California v. FERC, 495 U.S. 490 (1990)

Facts. FERC and the State agency with authority to issue water quality certification disagreed on the appropriate interim flow for a project. FERC issued an order in which it concluded it had exclusive jurisdiction to set minimum flows. FERC denied the State agency's request for rehearing of the order, and the State appealed. The court of appeals affirmed FERC's order denying rehearing, and the Supreme Court granted certiorari.

Issue. Does FERC have exclusive jurisdiction to determine the minimum flow schedule for a hydropower project?

Holding. *FERC has exclusive jurisdiction to set the flow schedule for a hydropower project to the extent that the schedule provides for non-proprietary uses of water.*

The Court's holding relied heavily on the precedent established in First Iowa Hydro-Electric Coop. v. FPC, 328 U.S. 152 (1946). The Court in First Iowa held that the effect of Federal Power Act (FPA) § 27, which protects certain state laws from supersedure, was limited to laws governing the control, appropriation, use or distribution of water in irrigation or for municipal or other uses of the same nature. Here, the Court cited three reasons for upholding this interpretation of FPA § 27. First, the Court cited the strong deference courts must give to precedent. Second, the Court noted the "highly complex and long-enduring regime" that would have to be restructured as a result of accepting the State's reading of the statute. Third, the Court rejected the State's contention that the relevant portion of First Iowa was dicta, finding instead that the Court's interpretation of § 27 of the FPA was essential to the Court's rationale in its resolving the primary dispute in that case.

The Court concluded that FPA § 27 allows federal preemption for all non-proprietary uses of water, but preserves the States' authority to determine proprietary uses of water, i.e., distribution of water for municipal uses.

tion, 83 Mich.L.Rev. 1428, 1434–1435 (1985); *Brinley v. Commissioner*, 782 F.2d, at 1338 (Hill, J. dissenting). For example, parents might be tempted to transfer funds to their children in amounts greater than needed to reimburse reasonable expenses incurred in donating services to a charity. Parents and children might attempt to claim a deduction for the same expenditure. Controlling such abuses would place a heavy administrative burden on the Service, which would not only have to monitor the taxpayer's records, but also correlate them with the records of the third party. To the extent petitioners' interpretation lessens the likelihood that claimed charitable contributions actually served a charitable purpose, it is inconsistent with § 170.

Petitioners cite judicial decisions that allowed taxpayers to claim deductions for the expenses of third parties who assisted the taxpayers in rendering services to qualified organizations. See, *e.g.*, *Rockefeller v. Commissioner*, 676 F.2d 35 (CA2 1982); *McCollum v. Commissioner*, 37 T.C.M. 1817 (1978); *Smith v. Commissioner*, 60 T.C. 988 (1973). These cases are inapposite, as petitioners do not claim that they were independently rendering services to the Church, assisted by their sons.

We conclude that § 1.170A–1(g) does not allow taxpayers to claim a deduction for expenses not incurred in connection with the taxpayers' own rendition of services to a qualified organization. Therefore, petitioners are not entitled to a deduction under § 1.170A–1(g).

Petitioners also assert that because their sons are agents of the Church authorized to receive payments to support their 489 own missionary efforts, payments made to their sons are payments to the Church. Because this argument was neither raised before nor decided by the Court of Appeals, we decline to address it here. See, *e.g.*, *Delta Air Lines, Inc. v. August*, 450 U.S. 346, 362, 101 S.Ct. 1146, 1155, 67 L.Ed.2d 287 (1981); *United States v. Mendenhall*, 446 U.S. 544, 551–552, n. 5, 100 S.Ct. 1870, 1875, n. 5, 64 L.Ed.2d 497 (1980).

Accordingly, we hold that petitioners' transfer of funds into their sons' accounts was not a contribution "to or for the use of" the Church for purposes of § 170. The judgment of the Court of Appeals is *Affirmed.*

495 U.S. 490, 109 L.Ed.2d 474

490 **CALIFORNIA, Petitioner**

v.

FEDERAL ENERGY REGULATORY COMMISSION, et al.

No. 89–333.

Argued March 20, 1990.

Decided May 21, 1990.

Rehearing Denied June 28, 1990.

See 497 U.S. 1040, 110 S.Ct. 3304.

State of California sought review of Federal Energy Regulatory Commission (FERC) decision, finding exclusive federal control over setting of hydroelectric power project water flow rates. The Court of Appeals for the Ninth Circuit, 877 F.2d 743, affirmed. On certiorari, the Supreme Court, Justice O'Connor, held that: (1) Federal Power Act provision saving from supersedure state laws relating to distribution of water used in irrigation or for municipal or other uses did not apply to state's minimum stream flow requirements, and (2) California's requirements for minimum stream flow for river on which federally licensed hydroelectric project was located were preempted by Federal Power Act.

Affirmed.

1. States ⇐18.11

Just as courts may not find state measures preempted in absence of clear evidence that Congress so intended, so must they give

full effect to evidence that Congress considered and sought to preserve states' coordinate regulatory role in federal scheme.

