

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL REGULATORY ENERGY COMMISSION**

In the Matter of the Application of)	November 17, 2008
)	
Fouever Green Energy)	
)	Project No. 13219-000
for a Preliminary Permit)	
to study the feasibility of an Upper)	
Rock Creek Water and Power)	
Project on Rock Creek, tributary to)	
the North Fork Feather River in)	
Plumas County, California)	

**MOTION TO INTERVENE
AND STATEMENT POSITION OF
FRIENDS OF THE RIVER,
CALIFORNIA SPORTFISHING PROTECTION ALLIANCE,
AND CALIFORNIA WILDERNESS COALITION**

Pursuant to Rule 214 of the Federal Regulatory Energy Commission’s (hereinafter “FERC” or “Commission”) Rules of Practice and Procedure, CFR 385.214, the filers seek to intervene in the above captioned proceeding. By this motion, Friends of the River, California Sportfishing Protection Alliance, and California Wilderness Coalition (movants) seek to protect and enhance the environmental and recreational values of the affected lands and waterways and to ensure that the Commission’s decision with respect to this project is in the public interest. No other parties can adequately represent our collective interests in the public lands and streams affected by this proposed project.

DESCRIPTION OF INTERVENORS

Friends of the River (FOR) is a nonprofit organization working to preserve, restore, and sustain California rivers and streams for both environmental and recreational

purposes, and has approximately 5,500 members. FOR is a signatory to the Rock Creek-Cresta Settlement Agreement and a member of the Project 1962 Ecological Resources Committee. Project 1962 is located downstream of the proposed Upper Rock Creek Water Power Project (“proposed project”) on the main stem North Fork Feather River (NF Feather). Through the Project 1962 Ecological Resources Committee, FOR has consistently advocated for the restoration, improvement and maintenance of the NF Feather rainbow trout fishery, and the geomorphic and hydrologic conditions that support this vitally important fishery resource.

With its primary office located in Sacramento, FOR is actively involved in the relicensing of hydroelectric projects throughout California—including projects on the Feather, Klamath, American, and Stanislaus, and San Joaquin Rivers. FOR is nationally recognized as an authority on the adverse impacts of dams on rivers and ecosystems. FOR serves on the steering committee of the California Hydropower Reform Coalition and the national steering committee for the Hydropower Reform Coalition.

Many of FOR’s members recreate along the North Fork Feather River and its tributaries and are interested in the long-term protection of the lands affected by this project. FOR and FOR members advocated for the protection of roadless areas on the Lassen Forest in comments concerning the adoption of 1992 Lassen National Forest Land and Resource Management Plan and the 2001 Roadless Area Conservation Rule.

California Sportfishing Protection Alliance (CSPA) is a nonprofit, public benefit fishery conservation organization incorporated in 1983 to protect, restore, and enhance the state's fishery resources and their aquatic ecosystems. CSPA works to ensure that these renewable public fishery resources are conserved to enable public sport fishing

activity. As an alliance, CSPA represents several thousand members that reside in California.

CSPA is a signatory to the Rock Creek-Cresta Settlement Agreement for Project 1962, which is located downstream of the proposed Upper Rock Creek Water Power Project (“proposed project”) on the mainstem North Fork Feather River (NF Feather). Through the Project 1962 Ecological Resources Committee, CSPA has consistently advocated for the restoration, improvement and maintenance of the NF Feather rainbow trout fishery, and the geomorphic and hydrologic conditions that support this vitally important fishery resource.

CSPA is actively involved in the relicensing of hydroelectric projects throughout California—including projects on the Feather, Yuba and American Rivers. CSPA serves on the steering committee of the California Hydropower Reform Coalition and is headquartered in Stockton, California.

California Wilderness Coalition (CWC) is a non-profit organization working to protect California’s wild lands, roadless areas, and wilderness. CWC’s primary office is located in Oakland, CA with a satellite office in Redding, CA. CWC has approximately 3,700 members, many of whom recreate on roadless lands and wilderness in the national forests. CWC has a long history of working to protect roadless lands on the Lassen National Forest, including participation in the Forest Service’s Roadless Area Review Evaluation II (RARE II), the passage of the California Wilderness Act in 1984, the adoption of the 1992 Lassen National Forest Land and Resource Management Plan, and the adoption of the Forest Service ‘s 2001 Roadless Area Conservation Rule.

All filings, orders and correspondence respecting this intervention should be sent to the following:

Steven L. Evans
Conservation Director
Friends of the River

1418 20th St., Suite 100
Sacramento, CA 95811
sevans@friendsoftheriver.org

Chris Shutes
FERC Projects Director
California Sportfishing Protection Alliance

1608 Francisco St.
Berkeley, CA 94703
blancapaloma@msn.com

Ryan Henson
Policy Director
California Wilderness Coalition

North Valley Office
P.O. Box 993323
Redding, CA 96099
rhenson@calwild.org

GROUNDNS FOR INTERVENTION AND STATEMENT OF ISSUES

As described above, both CSPA and FOR have long-standing histories with the operation and management of Project 1962, the Rock Creek-Cresta Project located on the NF Feather directly downstream from the proposed project. FOR and CWC have a long history in involvement in National Forest planning and management, with a focus on protecting sensitive roadless areas and watersheds in the Lassen National Forest. FOR, CSPA, and CWC members fish, kayak, sightsee, hike, backpack, and observe wildlife in the area that would be affected by the project.

