

AMADOR COUNTY BOARD OF SUPERVISORS
COUNTY ADMINISTRATION CENTER
BOARD OF SUPERVISORS CHAMBERS
810 Court Street
Jackson, CA 95642

Please Note: All Board of Supervisors meetings are tape-recorded.

Anyone who wishes to address the Board must speak from the podium and should print their name on the Board Meeting Speaker list, which is located on the podium. The Clerk will collect the list at the end of the meeting.

Public hearing items will commence no sooner than the times listed on the agenda. Closed Session agenda items may be heard before or after scheduled public hearings, dependent upon progression of the agenda.

****REVISED** SPECIAL MEETING AGENDA**

DATE: Friday, March 09, 2018
TIME: 9:00 AM
LOCATION: COUNTY ADMINISTRATION CENTER
BOARD OF SUPERVISORS CHAMBERS
810 Court Street
Jackson, CA 95642

**Pursuant to Government Code §54953(b), Supervisor Frank U. Axe will be participating in this meeting via teleconference from a location of:
Marriott Courtyard-Lobby
5059 Hopyard Rd.
Pleasanton, CA 94588**

The public may participate in the meeting from that address

CLOSED SESSION: **8:30 A.M.** may be called for labor negotiations (pursuant to Government Code §54957.6), personnel matters (pursuant to Government Code §54957), real estate negotiations/acquisitions (pursuant to Government Code §54956.8), and/or pending or potential litigation (pursuant to Government Code §54956.9).

1. CONFERENCE WITH LABOR NEGOTIATORS: Pursuant to Government Code Section 54957.6

- 1.a. Conference With Labor Negotiators: Pursuant to Government Code Section 54957.6:
County Negotiators: Greg Gillott, County Counsel, Chuck Iley, County Administrative Officer, Judy Dias, Human Resource Director, Darrell P. Murray, IEDA. Employee Organizations: All Units
Suggested Action: Discussion and possible action

2. CONFERENCE WITH COUNTY COUNSEL: EXISTING LITIGATION - Government Code 54956.9(d)

- 2.a. County of Amador v. The United States Department of the Interior; In the United States Court of Appeal, Ninth Circuit, Case No. 15-17253
Suggested Action: Discussion and possible action relative to the existing litigation (Government Code 54956.9(d)(1))

REGULAR SESSION: **9:00 A.M.**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

PUBLIC MATTERS NOT ON THE AGENDA: Discussion items only, no action to be taken. Any person may address the Board at this time upon any subject within the jurisdiction of the Amador County Board of Supervisors; however, any matter that requires action may be referred to staff and/or Committee for a report and recommendation for possible action at a subsequent Board meeting. Please note - there is a three (3) minute limit per topic.

APPROVAL OF AGENDA: Approval of agenda for this date; any and all off-agenda items must be approved by the Board (pursuant to Government Code section 54954.2)

3. REGULAR AGENDA:

- 3.a. Board of Supervisors: Discussion and possible action relative to the AB142 Wild and Scenic Draft Report and approval of the Chairman's signature on a letter outlining comments to be sent to the California Natural Resources Agency.
Suggested Action: Approval

ADJOURNMENT: Until Tuesday, March 13, 2018 at 9:00 a.m.

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the Clerk of the Board staff, at (209) 223-6470 or (209) 257-0619 (fax). Requests must be made as early as possible and at least one-full business day before the start of the meeting. Assisted hearing devices are available in the Board Chambers for public use during all public meetings.

Pursuant to Government Code 54957.5, all materials relating to an agenda item for an open session of a regular meeting of the Board of Supervisors which are provided to a majority or all of the members of the Board by Board members, staff or the public within 72 hours of but prior to the meeting will be available for public inspection, at and after the time of such distribution, in the office of the Clerk of the Board of Supervisors, 810 Court Street, Jackson, California 95642, Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m., except for County holidays. Materials distributed to a majority or all of the members of the Board at the meeting will be available for public inspection at the public meeting if prepared by the members of the Board or County staff and after the public meeting if prepared by some other person. Availability of materials related to agenda items for public inspection does not include materials that are exempt from public disclosure under Government Code sections 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, or 6254.22.