2. States ⇐18.91
Waters and Water Courses ⇐127

Federal Power Act provision saving from supersedure state laws relating to distribution of water used in irrigation or for municipal or other uses did not apply to state's minimum stream flow requirements on river on which hydroelectric project was located, where requirements were designed to protect fish, rather than for irrigation or municipal uses. Federal Power Act, § 27, as amended, 16 U.S.C.A. § 821.

3. Electricity ⇐1
States ⇐18.73, 18.91
Waters and Water Courses ⇐127

California's minimum stream flow requirements for river on which federally licensed hydroelectric project was located were preempted by Federal Power Act after Federal Energy Regulatory Commission (FERC) set significantly lower minimum stream flow requirements. Federal Power Act, § 10(a), as amended, 16 U.S.C.A. § 803(a).

Syllabus *

Pursuant to the Federal Power Act (FPA), respondent Federal Energy Regulatory Commission (FERC) issued a license authorizing the operation in California of a hydroelectric project, which draws, and releases a mile later, water from Rock Creek to drive its generators. After considering the project's economic feasibility and environmental consequences, FERC set an interim "minimum flow rate" of water that must remain in the bypassed section of the stream and thus remains unavailable to drive the generators. The State Water Resources Control Board (WRCB) issued a state water permit that conformed to FERC's interim minimum requirements, but reserved the right to set different permanent ones. When WRCB later considered a draft order requiring permanent minimum flow rates well in excess of the FERC rates, the licensee petitioned FERC for a declaration that FERC possessed exclusive jurisdiction to determine the project's minimum flow rates. FERC ordered the licensee to comply with the federal permit's rates, concluding that the task of setting such rates rested within its exclusive jurisdiction. It reasoned that setting the rates was integral to its planning and licensing process under the FPA, and that giving effect to competing state requirements would interfere with its balancing of competing considerations in licensing and would vest in States a veto power over federal projects inconsistent with the FPA, as interpreted in *First Iowa Hydro-Electric Cooperative v. FPC*, 328 U.S. 152, 66 S.Ct. 906, 90 L.Ed. 1143. WRCB adopted the higher flow requirements and intervened seeking a rehearing of FERC's order. FERC denied the request, concluded that the State sought to impose conflicting license requirements, and reaffirmed its conclusion that it had exclusive jurisdiction to determine the rates. The Court of Appeals affirmed, concluding that FPA § 27—which saves from supersedure state "laws . . . relating to the control, appropriation, use, or distribution of water used in irrigation or for municipal or *other uses*, or any vested right acquired therein"—as construed in *First Iowa*, did not preserve the State's right to regulate minimum flow rates, and that the FPA pre-empted WRCB's minimum flow rate requirements.

[491] *Held:* The California requirements for minimum stream flows cannot be given effect and allowed to supplement the federal flow requirements. Pp. 2028–2034.

(a) Were the meaning of § 27 and the pre-emptive effect of the FPA matters of first impression, the State's argument that

* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U.S. 321, 337, 26 S.Ct. 282, 287, 50 L.Ed. 499.

the stream flow requirement might relate to a use encompassed by § 27—the generation of power or protection of fish—could be said to present a close question. However, *First Iowa* has previously construed § 27, holding that it is limited to laws relating to the control, appropriation, use, or distribution of water in irrigation or for municipal or *other uses of the same nature*, and has primary, if not exclusive, reference to such *proprietary* rights. Such rights are not implicated in the instant case. California's request that *First Iowa*'s interpretation be repudiated misconceives the deference the Court must accord to longstanding and well-entrenched decisions, especially those interpreting statutes that underlie complex regulatory regimes. There has been no sufficient intervening change in the law, or indication that *First Iowa* has proved unworkable or has fostered confusion and inconsistency in the law, that warrants a departure from established precedent. *First Iowa*'s limited reading of § 27 has been endorsed, see *FPC v. Oregon*, 349 U.S. 435, 75 S.Ct. 832, 99 L.Ed. 1215, and the decision has been employed with approval in a range of cases. In addition, Congress has amended the FPA to elaborate and reaffirm *First Iowa*'s understanding that the FPA establishes a broad and paramount federal regulatory role. Pp. 2028–2030.

(b) *First Iowa*'s narrow reading of § 27 was not dictum, but was necessary for and integral to the Court's conclusion that FPA § 9(b)—which governs submission to the federal licensing agency of evidence of compliance with state law—did not require licensees to obtain a state permit or to demonstrate compliance with the state law prerequisites to obtaining such a permit, but rather merely authorized the federal agency to require evidence of actions consistent with the federal permit. A broad interpretation of § 27 would have "saved" the state licensing requirements and would have created concurrent jurisdiction of state and federal authorities over the same subject matter. Pp. 2030–2032.