The participation of FOR, CSPA and CWC in this proceeding will provide an expertise and familiarity with the affected area that will inform the proceeding and help to ensure decision-making that is consistent with the public interest.

STATEMENT POSITION

I. CHIPS CREEK INVENTORIED ROADLESS AREA

Proposed diversions and impoundments on Chambers Creek and Jackass Creek would be located in the Chips Creek Inventoried Roadless Area (IRA). The Chips Creek IRA is protected under the Forest Service's 2001 Roadless Area Conservation Rule. The rule is considered a comprehensive plan under the Federal Power Act. The purpose of the rule is to ensure the National Forests' primary functions of watershed protection improving ecosystem health. New roads are prohibited in the Chips Creek IRA under the rule. Hydroelectric development is incompatible with the intent of the roadless rule to protect National Forest watersheds and improve ecosystem health.

II. LASSEN FOREST PLAN MANAGEMENT DIRECTION

Most of the proposed project would be constructed and operated in areas allocated to Semi-Primitive Non-Motorized Recreation, Semi-Primitive Motorized Recreation, and Late Successional Forest management in the 1992 Lassen National Forest Land and Resources Management Plan (LRMP). The LRMP is considered a comprehensive plan under the Federal Power Act. Hydroelectric development is incompatible with the LRMP's management prescriptions for this area.

III. TRIBUTARY IMPACTS AND THE PROJECT 1962 LICENSE

The North Fork Feather River in the vicinity of the proposed Upper Rock Creek Water and Power Project has been documented, through Project 1962 license implementation and monitoring, as having very limited mainstem rainbow trout spawning and recruitment. This is directly related to lack of mainstem spawning gravel and also to lack of tributary access. Much of the recruitment for the Rock Creek reach of the Rock

Creek – Cresta Project is therefore dependent on tributary contribution, through spawning gravel introduced from tributaries into the mainstem, through spawning of mainstem trout in the tributaries where passage is possible, and through downstream migration of tributary fish into the mainstem.

Rock Creek and North Valley Creek are perennial streams with self-sustaining trout fisheries. These fisheries would surely be negatively affected by diversion of water out of Rock Creek and North Valley Creek for hydroelectric generation. Though it flows into Cresta Reservoir, Rock Creek may presently provide recruitment of rainbow trout that are able to migrate upstream out of Cresta Reservoir into the Rock Creek reach of the NF Feather. Although there is a weir located near the mouth of Rock Creek whose removal or modification has proven problematic in the past, the potential remains that fish passage past the site of the present weir may be possible and crucial to the restoration of the NF Feather fishery. The excellent rainbow trout spawning habitat present in Rock Creek was recognized in the Rock Creek-Cresta Settlement Agreement.

Chambers Creek and Jackass Creek, which are listed as a potential diversion sites in the proposed project, are an important source of sediment to the NF Feather and may be potential spawning streams. The ability of Chambers Creek and Jackass Creek to provide both much needed sediment and also to provide spawning habitat for mainstem trout would be substantially diminished by wet season flow diversions for hydroelectric purposes.

IV. TRANSMISSION LINE CAPACITY

The applicant proposes to connect to a nearby PG&E transmission line in the NF Feather River canyon. According to PG&E, this transmission line is currently at capacity.

V. RENEWABLE PORTFOLIO STANDARD

Applicant has characterized, on page 8 of its application, the proposed project as being potentially attractive to a purchaser of “green” energy. Movants point out that, according to the California definition of renewable energy, the proposed project would not qualify as part of a Renewable Portfolio, because it increases diversions from stream courses and adversely affects instream aquatic conditions.

CONCLUSION

WHEREFORE, movants have a substantial interest in the instant proceeding that would not otherwise be adequately represented, movants respectfully request that the Commission grant intervention of FOR, CSPA, and CWC in the proceeding to investigate the feasibility of the proposed Upper Rock Creek Water Power Project.

Respectfully submitted,

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By:
Steven L. Evans
Conservation Director
Friends of the River

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By: Chris Shutes /s/
Chris Shutes
FERC Projects Director
California Sportfishing Protection Alliance

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By: Ryan Henson /s/
Ryan Henson
Policy Director
California Wilderness Coalition

Certificate of Service

I hereby certify that I have on this date served the foregoing documents on each person on the service list for the above referenced proceeding.

Ann Malcolm
Acting General Counsel
California Department of Fish and Game
Office of the General Counsel
1416 Ninth Street, 12th Floor
Sacramento, CA 95814
amalcolm@dfg.ca.gov

Joshua Rider
United States Department of Agriculture
FS PSW Region
33 New Montgomery Street, 17th Floor
San Francisco, CA 94105
Joshua.rider@usda.gov

Ron Bingaman
Fouever Green Energy
25855 Sweet Road
Grass Valley, CA 95949
ron.bingaman@yahoo.com

Signed:

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Date: November 17, 2008

Steven L. Evans
Conservation Director
Friends of the River
1418 20th Street, Suite 100
Sacramento, CA 95811
(916) 442-3155 x221
sevans@friendsoftheriver.org