

U.S. Court Upholds State Dam Project

Washington

A divided U.S. Court of Appeals has upheld a federal agency's decision to allow construction of a hydroelectric power dam in Northern California.

The environmental group Friends of the River had sued to overturn the Federal Energy Regulatory Commission's decision giving the construction license to the Calaveras County Water District in February 1982. The commission denied a request to rehear the case in July 1982.

The 200-megawatt project on the North Fork Stanislaus River to supply power to the Northern California Power Agency would result in the loss of about 2500 acres of wildlife habitat.

Friends of the River contended the federal agency should have considered the alternative of purchasing power from the Northern California Power Agency's regular supplier, Pacific Gas & Electric Co., or from someone else.

The majority decision by Judge Ruth Bader Ginsburg of the District of Columbia appellate court said consideration of that issue should have been in the environmental impact statement, but it "inevitably would breed cynicism about the law" to require it now because the agency considered the issue in its July 1982 order denying a rehearing.

A dissenting judge, David Bazelon, said consideration was inadequate and the order was not circulated to other agencies or open for public comment.

Failure to send the case back to the commission, "in light of blatant statutory violations, can only breed far greater cynicism toward the law," Bazelon wrote.

Challenges to the conditions of the commission's license by Pacific Gas & Electric Co. and the Calaveras County Water District were dismissed by all three judges.

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