Board of Supervisors Agenda Item Report

Submitting Department: Board of Supervisors

Meeting Date: March 9, 2018

SUBJECT

Conference With Labor Negotiators: Pursuant to Government Code Section 54957.6: County Negotiators: Greg Gillott, County Counsel, Chuck Iley, County Administrative Officer, Judy Dias, Human Resource Director, Darrell P. Murray, IEDA. Employee Organizations: All Units

Recommendation:

Discussion and possible action

4/5 vote required:

No

Distribution Instructions:

None

ATTACHMENTS

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Board of Supervisors Agenda Item Report

Submitting Department: County Counsel

Meeting Date: March 9, 2018

SUBJECT

County of Amador v. The United States Department of the Interior; In the United States Court of Appeal, Ninth Circuit, Case No. 15-17253

Recommendation:

Discussion and possible action relative to the existing litigation (Government Code 54956.9(d)(1))

4/5 vote required:

No

Distribution Instructions:

BOS

ATTACHMENTS

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Board of Supervisors Agenda Item Report

Submitting Department: Board of Supervisors

Meeting Date: March 9, 2018

SUBJECT

Board of Supervisors: Discussion and possible action relative to the AB142 Wild and Scenic Draft Report and approval of the Chairman's signature on a letter outlining comments to be sent to the California Natural Resources Agency.

Recommendation:

Approval

4/5 vote required:

No

Distribution Instructions:

Board Clerk

ATTACHMENTS

- [AB142_DRAFT LETTER \(1\)_Version 2.docx](#)
- [AB142_DRAFT LETTER_Version 1.docx](#)

Mr. Joey Wall, Special Assistant
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

February 27, 2018

Re: *Comments on CNRA's draft Mokelumne River Wild and Scenic Study Report*

Dear Mr. Wall:

Thank you for the opportunity to comment on the California Natural Resources Agency's draft *Mokelumne River Wild and Scenic Study Report* issued on January 26, 2018. We appreciate your consideration in granting our request to extend the deadline to receive comments to March 8, 2018.

We would like to thank the CNRA and its consultants for carrying out the study in accordance with the mandates of Assembly Bill 142 (Bigelow, R-O'Neals), which was supported by the County of Amador. As you know, in the past the Amador County Board of Supervisors opposed the Mokelumne being designated into the state Wild and Scenic River System. However the Board did vote to support Assembly Bill 142 in 2015. Now that the study is complete, we hope it will help provide a factual baseline for future Mokelumne River discussions and policy decisions.

Water needs and water rights

We note that the study recommends including the 37 studied miles of the Mokelumne River in the California Wild and Scenic River System along with "special provisions" to provide some assurances regarding future local water supply.

The report acknowledges that Amador County may need more water to meet future demands. Consequently, we were glad to learn that the California Research Bureau (Appendix E) has determined that California Wild and Scenic designation has a "negligible effect" on regulation of designated rivers and that the Natural Resources Secretary has in fact approved all water rights applications filed on designated state rivers over the last 12 years.

Effects on water uses, land uses and existing facilities

Other study conclusions should be of interest to local residents and landowners concerned about the potential water rights, firefighting, and land use impacts of California Wild and Scenic River designation. They include the following:

