

## Restore Hetch Hetchy *in* Yosemite National Park



PO Box 71502, Oakland, CA 94612 • 510-893-3400 • [admin@hetchhetchy.org](mailto:admin@hetchhetchy.org) • [www.hetchhetchy.org](http://www.hetchhetchy.org)



### LEGAL UPDATE: Restore Hetch Hetchy to Appeal Adverse Ruling

On April 28, Tuolumne County Superior Court Judge Kevin Seibert ruled against Restore Hetch Hetchy on procedural grounds. He agreed with two of San Francisco's claims: (1) California law does not apply because the Federal Raker Act allowed construction of a dam in Hetch Hetchy Valley, and (2) the statute of limitations for any such claim has long passed.

**We believe the Court is in error. We have met with our attorneys and begun the process of appealing its decision.**

Our research had anticipated the claim that Federal law preempts State Law. The plain language of the "savings clause" of the Raker Act, however, states "nothing herein contained shall . . . interfere with the laws of the State of California relating to the control, appropriation, use, or distribution of water."

We also contend that the statute of limitations cannot apply to our claim under Article X, Section 2 of the Constitution. Our appeal will be posted on our website after it is filed with the court.

Our appeal will be heard by the 5th District Court of Appeal in Fresno. Stay tuned.



**Background:** In 2015, Restore Hetch Hetchy filed suit in the California courts, alleging that the ongoing operation of Hetch Hetchy Reservoir is a violation of the California Constitution.

Details of this legal campaign are available on our website [hetchhetchy.org](http://hetchhetchy.org).

(Photo: Tim Connor)

### RESTORE HETCH HETCHY: Annual Dinner Celebration

On April 9, Restore Hetch Hetchy board, staff, volunteers and supporters celebrated again at the Berkeley City Club.

**Guitarist Brian Judd** and **singer Shiloh Parkerson** set the tone for the evening, leading the crowd in a spirited singalong of Woody Guthrie's "This Land is Your Land".

You could hear a pin drop when **Malcolm Margolin**, founder of Heyday Books and winner of the Stephen Mather Visionary Award, spoke about the importance of beauty in our lives—something Hetch Hetchy brought to our nation's consciousness a century ago. **David Vassar and Sally Kaplan**, winners of the John Muir Heritage Award, explained their view of the importance of restoration before sharing some "behind the scenes" outtakes of Harrison Ford when filming *Discover Hetch Hetchy*.

The evening was both fun and inspirational—it's worthwhile to take a moment to reflect now and then as we go about our business of returning Hetch Hetchy Valley to the American people.



Attorney **Mike Lozeau** described his keynote speech as "*more of a legal seminar*". His audience hung on every word.

More photos available at <https://www.flickr.com/photos/restorehetchhetchy>. (Photo: Erika Ghose)

# KLAMATH DAMS TO BE REMOVED

**After more than a decade of negotiations, parties have agreed to remove four dams on the Klamath River by 2020.** It is exciting news for conservationists, fishermen and especially for the Indian Tribes which have relied on the Klamath's fisheries for millennia.

The dams—*J.C. Boyle, Copco 1 and 2, and Iron Gate*—not only block salmon from access to upstream spawning grounds but also serve as incubators which exacerbate the river's algae blooms and other water quality problems. In 2002, an estimated 60,000 adult salmon died while trying to spawn, leaving rotting corpses strewn along the Klamath's banks.

PacifiCorp, the electric utility operating the dams, is seeking relief from any liability associated with the damage they have caused and is willing to forgo about 600 gWh per year of hydropower production—**an amount of power considerably greater than San Francisco will lose when Hetch Hetchy Valley is restored.**

The four dams lie near the California-Oregon border, downstream of the managed wetlands and agriculture in the Klamath's upper basin, so their removal will have no direct effect on how much water is diverted from the river and how much is allowed to remain instream. That discussion, including the role of the federal Bureau of Reclamation, is yet to be resolved.



The legal underpinnings of the agreement lie in the obligation, embedded in the Federal Power Act, of the utility to protect the river's fisheries. PacifiCorp has come to understand that the cost of upgrading the dams to modern safety and environmental standards exceeds the cost of their removal by more than \$100 million. Restore Hetch Hetchy's legal campaign relies on San Francisco's obligation under State rather than Federal law, but we similarly look forward to applying a cost-effectiveness test to the O'Shaughnessy Dam as our case before the California Courts continues.

Steve Rothert, California Director for American Rivers, explains:

***"Signing this agreement marks a huge step toward removing the dams by 2020 and restoring the Klamath River. Although we have a lot of work to do by then, and certain actors will try to stop us, the path toward a renewed Klamath has never been clearer or more achievable."***

(Photo: Clinton Steeds)

## Enter our **Hetch Hetchy haiku** contest.

Email ***haiku@hetchhetchy.org*** by **July 15.**

**Winners to receive special Restore Hetch Hetchy gift package.**  
**Judges include *Malcolm Margolin* and *Prof. Barbara Mossberg*.**

**Use standard 5-7-5 format or feel free to deviate.**

Here's an example to get you started:

*'Twas a dark moment  
Taking Hetch Hetchy from us  
We'll have it back now*



Restore Hetch Hetchy table at *John Muir Birthday-Earth Day* in Martinez.

# The ‘Outrageous Evil’ That Led to the Birth of the National Park Service

Originally published August 25, 2015

Today, the National Park Service celebrates its 99th birthday. Establishing an agency dedicated to the care of America’s national parks is one of our country’s most visionary accomplishments. The lands and landmarks our park rangers protect are among the world’s greatest wonders.

Long before families loaded up station wagons to head to places like Grand Canyon, Yellowstone, and Gettysburg, a critical fight helped define how we care for our national parks—a fight conservationists lost.