(c) Although *California v. United States*, 438 U.S. 645, 98 S.Ct. 2985, 57 L.Ed.2d 1018, construed § 8 of the Reclamation Act of 1902—which is similar to, and served as a model for, FPA § 27—in a manner more generous to the States' regulatory powers than was *First Iowa*'s reading of § 27, it bears quite indirectly, at best, upon the FPA's interpretation. In interpreting the Reclamation Act, the Court did not advert to or purport to interpret the FPA, and held simply that § 8 requires the Secretary of the Interior to comply with state laws governing the use of water employed in federal reclamation projects. The purpose, structure, and legislative history of [1492] the two statutes show that the FPA envisioned a considerably broader and more active federal oversight role in hydropower development than did the Reclamation Act. Even if the two saving clauses were properly viewed in isolation from the remainder of their respective Acts, § 8 explicitly directs that the Secretary "shall proceed in conformity with such [state] laws," language which has no counterpart in § 27 and which was crucial to the Court's interpretation of § 8. Pp. 2032–2033.

(d) Section 27's legislative history does not require abandonment of *First Iowa*'s interpretation, because a quite natural reading of the statutory language has failed to displace an intervening decision providing a contrary interpretation; because *First Iowa* expressly considered the history and found it to support the Court's interpretation of the FPA and § 27; because it is only tangentially related to the issue at hand; and because strong interests support adherence to *First Iowa*. P. 2033.

(e) The FPA and the federal license conditions established pursuant to the Act preempt the California stream flow requirements. The State's requirements conflict with FERC's licensing authority and with the balance struck by the federal license condition. Pp. 2033–2034.

877 F.2d 743 (CA9 1989), affirmed.

O'CONNOR, J., delivered the opinion for a unanimous Court.

Roderick E. Walston, San Francisco, Cal., for petitioner.

Stephen L. Nightingale, Washington, D.C., for respondents.

[493]Justice O'CONNOR delivered the opinion of the Court.

This case concerns overlapping federal and state regulation of a hydroelectric project located near a California stream. California seeks to ensure that the project's operators maintain water flowing in the stream sufficient, in the State's judgment, to protect the stream's fish. The Federal Government claims the exclusive authority to set the minimum stream flows that the federally licensed powerplant must maintain. Each side argues that its position is consistent with the Federal Power Act, ch. 285, 41 Stat. 1063, as [494]amended, 16 U.S.C. § 791a *et seq.* (1982 ed.), and, in particular, with § 27 of that Act. We granted certiorari to resolve these competing claims.

I

The Rock Creek hydroelectric project lies near the confluence of the South Fork American River and one of the river's tributaries, Rock Creek. Rock Creek runs through federally managed land located within California. The project draws water from Rock Creek to drive its generators and then releases the water near the confluence of the stream and river, slightly less than one mile from where it is drawn. The state and federal requirements at issue govern the "minimum flow rate" of water that must remain in the bypassed section of the stream and that thus remains unavailable to drive the generators.

In 1983, pursuant to the Federal Power Act (FPA or Act), the Federal Energy Regulatory Commission (FERC) issued a license authorizing the operation of the Rock Creek project. *Keating*, 23 FERC ¶ 62,137. Section 4(e) of the FPA empowers FERC to issue licenses for projects "necessary or convenient ... for the development, transmission, and utilization of power across, along, from, or in any of the streams ... over which Congress has jurisdiction." 16 U.S.C. § 797(e) (1982 ed.). Section 10(a) of the Act also authorizes FERC to issue licenses subject to the conditions that FERC deems best suited for power development and other public uses of the waters. 16 U.S.C. § 803(a) (1982 ed.). Congress' subsequent amendments to those provisions expressly direct that FERC consider a project's effect on fish and wildlife as well as "power and development purposes." Electric Consumers Protection Act of 1986, Pub.L. 99–495, 100 Stat. 1243, 16 U.S.C. §§ 797(e), 803(a)(1). FERC issued the 1983 license and set minimum flow rates after considering the project's economic feasibility and environmental consequences. In part to protect trout in the stream, the license [495]required that the project maintain interim minimum flow rates of 11 cubic feet per second (cfs) during May through September and 15 cfs during the remainder of the year. 23 FERC ¶ 62,137, at 63,204. The license also required the licensee to submit studies recommending a permanent minimum flow rate, after consulting with federal and state fish and wildlife protection agencies. *Ibid.* In 1985, the licensee submitted a report recommending that FERC adopt the interim flow rates as permanent rates. The California Department of Fish and Game (CDFG) recommended that FERC require significantly higher minimum flow rates.

The licensee had also applied for state water permits, and in 1984 the State Water Resources Control Board (WRCB) issued a permit that conformed to FERC's interim minimum flow requirements but reserved the right to set different permanent minimum flow rates. App. 65–67. When the WRCB in 1987 considered a draft order requiring permanent minimum flow rates of 60 cfs from March through June and 30 cfs during the remainder of the year, the licensee petitioned FERC for a declaration that FERC

possessed exclusive jurisdiction to determine the project's minimum flow requirements. *Rock Creek Limited Partnership*, 38 FERC ¶ 61,240, p. 61,772 (1987). The licensee, by then respondent Rock Creek Limited Partnership, also claimed that the higher minimum flow rates sought by the WRCB would render the project economically infeasible. *Ibid.*

