



MARIPOSA COUNTY

Board of Supervisors • (209) 966-3222



RESOLUTION - ACTION REQUESTED 2013-137

MEETING: April 16, 2013

TO: The Board of Supervisors

FROM: Kevin Cann, District IV Supervisor

MINUTE ORDER ATTACHED

RE: Letter Regarding the Merced River Draft Plan

RECOMMENDATION AND JUSTIFICATION:

Approve a Letter Providing Comments on the Merced River Draft Plan and Authorize the Chairman of the Board of Supervisors to Sign the Letter. The Merced Wild and Scenic River Draft Comprehensive Management Plan and Environmental Impact Statement was released in January 2013 and addresses the Merced River's 81 miles within Yosemite National Park (YNP) and the El Portal Administrative Site and functions as the guiding document to protect and enhance river values and manage use within the river corridor for the next 20 years. The draft plan analyzes six alternatives, including a No Action and five action alternatives. Because the alternatives in the draft plan could have an impact on tourism to YNP, it is prudent for the Board to prepare a response. The comment period for the draft plan ends on April 18, 2013.

Attached is a copy of the letter.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board reviewed a draft letter on April 9, 2013.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve the letter. Individual Board members may write their own letters providing comments on the Merced River Draft Plan which may not have the same impact as a letter endorsed by the full Board.

ATTACHMENTS:

Merced River Plan Letter - Final Draft (PDF)

CAO RECOMMENDATION

Requested Action Recommended


Rick Benson, County Administrative Officer

RESULT: ADOPTED AS AMENDED [4 TO 0]
MOVER: Merlin Jones, District II Supervisor
SECONDER: John Carrier, District V Supervisor
AYES: Janet Bibby, Kevin Cann, John Carrier, Merlin Jones
ABSTAIN: Lee Stetson



COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

LEE STETSON, CHAIR
KEVIN CANN, VICE-CHAIR
JANET BIBBY
MERLIN JONES
JOHN CARRIER

DISTRICT I
DISTRICT IV
DISTRICT III
DISTRICT II
DISTRICT V



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: FILE

FROM: RENE' LaROCHE, Clerk of the Board *RL*

SUBJECT: CA11 – Approve a letter providing comments on the Merced River Draft Plan and authorize the Board of Supervisors Chair to sign the letter

RES. 13-137

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on April 16, 2013

ACTION AND VOTE:

Supervisor Stetson noted that he had pulled the wrong item from the Consent Section; that he had actually meant to pull CA11, and not CA12; and wondered as to the procedure to correct same.

Steven W. Dahlem/County Counsel clarified that under the Board's Rules of Procedure, Resolution 90-231, the Board can reconsider the item at any time prior to the adjournment of this meeting; that it will take a majority vote to reconsider the item; and then the item will need to be considered with a separate vote.

Supervisor Stetson inquired if the Board would be willing to reconsider item CA11 as a pulled item to be discussed later.

Action was taken to reconsider item CA11, which has already been approved by the Board.

Cann (M); Carrier (S); Passed unanimously.

Chair Stetson requested clarification as to when CA12 should be considered.

County Counsel advised that the Board should finish with item CA11 now, since action was just taken to allow for its reconsideration.

Supervisor Bibby inquired if Chair Stetson wanted to consider it now, and offer the public an opportunity to speak on it. Chair Stetson answered

affirmatively. The Board proceeded on to item CA11:

Board of Supervisors RES-2013-137

Approve a Letter Providing Comments on the Merced River Draft Plan and Authorize the Board of Supervisors Chair to Sign the Letter

No public comment at this time.

Discussion between Supervisors Bibby and Stetson regarding the changes Supervisor Stetson would like to make. Supervisor Stetson noted that the changes he would like would require a lengthy discussion; that he has a number of concerns; that he is unwilling to sign the letter as presented; that he understands the rest of the Board has already commented on the letter and has approved of it; and that he does not want to abuse the Board of their ability to send the letter, but would like to send his own by Thursday of this week. Supervisor Cann questioned County Counsel regarding the procedure if Chair Stetson doesn't want to sign the letter. County Counsel responded that the Board can take action to direct the Vice-Chair to sign the letter. Supervisor Stetson noted his agreement with that scenario.