In 1864, Abraham Lincoln established the country’s first public land, protecting what is now Yosemite National Park. At the time, the park was managed by the state of California. The park’s dramatic rocks, waterfalls, and giant sequoias sparked a surge in tourism. Yet the park soon became the site of a debate that pitted a growing city’s needs against the preservation of an extraordinary place.

By the early 1900s, nearby San Francisco had become the most rapidly growing city in the West. Its residents were consuming resources at a rapid rate. Faced with chronic water and power shortages, urban planners eyed Yosemite’s Hetch Hetchy Valley as a place for a reservoir and hydroelectric dam. Preservationists launched a battle to keep the valley in its natural state. Despite a hard-fought seven-year effort, the battle was lost. Congress authorized the dam in 1913, and engineers finished the first phase of construction in 1923, flooding the landscape with 117 billion gallons of water.

Many still mourn the valley’s drowning, its natural splendor lost forever to the growing pressures of urbanization. Fortunately, this fight had a silver lining: It underscored what America stood to lose if people did not speak up to protect its landscapes and its history. Naturalist John Muir, who had led the opposition to the reservoir, said of Hetch Hetchy: **“The conscience of the whole country has been aroused from sleep; and from outrageous evil compensating good in some form must surely come.”**

That good arrived relatively quickly. Within three years of authorizing the dam, Congress passed the Organic Act. On August 25, 1916, this act established the National Park Service and formalized its mission. Thanks to the heated public debate inspired by Hetch Hetchy, the Organic Act clearly stated America’s commitment “to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.”

Ninety-nine years later, the need to protect our national parks is as relevant as ever. We protect these ecosystems and artifacts for their own sake, but also because we need them. We need the sanctity of wild lands and the inspiration we glean from our past. We need places that speak directly to our spirit, connect us with a sense of wonder, and bolster our psychological well-being.

And we’re still defending these privileges. If anything, we feel the attack on public lands more acutely today than John Muir did in 1913. NPCA constantly fights inappropriate energy drilling and mining near park borders, the effects of poorly-sited development at the doorsteps of historic sites, and the impacts of climate change, which threaten wide-ranging devastation across all of our lands.

We can continue to take inspiration from authors of the Organic Act, who used the Hetch Hetchy struggle to do something positive and democratic for the public good.

*Clark Bunting is Former President and Chief Executive Officer of the National Parks Conservation Association.  
Restore Hetch Hetchy thanks NPCA for permission to republish Mr. Bunting’s essay.*

## BOARD PROFILE: Kathy Schrenk

Kathy Schrenk grew up in the Midwest. Many of her summer vacations were spent on family trips to Yellowstone, Glacier and Yosemite. She regarded them as “sacred places”.

As an adult, Kathy moved to Redwood City, just south of San Francisco. She visited Yosemite National Park for the first time in 2000 and was shocked to find that a setting as amazing as Hetch Hetchy Valley had been turned into a reservoir. She wanted to do something about it.

Kathy found Restore Hetch Hetchy and met former Executive Director and Founder Ron Good. Ron’s office was 100 miles away in the Sierra, and he certainly needed a dedicated volunteer in the Bay Area. It was an added benefit that Kathy was a customer of San Francisco’s water system and already politically active.

In 2005, while “pretty pregnant” with her first child, Kathy attended a meeting of the San Francisco Public Utilities Commission on Restore Hetch Hetchy’s behalf. Word spread that a pregnant woman was working for Restore Hetch Hetchy—an image we were happy to cultivate.

Shortly thereafter, Kathy joined Restore Hetch Hetchy’s board. She has since moved back to the Midwest, but visits California often and is still an active boardmember. Kathy regards restoring Hetch Hetchy Valley in Yosemite National Park as national issue.



Kathy Schrenk, with husband Nathan, sons Noah and Arthur, and daughter Helen Muir Schrenk.

# 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.

## Next Steps in the Legal Process

It's certainly disappointing to get an adverse ruling from the Tuolumne County judge. Had we prevailed in the lower court, however, San Francisco would eventually have appealed that ruling—although probably not until after an evidentiary hearing. So either way, we would expect to appear before a three judge panel in the 5th District Court of Appeals in Fresno.

I was pleased, but not surprised, when the **Restore Hetch Hetchy Board of Directors quickly and unanimously voted in favor of the appeal**. The board is of course fully committed to winning our campaign for restoration. Moreover, boardmembers are familiar with the extensive legal research we sponsored long before we filed the lawsuit and are therefore optimistic about prevailing at the appellate level.

I look forward to working with our attorneys on the appeal, although I am not an attorney so my ability to be truly helpful at this point is limited. I will be much more able to contribute when the court holds an evidentiary hearing where we are able to demonstrate that **the value of a restored valley is greater than the cost of the water system improvements necessary to make restoration possible**.

While restoration through litigation was not on our minds when we created Restore Hetch Hetchy, it now still seems like the clearest path to success. Litigation worked for providing fishery flows to the San Joaquin River and for restoring Mono Lake—a **case that was won only after a higher court reversed a lower court's initial ruling**. Note also that in each case, the recalcitrant opponents were happy to negotiate a solution after losing in court.

Today, it's tough to find anyone in Los Angeles who is critical of actions the city took to restore Mono Lake. Can you imagine city leaders in San Francisco endorsing the return of Hetch Hetchy Valley to Yosemite National Park?

-----  
**Please contribute today! No donation is too small or too large. Use attached envelope, or go to <http://www.hetchhetchy.org/>.**  
-----

*"There is no opportunity like this anywhere in the world—to add another Yosemite Valley to our great National Park System"*—Donald Hodel, former Secretary of the Interior



Executive Director  
**Spreck Rosekrans**



[www.hetchhetchy.org](http://www.hetchhetchy.org)  
510-893-3400