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Lawsuit Initiated on Behalf of Eel and Russian Rivers

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By Friends of the Eel River

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Scientists Confirm Mismanagement by PG&E is Killing Two Northern California Rivers and Degrading Salmon Habitat; Friends of the Eel River Takes Legal Action

One River is Dying for Water, One River is Drowning

Friends of the Eel River (FOER) has brought legal action before the State Water Resources Control Board (State Board), in an attempt to stop Pacific Gas and Electric Company (PG&E), from destroying two northern California rivers essential to the restoration of California's once-vibrant billion dollar salmon industry.

The FOER legal action challenges the diversion of almost all of the flow of the Eel River to PG&E's Potter Valley hydroelectric project (PVP), consisting of two dams and a diversion tunnel. During the dry season, almost 98 percent of the Eel River flows are diverted into the Russian River.

"The State Board has an obligation to ensure that PG&E's use of water is reasonable and does not harm public trust resources in the Eel River," noted environmental attorney Ellison Folk, with the law firm Shute, Mihaly & Weinberger. PG&E's Potter Valley Project, however, is damaging the public trust resources by threatening the survival of the remaining populations of the state and federally listed endangered salmon and steelhead, in exchange for a negligible amount of energy it produces.

The action is a result of studies by many of the leading salmon and freshwater experts, including the National Marine Fisheries Service (NMFS), whose data shows that PG&E's water management system, is drying up the Eel River and over watering the Russian River. Both are lethal to California's once teeming populations of Coho and Chinook salmon and steelhead. For millennia these fish spawned in freshwaters of the Eel and the Russian Rivers, regenerating their populations so vital to the survival of a healthy ecosystem and to local economies.

FOER was perplexed about why PG&E, an institution that has done good things for the environment, would act in ways so destructive of these rivers and their salmon.

"If PG&E ran this project for the benefit of the salmon, they would have to release so much water to the Eel River, that the project would not be economic," said fisheries biologist, Pat Higgins.

After further investigation, FOER concluded that it wasn't the energy, but the water. PG&E's PVP is a water delivery system in the guise of a power plant. Eel river water is moved across watersheds and counties, which creates financial and development opportunities for PG&E, agriculture, and municipal water users. This comes at the expense of endangered species.

Experts state that the amount of energy that PG&E obtains from the Eel River diversions provides, at peak, only 9.4 Megawatts— about the equivalent of four large windmills.

The small amount of energy provided by the dam comes at a high biological and cultural cost, to native species, First Americans (Tribes), and the California public at large.

"We are watching these rivers die needlessly," said Bill Reynolds, landowner and farmer. "The Eel River is my lifeblood and that of all the riverside economies within its 3,684 square miles, including sport and commercial fishing. It is also the lifeblood of the profound wildlife that feeds on the returning salmon, carrying important ocean nutrients deep into the watershed."

He continued, "With the demise of the salmon will be the loss of one of the largest watershed ecosystems in the State of California. We need to restore the health of the Eel River and Russian River and bring their salmon back."

Once these rivers supported a rich Alaska-like concentration of wildlife – grizzly bear, wolves, eagles, redwood forests – cycling nutrients back and forth, from ocean to mountain.

There were over 500,000 salmon in the Eel River Basin before the operation of PG&E's PVP hydroelectric operations. Last year's count came in at fewer than 500. And on the Russian River, the threat to endangered salmon and steelhead is equally dire. During the peak spawning months, the diversion of Eel River water into the Russian River creates flows that have been too high for fish in critical reaches of the Russian River; flows which must be reduced by a mandate of NMFS' Russian River Biological Opinion 2008.

The Eel River is the third largest producer of salmon, and second largest producer of steelhead in the state. It contributed to what was a billion dollar a year salmon industry in California that is now moribund due to mismanagement of water resources. The Eel River was considered a world-class fishery, but now sports fishing and its economic contribution to the region is virtually nonexistent.

Historically the Eel River fishery also once sustained the First American people on the Eel River, as well as along the North Coast, from Eureka to Bodega Bay.

"It's not too late," said Nandananda, Executive Director of FOER. "But we must act quickly as the fish are on the verge of total collapse. We would like to work with PG&E and SWRCB to restore this extraordinary jewel of the public trust."

Given the enormous benefits of restoring the Eel River's fisheries, economic, scenic, and recreation values, there are relatively small costs for doing so. FOER challenges the State Water Resource Board (SWRCB) to eliminate PG&E's current water rights for the PVP to protect public trust resources on the Eel River, and prevent unreasonable use of water. This Petition could be granted on its own and in conjunction with the SWRCB's reconsideration of operations at Lake Mendocino and flows of the Russian River.

The decline of California salmon can be viewed as dominos falling. The Eel River salmon were the first to fall, then the Klamath/Trinity River and now the Sacramento/San Joaquin. All are caused by a combination of dams, diversions and watershed mismanagement.

Restoration of the Eel River's endangered salmon species would restore a fishery whose potential economic value exceeds \$50 million annually and thousands of jobs – and stop the freefall of one of California's largest and richest river systems.

[Click here](http://eelriver.org/news_updates.php) (http://eelriver.org/news_updates.php) for additional information about the FOER legal action before the State Water Resources Board, including the legal petition, protest, and exhibits.