Public comment opened.

Wendy Brown-Barry commented that she liked the revised letter and feels that it should be sent; commented that her group is working to re-designate the river through Yosemite Valley as recreational; referred to the American River going through Sacramento; noted that she feels the Wild and Scenic Rivers Act is not a good fit for Yosemite Valley; and takes issue with that portion of the letter that proposes to designate a minimum width for the river, as they are working to have it un-designated.

Public comment closed.

Supervisor Cann responded to Ms. Brown-Barry explaining previous Court actions that have influenced the letter.

No Board comment.

Supervisor Jones moved that this item be approved, amended to allow for the Vice-Chair to sign the letter. Supervisor Carrier seconded the Motion.

Supervisor Bibby noted, for the record, that this includes the understanding that this is recognizing the wishes of Supervisor Stetson to be able to submit his own letter.

RESULT: ADOPTED AS AMENDED [4 TO 0]

MOVER: Merlin Jones, District II Supervisor

SECONDER: John Carrier, District V Supervisor

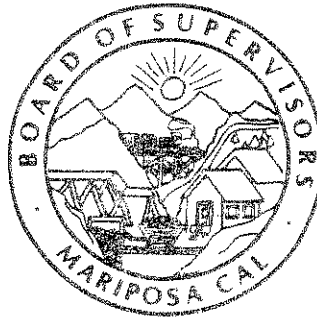
AYES: Janet Bibby, Kevin Cann, John Carrier, Merlin Jones

ABSTAIN: Lee Stetson

Cc: File

Mariposa County Board of Supervisors

District 1 LEE STETSON
District 2 MERLIN JONES
District 3 JANET BIBBY
District 4 KEVIN CANN
District 5 JOHN CARRIER



RICHARD J. BENSON
County Administrative Officer

RENÉ LAROCHE
Clerk of the Board

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April 16, 2013

Mr. Don L Neubacher
Superintendent
Yosemite National Park
P.O. Box 577
Yosemite, CA 95389

Dear Superintendent Neubacher

The Mariposa County Board of Supervisors is pleased to provide input on the Merced Wild and Scenic River Draft Comprehensive Management Plan and Environmental Impact Statement (DEIS). With the entire Wild and Scenic portion of the river in Mariposa County we feel the perspectives of the people of Mariposa County should be given particular weight. While it seems no amount of outreach is ever enough for major planning actions such as this, we do commend the National Park Service for its over 40 preliminary public meetings and the 10 which have been held during the public review period.

For reasons noted below, we conclude that the public and park would be best served if the NPS chose to designate the minimum width through Yosemite Valley for the W&S corridor (average 3 year high water mark) instead of the maximum (1/4 mile on each side of the river banks). Clearly the designation of a 1/2 mile wide exclusionary zone through the center of Yosemite Valley leaves little space outside of rock fall zones for visitor services. Many of the visitor experience opportunities eliminated in the DEIS have been peacefully coexisting with the river for many decades, much to the enjoyment of the visiting public. Your own river studies document that the overall ecological health of the Merced is today better than when it was first designated Wild and Scenic over 25 years ago. Our residents and visitors alike are particularly aggrieved at the removal of raft and bicycle rental opportunities; the ability to go on a 2-4 hour concessioner guided horse or mule ride; and universally, the removal of the Curry Village ice rink.

In the many public meetings your staff continually refers to the infamous "footnote 5" from the 9th Circuit ruling on the previous NPS Merced River CMP as the reason for such widespread exclusion of visitor services. Of all the Wild and Scenic rivers managed by the National Park Service, only in Yosemite Valley has a court decided that the designation of "recreational" really

means "wild" in seeming direct conflict with the original Act. We further fear that application of this mandate will spell the end to any further W&S designations in the country. What community would agree to having their recreational and economic lifeblood turned into, essentially, a museum piece? How is it that 23 miles of the Wild and Scenic American River flows directly through the city boundaries of Sacramento? It is designated under the same Act and clearly the framers did not expect a ½ mile wide swath of the city's development to be removed. If this fix requires Congressional action we will be aggressive in working with the NPS and our legislative representatives to achieve a solution.