- **Existing uses.** “Existing water uses, water rights, and land uses generally would not be affected by designation...” (page ES-1)
- **Hydropower generation.** “PG&E’s facilities, operations, maintenance and repair would not be affected by designation.” (page ES-1)
- **Timber harvest.** Designation “... would not significantly change current timber harvest practices or reduce timber production along designated segments ... Timber management practices on public lands that are administered by USFS and BLM would be unaffected by State Wild and Scenic River designation.” (Page 5-3)
- **Grazing.** “Grazing practices would not be affected by State Wild and Scenic designation.” (Page 5-3)
- **Agriculture.** “The California Wild and Scenic Rivers Act imposes no restrictions on agricultural operations on lands adjacent to designated rivers.” (Page 5-4)
- **Land uses.** “Future land use on local government and privately-held lands in the Mokelumne River watershed upstream of Pardee Reservoir would be expected to generally remain similar to existing conditions. ... Future land use on local government and privately-held lands outside the designated river corridor would be unaffected by designation. Future land uses would generally be unaffected by inclusion of river segments into the State System.” (Page 5-6)
- **Regulation.** “Local governments, particularly in rural areas, historically have not expanded land use regulatory powers. Designated State Wild and Scenic Rivers typically have not been managed by State or local governments in a manner that creates potential impacts to existing or future land or water uses. There are no indications from State or local agencies and governments that this trend would not continue. Consequently, it is expected that no impacts would result from changes in State or local regulations related to State Wild and Scenic River designation.” (Page 5-7)

- **Economic impacts.** “Designating Mokelumne River segments as components of the California System would not be expected to significantly affect production of timber, livestock, minerals, or any other commodities within lands adjacent to the river or in the watershed. Consequently, no or negligible impacts on the regional or local economies would be expected within these sectors.” (Page 5-20)
- **Eminent domain.** “The Act does not permit the taking of private property for public uses without just compensation (PRC Sec. 5093.63). The Act has never been used in its 45year history to condemn or otherwise take land.” (Page 2-20)
- **Water supply for firefighting.** “Emergency use of Mokelumne River waters during wildfires will be unaffected with designation, as it was recently during wildfire in the Mokelumne River watershed.” (Page 2-20)

Conclusion

Many Amador County residents enjoy the beauty and recreational opportunities the Mokelumne River affords. They would agree with the study’s finding that the Mokelumne River has extraordinary scenic and recreational values, and we appreciate that your analysis recognizes the recreational opportunities available to the public at Roaring Camp Mining Company.

We are in agreement with the special provisions provided by the water agencies which are summarized as follows:

1. Protect existing water rights.
2. Protect future water rights.
3. Protect PG&E operations and maintenance.
4. Prohibit the Governor and all other State agencies from recommending inclusion of State designated wild and scenic segments into the Federal Wild and Scenic Rivers System.
5. Protect Roaring Camp Mining Company from any negative impacts of Wild and Scenic Designation. (we are proposing specific language about this as follows):

The designation of the identified segments of the Mokelumne River into the State Wild and Scenic System shall not prejudice, alter, affect in any way or interfere with the maintenance, repair, recreational opportunities or operations of Roaring Camp Mining Company and its associated structures and facilities.

We greatly appreciate the fact that the agencies are working with all stakeholders to arrive at provisions which can be supported by all.

In the event that the Mokelumne River is not accepted into the Wild and Scenic system an alternative for consideration could be to apply the standards used with Mill Creek and Deer Creek. It is our understanding that such provisions simply do not allow dams.

In addition, a couple of our Board members question why your agency did not consider including a 20-30 year review of Wild and Scenic after it is implemented to evaluate its effectiveness.

We are pleased to see that the draft study is now complete and urge you to consider all of the comments you receive on it. As stated above, we hope the final study will be a useful, factual resource to all who care about the Mokelumne River and local land and water use.

Finally, we would like to note our pride in you, Mr. Wall. We are very pleased that a graduate of Amador High School has served as the manager of this legislatively authorized study.

Thank you for this opportunity to comment.

Sincerely yours,

Lynn A. Morgan
Chairperson

Mr. Joey Wall, Special Assistant
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

February 27, 2018

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We would like to thank the CNRA and its consultants for carrying out the study in accordance with the mandates of Assembly Bill 142 (Bigelow, R-O'Neals), which was supported by the County of Amador. As you know, in the past the Amador County Board of Supervisors opposed the Mokelumne being designated into the state Wild and Scenic River System and we believe this fact should be noted in the study under 3.6-current *key stakeholders and positions*. ~~However the Board did vote to support Assembly Bill 142 in 2015.~~ Now that the study is complete, we hope it will help provide a factual baseline for future Mokelumne River discussions and policy decisions.

