



# RESTORE HETCH HETCHY

*Yosemite National Park*

May 20, 2024

Cicely Muldoon, Superintendent  
Yosemite National Park

By email and U.S. Mail

Re: Visitor Restrictions at Hetch Hetchy Reservoir

Dear Superintendent Muldoon:

I am writing to follow up on previous communications regarding human-powered boating, fishing, gate closures and other National Park Service regulations which limit access and recreation in the Hetch Hetchy area of Yosemite National Park. Restore Hetch Hetchy asserts the Raker Act does not provide the National Park Service legal authority to limit the public’s access to Hetch Hetchy by restricting boating, fishing, or passage through the park entrance gate.

Section 9(a) of the Raker Act contains specific language to protect water quality in Hetch Hetchy Reservoir, in relevant part stipulating that “No human excrement, garbage, or other refuse shall be placed in the waters of any reservoir or stream or within three hundred feet thereof” and “No person shall bathe, wash clothes or cooking utensils, or water stock in, ruin any way pollute the water within the limits of the Hetch Hetchy Reservoir ...” Section 9(a)(5) prohibits the National Park Service from imposing additional restrictions on public access for water quality purposes beyond those enumerated: “No other sanitary rules or restrictions shall be demanded by or granted to the said grantee as to the use of the watershed by campers, tourists, or the occupants of hotels and cottages.”



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Cicely Muldoon, Superintendent  
Yosemite National Park  
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Under rules of statutory interpretation. “[w]here general words follow specific words in a statutory enumeration, the general words are construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words.” [Circuit City Stores, Inc. v. Adams, 532 U. S. 105, 114-115 \(2001\)](#). Here, the Raker Act prohibits specific conduct that inherently can pollute the water, such as putting human or animal excrement in it, cleaning utensils or clothing with it, or bathing in it. The catch-all words "ruin" or "pollute" are limited by those examples to similar conduct that can pollute the water. Those words do not extend to general activities such as hiking, climbing, boating or fishing in or near the reservoir or to the prohibiting visitor access below the high water mark of Hetch Hetchy Reservoir.

There is therefore no legal basis for restricting human-powered boating or fishing at Hetch Hetchy Reservoir based on water quality considerations. Nor do the Raker Act’s water quality restrictions provide authority for the National Park Service to limit access through the Hetch Hetchy entrance to Yosemite National Park.

National Park Service materials, however, clearly cite water quality concerns as rationale for restrictions on human-powered boating and visitor access below the reservoir’s high water mark, which effectively precludes fishing. Indeed, the National Park Service has imposed no similar restrictions on boating or fishing at any natural lake in the Yosemite National Park – nor for that matter Eleanor Reservoir. Restore Hetch Hetchy asks that these materials be revised forthwith, and that human-powered boating and fishing be permitted.

National Park Service materials do not explicitly state that the daily closure of the Hetch Hetchy Road is due to water quality concerns, but anecdotal discussions with NPS Rangers and others suggest that this may be the case. After all, Yosemite’s other four entrances are open 24 hours a day (when conditions allow) and often are not attended by staff at night. Why is the Hetch Hetchy entrance different in this respect?

We understand these National Park Service policies are not new. As we have repeatedly pointed out, however, they are wholly inconsistent with the expectations of Congress when it passed the Raker Act a century ago. With the pressure of growing demand for our national parks and especially with limitations to other parts of Yosemite imposed by a reservation system, it is timely to change these regulations and to improve the visitor experience at Hetch Hetchy.

We are available to discuss this request in detail.

Sincerely,

  
Spreck Rosekrans  
Executive Director