

Klamath River – 21st Century Boston Tea Party?

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The first time the gate had been opened was the night of June 30. No one is saying who did it, and the sheriff refused to investigate it. The Klamath Water District, who normally controls the gate,

"Water Is for Fighting"
by William F. Jasper

Federal agencies allied with enviro-activists have declared war on farmers and ranchers in the Western states, forcing residents of the Klamath Basin to fight for their way of life.

Menacing storm clouds have been hovering over the Upper Klamath Basin on the Oregon-California border for the past three years. Unfortunately, they are not the kind of clouds that bring rain, which would be most welcome in this beautiful, but arid, high plateau on the eastern slope of the Cascade Range. These dark clouds have produced only political thunder and lightning in a heated struggle between the area's farming/ranching community and federal agencies allied with environmental activists.

In the dry lands of the Western states, there is an old saying: "Whisky is for drinking, water is for fighting!" And nowhere is the fight over water more intense than in the Klamath Basin. On July 17, five U.S. congressmen representing California and Oregon districts held a special hearing in Klamath Falls, Oregon, on the impact of the Endangered Species Act (ESA) on rural communities throughout the West. Farmers, scientists and public officials testified concerning the destructive effects of ESA policies on people as well as animals and the environment. Hundreds of area residents turned out at a pre-hearing rally that symbolized the frustration felt by millions of Americans who are feeling the brunt of the federal environmental hammer. (See sidebar on page 13.)

Although the ingredients for the present conflict had been brewing for years, even decades, the shot that started things was fired by the federal government on April 6, 2001. On that date, the U.S. Bureau of Reclamation (BOR) decreed that area farmers and ranchers would not be allowed to use any of their allotted irrigation water. "April 6, 2001 has been etched in the minds of people in these parts as another 'Day of Infamy,' like Pearl Harbor, December 7, 1941," Professor Ken Rykbost, an hydrology expert and critic of the federal policy, told *The New American*.

The federal government cited the Endangered Species Act (ESA) as justification for cutting off the farmers' water in the critical planting season. The farmers' water had to be taken, said the BOR, for the benefit of the Lost River sucker and the shortnose sucker, both of which had been listed as "endangered" in the Upper Klamath Lake, and the coho salmon, which was listed as "threatened" in the Klamath River. This meant, said the BOR, that Upper Klamath Lake must be kept at historic high levels for the sucker fish and that more water had to be released into the Klamath River for the coho — *ergo*, water for the fishies, not for the farmers.

The rich, volcanic soil of the Klamath Basin is excellent agricultural land, but the area averages only 13-15 inches of rain per year. Irrigation is essential to growing crops in this region, and surface water from Upper Klamath Lake and the Klamath River is the main

irrigation source. Cutting off access to water is the equivalent of sounding a death knell for area farms.

Many of the roughly 1,500 farmers who cultivate the Klamath Basin are veterans or descendants of war veterans, who were lured to the area as homesteaders following World Wars I and II. Along with the deeds to their land, they received deeded water rights, guaranteeing allotments of water for each growing season, "in perpetuity." The April 2001 cutoff was unprecedented. It was also economically devastating to the entire region, not just to the farmers directly affected.

When the cutoff occurred, many farmers had already spent or borrowed thousands or tens of thousands of dollars for seed, fertilizer, fuel and labor for that year's growing season. Many already had contracts to deliver their crops. Some of those who had already planted were forced to let their crops parch in the sun; some were able to irrigate with well water — at a much higher price that wiped out most, if not all, profit. Cattle were auctioned off at distressed prices. Many family farms were forced into bankruptcy, and many of the farmers who have managed to hang on are still hovering close to the financial edge.

Greg Williams, a banker with Northwest Farm Credit Services in Klamath Falls, Oregon, told *The New American* that the cost to the area for the 2001 water shut-off is estimated to be around \$200 million. Many of the region's farmers calculate the cost at several times that amount and have brought a suit against the federal government for \$1 billion in damages.

Fedgov's Fish Story

Adding salt to the farmers' wounds is the knowledge that the ostensible reason for their woes — the supposedly endangered species — is merely a pretext for a broader agenda based on radical environmental ideology and quack "science." The 2001 BOR decision to refuse water to the farmers was based on two "biological opinions" — one issued by the U.S. Fish and Wildlife Service for the sucker fish and the other by the National Marine Fisheries Service for the ocean-going coho salmon. It was soon revealed that the biological opinions that were endangering the survival of many family farms had not been subjected to outside peer review and were badly flawed in many important respects.

In response to the uproar caused by the federal water policy, the National Research Council (NRC), the operating arm of the National Academy of Sciences (NAS), established a special committee of scientists to investigate the matter. On March 13, 2002, Dr. William M. Lewis, chairman of the NRC/NAS committee, testified before the Resources Committee of the U.S. House of Representatives. Dr. Lewis, professor of Environmental Science and Director of the Center for Limnology at the University of Colorado, reported that the NRC/NAS consensus contradicted the opinions undergirding the government's draconian water policies.

"Despite the availability of a substantial amount of data collected by federal scientists and others, no clear connection has been documented between low water level in Upper

Klamath Lake and conditions that are adverse to the welfare to the suckers," the professor told the congressional audience. "For example," Lewis stated, "incidents of adult mortality (fish kills) have not been associated with years of low water level. Extremes of chemical conditions considered threatening to the welfare of the fish have not coincided with years of low water level, and the highest recorded recruitment of new individuals into the population occurred through reproduction in a year of low water level." Thus, said Lewis, the NAS scientists found "no sound scientific basis" for the federal policies ordering arbitrarily high lake levels and shutting off the irrigation valves.