Water needs and water rights

We note that the study recommends including the 37 studied miles of the Mokelumne River in the California Wild and Scenic River System along with "special provisions" to provide ~~some~~ assurances regarding future local water supply.

The report acknowledges that Amador County may need more water to meet future demands. Consequently, we were glad to learn that the California Research Bureau (Appendix E) has determined that California Wild and Scenic designation has a "negligible effect" on regulation of designated rivers and that the Natural Resources Secretary has in fact approved all water rights applications filed on designated state rivers over the last 12 years.

Effects on water uses, land uses and existing facilities

Other study conclusions should be of interest to local residents and landowners concerned about the potential water rights, firefighting, and land use impacts of California Wild and Scenic River designation. They include the following:

- **Existing uses.** “Existing water uses, water rights, and land uses generally would not be affected by designation...” (page ES-1)
- **Hydropower generation.** “PG&E’s facilities, operations, maintenance and repair would not be affected by designation.” (page ES-1)
- **Timber harvest.** Designation “... would not significantly change current timber harvest practices or reduce timber production along designated segments ... Timber management practices on public lands that are administered by USFS and BLM would be unaffected by State Wild and Scenic River designation.” (Page 5-3)
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- **Regulation.** “Local governments, particularly in rural areas, historically have not expanded land use regulatory powers. Designated State Wild and Scenic Rivers typically have not been managed by State or local governments in a manner that creates potential impacts to existing or future land or water uses. There are no indications from State or local agencies and governments that this trend would not continue. Consequently, it is expected that no impacts would result from changes in State or local regulations related to State Wild and Scenic River designation.” (Page 5-7)

- **Economic impacts.** “Designating Mokelumne River segments as components of the California System would not be expected to significantly affect production of timber, livestock, minerals, or any other commodities within lands adjacent to the river or in the watershed. Consequently, no or negligible impacts on the regional or local economies would be expected within these sectors.” (Page 5-20)
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- **Water supply for firefighting.** “Emergency use of Mokelumne River waters during wildfires will be unaffected with designation, as it was recently during wildfire in the Mokelumne River watershed.” (Page 2-20)

Conclusion

Many Amador County residents enjoy the beauty and recreational opportunities the Mokelumne River affords. They would agree with the study’s finding that the Mokelumne River has extraordinary scenic and recreational values, and we appreciate that your analysis recognizes the recreational opportunities available to the public at Roaring Camp Mining Company.

Amador County Board of Supervisors is in support of the following six (6) Special Provisions put forth by Amador Water Agency in conjunction with other local water entities. These six provisions include three (3) original provisions with proposed amendments. Also, we understand the six (6) special provisions are a work in progress and encourage the agencies to work with all stakeholders to arrive at special provisions which can be supported by all. ~~We are in agreement with the three original special provisions included in the Study, but are suggesting an additional four provisions be added as follows:~~

- Special Provision No. 1. The designation of the identified segments of the Mokelumne River into the System shall not prejudice, alter, delay, interfere with, or affect in any way, the existing water rights of the Pacific Gas and Electric Company or public water agencies in Alpine, Amador and Calaveras Counties, including the range of operations permitted under these existing water rights; any historic water use practices within existing water rights; or the replacement, maintenance, repair, operation, or **full utilization of existing water rights**, existing diversion, storage, powerhouse, or conveyance facilities or other works by the Pacific Gas and Electric Company, or public water agencies in Alpine, Amador and

Calaveras Counties; nor shall anything in this subdivision preclude the issuance of any governmental authorization or financial assistance needed for utilization of those rights.

