

THE UNION

State Water Board and conservationists sue federal energy regulatory commission

Submitted to The Nevada City Union

August 19, 2020

The State Water Board and environmental conservationists have filed lawsuits against the Federal Energy Regulatory Commission (FERC) at the Ninth Circuit Federal Court of Appeals to protect the Yuba and Bear river watersheds, a press release states.

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 the waters, lands and community for the next 30 to 50 years, according to the release from the South Yuba River Citizens League.



South Fork Yuba trial

“The Yuba River Watershed is the first in line to be sacrificed,” said Melinda Booth, executive director of 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 13 main dams, four powerhouses and four major conduits. The current FERC license for the Yuba-Bear Project is more than 50 years old and predates the enactment of modern environmental laws such as the Clean Water Act and the Endangered Species Act.

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 Ninth 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,” said 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.”

Source: South Yuba River Citizens League

<https://www.theunion.com/news/state-water-board-and-conservationists-sue-federal-energy-regulatory-commission/>