

PRESS RELEASE

Yurok Tribe • Pacific Coast Federation of Fishermen's Associations • Institute for Fisheries Resources • Earthjustice

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FEDERAL COURT RULES IN FAVOR OF KLAMATH BASIN TRIBES, FISHERMEN

Klamath Irrigation Project Must Comply with Endangered Species Act

San Francisco, CA - Today, a federal district court reconfirmed that the U.S. Bureau of Reclamation must comply with the federal Endangered Species Act (ESA) in operating the Klamath Irrigation Project. Link to the [ruling](#).

“Once again, the courts unequivocally rule that the ESA is the law of the river,” stated Yurok Vice Chairman Frankie Myers. “Protecting the fisheries we depend on for culture and subsistence comes first when making water allocation decisions.”

Under the ESA, water must be released from the project to provide Klamath River flows to sustain salmon that are on the endangered species list. But irrigators who obtain water from the project have long argued in court that distributing water for irrigation is outside the scope of the Endangered Species Act. Federal courts have consistently rejected the irrigators’ argument, the 9th Circuit Court holding as long ago as 1999 (*Klamath Water Users Protective Ass’n vs. Patterson*, 204 F.3d 1206 (9th Cir. 1999)) that the ESA applies to the project and overrides irrigators’ rights to water.

The irrigators then turned to Oregon state courts. They convinced a state court to order the Oregon Water Resources Department to enforce state water rights, even if that meant violating the ESA. In 2021, the Oregon Department issued an order

prohibiting the Bureau of Reclamation from releasing water to the Klamath River to sustain salmon that are on the Endangered Species Act. That order led instantly to this litigation.

The United States, joined by the Yurok Tribe, Pacific Coast Federation of Fishermen's Associations, and Institute for Fisheries Resources, asked the federal district court in San Francisco to rule on which laws take precedent. Today, the federal court invalidated that state agency order and ruled that the Oregon order "conflicts with the the ESA, at least because it poses an obstacle to the accomplishment and executions of Congress' purpose and objective in enacting the ESA: protecting and restoring Endangered Species."

"This decision helps bring peace and resolution to the Klamath Basin by clarifying the interplay of federal and state laws as applied to the Klamath project," noted Yurok attorney Amy Cordalis, also a Tribal member.

"This is a major victory for salmon and all the people who depend on salmon for their cultures and livelihoods," said Glen Spain, for the Pacific Coast Federation of Fishermen's Associations (PCFFA) and the Institute for Fisheries Resources (IFR), both co-Plaintiffs in the lawsuit. "But really it just reaffirms the existing 'Law of the River' that state water rights cannot be used to block the water needs of ESA-listed fish."

This ruling comes as work to remove four dams on the Klamath River begins. "Dam removal will provide a much-needed boost to salmon runs, but the fish still need water," concludes Myers

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