The designation of the identified segments of the Mokelumne River into the System shall not prejudice, alter, affect in any way, or interfere with the maintenance, repair, or operation by the Pacific Gas and Electric Company of the Mokelumne River Project (FERC No. 137) currently under the 2001 Federal Energy Regulatory Commission license for the project, the incorporated settlement agreement, any license amendments made with the agreement of the parties to the incorporated settlement agreement, and any adjustment of flows permitted to occur pursuant to the license for enhancement of ecological and recreational resources. The designation of the identified segments of the Mokelumne River into the State Wild and Scenic Rivers System shall not prejudice, alter, affect in any way or interfere with the maintenance, repair, or recreational opportunities of Roaring Camp Mining Company and its associated structures, facilities, and land.
- **Special Provision No. 4.** Neither the Governor nor an employee of a State agency or department shall expend funds preparing, filing, applying, nominating, or otherwise submitting an application to a secretary, department, agency, or other entity of the Federal government to include any segment designated herein into the National Wild and Scenic Rivers System under the National Wild and Scenic Rivers Act (16 U.S.C. Sec. 1271(2)(a)(ii)).
- **Special Provision No. 5.** To the extent that these special provisions conflict with other provisions of this chapter, this subdivision shall control.