

Environmentalists say agency not addressing dams' impacts on endangered species

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A consortium of environmental groups condemned the U.S. Army Corps of Engineers, which operates two dams on the lower stretches of the Yuba River, for what it deemed to be a surrender of the agency's responsibilities.

Last week, the Army Corps released two biological assessments regarding the ongoing operation and maintenance of Englebright and Daguerre Point dams on the Yuba River, according to a press release issued by the South Yuba River Citizens League. The Army Corps now asserts that the only activities it has discretion over are cleaning portable toilets and maintaining the campgrounds and boat ramps.

"These biological assessments represent a shocking reversal of the Corps' position on its own dams," said Caleb Dardick, SYRCL executive director. "Sadly, they indicate that the Corps is ready to abdicate its responsibility under the Endangered Species Act."

The Army Corps responded by saying the Endangered Species Act does not apply to the operation of the dams, as the existence of the dams is a nondiscretionary activity as authorized by Congress.

"Given that the Corps cannot remove the dams or make major modifications to their function without congressional authorization, the next step in determining what more can be done to improve fish passage conditions is a Corps reconnaissance study," read a formal statement crafted by the Corps.

SYRCL, Friends of the River and American Rivers said the biological assessments conspicuously left out any reference to the adverse impacts the two dams have on three fish species currently listed as endangered — green sturgeon, steelhead and spring-run Chinook salmon.

"Basically, the Corps is saying that Englebright's adverse impacts on threatened fish species have never been its concern," said Bob Center, executive director of Friends of the River.

"The Corps would have us believe that its only responsibilities are emptying the trash cans, cleaning up the occasional oil spill and pumping out porta-potties at Englebright reservoir campground."

The Corps asserted that it cares about the Yuba River.

“We continue to do what we can within our legal authority to improve habitat conditions for species within the river,” it stated. “Since 2007, for instance, we’ve added more than 15,000 tons of gravel for spawning habitat, which research by the Pacific State Marine Fisheries Commission has shown is being well used by salmonids.”

Steve Rothert, director of American Rivers’ California regional office, said he is not buying it.

“It appears the Corps took advantage of the recent government shutdown to purge itself of institutional memory, moral fortitude and its duty to protect the public trust related to the Yuba River,” Rothert said.

“The Corps was required by a 1935 federal law to provide fish passage over Englebright if feasible. With this move, they are trying to take one more step away from their legal duty.”

The Corps also referred to the 1935 law to support its position.

“The Corps maintains that determinations regarding the dams’ effects on listed species are limited given Congress’ decisions in 1900 and 1935 that these dams were necessary to protect the Sacramento River and its tributaries from the injurious effects of mining and other debris and the nondiscretionary nature of the Corps’ duty to monitor structures over which it has jurisdiction to ensure that they do not collapse and harm the public,” the Corps stated.

The latest salvo is a development in a long and complicated legal and regulatory battle that dates back at least a decade.

SYRCL and its partners declared a victory in 2012 when the National Marine Fisheries Services released a document that found the two dams were jeopardizing the continued existence of the three species of endangered anadromous fish.

The Corps and the Yuba County Water Agency took issue with selected contents in the released document, and SYRCL sued to force the national agency to comply with the findings.

A judge ordered all parties to await the Fisheries Service’s biological opinion that is due in 2014.

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