



## Yuba River ruling hits Fisheries Service

By Ben van der Meer/Appeal-Democrat

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A federal judge has ruled a federal biological opinion on how easy it is for threatened fish species to swim up the Yuba River is flawed and ordered the appropriate agencies to submit more information justifying their position.

The environmental groups that filed the 2006 lawsuit prompting the order and the defendants, which include the U.S. Army Corps of Engineers, must submit such information and other responses to the judge during the next month.

U.S. District Court Judge Lawrence Karlton in Sacramento said in his 76-page order Thursday there appears to be some evidence corps activity related to Englebright and Daguerre Point dams on the Yuba could significantly affect spawning efforts by the spring-run chinook salmon, steelhead and green sturgeon.

All three species are described as threatened, triggering additional protections under the federal Endangered Species Act. A National Marine Fisheries Service biological opinion from 2007 concluded hydroelectric operations and others operated on the river by the U.S. corps wouldn't harm the fish enough to violate the act.

The South Yuba River Citizens League and the Friends of the River sued, and Karlton's order agreed with their contention the opinion seemed poorly formed.

In the original suit, plaintiffs asked the federal agencies involved to be found in violation of the Endangered Species Act and made to stop activities on the river until a better biological opinion could be formed and released.

The Yuba County Water Agency was named as a defendant with the federal agencies, but was removed in a 2009 settlement, said YCWA attorney Howard Wilkins of Sacramento.

He said the Water Agency remains part of the suit as an intervenor, but the order wouldn't change any of the agency's practices.

"We're monitoring for whatever release the court may eventually order to satisfy the conditions of the suit," Wilkins said.

An attorney for the plaintiffs did not return a call for comment Tuesday.

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