

# Restore Hetch Hetchy *in* Yosemite National Park



*Hetch Hetchy: Requiem for a Valley* Oil on canvas, 36" X 72" Brooks Anderson 1992

## RESTORE HETCH HETCHY LEGAL CAMPAIGN: San Francisco must comply with California law

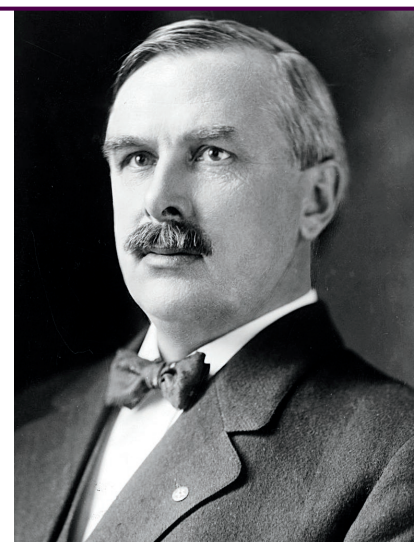
On October 17, Restore Hetch Hetchy filed a brief with the 5th District Appellate Court, asking it to rule that San Francisco's water system must abide by California law. The appeal is necessary as, last April, the Tuolumne County Superior court ruled against Restore Hetch Hetchy's claim on legal grounds—that the California Constitution is irrelevant because federal law allowed the construction of O'Shaughnessy Dam and filling of Hetch Hetchy Valley, and because the statute of limitations for any such claim has passed.

"We think the trial court got it wrong on both counts," explained Michael Lozeau, chief counsel for Restore Hetch Hetchy. "The Raker Act is clear that none of its provisions are intended to interfere with California's right to govern its water. This includes whether a 'method of diversion'—such as a municipal dam in Yosemite National Park—is unreasonable. Several members of Congress, including Congressman Raker himself, were adamant that, in the event of a conflict, California water law trumps the City's right-of-way."

"Furthermore", Lozeau continued, "a statute of limitations cannot be applied to a constitutional provision that establishes an evolving standard of 'reasonableness' that arises over a long period of time."

It will be several more months before all parties have completed their submissions to the appellate court. Once the record is complete, a three judge panel will review the merits of the arguments and schedule an oral hearing.

Moving beyond these legal challenges is important. Restore Hetch Hetchy is prepared to present evidence in a public forum that the benefits of restoration far outweigh the costs of the water system improvements necessary to guarantee that **not a drop of water supply need be lost.**



*"this bill does not attempt  
to supersede the laws of the  
State of California"*

—Congressman John Raker,  
August 29, 1913



# UPSTREAM and DOWNSTREAM

## Water projects on the Tuolumne River have impacted Yosemite and salmon

**Restore Hetch Hetchy is not the only organization displeased with how the Tuolumne River's water is managed.**

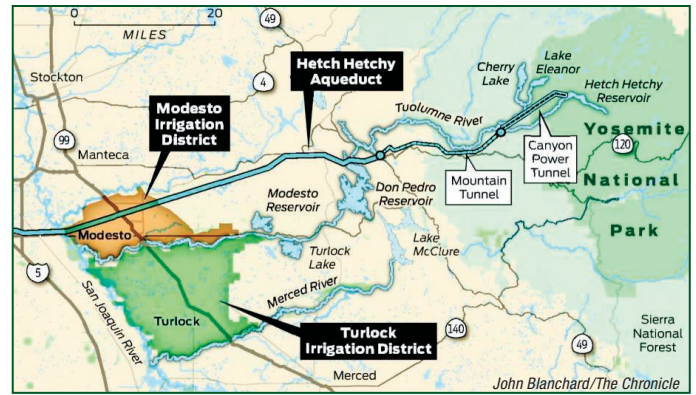
The State Water Resources Control Board, supported by numerous environmental and fishing organizations, has proposed a substantial increase in the amount of water allowed to remain in the lower Tuolumne and downstream through the San Joaquin Valley and into the Bay-Delta.

Diversions from the river by San Francisco, as well as by the Turlock and Modesto Irrigation Districts, will need to be decreased.



