



Volume 9, Issue 11 - November 12, 2019

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Director's Corner

Au Revoir, but not Good Bye

By Eric Wesselman, Executive Director

Close to ten years ago Robert Wright (Bob) read a story in the Sacramento Bee about the new Army Corps of Engineers requirement to remove all vegetation, including old growth oaks, from their levees in CA. Bob jogged on a Corps Project levee every morning, and this news was more than a little alarming. This was habitat for him and countless other critters. Clearing the levees would destroy that and actually make them less stable. Bob also happened to be an Assistant U.S. Attorney in Sacramento and a former Deputy Attorney General for California, law school teacher, and a partner in a private practice.



Bob called Ron Stork in the FOR office to learn more about this and fired off his own comment letter to the Corps. It wasn't long before Bob made the decision to retire from government service and come to FOR so he could sue the government. So it wasn't long before Bob was moving into an office at FOR and serving as FOR's attorney. For his first case, he won a court judgment that has so far prevented the Corps from harming the great majority of California's legacy riparian forests that grace many of its rivers.

As a resident of West Sacramento, the gateway to the largest estuary on the West Coast, the idea of building two massive tunnels through the delta made his skin crawl. Bob spent the next eight years pursuing every viable legal strategy to save the delta and upstream

tributaries. He did save them from the twin tunnels by preventing the project from moving forward during the Brown administration and laying the foundation for the Newsom administration to drop Brown's plan this year. Of course we're now facing a plan to build one tunnel, but progress is progress and this was a step in the right direction. Bob represented FOR on several other legal matters of the years, playing a major role to protect rivers from suction-dredge mining, defend the Clean Water Act, and giving FOR sage advice on many other legal matters.

This fall Bob came to the conclusion that it's time for him to move on. This is a tough one for all of us at FOR, but Bob is not one to sit idly by. We are sure to hear his voice in the months and years ahead on California water policy and public lands issues that he's passionate about. That's welcome news to all of us, but we will dearly miss his activism, passion, charm, and wit in the FOR office. Bob is a true statesman, and those are in short supply these days.

You can send a note to thank Bob for his many years of service at FOR and wish him well by email at: bwrightatty@gmail.com

News and Updates



River RATS Point Positive

Are you motivated to push back against the tide of environmental rollbacks? Would you like to be part of a campaign that works to build a more resilient water future?

FOR is seeking motivated, gritty folks who want to train as organizers, be part of a Point Positive campaign and get an inside look into California water issues. There is no right age, just the right time for you. RATS can be working parents, retired professionals, students seeking more career experience or someone looking to take action on the value of community and action.

[Learn more](#)

[Apply now](#)

Make it ripple! Share this flyer with folks who you think might be interested or are part of our water community. [Share the flyer](#)

[Share on Facebook](#)

FOR creates National and State Wild and Scenic Map

The State of California has never had a map that contained both National and State Wild and Scenic Systems. Until now! Friends of the River has been hard at work crafting a fully interactive map that contains both systems. This map has the ability to toggle between the National and State Wild and Scenic Systems. Each river segment when selected will produce a pop up that presents the segments designation as well as mileage. We are hard at work improving and adding features to the map. In the coming months the map should have the ability to show potential Wild and Scenic rivers as well!

Visit friendsoftheriver.org to view the map and learn about current Wild and Scenic campaigns that Friends of the River is participating in!

[View Map](#)

Oroville Dam Case Preemption Fight Continues

By Bob Wright

The year 2018 ended with some bad news in the Oroville Dam case being litigated by Butte and Plumas Counties against the Department of Water Resources (DWR.) The Third District Court of Appeal issued a bad decision with major adverse consequences, especially in light of the Trump Administration's war against state involvement in protecting state water quality requirements.

The decision held that California state courts have been preempted by federal dam relicensing procedure from determining some critical issues:

1. whether an Environmental Impact Report (EIR), prepared by DWR to support its discretionary decision to seek dam relicensing, is legally sufficient to comply with the California Environmental Quality Act (CEQA) and
2. whether this same EIR, prepared to support a State Water Resources Control Board water-quality certification using delegated authority from the federal Clean Water Act, meets state legal standards.

Our Friends of the River (FOR) et al. Amicus letter in February 2019, requested that the California Supreme Court to grant the Counties' Petition for Review. Our focus was that the lower appellate court decision was in conflict with the California Supreme Court's decision in Friends of the Eel River v. North Coast Railroad Authority (2017) 3 Cal.5th 677. Friends of the Eel River had held there is a "presumption that Congress would not alter the balance between state and federal powers without doing so in unmistakably clear language."

On April 10, 2019, the California Supreme Court ordered, The petition for review is granted. The matter is transferred to the Court of Appeal ... with directions to vacate its decision and reconsider the case in light of Friends of the Eel River ...

