

## **Chronology of Recent Merced River Issues**

**By Ralph Mendershausen**

- 1926: First Exchequer Dam @300' high built, making Lake McClure. Construction of Hwy 140 from Mariposa to Yosemite through the Merced River canyon. (All weather Highway). All in Mariposa County.
- 1967: Second Exchequer dam built @490' high.
- 1960's: Limestone Salamanders given early protection under California Fish and <sup>FWS</sup>~~SEP~~ Game Code "Fully Protected Status" which prohibits any incidental "take" of the animals and does not allow for mitigation measures. Endangered Species Act came later, 1973. LS not covered by ESA but is under consideration today.
- 1968: National Wild and Scenic Rivers Act (President Johnson) protecting designated free flowing rivers from impoundment upon designation by Act of Congress. Establishes three categories of protected rivers: Recreational, Scenic, Wild. Preserves certain rivers with outstanding values in a free-flowing condition for the enjoyment of present and future generations. The Act promotes public participation in developing goals for river protection.
- 1970's-80's: Dredging was popular on the main stem of the Merced particularly below Briceburg. Took two forms: recreational and mining claims. Dredgers did most of their "mining" during low water periods. Gold dredging is now illegal in CA because of environmental impacts on water quality, fishery, recreation...
- 1973: Arab Oil Embargo (Oil Crisis) produces legislative responses in the US such as PURPA (1978) and a sharp uptick in US quest for energy independence. FERC (Federal Energy Regulatory Commission) encouraged to license new hydro projects). Hydro development was incentivized on rivers and even creeks, and even where such projects had no prior history.
- 1979: New Melones Dam completed on the Stanislaus River. The battle for river protection on the "Stan" is the origin story for CA river protection. The loss of the Stanislaus to irrigation districts and dams created something of a "never again" attitude among environmentalists. The next stage was that of the Tuolumne River. See Tuolumne River Preservation Trust.
- 1982, Fall: MID (Merced Irrigation District) applied for a preliminary permit to look into feasibility of a 70 Megawatt, 370' dam on the remote and roadless (and generally bridgeless) South Fork Merced, about a quarter mile below the confluence of Bishop Creek and the South Fork. This was granted by FERC in early 1983. The proposed lake would have come to the western edge of the Park and been visible from Hwy 41 inside the Park. This act galvanized local residents from El Portal and Mariposa to attempt the protection of the South Fork Merced from this hydro project.
- Fall 1983: What was to become Merced Canyon Committee was formed and incorporated using materials from Mono Lake Committee. Mariposa County soon joins with MID in hopes of getting water from the project. Mariposa had longstanding dreams and some claim, but no clear right, to water from the South Fork.
- 1984 Feb.-May: MCC efforts focus on impressing Congressman Tony Coelho (D-Merced) with the need to protect the South Fork. Tony Coelho was an up and coming Congressman and was under pressure from river enthusiasts and politicians about the Tuolumne River. In response he picked up the South Fork Merced as "his" idea of a Wild and Scenic River. NPS management was sympathetic to the Wild and Scenic. MCC reps in May 1984 had no trouble seeing conservation

leaders, agency staff, and key members of the House Interior Subcommittee on Public Lands. Thank you, Tony Coelho! The idea of designating the South Fork was endorsed by every major environmental organization in the country.