The public has had great trust in the NPS' management of Yosemite National Park for almost 100 years. It is now apparent that in attempting to satisfy the infinitesimal percentage of visitation represented by the former litigants, the NPS has awoken the sleeping giant of the other 99.9% of Yosemite users.

There is widespread support for many of the NPS proposed actions which relieve issues left in limbo since the flood of 1997. Modifying travel patterns and formalizing parking lots are long overdue. The sense of arrival will be greatly enhanced when the changes outlined in the preferred alternative are implemented. Continued efforts to separate pedestrians from vehicle travel patterns are well warranted. This, combined with expanded transit service should help keep access to the Valley feasible for most visitors into the future.

The proposal to add 400 parking spaces in Yosemite Valley and 200 in El Portal for overflow or transit stop is well received. Adding 174 camping spaces, while not attaining the pre-flood numbers, is a welcomed addition and an outstanding visitor service. We also believe the off season tourist will be well served by the conversion of 98 tent cabins to hard side units. We do, though, feel it is essential that a diversity of lodging opportunities continue to be offered, making an overnight experience in Yosemite Valley feasible for those of all economic means.

We must take exception to the removal of both the Ahwahnee and Yosemite Lodge pools. These pools are totally encompassed by lodging facilities which will remain. It appears illogical and, frankly, counterproductive to river values to remove them. Yosemite is one of the nation's most treasured family destinations. Families love to swim and experience water. Many are uncomfortable allowing children to be in a river and clearly the opportunity for injury and negative resource impacts dramatically rise if the pools are removed and visitors are forced into the river for water recreation. Again, this action, as well as the removal of the tennis courts at the Ahwahnee Hotel, seems totally incongruous with the W&S designation of "recreation" for the Valley section of the Merced and provides no additional enhancement for the river. Removal of these facilities seems simply to be a capitulation to former plaintiffs who would seek to return Yosemite Valley to wilderness.

We take strong objection to the NPS conclusions justifying elimination of many visitor services:

1. Commercial rafting conclusions are misleading. While rafting is not prohibited, it is reduced by over 75% from a level that your own studies have shown is very acceptable. With 60-66% of the river rafters using rental rafts, a dramatic injustice will be felt by eliminating this recreational opportunity. By forcing controlled put-in and take-out, and providing return shuttle service, the rental user can be easily managed to eliminate any stream bank damage, while the private user, even with a mandatory permit, will be far less

- controlled. Additionally, it is neither feasible, nor affordable, for visitors to bring their own rafts. This is a tremendous loss and is avoidable.
2. Bicycle rental options have much the same justification as the rafts, but their elimination is even less defensible. There are few places in this world that are more enjoyable and scenic to ride a bike than in Yosemite Valley. As with rafts, it is difficult for visitors to transport personal bikes into the park, denying them yet another recreational experience only possible in this National Park. Hike and bike trails are a part of many W&S rivers in sections designated recreational. Moving the commercial bike rental office at Yosemite Lodge 75 feet to get it out of the W&S corridor to make it "legal" has been mentioned as a compromise by NPS staff in MRP DEIS meetings. There appears to be no possible justification as to why that facility damages the river values in its current location but not 75 feet away!
 3. According to the preferred alternative: All commercial stock day rides would be eliminated in Segment 2 under Alternatives 2-6. For those visitors who are unable to walk a great distance, stock rides provide an opportunity to access Mirror Lake and view Vernal Falls. It also provides an activity for those visitors who spend several days in the valley and desire different types of experiences. The proposed change raises additional issues:
 - Why aren't these same factors true for Wawona?
 - Many visitors comment that they enjoy seeing stock on the trail. Removing stock rides greatly minimizes the ADA offerings to experience the park. It's not only those who can't walk a great distance, it is also those who can't walk at all. Visitor photography from and of stock rides has also been a long standing popular experience.
 - In Yosemite Valley, some of the trails are dedicated stock trails and in Wawona they are all joint use, so the benefit to hikers is not different for Wawona as compared to Yosemite.
 - Stable facilities in Wawona are a fraction of the size of those in Yosemite Valley.