Then, on September 5, 2019, the Third District Court of Appeal repeated its decision holding that CEQA was preempted by federal dam relicensing procedure, in County of Butte v. Department of Water Resources (2019) 39 Cal.App.5th 708, 252 Cal.Rptr. 435.

You can read our new Amicus letter to the California Supreme Court, filed October 29, 2019, which requests that the Court to grant review again, and this time decide the preemption issue and require compliance with CEQA:

<https://www.friendsoftheriver.org/wp-content/uploads/2019/11/10-29-19-Oroville-ac-ltr-file-stamped.pdf>

You can also find our first Amicus brief for more information on the legal principles and what

is at stake here.

<https://www.friendsoftheriver.org/wp-content/uploads/2019/11/FOR-and-CSPA-Amicus-Brief-401-cert.pdf>

Californians need CEQA. Almost 200,000 Californians were evacuated during the February 2017 Oroville Dam spillway erosion emergency, something that might have been prevented by a successful CEQA challenge to this EIR by groups such as FOR. (The Federal Energy Regulatory Commission and DWR had previously ignored FOR's warnings that the emergency spillway needed to be armored.) The fight goes on to keep CEQA as part of dam licensing and relicensing throughout California.

Get Involved!



#1 holiday hack:

When you buy your gifts at smile.amazon.com, Amazon donates.

amazonsmile

Support Friends of the River via AmazonSmile

Did you know your purchases can make a difference? AmazonSmile donates to Friends of the River when you do your holiday shopping at smile.amazon.com. Follow the link and select Friends of the River Foundation as your charity of choice and 0.5% of every purchase will be donated! It's a win-win!

[Shop AmazonSmile](https://smile.amazon.com)

Giving Tuesday
December 3, 2019

Take part in the global day of giving by supporting Friends of the River with a year-end gift.

[Donate!](#)

SAVE THE DATE



#GIVINGTUESDAY



THANK YOU!

Thank you to our FOR volunteers who make so many parts of our Outreach Programs happen! The season wraps up with a Salmon Paddle on November 16th . We are proud to have run 16 rafting trips and 9 canoe trips, built a new partnership with Effie Yeaw, trained new canoers and rafters and made an impact of legislative staff.

Keep an eye out for dates for next season planning beginning in January (canoeing) and February (rafting).

River Currents

By Ron Stork, *Policy Director*

[View Full River Currents Article!](#)

Shasta Dam litigants pause the case

Westlands Water District, the largest water district in the state, has had a somewhat bumpy road during its attempted journey to join the U.S. Bureau of Reclamation (Reclamation) in raising Shasta Dam and inundating more of the McCloud River. Two groups of environmental and fishing groups (one included FOR) and California Attorney General Xavier Becerra filed suit when Westlands began an environmental impact report (EIR), the California Attorney General even winning a preliminary injunction against the EIR....



Del Puerto Canyon Dam Modesto Bee editorial plus some Modesto area musings

Well, Modesto is enjoying being the center of considerable trouble in the California water world. Known for its early 20th century slogan "Water, Wealth, Contentment, Health," one might understand why...

Temperance Flat Reservoir Authority Temperance Flat Dam (TFD) operating principles

It can't be said that the south San Joaquin Valley folks are not working hard to advance the proposed giant Temperance Flat Dam on the San Joaquin River gorge.

They've got a new joint powers authority dominated by the east-valley Friant Water

Authority, the Temperance Flat Reservoir Authority (TFRA), and it's developing the operating principles for how this dam on a river where no new water rights are available will be operated with its new water rights. Take a look; it's a short read...

Paradise for Westlands and dangers for rivers

The Secretary of the Interior has inked an agreement that hands the giant Westlands Water District the keys to the kingdom: a permanent contract to 1.15 million acre-feet of federal water.

The agreement means that Westlands will no longer face the risk that renewed water service contracts might be for less water or come with unpleasant conditions. It also will end the acreage-limit charade that Westlands' huge corporate owners have long played with Interior. Farms can be as big as they want without having to create elaborate dodges to claim they are just small family farmers...

More bad stuff at EPA

Under the current federal Administration, the Environmental Protection Agency has made it its business to dismantle institutional arrangements to protect the environment. The Agency's Clean Water Act in-progress rulemaking on water quality certifications by the states is no exception...

Click here to read the November [*River Currents*](#) article by Ron Stork

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[Contribute](#)

Thank you for supporting rivers by staying informed.
We can't wait to see you at our next event!

Sincerely,
the FOR Staff: Eric, Ron, Brittney, Bob, Toby, Kellie and Colton

[Website](#) [About](#) [Our Work](#) [Get Involved](#) [Donate](#) [Contact](#)