In March 1987, FERC issued an order directing the licensee to comply with the minimum flow requirements of the federal permit. In that order, FERC concluded that the task of setting minimum flows rested within its exclusive jurisdiction. *Id.*, at 61,774. The Commission reasoned that setting minimum flow requirements was integral to its planning and licensing process under FPA § 10(a); giving effect to competing state requirements "would interfere with the Commission's balancing of competing considerations in licensing" and would vest in States a veto power over federal [496] projects inconsistent with the FPA, as interpreted in *First Iowa Hydro-Electric Cooperative v. FPC*, 328 U.S. 152, 66 S.Ct. 906, 90 L.Ed. 1143 (1946). 38 FERC, at 61,773. FERC also directed an Administrative Law Judge to hold a hearing to determine the appropriate permanent minimum flow rates for the project. *Id.*, at 61,774. After considering proposals and arguments of the licensee, the CDFG, and FERC staff, the Administrative Law Judge set the minimum flow rate for the project at 20 cfs during the entire year. *Rock Creek Limited Partnership*, 41 FERC ¶ 63,019 (1987). Four days after FERC's declaratory order, the WRCB issued an order directing the licensee to comply with the higher minimum flow requirements contained in its draft order. App. 73. The WRCB also intervened to seek a rehearing of FERC's order. FERC denied the rehearing request, concluded that the State sought to impose conflicting license requirements, and reaffirmed its conclusion that the FPA, as interpreted in *First Iowa*, provided FERC with exclusive jurisdiction to determine minimum flow rates. *Rock Creek Limited Partnership*, 41 FERC ¶ 61,198 (1987).

The Court of Appeals for the Ninth Circuit affirmed FERC's order denying rehearing. *California ex rel. State Water Resources Board v. FERC*, 877 F.2d 743 (1989). That court, too, concluded that *First Iowa* governed the case; that FPA § 27 as construed in *First Iowa* did not preserve California's right to regulate minimum flow rates; and that the FPA pre-empted WRCB's minimum flow rate requirements. *Ibid.* We granted certiorari, 493 U.S. 991, 110 S.Ct. 537, 107 L.Ed.2d 535 (1989), and we now affirm.

II

[1, 2] In the Federal Power Act of 1935, 49 Stat. 803, 863, Congress clearly intended a broad federal role in the development and licensing of hydroelectric power. That broad delegation of power to the predecessor of FERC, however, hardly determines the extent to which Congress intended to have the Federal Government exercise exclusive powers, or intended [497] to pre-empt concurrent state regulation of matters affecting federally licensed hydroelectric projects. The parties' dispute regarding the latter issue turns principally on the meaning of § 27 of the FPA, which provides the clearest indication of how Congress intended to allocate the regulatory authority of the States and the Federal Government. That section provides:

> "Nothing contained in this chapter shall be construed as affecting or intending to affect or in any way to interfere with the laws of the respective States relating to the control, appropriation, use, or distribution of water used in irrigation or for municipal or other uses, or any vested right acquired therein." 16 U.S.C. § 821 (1982).

Were this a case of first impression, petitioner's argument based on the statute's language could be said to present a close question. As petitioner argues, California's minimum stream flow requirement might plausibly be thought to "relat[e] to the control,

appropriation, use, or distribution of water used ... for ... other uses," namely the generation of power or the protection of fish. This interpretation would accord with the "presumption against finding pre-emption of state law in areas traditionally regulated by the States" and " 'with the assumption that the historic police powers of the States were not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress.' " *California v. ARC America Corp.*, 490 U.S. 93, 101, 109 S.Ct. 1661, 1665, 104 L.Ed.2d 86 (1989), quoting *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230, 67 S.Ct. 1146, 1152, 91 L.Ed. 1447 (1947); see *California v. United States*, 438 U.S. 645, 653–663, 98 S.Ct. 2985, 2990–2995, 57 L.Ed.2d 1018 (1978) (tracing States' traditional powers over exploitation of water). Just as courts may not find state measures pre-empted in the absence of clear evidence that Congress so intended, so must they give full effect to evidence that Congress considered, and sought to preserve, the States' coordinate regulatory role in our federal scheme.

But the meaning of § 27 and the pre-emptive effect of the FPA are not matters of first impression. Forty-four [498] years ago, this Court in *First Iowa* construed the section and provided the understanding of the FPA that has since guided the allocation of state and federal regulatory authority over hydroelectric projects. The Court interpreted § 27 as follows:

> "The effect of § 27, in protecting state laws from supersedure, is limited to laws as to the control, appropriation, use or distribution of water in irrigation or for municipal or other uses *of the same nature*. It therefore has primary, if not exclusive, reference to such *proprietary rights*. The phrase 'any vested right acquired therein' further emphasizes the application of the section to property rights. There is nothing in the paragraph to suggest a broader scope unless it be the words 'other uses.' Those words, however, are confined to rights of the same nature as those relating to the use of water in irrigation or for municipal purposes." *First Iowa*, 328 U.S., at 175–176, 66 S.Ct. at 917 (emphasis added).