- 1984 February: License Application filed with FERC by Joseph M. Keating's re his "El Portal Project", a 22 megawatt project at Dry Creek, below El Portal N. side of the river, with a proposed intake at the Park Line Restaurant where Hwy 140 enters Yosemite. Would have left 60 cubic feet/sec (CFS) in the Merced. If there ever was a project that could convince people they needed to protect the river, this was it. Opposition in El Portal was immediate and widespread. This came to include the park concessionaire as well. Another mini-hydro project was proposed for Crane Creek. MCC was well positioned to take up the fight for the Merced, but Tony Coelho was not as quick to pick up the main stem Merced River as he had the S. Fork.
- 1984 November and December: Two Major scoping meetings held on hydro-development, one at the high school gym with over 250 in attendance. Major outpouring of opposition to hydro on the Merced and for designation of the rivers to preserve them as they were.
- 1985: although officially opposed to the Keating (2/26/1985) and the Crane Creek projects Mariposa County does not come out for or against Wild and Scenic.
- 1985 Sept: compromise resolution of the Tuolumne River designation. The Merced <sup>[1]</sup><sub>[SEP]</sub> River was "next in line" for federal designation.
- 1986: Supervisorial elections District 1 Art Baggett replaces Beverly Barrick who had supported a dam on the South Fork but had also opposed the Keating project in El Portal. Art was the first supervisor to openly support Wild and Scenic designation for the Merced and played a key role in subsequent negotiations between the county, Congress, and management agencies re the Saxton Creek water project for Mariposa.
- 1987 November 2: President Reagan signs designation of the Merced R. above Briceburg and the South Fork Merced as National Wild and Scenic Rivers. US CA Senators played a major part in bringing this to fruition this quickly.
- November 2, 1987 (AND October 23, 1992): From its source (including Red Peak Fork, Merced Peak Fork, Triple Peak Fork, and Lyle Fork) in Yosemite National Park to a the normal maximum operating pool (water surface level) of Lake McClure (elevation 867 feet mean sea level). The South Fork from its source in Yosemite National Park to the confluence with the main stem.
- 1987 December: FERC denies Keating's El Portal Project due to designation of the Merced River.

This two-step (1987 and 1992) designation of the Merced was largely the work of Congressman Coelho who was under pressure to designate the entire Merced system from the US Senators, but also needed to meet the legitimate interests of his constituents, ie. Mariposa County for some water. By designating the S. Fork and the Merced above Briceburg a major step was taken to protecting our rivers from the dams that threatened it. But the river including the North Fork below Briceburg was only made into a "Study River" in 1987 to allow Mariposa County to produce a viable but relatively minor water project that eventually recognized a Mariposa County "water right" to 5000 Acre Feet of water instead of the 112,000 AF South Fork "claim" that the County began with in 1983.

The Saxton Creek project involved major work in the riverbed. At the same time, "Study River" status allowed BLM to engage with the miners/squatters who had moved into the camping

areas of the Lower River and begin rejecting their permits permanently because of failures to meet the conditions/assessment work on their claims. MCC continued to pressure Coelho to designate the entire river, but the County supervisors and media were now mostly on board with the two-step process as it offered the hope of some water. (Reluctance (Sup. Erickson) remained to let go all claim to 112,000 acre feet of the South Fork.). Supervisor Erickson, however, also became a major driving force for getting the county's water project on the main stem realized/funded in time.

