

RESTORE HETCH HETCHY

Yosemite National Park

June 19, 2023

Cicely Muldoon, Superintendent
Yosemite National Park

Dennis Herrera, General Manager
San Francisco Public Utilities Commission

By U.S. Mail and Email

Re: Renewal of Memorandum of Agreement between the NPS and the SFPUC

Dear Superintendent Muldoon and General Manager Herrera:

Restore Hetch Hetchy (“RHH”) is committed to enhancing the visitor experience in the Hetch Hetchy area of Yosemite National Park (“Hetch Hetchy”). It is essential that the arrangements between the National Park Service (“NPS”) and the San Francisco Public Utilities Commission (“SFPUC”) reflect the commitments made in the Raker Act, 38 Stat. 242, in full, as well as the objectives of the NPS’s Organic Act: “to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations” 54 U.S.C. § 100101.

We are aware that the NPS and the SFPUC are updating their management agreement, titled most recently in 2019 “Memorandum of Agreement Between City and County of San Francisco San Francisco Public Utilities Commission and National Park Service Yosemite National Park for Comprehensive Management of Watersheds within Yosemite National Park Supplying the San Francisco Regional Water System” (“MOA”).

RHH is concerned that if the MOA is not modified in specific respects, the SFPUC’s duties under the Raker Act and the NPS’s founding commitments will not be fully met and visitors to Yosemite National Park will be deprived of rightful enjoyment of the bounty of their national park.

BOARD OF DIRECTORS

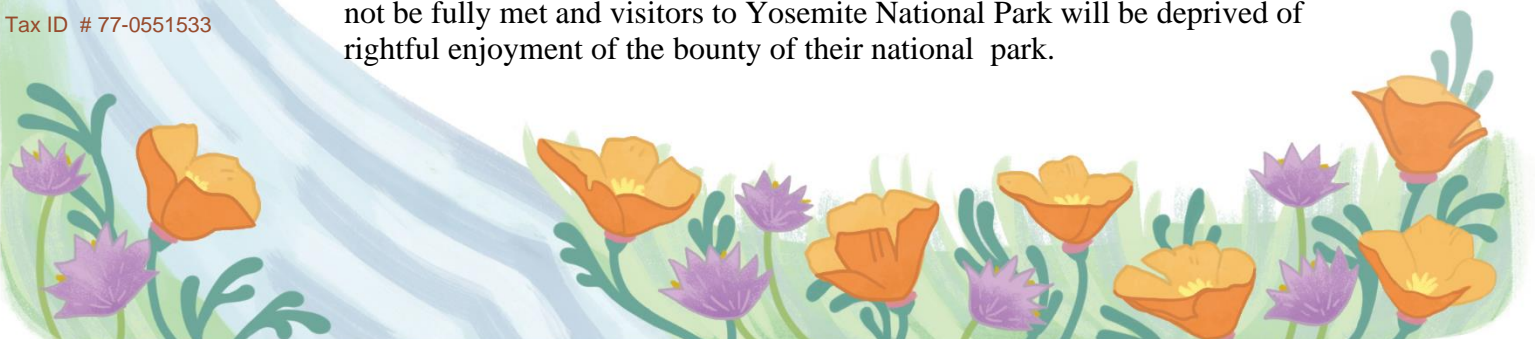
- Roger Williams, Chair
- Virginia Johannessen, Vice- Chair
- Peter Van Kuran, Treasurer
- Mark Palley, Secretary
- Kathy Bowler
- Mark Cederborg
- James Fousekis
- Ann Hayden
- Lance Olson
- Craig Reynolds
- Lucho Rivera
- Mecia Serafino
- Melanie Webber

STAFF

- Spreck Rosekrans
Executive Director
- Julene Freitas
Office Manager
- Marissa Leonard
Engagement and Development Director

3286 Adeline St. Suite 7
Berkeley, California 94703
510.893.3400

Tax ID # 77-0551533



We ask the SFPUC and the NPS to release a draft MOA for public review and comment, rather than finalizing an agreement behind closed doors. We acknowledge that the NPS has declined to share drafts of the MOA, contending that they are exempt from the Freedom of Information Act (“FOIA”), perhaps by virtue of the “commercial” exemption to FOIA, 5 U.S.C. § 552(b)(4). We have not sought the draft by FOIA, but do not think the exemption applies. The SFPUC’s objectives may be characterized as regional “commercial” ones – to avoid the cost of filtration of the Tuolumne water stored at the reservoir in Hetch Hetchy and to maximize its income from power and water sales and distribution. The NPS’s objectives, however, are to preserve Hetch Hetchy for public enjoyment, as well as its natural and historic resources. While the Raker Act allows the SFPUC’s current use, it does not authorize the SFPUC to further interfere with the public’s enjoyment of its park beyond certain specific provisions. The public has a strong interest in making sure, through notice and comment, that the MOA protects the public’s interest.