The Court interpreted § 27's reservation of limited powers to the States as part of the congressional scheme to divide state from federal jurisdiction over hydroelectric projects and, "in those fields where rights are not thus 'saved' to the States ... to let the supersedure of the state laws by federal legislation take its natural course." *Id.*, at 176, 66 S.Ct., at 917.

We decline at this late date to revisit and disturb the understanding of § 27 set forth in *First Iowa*. As petitioner prudently concedes, Tr. of Oral Arg. 7, *First Iowa*'s interpretation of § 27 does not encompass the California regulation at issue: California's minimum stream flow requirements neither reflect nor establish "proprietary rights" or "rights of the same nature as those relating to the use of water in irrigation or for municipal purposes." *First Iowa*, *supra*, at 176, 66 S.Ct., at 917; see *Fullerton v. State Water Resources Control Board*, 90 Cal.App.3d 590, 153 Cal.Rptr. 518 (1979); accord, *California Trout, Inc. v. State Water Resources Control Board*, 90 Cal.App.3d 816, 153 Cal.Rptr. 672 (1979). Instead, petitioner [499] requests that we repudiate *First Iowa's* interpretation of § 27 and the FPA. This argument misconceives the deference this Court must accord to longstanding and well-entrenched decisions, especially those interpreting statutes that underlie complex regulatory regimes. Adherence to precedent is, in the usual case, a cardinal and guiding principle of adjudication, and "[c]onsiderations of *stare decisis* have special force in the area of statutory interpretation, for here, unlike in the context of constitutional interpretation, the legislative power is implicated, and Congress remains free to alter what we have done." *Patterson v. McLean Credit Union*, 491 U.S. 164, 172–173, 109 S.Ct. 2363, 2370, 105 L.Ed.2d 132 (1989). There has been no sufficient intervening change in the law, or indication that *First Iowa* has proved unworkable or has

fostered confusion and inconsistency in the law, that warrants our departure from established precedent. Cf. *id.*, at 173, 109 S.Ct., at 2371. This Court has endorsed and applied *First Iowa*'s limited reading of § 27, see *FPC v. Oregon*, 349 U.S. 435, 75 S.Ct. 832, 99 L.Ed. 1215 (1955); cf. *FPC v. Niagara Mohawk Power Corp.*, 347 U.S. 239, 74 S.Ct. 487, 98 L.Ed. 666 (1954), and has employed the decision with approval in a range of decisions, both addressing the FPA and in other contexts. See, *e.g.*, *New England Power Co. v. New Hampshire*, 455 U.S. 331, 338, n. 6, 102 S.Ct. 1096, 1100, n. 6, 71 L.Ed.2d 188 (1982); *Escondido Mut. Water Co. v. La Jolla Band of Mission Indians*, 466 U.S. 765, 773, 104 S.Ct. 2105, 2110, 80 L.Ed.2d 753 (1984); *City of Tacoma v. Taxpayers of Tacoma*, 357 U.S. 320, 334, 78 S.Ct. 1209, 1217, 2 L.Ed.2d 1345 (1958); *Pacific Gas & Electric Co. v. State Energy Resources Conservation and Development Comm'n*, 461 U.S. 190, 223, n. 34, 103 S.Ct. 1713, 1732, n. 34, 75 L.Ed.2d 752 (1983). By directing FERC to consider the recommendations of state wildlife and other regulatory agencies while providing FERC with final authority to establish license conditions (including those with terms inconsistent with the States' recommendations), Congress has amended the FPA to elaborate and reaffirm *First Iowa*'s understanding that the FPA establishes a broad and paramount federal regulatory role. See 16 U.S.C. §§ 803(a)(1)–(3) (FERC to issue license on conditions that protect fish and wildlife, after considering [500] recommendations of state agencies), as amended by the Electric Consumers Protection Act of 1986, 16 U.S.C. §§ 803(j)(1)–(2) (FERC license conditions protecting fish and wildlife to be based on recommendations of federal and state wildlife agencies, with FERC to issue findings if it adopts conditions contrary to recommendations); cf. *Square D Co. v. Niagara Frontier Tariff Bureau, Inc.*, 476 U.S. 409, 424, 106 S.Ct. 1922, 1930, 90 L.Ed.2d 413 (1986) ("We are especially reluctant to reject this presumption [of adherence to precedent] in an area that has seen careful, intense, and sustained congressional attention").

Petitioner asks this Court fundamentally to restructure a highly complex and long-enduring regulatory regime, implicating considerable reliance interests of licensees and other participants in the regulatory process. That departure would be inconsistent with the measured and considered change that marks appropriate adjudication of such statutory issues. See *Square D Co., supra*, at 424, 106 S.Ct., at 1930 (for statutory determinations, " 'it is more important that the applicable rule of law be settled than that it be settled right.... This is commonly true, even where the error is a matter of serious concern, provided correction can be had by legislation,' " quoting *Burnet v. Coronado Oil & Gas Co.*, 285 U.S. 393, 406, 52 S.Ct. 443, 447, 76 L.Ed. 815 (1932) (Brandeis, J., dissenting)).