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- Special Provision No. 2. The designation of the identified segments of the Mokelumne River into the System shall not prejudice, alter, delay, interfere with, or affect any changes to the existing water rights of the Pacific Gas and Electric Company, or public water agencies **in Alpine, Amador and Calaveras Counties, including changes in the purposes of use, places of use, points of diversion, quantities of water diverted, or ownership, or applications by these agencies for new water rights, including Amador Water Agency's pending water right application 5647X03, reservations of rights for County-of-Origin uses for public water agencies in Alpine, Amador and Calaveras Counties, or any unappropriated water that may be available for appropriation by such agencies under State Filings 5647 and 5648; provided, that the changes or applications do not involve the construction of a dam, reservoir, diversion, or other water impoundment facility within the designated segments. **Nothing in this subdivision shall preclude the issuance of any governmental authorization or financial assistance needed pursuant to this provision.** Any permitted change, application, or future project shall be subject to all applicable constitutional, statutory, and judicial requirements, including the public trust doctrine and a determination that the new or expanded or rehabilitated facilities will not cause an adverse effect upon the free-flowing condition, natural character, or extraordinary scenic or recreational values of the river segments designated herein. For the purposes of this designation, an adverse effect will be considered to be significant impairment to the flows that would otherwise exist within the designated segments independent of this designation.**
- Special Provision No. 3. The designation of the identified segments of the Mokelumne River into the System shall not prejudice, alter, affect in any way, or interfere with the maintenance, repair, or operation by the Pacific Gas and Electric Company of the Mokelumne River Project (FERC No. 137) currently under the 2001 Federal Energy Regulatory Commission license for the project, the incorporated settlement agreement, any license amendments made with the agreement of the parties to the incorporated settlement agreement, and any adjustment of flows permitted to occur pursuant to the license for enhancement of ecological and recreational resources.
- Special Provision No. 4. Neither the Governor nor an employee of a state agency or department shall apply to a secretary, department, agency, or other entity of the federal government for the designation of any portion of the Mokelumne River Watershed as a component of the national wild and scenic rivers system under the federal Wild and Scenic Rivers Act (16 U.S.C. Sec. 1271 et seq.).

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Special Provision No. 5. Neither the Governor nor an employee of a state agency or department shall expend funds preparing, filing, or otherwise submitting an application to a secretary, department, or other entity of the federal government for the designation of any portion of the Mokelumne River Watershed as a component of the national wild and scenic rivers system under the federal Wild and Scenic Rivers Act (16 U.S.C. Sec. 1271 et seq.).

- Special Provision No. 6. To the extent that these special conditions conflict with other provisions of this chapter, this subdivision shall control.

In addition Amador County Board of Supervisors unanimously supports the following be added as Special Provision #7:

- Special Provision No. 7. The designation of the identified segments of the Mokelumne River into the State Wild and Scenic System shall not prejudice, alter, affect in any way or interfere with the maintenance, repair, recreational opportunities or operations of Roaring Camp Mining Company and its associated structures, ~~and~~ facilities and land.

In the event that the Mokelumne River is ~~not~~ being considered for acceptance into the Wild and Scenic system, an alternative for consideration could be to apply the standards used with Mill Creek and Deer Creek. It is our understanding that such provisions simply do not allow dams.

The Board is ~~appreciative~~ supportive of many of the six (6) special provisions suggested by the water agencies. We greatly appreciate the fact that the agencies are working with all stakeholders to arrive at provisions which can be supported by all.

In addition, a couple of our Board members ~~question why~~ would like your agency ~~did not~~ to consider including a 20-30 year ~~review~~ "Sunset Clause" of Wild and Scenic in order to evaluate its effectiveness.

We are pleased to see that the draft study is now complete and urge you to consider all of the comments you receive on it. As stated above, we hope the final study will be a useful, factual resource to all who care about the Mokelumne River and local land and water use.

Finally, we would like to note our pride in you, Mr. Wall. We are very pleased that a graduate of Amador High School has served as the manager of this legislatively authorized study.

Thank you for this opportunity to comment.

Sincerely yours,

Lynn A. Morgan
Chairperson