Apart from visitor access, RHH has no interest in commenting on the provisions of the MOA that pertain to specific security steps that the NPS and the SFPUC are taking to protect the dam and the reservoir. We therefore repeat our request to allow inspection of and comment on provisions that are of interest to RHH, with appropriate redactions of security-related materials.

Absent opportunity to review such a draft, however, we provide comments below regarding the content of a revised MOA based upon the 2019 version. The revised MOA should include the following elements:

- **EXPANDED PUBLIC ACCESS.** The SFPUC should provide sufficient funds to allow unimpeded visitor use of the Hetch Hetchy area. Visitors are allowed 24-hour access in other areas of Yosemite National Park and they should have similar access in Hetch Hetchy. The limited hours prevent visitors from enjoying stargazing at night or getting early starts on trails before high summer heat – made all the hotter by lack of access to the reservoir’s waters – hinders their hiking experience. The SFPUC should provide sufficient funds to mitigate any reasonably-expected security risk associated with the O’Shaughnessy Dam or related infrastructure. The MOA should not restrict visitor hours as a security measure or otherwise. If reliable internet is required for security purposes, then the SFPUC should provide sufficient funding. Keeping visitors out of the Hetch Hetchy area is not an acceptable way to provide security, and doing so contravenes both the Raker Act and the Organic Act.
- **IMPROVED TRAIL BRIDGES.** The SFPUC should provide funds to ensure that hikers can safely travel across the bridges at Wapama Falls, even and especially when the falls are flowing at a high level. The SFPUC is required to maintain this “road or trail” (Raker Act, §§ 9(p) & 9(q)). The existing bridges are out of compliance, as it is

dangerous to cross them at times of high run-off – when public interest is at its highest. Visitors have been swept off these bridges to their deaths as recently as 2017 and 2019.

- **IMPROVED CAMPGROUND.** The Hetch Hetchy campground – limited to brief use by backpackers - has been woefully neglected. The SFPUC should provide potable water at the Hetch Hetchy campground. *See Raker Act, § 9(p).* Potable water is necessary to improve the adequacy of the bathroom facilities including making them ADA compliant.

In addition to lack of water, the Hetch Hetchy campground is in poor shape. There is very little shade and a lack of the rudimentary improvements that are provided at other campgrounds in Yosemite National Park. As a result, the Hetch Hetchy campground is often vacant while these other campgrounds are at full capacity in the summer. Providing potable water is the first step. Additional warranted improvements could and should be funded by the SFPUC, the YNP or Yosemite’s philanthropic partners.

- **IMPROVED BOATING ACCESS.** The boat ramp at the reservoir is currently unusable. In past years, the NPS has used its boat for emergency reconnaissance, but is presently unable to put its boat in the water, compromising visitor safety. The SFPUC should repair it in a timely manner.
- **IMPROVED INTERPRETATION AND PUBLIC EDUCATION.** The MOA should modify references to the Source Water Protection (SWP) Program. The Raker Act does not require the NPS to distribute literature or otherwise provide information promoting the SFPUC’s watershed interests beyond the specific requirements of the Act, and the MOA should not require the NPS to promote preserving the SFPUC’s filtration exemption. Consistent with the Organic Act, the NPS’s literature and other information should promote the public enjoyment of its park and the preservation of historical, social, environmental and wilderness interests. The SFPUC is free to place whatever signage it wishes on the dam itself, and to handout literature to visitors on the dam, but the NPS should distribute only its own materials. The MOA should adhere closely to the specific water-quality-protection conditions listed in the First through Third provision of Section 9(a) of the Raker Act. The MOA should also adhere to the express limitations imposed by the Fifth provision of Section 9(a) of the Act:

“If at any time the sanitary regulations provided for herein shall be deemed by said grantee insufficient to protect the purity of the water supply, then the said grantee shall install a filtration plant or provide other means to guard the purity of the water. No other sanitary rules or restrictions shall be demanded by or granted to the said grantee as to the use of the watershed by campers, tourists, or the occupants of hotels and cottages.”

Superintendent Cicely Muldoon and General Manager Dennis Herrera
Re: Renewal of Memorandum of Agreement between the NPS and the SFPUC
June 19, 2023
Page 4

Thank you for your consideration of these comments. I am available to discuss them further at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read "Spreck Rosekrans". The signature is fluid and cursive, with the first name "Spreck" and last name "Rosekrans" clearly distinguishable.

Spreck Rosekrans
Executive Director

Cc: Newsha Ajami, President, San Francisco Public Utilities Commission
London Breed, Mayor of San Francisco
Aaron Peskin, President, San Francisco Board of Supervisors
Chuck Sams, Director, National Park Service
Billy Shot, Regional Director, National Park Service
Tom McClintock, Congressman