

5.0 WILD AND SCENIC RIVER ACT COMPLIANCE

5.1 Introduction

In the 1960s, the United States recognized that the nation's rivers were being dredged, dammed, diverted, and degraded at an alarming rate. In response, the U.S. Congress established the Wild and Scenic Rivers Act, in October of 1968. Designation as a Wild and Scenic River is given to rivers that have been identified as having distinctively unique or "outstandingly remarkable" values that set it apart from other rivers, making it worthy of special protection. The goal of designating a river as Wild and Scenic is to preserve its free-flowing character and unique qualities.

The U.S. Congress designated approximately 83 miles of the Tuolumne River as a Wild and Scenic River in 1984. The purpose of a Wild and Scenic River designation is to protect the river's free-flowing condition and to protect and enhance its unique values for the benefit and enjoyment of present and future generations. The Tuolumne River's designation consists of 47 miles as Wild, 23 miles as Scenic, and 13 miles as Recreational (NPS 2006b). The purpose of this determination is to evaluate the impact of the Hetch Hetchy Communication System Upgrade Project on the free-flowing condition and the Outstandingly Remarkable Values (ORV) for which the Tuolumne River was designated Wild and Scenic.

5.2 Wild and Scenic Rivers Act

The Wild and Scenic Rivers Act (Public Law 90-542, as amended) states the following:

It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes.

ORVs are defined by the Wild and Scenic Rivers Act as those resources within a river corridor worthy of special protection. These are the values for which a river is added to the National Wild and Scenic Rivers System. The Wild and Scenic Rivers Act stipulates that these values are to be protected and enhanced. It also stipulates that each agency charged with administration of a segment of the Wild and Scenic Rivers System establish boundaries (an average of not more than 320 acres per mile on both sides of the river) and prepare a comprehensive management plan to provide for the protection of river values. The plan must address resource protection, development of lands and facilities, user capacities, and other management practices necessary to achieve the purposes of the act. The Tuolumne River Plan fulfills this requirement.

Section 2 of the Wild and Scenic Rivers Act requires that the river be classified and administered as wild, scenic, or recreational river segments, based on the condition of the river corridor at the time of Congressional designation. The classification of a river segment indicates the existing level of development on the shorelines and in the watershed, and the accessibility by road or trail. Classifications are defined in the act as follows:

- Wild river areas. Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shoreline essentially primitive and waters unpolluted.
- Scenic river areas. Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.
- Recreational river areas. Those rivers or sections of 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.

5.2.1 Tuolumne River Wild and Scenic River

The Tuolumne River's wild and scenic designated portions run through both Yosemite National Park and Stanislaus National Forest. The project area is within a scenic classification segment.

Stanislaus National Forest Tuolumne Wild and Scenic River Management Plan

The United States Forest Service's (USFS) Tuolumne Wild and Scenic River Management Plan was approved in 1986 and revised in 1988. The purpose of the USFS' Tuolumne River Plan is to provide "direction for managing the federal lands within the boundaries of the designated corridor" (USFS 1998). This plan includes portions of the Tuolumne Wild and Scenic River (29 miles) outside of Yosemite National Park.

Yosemite National Park Tuolumne Wild and Scenic River Comprehensive Management Plan

Yosemite National Park has begun the preparation of the Tuolumne Wild and Scenic River Comprehensive Management Plan for the 54 miles of river that are under the jurisdiction of the National Park Service (NPS) in Yosemite National Park. A final document is not available at this time; however, the NPS has developed the *Tuolumne Wild and Scenic River Draft ORV Report*. Scoping for the Tuolumne Wild and Scenic River Comprehensive Management Plan scoping was initiated in June 2006. The Draft ORV Report represents the review and proposed revision of ORVs for the portion of the Tuolumne Wild and Scenic River located within Yosemite National Park (NPS 2006c). Since the completion of the 1979 *Tuolumne Wild and Scenic River Study Final Environmental Impact Statement and Study Report* (Tuolumne Final Study), the NPS has followed the Interagency Wild and Scenic Rivers Coordinating Council's guidance and used the most current scientific and scholarly information available for the river corridor in developing the proposed revisions to the Tuolumne River ORVs (NPS 2006c). This EA/IS will not constrain the preparation of the future Wild and Scenic River Comprehensive Management Plan.

5.2.2 Consistency with Management Elements of the Tuolumne River Wild and Scenic River Management Plan

The proposed actions within Stanislaus National Forest do not fall within the Tuolumne Wild and Scenic River Boundary. The proposed actions within Yosemite National Park, with the exception of the O'Shaughnessy Stream Gauge site, do not fall within the Tuolumne Wild and Scenic River Boundary. The O'Shaughnessy Stream Gauge site is located within Segment 5 on the banks of the Tuolumne River. The NPS used the river segments and classifications described in the Tuolumne Final Study for the Draft ORV Report. Segment 5 is the area below Hetch Hetchy Reservoir to the designated Wilderness Boundary further southwest and is classified as Scenic. As described in Section 5.2, Scenic river areas are defined as "those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads."

The proposed action would not result in changes to the current level of protection and enhancement of the ecologic, sociocultural, scientific, hydrologic, geologic, biologic, cultural, historical, scenic, and recreational ORVs. Table C-1 in Appendix C, describes the effects of the proposed action on each of the ORVs for Segment 5 of the Tuolumne River, since the O'Shaughnessy Stream Gauge site is located on the bank of the Tuolumne River. The implementation of the proposed action is expected to allow the NPS to continue to protect and enhance the river's ORVs in Yosemite consistent with the requirements of the Wild and Scenic Rivers Act.

5.2.3 Wild and Scenic Rivers Act Section 7 Determination

The NPS must carry out a Section 7 determination on all proposed projects that affect the bed and banks of the Tuolumne River to ensure that they do not affect the free flow and do not directly and adversely impact the free-flowing condition of the river. The Section 7 determination process (Appendix C) applies only to the O'Shaughnessy Stream Gauge site, as it is the only site that occurs in the bed or bank of the Tuolumne River.

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