

Pacific Coast Federation of Fishermen's Associations ♦ Earthjustice ♦ Institute for Fisheries Resources ♦ The Wilderness Society ♦ WaterWatch ♦ Northcoast Environmental Center ♦ Oregon Natural Resources Council ♦ Defenders of Wildlife ♦ Klamath Forest Alliance ♦ Headwaters ♦ Congressman Mike Thompson

NEWS RELEASE

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KLAMATH SALMON PLAN FOUND ILLEGAL *Judge says plan too vague, uncertain, and risky for fish*

Oakland, CA - Today a federal court rejected the Bush Administration's plan to protect threatened Klamath River coho salmon from the harmful effects of the Klamath Irrigation Project. The court ruled that the plan was illegal because it fell well short of meeting the requirements of the Endangered Species Act. Salmon advocates have been pointing to the plan's inadequacies since it was released in May 2002.

"This decision gives hope to the families that depend on Klamath River salmon," said Glen Spain of PCFFA. "This case was about restoring balance to the basin so that fishermen, Native Americans, and irrigators can all receive a fair share of the water. We will now work on a new vision for the basin, and the legislation recently introduced by Congressman Thompson is the perfect place to start." PCFFA is the west coast's largest organization of commercial fishing families.

A coalition of commercial fishermen, conservation groups, and Congressman Mike Thompson filed the lawsuit against the National Marine Fisheries Service and Bureau of Reclamation in September 2002 because the agencies' 10-year plan failed to leave sufficient water in the river for salmon and relied on future, speculative actions from the states of California and Oregon to make up for the missing water. In the first five months of the challenged plan, low flows caused by unbalanced irrigation deliveries killed over 33,000 adult salmon.

Because Klamath River coho are protected as a threatened species under the Endangered Species Act, the National Marine Fisheries Service must approve any long-term irrigation plan devised by the Bureau of Reclamation. In May, the Fisheries Service held that the Bureau's plan would jeopardize the continued survival of the Klamath River coho. However, when the Fisheries Service issued its final approval of the Bureau's plan, it failed to require adequate measures to protect the salmon.

The Court held that the Fisheries Service's approval of the Bureau's long-term plan violated the Endangered Species Act because it relied on future actions by state, tribal, and private parties that are not reasonably certain to occur. The Court found that "the NMFS provides no support for its assumption that the other state and private parties will agree to take part in the [process], or that [the process] will in fact make progress toward and finally achieve the target flow rates." Order at 21.

Kristen Boyles, an attorney with Earthjustice said, "A promise to provide a fraction of the water salmon need, sometime in the future, from somewhere, meets neither the requirements of the law nor of sound science. The fish in the Klamath are in real trouble right now; they need real action, not vague promises."

Inadequate river flows that result when the Bureau of Reclamation diverts water for irrigation in the high desert hurt salmon in a number of ways. Newly hatched salmon, called fry, need safe habitat in and around bank vegetation to hide and feed. Lower river flows force these young fish into the mainstream of the river where they are easy prey. Year-old salmon, called smolts, need adequate river flows in the spring to safely make the

journey to the Pacific Ocean. Adult salmon, returning upriver to spawn, are hurt or killed by high water temperatures and poor water quality due to low river flows.

“The Bush Administration has worked hard to maintain the status quo in the Klamath Basin, but last summer the status quo killed 33,000 salmon,” said Bob Hunter of WaterWatch of Oregon. “Hopefully this court ruling will end the Administration’s policy of denial and delay and put us on track to actually solve this crisis.”

The Klamath was once the third mightiest salmon-producing river in the continental US, behind only the Columbia and Sacramento in productivity. The River has been reduced to a shadow of its former self largely as a result of the Bureau of Reclamations’ re-plumbing of its headwaters to maximize irrigation in the arid upper basin desert. The long-term answer could include buying back some of the agriculture land in the Klamath Basin to reduce water demand.

In February 2003, Congressman Mike Thompson introduced comprehensive legislation to address the problems in the Klamath. The Klamath River Basin Restoration and Emergency Assistance Act would allocate \$200 million to landowners and tribes throughout the Klamath Basin who participate in water conservation projects. It merges the upper and lower Klamath Basin working groups into one to ensure that the North Coast communities are at the table when decisions are made. It also provides \$20 million in emergency financial assistance to communities affected by the September 2002 salmon fish kill and requires the U.S. Bureau of Reclamation to present quarterly reports to Congress on the progress of conservation projects in the Klamath Basin.

“The federal government has simply promised too much water to too many interests in the Klamath Basin,” said Congressman Mike Thompson (D-Napa). “The only way we are going to solve the water crisis is by bringing the demand for water back into balance with what the environment can sustain, and to manage this resource responsibly.”

The lawsuit was filed by Earthjustice on behalf of PCFFA and Institute for Fisheries Resources, joined by The Wilderness Society, WaterWatch of Oregon, Northcoast Environmental Center, Oregon Natural Resources Council, Defenders of Wildlife, Klamath Forest Alliance, Headwaters, and Congressman Mike Thompson. Plaintiffs were joined by the Yurok and Hoopa Valley Tribes, and amicus briefs supporting the plaintiffs were filed by the Cities of Arcata and Eureka, Del Norte, Humboldt, and Trinity Counties, and the Humboldt Bay, Harbor, Recreation and Conservation District.

The Court’s order is available at www.earthjustice.org and on the Klamath Basin Coalition website at: www.klamathbasin.info. For more information on the Klamath Basin, including background information on this lawsuit, please visit www.klamathbasin.info.

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