- 1989 Aug. 3: NPS Report: Merced River Trail, Opportunities and Constraints discusses MRT in detail showing the close link of MRT concept with Wild and Scenic designation. This report is interesting too in that it shows an interagency approach including federal land management, MID and Mariposa County in the trail. A clear precursor to present developments of the MRT.
- 1989 Nov. 7: official dissolution of MCC signed by John Clark, Marlene van Wagtendonk, Ralph Mendershausen (chair).
- 1991: BLM Merced Wild and Scenic River Management Plan completed; wild portion will have no mining, assume approval of Saxton Cr. Project, "Recreational opportunities will be provided as appropriate," "Meet Mariposa County water management needs with minimal environmental impacts to the river," "Eliminate and prohibit residential occupancy of the Corridor on public land, restore historic building on Hwy. 140. Construction of BLM visitor center.
- 1992 October: Five-year window closes with final designation of the Lower Merced River. Permanent withdrawal of all new mining claims on Recreational section of the Merced by BLM and precluding any future dams on the lower Merced River. All 64 miles of main stem Merced above 867' level protected! (Note that 867'.)
- 1992-1996: construction of Saxton Creek Water Project by Mariposa County/Mariposa Public Utility District. The \$10 million project is almost invisible and respects river designation. It is buried one mile below Briceburg at a wide spot in the road.
- 1997-2014 Jan: Flood damage and major repair needs compel NPS to develop plans fully integrating Wild and Scenic River into their management.
- 1997 Jan: Flood. Exchequer dam comes close to overflowing. All snow below 10,000' melted rapidly. Park line Motel freezer floats to Lake McClure. Briceburg Bridge is bent.
- 2000: creation of YARTS
- 2001: formation of Upper Merced River Watershed Council under aegis of County Resource Conservation District.
- 1999-2002: Wilderness designation proposed for South Fork Watershed, combining Devil's Gulch and Ferguson Ridge Roadless Areas. This was a lead item in US Senator Barbara Boxer's 2.5-million acre proposal for new acreage. Very strong negative reaction in Mariposa County, after some initial positive responses, lead to an angry/frightened public outcry. A Resolution (4-1) by a compliant Board, opposed any new wilderness in the County on Jan. 15, 2002...opposed by Patti Reilly District 1. The Boxer Bill went nowhere in the Senate.
- 2006: April start of renewed landslide activity a N end of Ferguson Ridge. CALTRANS initial response is viaducts arching over the Merced like freeway on-ramp. 2015 Further slide activity means further revisions for the fix on the S side of the Merced, ie. A Precast/segmented...Rock shed now priced at \$238 million. (See Rosemarie's website)
- 2009-2014: Re-licensing process for MID for its facilities on the Merced (Exchequer Dam...). This soon had to proceed without including a raise of the spillways desired by MID to increase the

reservoir capacity. (*The latter idea proceeds on a separate political track, see below.*) The final document includes new recreational agreements between MID and BLM (4e agreements). These are binding/contractual. They include rough bridge concepts to facilitate non-motorized trails between N. Fork Confluence and Bagby. First of these steps would be a BLM bridge of some sort at some place over the N. Fork Merced. No time line at present.

- 2011: Congressman J. Denham (R) carries bills to undo W&S protections just above Lake McClure: H.R. 869 would have allowed Lake McClure Reservoir to occupy a portion of the Merced Wild & Scenic River for a period of time, while H.R. 2578 de-designated this portion of the river out of its protected status.
- 2013: Congressman McClintock moves H.R. 934 in the House, adopted the de-designation approach as well.
- 2014 August: Merced ID prepared and presented a briefing paper to members of Congress with an alternative project (while still expressing support for the original de-designation effort and the potentially resulting project). It proposed to reduce the height of its previous proposed dam raise (actually, a spillway raise), announce an operating intention not to invade the wild and scenic river as a result of the raise of the dam complex, and to convert 57,000 acre-feet of its 350,0007 acre-foot seasonal rainflood flood-control reservation to water storage. Note the words “flood-control reservation”. This is about dam safety measures and requires approval by the Army Corps of Engineers.
- 2017: February near catastrophe of Oroville Dam and spillway failure lead to major downstream evacuations. Oroville and Exchequer very similar in age, design, materials used. No further efforts to raise or modify <sup>[SEP]</sup>Exchequer Dam spillways since Oroville scare, despite Republican control of all branches of government 2016-2018.
- 2018: Army Corps Biannual Authorization Bill has allowed ACE to review reduced flood-control reservation if MID funds the review. MID has not proceeded.
- 2019-2020: MID has been trying to fast track its new license application given favorable administration in DC; especially hopes to have to release less water for downstream ecology/fish and hopes to skip (waiver) state certification of its license application by CA State Water Resources Control Board. In this hope of escaping state environmental concerns (in line with the attitudes of the Trump administration) they have not done the requisite EIR. <sup>[SEP]</sup>State delays certification for lack of EIR. The matter is now in court with MID challenged by SWRCB and Friends of the River among others.
- Today: Mariposa County has not abandoned all claim to additional water from the Merced. Under terms of its most recent settlement contract with MID, Mariposa has set up an escrow account towards a future project that would serve “Beneficial Use” of the County, ie. It could not be sold to LA for revenue purposes. Such a project might serve Mariposa town or the North Side of the County, but it would have to take whatever amount of water agreed up from Lake McClure...not the South Fork