Engineer Sandy Scott Roberts, principal engineer for the Orange County Water District, stands in front of a bank of reverse osmosis filters. The facility produces 65,000,000 gallons per day to augment local drinking water supplies.

Photo: Bill Alkofer, OC Register



San Francisco is physically and institutionally intertwined with the Turlock and Modesto Irrigation Districts. In many dry years, their collective withdrawals leave the lower Tuolumne River with less than 10% of its natural flow.

Turlock and Modesto, along with other agricultural communities in the San Joaquin Valley, are fiercely opposed to the State Board's proposal. Water agencies in the Bay Area, where there is usually strong support for restoring salmon and other fisheries, have responded in measured tones but will not be going along easily.

In an editorial opinion in the San Francisco Chronicle, Harlan Kelly and Nicole Sandkulla, respective leaders of the San Francisco Public Utilities Commission and the Bay Area Water Supply and Conservation Agency, opined "this proposal means we would have to fundamentally rethink where we get our water in drought years."

Kelly and Sandkulla are right. The State Board is asking San Francisco and its customers to make big changes. After all, other California cities have successfully reduced diversions from Mono Lake and/or the Bay Delta by diversifying their water supply portfolios.

If San Francisco is able to help meet flow objectives downstream by relying less on Tuolumne River supplies, it would also lessen the burden necessary to restore Hetch Hetchy.

However, our goal may be easier to attain. Restoring Hetch Hetchy Valley is not about water supply, but only about storage. The water can be stored downstream. Neither San Francisco nor any other community need reduce its use of water as we make Yosemite National Park whole once again.

## RESTORE HETCH HETCHY 2017 ANNUAL DINNER



*Hetch Hetchy: Requiem for a Valley* Oil on canvas, 36" X 72" Brooks Anderson 1992

**Saturday, March 11 at 6 PM**  **BERKELEY CITY CLUB**

Please **JOIN US** for a special evening featuring world-record rock climber Hans Florine, along with gourmet dining, silent auction and live music.

For more information, please visit [www.hetchhetchy.org](http://www.hetchhetchy.org).



## BOARD PROFILE: Doug Harnsberger

Doug Harnsberger was born and raised in the Bay Area, but his career in historic architecture took him to the east coast via the University of Virginia. He currently lives in Philadelphia, but he still feels his California roots, including a strong connection to the Sierra Nevada.

Somehow, Doug has found a way to combine his love of architecture with preservation projects in some of our flagship national parks, including Yosemite, Zion, and most recently, Sequoia and Kings Canyon.

For the past two years, Doug has worked to include the Muir Memorial Shelter (at 12,000 feet in Kings Canyon National Park) in the *National Register of Historic Places*. The shelter was built at the behest of William Colby, Sierra Club Secretary and confidante of John Muir during the battle to prevent Hetch Hetchy Valley from being dammed.

Despite his distance, Doug is as committed as any “to avenging Muir’s and Colby’s loss, defending Yosemite for all Americans, and making our legitimate legal case to redress this dam(n) mistake in the California courts until Hetch Hetchy can breathe again.”



*Doug Harnsberger first saw Hetch Hetchy on a boy scout backpacking trip descending the Grand Canyon of the Tuolumne. Even then he wondered “Why did they build a reservoir here, amid Yosemite’s towering cliffs? What were they thinking?!”*

*Doug at the dedication of the Muir Memorial Shelter in August 2016.*

## CREATING THE NATIONAL PARK SERVICE – The Missing Years



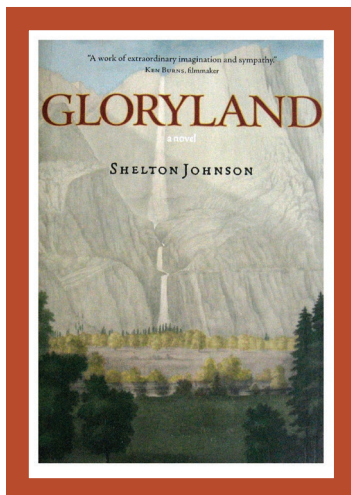
by Horace Albright and Marian Albright Schenck

In 1913, a young Horace Albright leaves Berkeley to work for newly appointed Secretary of Interior Franklin Lane. As the National Park Service is created, Albright is assigned to assist Stephen Mather, then succeeds Mather as director. *Creating the National Park Service* is a fascinating story of the visionaries who shaped the parks that we enjoy today.

