

Printable version: Thursday, May 24, 2007

1. PARKS: Yosemite tries, tries again on Merced River plan

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If it sometimes appears that Yosemite National Park is engaged in an endless feedback loop of planning, public meetings and litigation, that's because it is.

Park officials this month began a series of public workshops on their third version since 2000 of the Merced Wild and Scenic River Comprehensive Management Plan. "We're under a court order to do this," explained park planner Linda Dahl during a sparsely attended workshop in San Francisco on May 17. "But every time we do one of these processes, we do it a little better."

Dahl was referring to the fact that on two previous occasions, challenges to park planning process resulted in revisions to the Merced River plan. Most recently, the U.S. District Court in Fresno ruled last year that the 2005 revision of the 2000 Merced plan was flawed in part because it did not address park crowding with proposals to establish a maximum number of persons allowed in Yosemite Valley.



Litigation has put a hold on several improvement and repair projects in Yosemite National Park, although a judge has allowed work on sewers and utility undergrounding to continue. Photo by Arthur O'Donnell.

aspects of the Yosemite Valley Plan. And while litigation over the pending Tuolumne plan is almost inevitable, Dahl said that process is less contentious but involves many of the same issues as the Merced process. "We'd like to resolve them in the Merced plan," she said.

Balance and adaptation required

Underlying all of the legal and planning issues is a dilemma that the Park Services faces at every one of its units, which derives from the dictates of the 1916 Organic Act that formally established the parks system. "How do you let people in and leave the

In addition, Judge Anthony Ishii enjoined the Park Service from continuing with a massive restoration and rehabilitation program necessitated by floods in the winter of 1996-97. The injunction put on hold nine projects to revamp campground configurations, restore employee housing and visitors lodges damaged by flooding, and restore the Happy Isles Bridge, among other planned projects.

However, Ishii also approved an emergency motion for the park to proceed with emergency repairs to its sewer system and allowed repaving of the Valley Loop Road -- although neither disruptive project was able to get under way before this year's tourist season.

Even as NPS is appealing Ishii's ruling to the 9th U.S. Circuit Court of Appeals, planners have begun anew the 33-month long process for coming up with an acceptable Merced management plan. The current phase, which began in March, involves scoping for the plan and a related environmental impact statement.

And, at the same time, the National Park Service is conducting a management plan for the Tuolumne River, another wild and scenic resource within the park's boundaries, as well as preparing documentation for upcoming project specific planning actions, including reconstructing critically eroded portions of El Portal Road, the Tunnel View Overlook rehabilitation project, Glacier Point Road rehabilitation, a comprehensive transportation plan and a park wide invasive plant management plan -- all due to start this year.

To top it off, lined up directly after the litigation over the 2005 Merced plan, another suit involving the same parties, including Friends of Yosemite Valley and Mariposans for the Environment and Responsible Government, challenges

parks unimpaired? We are mandated by law to let people in but we have to figure out how to do it without messing the place up."

The issue of user capacity is not only critical to Yosemite, but to all public lands and, according to NPS, the court's decision sets a precedent that contradicts the preponderance of research and thinking, and it could be used to invalidate management plans throughout the Park Service, the U.S. Forest Service and other agencies.

NPS continues to argue that a "conditions-based adaptive management" approach is best for such a popular and heavily used public resource. Last year, Yosemite counted about 3.6 million visitors -- but that was down largely because of a road closure that restricted access to one of the park's major entries for several months -- and still slows traffic through the landslide area even though a single-lane bypass has been constructed.

Concerned that the situation will continue to affect attendance, the Yosemite Park superintendent has deferred implementing a new entry fee schedule that went into effect for national parks this month, maintaining the \$20 per car fee instead of raising it to \$25 ([Land Letter](#), April 26).

In order to determine how effective any particular user capacity management strategy might be, planner Dahl said it is important to know exactly what kind of resource conditions and recreational opportunities are desired by visitors; what kinds of protections natural and cultural features require; and what kind of visitor experience the wild and scenic area should provide. In Yosemite, she said, the main draws are "waterfalls, granite domes and wildflowers" along with a shared tradition of family use by many visitors.

"It's a very special place for a lot of people who have a history there," Dahl said. "People come to public meetings and tell us about where they camped and those places are sacred to them."

The Yosemite litigation appears to be largely driven by user groups that want to restore a more solitary, wilderness-like experience, but as a 110-year-old park, Yosemite has long been subject to issues of overcrowding. Dahl showed old photos of some past management practices that clearly undermine the notion of the valley as a wilderness, such as allowing car camping right on the sensitive El Capitan meadows, or rangers shoveling garbage and food to attract bears so the tourist could take pictures.

Such practices have been eliminated with changing times and different management philosophies, Dahl said. Another significant change that the Park Service needs to address is the changing demographic in which new ethnic majorities are being formed that hold different cultural values and use parks in different ways -- for example, more as a day use activity than an overnight or extended camping experience. "I see it as part of my job to get those toes into the Merced River, so those people will want to come back," Dahl said.



Yosemite Falls is one of the extraordinary river resources found in Yosemite National Park. Photo by Arthur O'Donnell.

Green groups side with NPS

As parties prepare to move litigation over the 2005 Merced plan to the 9th Circuit, the Park Service got a boost this month in the form of an amicus brief filed by a coalition of seven nonprofit environmental organizations and one individual, including the Yosemite Fund, California Trout, Friends of the River, and the Wilderness Society [*Friends of Yosemite Valley, et al., v. Kempthorne, et al.*; No 07-15124].

The parties told the court that the Merced River comprehensive management plan adopted by NPS "was the best result for varied interests that seek to protect, preserve, restore and enjoy Yosemite and the Merced River corridor." Although well intentioned, they said, the lower court "got it wrong, that this court should correct this wrong, and that failure to correct the wrong will have implications far beyond Yosemite."

As "respectful users" of the park, members of the amici organizations are rock and mountain climbers, backpackers, day hikers, campers, anglers and river conservationists who say they would be harmed by the imposition of arbitrary limits on park use. They supported NPS's use of adaptive management for user capacity and said "visitor caps would necessarily be arbitrary, capricious and ineffectual."

In the appeal document filed on behalf of NPS by the Department of Justice, federal attorneys took a more legalistic argument, claiming that the district court erred in its findings on a number of grounds. The user management techniques employed in the revised plan were appropriate, DOJ said, because interim limits -- which had been ordered in prior litigation -- were based on facilities that were "below what existed in the park when the Merced River was added to the National Wild and Scenic River System. Campgrounds and lodging are not inconsistent with Merced's wild and scenic status, DOJ argued.

Also, the government contends it was not necessary that the Merced plan be a wholly self-contained plan," as Judge Ishii had ruled it should, because the 9th Circuit's prior decisions allowed for a revised plan "rather than starting from scratch."