

AMENDING THE WILD AND SCENIC RIVERS ACT RE-
LATED TO A SEGMENT OF THE LOWER MERCED RIVER
IN CALIFORNIA, AND FOR OTHER PURPOSES

DECEMBER 1, 2011.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural
Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 2578]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2578) to amend the Wild and Scenic Rivers Act related to a segment of the Lower Merced River in California, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 2578 is to amend the Wild and Scenic Rivers Act related to a segment of the Lower Merced River in California.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 2578 would adjust the Merced Wild and Scenic River boundary to coincide with the Federal Energy Regulatory Commission (FERC) operational boundary for the Merced Irrigation District's (MID) New Exchequer Dam project at Lake McClure on the Merced River.

When the Merced Wild and Scenic River was designated, it encroached nearly half a mile into an existing FERC operational

boundary for the Exchequer Dam. Aligning the Merced Wild and Scenic River boundary with the standing project boundary will allow FERC to consider for MID's relicensing a temporary seasonal increase of Lake McClure that is 10 feet above the currently established 867 feet mean sea level. This would be for a maximum of 60 days from May 1 to July 31 during above-normal water years in an area that naturally floods to levels over 890 feet and impacts less than one mile of the 122.5 miles of the Merced River.

Wild and Scenic River designations are not absolute. The ability to create or annex Wild and Scenic River designations provides the same latitude for reducing or limiting them. Congress can adjust Wild and Scenic River boundaries, especially if it serves a greater good.

The bill is common sense legislation that will allow for desperately needed storage of up to 70,000 acre-feet of water, which has the potential for the generation of an additional 10,000 megawatt hours of clean renewable electricity, increased recreation activity in the area and agricultural benefits, as well as the creation of about 840 jobs. It will also increase desperately needed water supply to the San Joaquin Valley.

COMMITTEE ACTION

H.R. 2578 was introduced on July 18, 2011, by Congressman Jeff Denham (R-CA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on National Parks, Forests and Public Lands. On July 16, 2011, the Subcommittee held a hearing on the bill. On October 5, 2011, the Full Natural Resources Committee met to consider the bill. The Subcommittee on National Parks, Forests and Public Lands was discharged by unanimous consent. No amendments were offered, and the bill was ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 2578—A bill to amend the Wild and Scenic Rivers Act related to a segment of the Lower Merced River in California, and for other purposes

Under current law, certain portions of the Lower Merced River in California are designated as wild and scenic under the Wild and Scenic Rivers Act, which specifies procedures and policies regarding the use of such rivers and adjacent lands. H.R. 2578 would remove that designation from about one-half mile of the river. According to the Bureau of Land Management (BLM), this change would effectively expand the boundary of a hydroelectric facility (project number 2179) licensed by the Federal Energy Regulatory Commission (FERC).

CBO estimates that implementing H.R. 2578 would have no significant impact on the federal budget. Based on information from BLM, we estimate that any changes in the agency's costs to manage the affected area would not exceed \$500,000 in any year, assuming the availability of appropriated funds. Modifying the boundary of FERC project 2179 could affect FERC's costs related to licensing and regulating that project. However, because FERC recovers 100 percent of its costs through user fees, any change in administrative costs (which are controlled through annual appropriation acts) would be offset by an equal change in fees that the commission charges, resulting in no net change in federal spending.

Enacting H.R. 2578 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. H.R. 2578 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contacts for this estimate are Megan Carroll and Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. CBO estimates that implementing H.R. 2578 would have no significant impact on the federal budget. Based on information from the Bureau of Land Management, CBO estimates that any changes in the agency's costs to manage the affected area would not exceed \$500,000 in any year, assuming the availability of appropriated funds. Modifying the boundary of the Federal Energy Regulatory Commission (FERC) project 2179 could affect FERC's costs related to licensing and regulating that project. However, because FERC recovers 100 percent of its costs through user fees, any change in administrative costs (which are controlled through annual appropriation acts) would be offset by an equal change in fees that the commission charges, resulting in no net change in federal spending.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to amend the Wild and Scenic Rivers Act related to a segment of the Lower Merced River in California.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

WILD AND SCENIC RIVERS ACT

* * * * *

SEC. 3. (a) The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system:

(1) * * *

* * * * *

(62) MERCED, CALIFORNIA.—(A) * * *

(B)(i) The main stem from a point 300 feet upstream of the confluence with Bear Creek downstream to [the normal maximum operating pool water surface level of Lake McClure (elevation 867 feet mean sea level) consisting of approximately 8 miles, as generally depicted on the map entitled “Merced Wild and Scenic River”, dated April, 1990.] *the boundary of FERC Project No. 2179 as it existed on July 18, 2011, consisting of a point approximately 2,480 feet downstream of the confluence with the North Fork of the Merced River, consisting of approximately 7.4 miles.* The Secretary of the Interior shall administer the segment as recreational, from a point 300 feet upstream of the confluence with Bear Creek downstream to a point 300 feet west of the boundary of the Mountain King Mine, and as wild, from a point 300 feet west of the boundary of the Mountain King Mine to [the normal maximum operating pool water surface level of Lake McClure] *the boundary of FERC Project No. 2179 as it existed on July 18, 2011, consisting of a point approximately 2,480 feet downstream of the confluence with the North Fork of the Merced River.* The requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the Sierra Management Framework Plan for the Sierra Planning Area of the Folsom Resource Area, Bakersfield District, Bureau of Land Management. There are

authorized to be appropriated such sums as may be necessary to carry out the purposes of this subparagraph.

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SECTION 3 OF PUBLIC LAW 102-432

SEC. 3. NEW EXCHEQUER PROJECT.

The designation of the river segments referred to in section 1 of this Act as components of the Wild and Scenic Rivers System shall not affect the continued operation and maintenance (including flood control operations) of the New Exchequer Project (Project No. 2179) as licensed by the Federal Energy Regulatory Commission on the date of enactment of this Act or the Commission's authority to issue a new license to the existing licensee for such project within the project boundaries set forth in the license on the date of enactment of this **Act**. *Provided*, That if the Commission issues a new license to the existing licensee for such a project, the normal maximum operating pool water surface level authorized in the project's license shall not exceed elevation 867.0 mean sea level. **Act**.

DISSENTING VIEWS

H.R. 2578 proposes to amend the National Wild & Scenic Rivers Act to expand the storage capacity of Lake McClure, which would result in a recurring, temporary inundation of approximately 1 mile of the Merced River. More important, H.R. 2578 would renege on a promise between the Merced Irrigation Water District and other stakeholders made nearly two decades ago when the designation was signed into law by President George H.W. Bush.

Proponents of the legislation tout the significance of additional storage in the Central Valley. The project is expected to increase yield in the reservoir on average of 10,000 acre-feet per year. This is only a one percent increase to the one million acre-feet capacity of Lake McClure. Congress has never before authorized the flooding of a designated Wild and Scenic River and there is no justification for doing so in this case.

EDWARD J. MARKEY.
GRACE F. NAPOLITANO.
RAÚL M. GRIJAVLA.
RUSH HOLT.
BEN R. LUJÁN.
DALE E. KILDEE.
NIKI TSONGAS.

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