Petitioner also argues that we should disregard *First Iowa*'s discussion of § 27 because it was merely dictum. It is true that our immediate concern in *First Iowa* was the interpretation of § 9(b) of the FPA, which governs submission to the federal licensing agency of evidence of compliance with state law.[1] The Court determined that § 9(b) did not require [501] licensees to obtain a state permit or to demonstrate compliance with the state law prerequisites to obtaining such a permit. *First Iowa*, 328 U.S., at 163–164,

1. Section 9(b), 16 U.S.C. § 802(a)(2) (formerly 16 U.S.C. § 802(b) (1982 ed.)), provides:

"(a) Each applicant for a license under this chapter shall submit to the commission—

. . . . .

"(2) Satisfactory evidence that the applicant has complied with the requirements of the laws of the State or States within which the proposed project is to be located with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes and with respect to the right to engage in the business of developing, transmitting and distributing power, and in any other business necessary to effect the purposes of a license under this chapter."

167, 177, 66 S.Ct., at 911–912, 913, 918. Instead, the Court construed the section merely as authorizing the federal agency to require evidence of actions consistent with the federal permit. *Id.*, at 167–169, 177–179, 66 S.Ct., at 913–914, 918–919. *First Iowa*'s limited reading of § 27 was, however, necessary for, and integral to, that conclusion. Like this case, *First Iowa* involved a state permit requirement that related to the control of water for particular uses but that did not relate to or establish proprietary rights. Iowa had required as one condition of securing a state permit that diverted water be "returned ... at the nearest practicable place without being materially diminished in quantity or polluted or rendered deleterious to fish life," Iowa Code § 7771 (1939), a provision the Court found to conflict with the federal requirements and to "strik[e] at the heart of the present project." *First Iowa*, 328 U.S., at 166–167, 170–171, 66 S.Ct., at 912–913, 914–915. The Court reasoned that, absent an express congressional command, § 9(b) could not be read to require compliance with, and thus to preserve, state laws that conflicted with and were otherwise preempted by the federal requirements. See *id.*, at 166–167, 66 S.Ct., at 912–913 ("If a state permit is not required, there is no justification for requiring the petitioner, as a condition of securing its federal permit, to present evidence of the petitioner's compliance with the requirements of the State Code for a state permit"); *id.*, at 177, 66 S.Ct., at 918. Only the Court's narrow reading of § 27 allowed it to sustain this interpretation of § 9(b). Had § 27 been given the broader meaning that Iowa sought, it would have "saved" the state requirements at issue, made the state permit one that could be issued, and supported the interpretation of § 9(b) as [502]requiring evidence of compliance with those state requirements, rather than compliance only with those requirements consistent with the federal license.

The Court's related, but more general, rationale for its reading of § 9(b) in *First Iowa* also necessarily rested on its narrow construction of § 27. The Court framed the issue as whether the Act allowed the States to regulate through permit requirements such as Iowa's "the very requirements of the project that Congress has placed in the discretion of the Federal Power Commission." *Id.*, at 165, 66 S.Ct., at 912 (footnote citing FPA § 10(a) omitted). The Court rejected the possibility of concurrent jurisdiction and interpreted the FPA as mandating divided powers and "a dual system involving the close integration of these powers rather than a dual system of futile duplication of two authorities over the same subject matter." *Id.*, at 171, 66 S.Ct., at 915; see *id.*, at 174, 66 S.Ct., at 916 (no "divided authority over any one subject"); *id.*, at 181, 66 S.Ct., at 920 (comprehensive federal role "leave[s] no room or need for conflicting state controls"). Section 9 reflected the operation of this exclusive federal authority. See *id.*, at 167–169, 66 S.Ct., at 913–914; *id.*, at 168, 66 S.Ct., at 913 ("Where the Federal Government supersedes the state government there is no suggestion that the two agencies both shall have final authority"). In accord with this view, the Court interpreted § 9(b) as requiring compliance only with state measures relevant to federal requirements rather than, as would exist under a system of concurrent jurisdiction, compliance with the state requirements necessary to secure the state permit. *Id.*, at 167–169, 66 S.Ct. at 913–914. Instead, only § 27 preserved and defined the States' exclusive regulatory sphere. *Id.*, at 175–178, 66 S.Ct., at 917–918. That is, the Court rejected an interpretation of § 9(b) that would have "saved" or accommodated the state permit system and its underlying requirements. To reach its interpretation of § 9(b), however, the Court had to interpret § 27 consistently with the limited state regulatory sphere and in a manner that did not, by "saving" the Iowa requirements, establish "divided authority over any one subject." *Id.*, at 174, 66 S.Ct., at 916. Con[503]stricting § 27 to encompass only laws relating to proprietary rights, and thus leaving the permit requirements at issue to the federal sphere, accomplished that goal. The

Court's discussion immediately after its extended discussion of § 27 illustrates the relation between the sections. Before distinguishing § 27's role in saving state law from § 9(b)'s role in the sphere of exclusive federal regulation, the Court concluded:

> "[Section 27] is therefore thoroughly consistent with the integration rather than the duplication of federal and state jurisdictions under the Federal Power Act. It strengthens the argument that, in those fields where rights are not thus "saved" to the States, Congress is willing to let the supersedure of the state laws by federal legislation take its natural course." *Id.*, at 176, 66 S.Ct., at 917.