Albright dictated *Creating the National Park Service* to his daughter, shortly before his death in 1987. It is available for no charge at [nps.gov](http://nps.gov).

*Albright explains that being required to forge Franklin Lane’s signature while replying to letters protesting Hetch Hetchy Valley’s destruction was “unpleasant”, as he was in sympathy with the protestors.*

## GLORYLAND Novel by Shelton Johnson



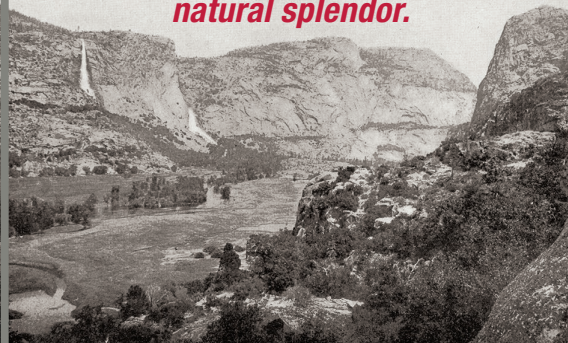
**GLORYLAND** is the story of Elijah Yancy, who leaves his native South Carolina behind as he seeks to escape the horrible racism that permeated the south in the late 19th century. Yancy joins the U.S. Army as a “buffalo soldier”, and becomes a reluctant oppressor himself as he fights Indians in the west and quells a rebellion in the Philippines. Ultimately, Yancy finds a home in the “Range of Light” in Yosemite National Park.

*Yancy tries to befriend a Native American woman in Hetch Hetchy Valley, but she is understandably unwilling to trust soldiers.*

*GLORYLAND is available at Amazon.com in hard copy, as an e-book, or as audio—in Shelton’s voice.*

**Please Contribute Today!**

**It’s time to restore Yosemite’s  
Hetch Hetchy Valley to its  
natural splendor.**



*No donation is too small or too large.  
Use attached envelope or go to [www.hetchhetchy.org](http://www.hetchhetchy.org).*

# Restore Hetch Hetchy

PO Box 71502

Oakland, CA 94612

The mission of Restore Hetch Hetchy is to return the Hetch Hetchy Valley in Yosemite National Park to its natural splendor — while continuing to meet the water and power needs of all communities that depend on the Tuolumne River.

## HETCH HETCHY is worth more as a valley than as a reservoir

People tend to have a gut reaction when asked whether Yosemite's Hetch Hetchy Valley ought to be restored to its original splendor. Many are decidedly in favor, although some are certainly not.

Others take a more analytical approach before deciding. They ask "Where will San Francisco get its water?", "How long will it take the valley to recover?", and "How much will it cost?" These are questions that Restore Hetch Hetchy and others have answered in previously published reports and intend to answer again in the California courts.

Quantifying the value of Yosemite is an odd thing to do. After all, one of the joys of nature is that it allows us to escape from the everyday need to measure and calculate. But it's exactly what Restore Hetch Hetchy has done by taking our campaign for restoration to the California courts.

With the help of expert witnesses, we are prepared to show Hetch Hetchy is worth more as a valley than as a reservoir. As a consequence, using Hetch Hetchy as a storage tank is an "unreasonable method of diversion" under the California Constitution, and thus a violation of law.

**In one form or another, San Francisco has been avoiding this fundamental subject for more than a decade.** The City declined to participate when the Schwarzenegger Administration reviewed reports on restoration in 2006, and business interests successfully squelched Restore Hetch Hetchy's ballot initiative which would have authorized a public study of the opportunity for restoration in 2012.

Now the City is opposing a hearing on the merits of restoration by saying that California law does not apply. So we have had to ask the appellate court to rule that San Francisco's system, like all other municipal systems, must comply with state law. **We believe the merits of our case, legal as well as technical, are strong, and we look forward to moving ahead.**

*"The first Conservation battle was Hetch Hetchy Valley in Yosemite National Park. San Francisco proposed to build a reservoir. It turned into the defining struggle of the conservation movement."*

*Robert Redford, actor*



Executive Director  
Spreck Rosekrans

