

National Wild and Scenic River Designation for the Mokelumne River: A Closer Look at What's True—and What's Not

***False Claim:* Designating the Mokelumne River wild and scenic will take away local self-determination and control.**

The Truth: Wild and scenic designation does not take away from local people or local government any power they hold today. The fact is —local governments have very little say in river management now. The federal and state governments control dams, hydroelectric projects and water quality. The state controls water rights and water quality (the public owns the water in our rivers). The federal government controls the management of federal land along the river.

The county does control land use on private land through the county general plan, zoning, and related county ordinances. That control would continue after the wild and scenic designation. Local landowners will continue to use their land consistent with the county general plan and zoning, as they do today.

If a big city decides to build a dam here on the Mokelumne, our county would have no more legal ability to stop them than any other entity. An outside water agency could turn the river reaches we use today into a reservoir and take private land along the river through eminent domain. But protecting the river through wild and scenic designation would prevent that from happening. It protects our river for us to use as we do today.

***False Claim:* The federal government will control zoning of private lands along a wild and scenic river.**

The Truth: The Wild and Scenic Rivers Act does not give the federal government authority to control the zoning of private land. That authority is reserved for local government. Local land-use planners are encouraged to protect river values, but there is nothing in the Wild and Scenic Rivers Act that forces the county to do it.

When the Mokelumne was considered for eligibility for wild and scenic designation, the BLM took the current zoning into account. If the current zoning had not been consistent with protecting the river's outstanding values, the BLM would not have found the Mokelumne eligible for designation.

***False Claim:* The federal government will take ownership of riverside land by eminent domain when the Mokelumne is protected by wild and scenic designation.**

The Truth: Because more than 50 percent of the land along the river corridor is already in public ownership, wild and scenic designation would prevent the federal government from acquiring any land along the river through eminent domain. More than 85 percent of

the land in the segment from Salt Springs to Tiger Creek is federal land and 60 percent of the land in the BLM-recommended segments is federal land.

Even though it could not condemn land along the Mokelumne, the federal government could *purchase* land or easements along the river, or exchange public land of equal value, in a willing seller-willing buyer arrangement. But the federal government cannot acquire more than 100 acres per mile of private land along a wild and scenic river.

In addition, the Wild and Scenic Rivers Act does give the federal government the ability to condemn scenic easements on private land near the river. However, this has only been used on seven rivers nationwide and all were designated before 1976.

By far, the greatest eminent domain threat to local landowners along the Mokelumne is the threat of an outside water agency or city building a dam and reservoir on the eligible river segments. Water agencies have used eminent domain for local water projects as recently as 2006.

False Claim: Private landowner rights will disappear with wild and scenic river designation.

The Truth: The Act does not give the federal government any authority to control the use of privately owned land, including the private land included within the boundaries of the protected river corridor. Landowners will be allowed to use their land just as they did before designation. If a proposed use of private land conflicts with the management of the wild and scenic river, the managing agency will work with the landowner to mitigate any potential threats to the protected values of the river.

False Claim: Current land uses will be stopped along a newly designated wild and scenic river.

The Truth: Most current land uses, public and private, alongside the river will continue after designation, including agricultural uses such as farming and grazing. The goal of the Wild and Scenic Rivers Act is not to return these areas to their original pristine and untouched condition, but rather to “protect and enhance” the existing values and uses of the river and surrounding lands.

Each wild and scenic river is protected because it has special “outstandingly remarkable values.” Only those land and water uses that threaten the values *for which the river is protected* could be examined for possible regulation. For example, the upper segment of the North Fork Mokelumne is eligible for designation because of its cultural resources. If a proposed use threatened those resources, the Forest Service would have to take that into consideration. The BLM portions of the river are eligible because of their cultural and historical resources, water quality, and scenic values. If a proposed use threatened those

values, the BLM would take a look at the use in the context of the wild and scenic management plan.