The Court's interpretation of § 9(b), of course, rested on that supersedure and required that the remaining field "saved" to the States by § 27 be limited correspondingly.

Petitioner also argues that our decision in *California v. United States*, 438 U.S. 645, 98 S.Ct. 2985, 57 L.Ed.2d 1018 (1978), construing § 8 of the Reclamation Act of 1902,[2] requires that we abandon *First Iowa*'s interpretation of § 27 and the FPA. Petitioner reasons that § 8 is similar to, and served as a model for, FPA § 27, that this Court in *California v. United States* interpreted § 8 in a manner inconsistent with *First Iowa*'s reading of § 27, and that that reading of § 8, subsequent to *First Iowa*, in some manner overrules or repudiates *First Iowa*'s understanding of § 27. [504] *California v. United States* is cast in broad terms and embodies a conception of the States' regulatory powers in some tension with that set forth in *First Iowa*, but that decision bears quite indirectly, at best, upon interpretation of the FPA. The Court in *California v. United States* interpreted the Reclamation Act of 1902; it did not advert to, or purport to interpret, the FPA, and held simply that § 8 requires the Secretary of the Interior to comply with state laws, not inconsistent with congressional directives, governing use of water employed in federal reclamation projects. *California v. United States, supra.* Also, as in *First Iowa*, the Court in *California v. United States* examined the purpose, structure, and legislative history of the entire statute before it and employed those sources to construe the statute's saving clause. See 438 U.S., at 649–651, 653–670, 674–675, 98 S.Ct., at 2988–2989, 2990–2998, 3000–3001. Those sources indicate, of course, that the FPA envisioned a considerably broader and more active federal oversight role in hydropower development than did the Reclamation Act. Compare FPA §§ 4, 9, 10, as codified, 16 U.S.C. §§ 797, 802, 803, and *First Iowa*, 328 U.S., at 164, 167–169, 171–174, 179–181, 66 S.Ct., at 911, 913–914, 915–916, 918–920, with Reclamation Act of 1902 §§ 1, 2, 32 Stat. 388, as codified, 43 U.S.C. §§ 391, 411 (1982 ed.), and *California v. United States, supra*, at 649–651, 663–670, 98 S.Ct., at 2988–2989, 2995–2998.

Even if the two saving clauses were properly viewed in isolation from the remainder of their respective Acts and resulting regulatory schemes, significant differences exist between them. Section 8 of the Reclamation Act, after referring to state water laws relating to water used in irrigation and preserved by the Act, contains an explicit direction that "the Secretary of the Interior, in carrying out the provisions of this Act, shall proceed in conformity with such [state] laws." 43 U.S.C. § 383 (1982 ed.). This language has

2. Section 8 of the Reclamation Act of 1902, 32 Stat. 390, now 43 U.S.C. §§ 372, 383 (1982 ed.), provided in part:

> "[N]othing in this Act shall be construed as affecting or intended to affect or in any way interfere with the laws of any State or Territory relating to the control, appropriation, use, or distribution of water used in irrigation, or any vested right acquired thereunder, and the Secretary of the Interior, in carrying out the provisions of this Act, shall proceed in conformity with such laws, and nothing herein shall in any way affect any right of any State or of the Federal Government or of any landowner, appropriator, or user of water in, to, or from any interstate stream or the waters thereof...."

no counterpart in § 27 of the FPA and was crucial to the Court's interpretation of § 8. See *California v. United States, supra*, at 650, 664–665, 674–675, 98 S.Ct., at 2988, 2995–2996, 3000–3001. Although *California v. United States* and *First Iowa* accord different effect to laws relating [506] to water uses, this difference stems in part from the different roles assumed by the federal actor in each case, as reflected in § 8's explicit directive to the Secretary. The Secretary in executing a particular reclamation project is in a position analogous to a licensee under the FPA and need not comply with state laws conflicting with congressional directives respecting particular reclamation projects, see *id.*, 438 U.S., at 672–674, 98 S.Ct., at 2999–3001; similarly, a federal licensee under the FPA need not comply with state requirements that conflict with the federal license provisions established pursuant to the FPA's directives. An additional textual difference is that § 8 refers only to "water used in irrigation" and contains no counterpart to § 27's reference to "other uses," the provision essential to petitioner's argument. Laws controlling water used in irrigation relate to proprietary rights, as the *First Iowa* Court indicated, 328 U.S., at 176, and n. 20, 66 S.Ct., at 917, and n. 20, and § 8 does not indicate the appropriate treatment of laws relating to other water uses that do not implicate proprietary rights.