The above three issues also have a strong social justice conflict in that they negatively impact the less affluent visitor at a disproportionate level. There is one more issue:

4. Ice rink removal. Again, this is an experience only available in one place in the world. We agree it contributes nothing to the health of the river, but feel strongly that it also brings no degradation. It does, though, bring great satisfaction to winter Yosemite lovers, employees and generations of families. It attracts 11,000 users each winter during a period when the Valley experiences a small fraction of summer visitor use levels; while providing a safe environment for what could otherwise be a risk laden venture on the frozen river.

We also urge the NPS to explore options which would allow for the retention of the historic Sugar Pine Bridge. We concur with the National Trust for Historic Preservation in that a balanced management approach that protects all of the river's natural, historic and cultural values is possible. We believe it is important that the NPS develop a final plan that protects Yosemite's rich heritage, including all of its majestic, rustic style stone bridges, while safeguarding the Merced River itself.

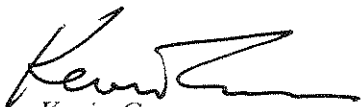
The people of Mariposa County understand that park managers have been severely constrained by the 9th Circuit ruling and footnote 5, which call on the NPS to explain how maintaining such services protects or enhances the river's unique values. If recreation is the value, not being able to

experience it is certainly a loss. That will be the case for the many thousands of visitors impacted by the removal of the above opportunities.

Ninety-five percent of Yosemite's 1200 square mile boundary is already designated wilderness, effectively prohibiting any access other than human powered or in some cases on stock. The Wild and Scenic Rivers Act (WSRA) requires that any future actions within the proposed MRP ½ mile wide corridor in Yosemite Valley must be successfully tested against the 9th Circuit interpretation of WSRA and especially footnote 5. That unavoidable application, through the decades, will inevitably result in the majority of Yosemite Valley also being managed as wilderness. Recognizing the tremendous loss of visitor experiences which date back 60-100 years, this Board must ask for a legislative solution. We are compelled to seek some reprieve from a draconian, court-ordered application of the Wild and Scenic Rivers Act, which was not intended in the original legislation.

This Board believes that both the river values and the visitor experience can be preserved by designating the minimum-width W&S corridor through Yosemite Valley, rather than the maximum. By judiciously monitoring resource health and applying effective management controls, the goal from the NPS Organic Act of providing for the use and enjoyment of the park in a manner that will leave it unimpaired for future generations will be achieved.

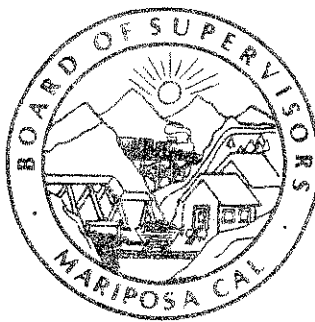
Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Cann". The signature is fluid and cursive, with a long horizontal stroke at the end.

*Kevin Cann,
Board of Supervisors Vice-Chair*

Mariposa County Board of Supervisors

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April 18, 2013

Congressman McClintock
8700 Auburn-Folsom Rd. Ste. 100
Granite Bay, CA 95746

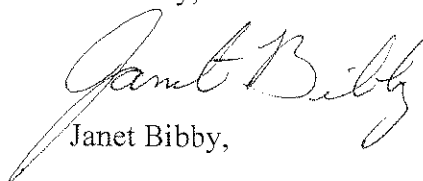
Dear Congressman McClintock:

At its meeting on April 16, 2013, the Mariposa County Board of Supervisors adopted Resolution No. 13-137 approving a letter providing comments and input on the Merced River Draft Plan. The draft plan analyzes six alternatives, including a No Action and five action alternatives.

Enclosed you will find a copy of Resolution No. 13-137 for your reference.

Should you have any questions please contact me at (209) 966-3222.

Sincerely,



Janet Bibby,

District III Supervisor
Enclosure

Cc: Senator Tom Berryhill
Assemblyman Frank Bigelow
Senator Barbara Boxer
Senator Diane Feinstein
Congressman Jeff Denham