***False Claim:* There will be no future development of land alongside a wild and scenic river.**

The Truth: A river is classified as “wild,” “scenic,” or “recreational” depending on the amount of existing development and accessibility. For instance, the Act describes “recreational” rivers as “rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.” Wild and scenic river designation does not affect private landowners’ ability to develop privately owned lands within the river corridor and it does not give the federal government control over private development.

Most of the land along the Mokelumne is steep and ill-suited for intensive development. It is also land where intensive development is unlikely to be allowed because of fire risk and lack of roads and services.

On federally owned land, future development along a wild, scenic or recreational river is allowed as long as it is consistent with the river's classification and it does not harm the values for which the river was designated.

***False Claim:* Wild and scenic designation would keep our county from getting more water from the Mokelumne River.**

The Truth: The designation would not affect the county’s current water rights on the Mokelumne or the operation of the current complex water and hydroelectric systems on the river.

Local water agencies and Amador County endorsed an Integrated Regional Water Management Plan late in 2006. The plan does not include any projects in the affected river sections.

The designation would prevent dams and diversions on the designated reaches. That would not prevent the county from getting more water downstream or upstream, or from tributaries. The designation would protect the river’s cultural resources, scenic resources, and water quality. If a planned water project would damage those, the wild and scenic designation would come into play. But no project that damages water quality is going to be allowed under current law anyway.

If the county wanted to get more water from the Mokelumne in the future, it would need to go through a complex state water rights application process, where all the values of the river – natural, recreational, power generating, cultural, historical — would be considered along with water supply.

Amador County can double its population on existing water rights. In addition, with good water conservation/efficiency programs, our counties could add substantial water “supply” without building a single new water project. This has worked very well in many areas.

***False Claim:* Access to and enjoyment of the Mokelumne will be severely limited by wild and scenic designation.**

The Truth: Recreation activities on the Mokelumne, including activities such as fishing, gold panning, swimming, and boating, are some of the major uses the wild and scenic designation seeks to protect. Public access to the river for these and other uses will not be limited. If you enjoy these activities now, you’ll continue to be able to do that after designation.

***False Claim:* Local residents’ ability to enjoy public lands along the Mokelumne will be severely limited.**

The Truth: Recreational use of the public lands next to the Mokelumne will continue as before. Hunting, camping, use of off-road vehicles, and other land uses will continue to be regulated under existing state laws and the rules of the managing agency (Forest Service and Bureau of Land Management). On BLM and Forest Service land, OHV use will be limited to designated roads and trails regardless of what happens with the wild and scenic designation.

***False Claim:* Wild and scenic river designation will automatically increase the number of tourists coming to the Mokelumne.**

The Truth: That’s largely up to local people. Our local communities can choose whether to promote the Mokelumne as a tourist destination or whether to keep quiet about it. Communities near the Chattooga National Wild and Scenic River along the Georgia/South Carolina border seized the opportunity to develop tourism, promoting their river as one of the most rugged and exciting whitewater rafting destinations. This popularity has boosted the local economy, bringing in tens of millions of dollars. Other communities have chosen not to promote their wild and scenic river. They have seen no significant increase in the number of tourists coming to their region.

***False Claim:* Local citizens have no role in the study or management of a wild and scenic river.**

The Truth: There is ample opportunity for public input at many stages of the designation process. When the Forest Service and BLM did their wild and scenic river studies, they held public hearings and took comments in person and in writing. They also accepted public comments on the draft study reports. The BLM’s public process for its land

management update started in 2005. The BLM received thousands of support comments for the Mokelumne designation in its draft Resource Management Plan and no opposition comments. After the Mokelumne is designated a wild and scenic river, the agencies will develop a management plan. That plan will include opportunities for citizen input.

Sources:

Interagency Wild and Scenic Rivers Coordinating Council; *Wild and Scenic Rivers Reference Guide*, revised March 2000.

The Wild and Scenic Rivers Act, (16 U.S.C. 1271-1287.) October 2, 1968

American Rivers website: www.americanrivers.org