Given these differences between the statutes and saving provisions, it should come as no surprise that *California v. United States* did not refer either to § 27 or to *First Iowa*. Since the Court decided *California v. United States*, we have continued to cite *First Iowa* with approval. See, *e.g., Escondido Mut. Water Co.*, 466 U.S., at 773, 104 S.Ct., at 2110; *Pacific Gas & Electric Co.*, 461 U.S., at 223, n. 34, 103 S.Ct., at 1732, n. 34; *New England Power Co.*, 455 U.S., at 338, n. 6, 102 S.Ct., at 1100, n. 6. We do not believe that *California v. United States* requires that we disavow *First Iowa* in this case.

Finally, petitioner argues that § 27's legislative history requires us to abandon *First Iowa's* interpretation of that section. Whatever the usefulness of legislative history for statutory interpretation in the usual case, that source provides petitioner with no aid. If a quite natural reading of the statutory language fails to displace an intervening decision providing a contrary interpretation, legislative history supporting that reading and by definition before the Court that [506] has already construed the statute provides little additional reason to overturn the decision. Cf. *Patterson*, 491 U.S., at 172–174, 109 S.Ct., at 2370–2371 (reviewing sources most likely to prompt overruling of decision). Indeed, *First Iowa* expressly considered the legislative history of the FPA and of § 27 in particular and found that source to support its interpretation of both. *First Iowa, supra*, at 171–174, 176, n. 20, 179, 66 S.Ct., at 915–916, 917, n. 20, 918. Given the tangential relation of the legislative history to the issue at hand and the interests supporting adherence to *First Iowa*, we decline to parse again the legislative history to determine whether the Court in *First Iowa* erred in its understanding of the development, as well as the meaning, of the statute.

[3] Adhering to *First Iowa*'s interpretation of § 27, we conclude that the California requirements for minimum in-stream flows cannot be given effect and allowed to supplement the federal flow requirements. A state measure is "pre-empted to the extent it actually conflicts with federal law, that is, when it is impossible to comply with both state and federal law, or where the state law stands as an obstacle to the accomplishment of the full purposes and objectives of Congress." *Silkwood v. Kerr–McGee Corp.*, 464 U.S. 238, 248, 104 S.Ct. 615, 621, 78 L.Ed.2d 443 (1984) (citations omitted). As Congress directed in FPA § 10(a), FERC set the conditions of the license, including the minimum stream flow, after considering which requirements would best protect wildlife and ensure that the project would be economically feasible, and thus further power development. See *Rock Creek*

Limited Partnership, 41 FERC ¶ 63,019 (1987); *Keating*, 23 FERC ¶ 62,137 (1983); see also *Rock Creek Limited Partnership*, 41 FERC ¶ 61,198 (1987). Allowing California to impose significantly higher minimum stream flow requirements would disturb and conflict with the balance embodied in that considered federal agency determination. FERC has indicated that the California requirements interfere with its comprehensive planning authority, and we agree that allowing California to impose the challenged requirements would be contrary to congressional intent[507] regarding the Commission's licensing authority and would "constitute a veto of the project that was approved and licensed by FERC." 877 F.2d, at 749; cf. *First Iowa*, *supra*, at 164–165, 66 S.Ct., at 911–912.

For the foregoing reasons, the decision of the Court of Appeals for the Ninth Circuit is

Affirmed.

495 U.S. 660, 109 L.Ed.2d 677

[660]**CITIBANK, N.A., Petitioner**

v.

WELLS FARGO ASIA LIMITED.

No. 88–1260.

Argued March 19, 1990.

Decided May 29, 1990.

Depositor brought action against United States bank to recover balance due on time deposits after United States bank's Philippine branch, at which deposits had been made, declined payment due to Philippine government decree. The United States District Court for the Southern District of New York, Whitman Knapp, J., 660 F.Supp. 946, allowed recovery, and appeal was taken. The Seventh Circuit Court of Appeals, 847 F.2d 837, remanded for supplemental findings, without published opinion, and after those findings were made by the District Court, 695 F.Supp. 1450, the Court of Appeals, 852 F.2d 657, affirmed. Certiorari was granted. The Supreme Court, Justice Kennedy, held that: (1) district court's findings that parties only agreed to permit repayment in New York and that agreement was silent as to whether collection would be permitted in New York from United States banks' general assets were not clearly erroneous, and (2) Court of Appeals' factual premise that parties agreed to permit collection from United States bank's New York assets contradicted those factual determinations, thus requiring remand.

Vacated and remanded.

Chief Justice Rehnquist filed concurring opinion.

Justice Stevens filed dissenting opinion.

1. Banks and Banking ⇨133

District court did not clearly err in finding that agreement between depositor, a Singapore bank, and Philippine branch of United States bank established that "repayment," defined as wire transfers effecting transfer of funds to depositor once deposits matured, would take place in New York, but that there was no agreement on whether depositor could collect its deposits in New York branch of United States bank from bank's New York assets once Philippine government decree prevented Philippine branch from repaying Eurodollars with its Philippine assets.

See publication Words and Phrases for other judicial constructions and definitions.

2. Federal Courts ⇨462

Court of Appeals' conclusion that agreement between depositor, and Philippine branch of United States bank permitted depositor to collect at United States bank's