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Breaking News: State Water Board and Conservationists Sue the Federal Energy Regulatory Commission

Yuba and Bear Rivers threatened by Waivers of Clean Water Act Protections

Sacramento, CA – Breaking News: The State Water Board and environmental conservationists have filed lawsuits against the Federal Energy Regulatory Commission (FERC) at the 9th Circuit Federal Court of Appeals to protect the Yuba and Bear River watersheds. Recent decisions by FERC and parallel rollbacks by the Trump Administration have crippled the Clean Water Act in a way that would allow a series of hydropower dams on the Yuba and Bear rivers to avoid California’s environmental laws protecting our water, our lands and our community for the next 30 to 50 years.

“The Yuba River Watershed is the first in line to be sacrificed,” stated Melinda Booth, Executive Director of the South Yuba River Citizens League (SYRCL). “It is inappropriate for a federal agency to gut our State’s ability to protect our watershed. Our community can’t stand by without speaking up.”

Clean Water Act section 401 reserves the state’s authority to condition a federal hydropower license to meet state water quality standards. However, a recent ruling by FERC found that California lost its authority to issue a water quality certification for the Yuba-Bear hydropower project on the Yuba and Bear Rivers.

SYRCL, Friends of the River (FOR), California Sportfishing Protection Alliance (CSPA), Sierra Club and its Mother Lode Chapter have filed suit seeking to overturn the Commission’s waiver of certification on the Yuba-Bear Project and to instead protect the State’s authority to require the project operator Nevada Irrigation District (NID) to obey state environmental regulations.

NID’s Yuba-Bear Project is part of one of the oldest and most complex hydropower systems in the state. That system contains thirteen main dams, four powerhouses and four major conduits. The current FERC license for the Yuba-Bear Project is more than 50 years old and pre-dates the enactment of modern environmental laws such as the Clean Water Act and the Endangered Species Act.

“The laws may seem complicated, but the principles are simple,” stated Chris Shutes, CSPA’s FERC Projects Director. “After NID applied for a state permit, it refused to provide the information the State needed to issue the permit. Then, NID asked FERC to take away the State’s authority to issue the permit because the State supposedly took too long. NID and FERC have effectively assigned the consequences of NID’s failures to the State and the public while NID will benefit from less-stringent regulation for the next 30 to 50 years.”

FERC’s decision on Yuba-Bear would have damaging impacts on the Yuba and Bear river watersheds and lasting impacts for Clean Water Act enforcement statewide.

CSPA, SYRCL and other environmental partners have consistently opposed numerous similar waivers of certification before the Commission for the past year, to no avail. It is now up to the 9th Circuit Court to vacate FERC’s waiver of the Clean Water Act and allow the inclusion of the Water Board’s 401 certification in the final hydropower license.

“Hydropower operations need to be conditioned to protect fish, frogs, plants and water quality. Safeguarding our bedrock environmental laws for the health of our impacted waterways is more important now than ever before,” stated Ron Stork, Senior Policy Advisor with Friends of the River. “Our legal challenge is necessary to ensure that California is able to protect its precious waterways.”

Read the petition here: https://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20200818-5038.

Based in Nevada City, CA, the South Yuba River Citizens League (SYRCL, pronounced “circle”), is the leading voice for the protection and restoration of the Yuba River watershed. Founded in 1983 through a rural, grassroots campaign to defend the South Yuba River from proposed hydropower dams, SYRCL has developed into a vibrant community organization with more than 3,500 members and volunteers. For more information, visit yubariver.org and follow us on Twitter @yubariverpeople.

The California Sportfishing Protection Alliance (CSPA) is a statewide organization founded in 1983 to protect fisheries, habitat and water quality. Its main office is in Stockton.

Friends of the River is a statewide river conservation organization founded in 1973. It is headquartered in Sacramento.

The Sierra Club is the most enduring and influential grassroots environmental organization in the United States. They amplify the power of 3.8 million members and supporters to defend everyone’s right to a healthy world. The Mother Lode Chapter of the Sierra Club represents 17,000 members in 24 counties in Northern and Central California.