The NRC/NAS study confirmed what many other scientists had already been saying about the so-called science providing the foundation for the new Klamath water policies. Among the many facts that are seldom, if ever, reported in the major media are these important points:

- There is no scientific "consensus" that the "endangered" sucker fish are truly endangered.
- Evidence shows that both species of sucker fish thrive with shallower, warmer lake levels, not with the historic high water levels recommended by the federal agencies.
- Putting more of the warm Klamath Lake waters into the Klamath River instead of into irrigation not only hurts the farmers but the coho salmon, which need colder water.
- The Upper Klamath Lake area provides only 3.4 percent of the water flow at the mouth of the Klamath River and would not provide a much higher percentage even if *all* of the Upper Klamath waters were diverted to the river.
- Diverting more of the irrigation water to "wetlands" will hasten the dehydration of the area and could cause much of the Upper Klamath Lake and Klamath River to dry up completely in drought years.
- The seven years chosen as the basis for the government's biological opinion were some of the wettest years on record in the past century, with 34 percent higher than normal inflows to the Upper Klamath Lake and 21 percent higher precipitation. Using these wet years as the norm radically skewed the BOR's lake level recommendations to the ultra-high end.

In short, fedgov's fish story is a whopper.

Weapon for Green Agenda

Like Americans in many other parts of the country who have been victimized by edicts and rulings under the Endangered Species Act, the overwhelming majority of Klamath Basin residents are thoroughly convinced the ESA is being used as a weapon *against* people — and specifically against the farmers — rather than as a remedy to help the fish. And, for once, even the ultra-liberal, ultra-green *New York Times* has voiced agreement.

In a June 24, 2001 piece on the Klamath imbroglio, entitled "An Endangered Act: Sacrifices to a Green Agenda," *Times* writer Douglas Jehl noted that "much of the trouble the act has prompted comes from lawsuits brought by environmentalists who have learned to use the Endangered Species Act as a weapon." Mr. Jehl, in a moment of candor rare for the *Times*, explained further:

Cast in the name of plants and animals, these lawsuits tend to have humans very much in mind. In their fights against logging, shopping malls, housing tracts and the like, environmentalists have found that they can erect no better barrier than persuading the Fish and Wildlife Service that the land is home to an endangered species. And they enlarge that obstacle by arguing that its home stretches far and wide.

That is precisely the pattern followed by the eco-fanatics in the actions that have brought about the present Klamath crisis. The federal decision to pull the plug on the farmers stems from ESA lawsuits brought by the Oregon Natural Resource Council, the Arizona-based Center for Biological Diversity, and the Earthjustice Legal Defense Fund (formerly Sierra Club Legal Defense Fund).

Many officials and scientists in the federal agencies resist the environmental radicals and try to administer the laws fairly and reasonably. But, over the years, a sizeable cadre of eco-extremists has grown within many of the agencies. For them, like their professional activist brethren in the Big Green organizations — Greenpeace, Environmental Defense, World Wildlife Fund, Sierra Club — the ESA is sacrosanct, trumping the U.S. Constitution, the Ten Commandments, the laws of nature, property rights and common decency. For them, it is, as Timesman Douglas Jehl pointed out, a weapon — a political weapon of mass destruction.

Fishy Science

In June 2001, shortly after the government turned off the Klamath irrigation spigots, biologist David A. Vogel blasted that policy decision before the House Resource Committee field hearing in Klamath Falls. Mr. Vogel, a fisheries scientist with 29 years' professional experience, including 15 years with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, declared that the Klamath farm situation is an "artificially created regulatory crisis that has been imposed on the Upper Klamath basin" without any semblance of sound science.

"In my entire professional career," Vogel said, "I have never been involved in a decision-making process that was as closed, segregated, and poor as we now have in the Klamath Basin. The constructive science-based processes I have been involved in elsewhere have involved an honest and open dialogue among people having scientific expertise. Hypotheses are developed, then rigorously tested against empirical evidence. None of those elements of good science characterize the decision-making process for the Klamath Project."

Vogel charged that the U.S. Fish and Wildlife Service "so selectively reported the available information that it can only be considered a distorted view of information available to the agency at that time." The government's own USFWS surveys, he pointed out, found both species of sucker fish to be "relatively abundant." In short, listing the suckers as endangered was rotten science, if not outright fraud.

This was not the first time government biologists had resorted to fraud; in some cases, their conduct has gone beyond unethical into the criminal realm. Such was the case, for instance, regarding the planting of Canadian lynx hair in forests in Washington State to stop logging and recreational activities. Forest Service officials also were caught spreading seeds of ESA-listed plants in the San Bernardino Forest to stop mining operations and knowingly using false data concerning spotted owl habitat to stop timber harvests in California.

In 2002, the National Association of Home Builders scored a major coup in exposing the fraudulent "science" employed by the National Marine Fisheries Service in designating more than 150 watersheds in California, Oregon, Washington and Idaho as critical habitat for salmon and steelhead. In a lawsuit challenging those watershed designations, the builders association produced a "smoking gun" internal memo by a high-level government official admitting to bogus methodology. "When we make critical habitat designations," said the memo, "we just designate everything as critical, without an analysis of how much habitat" is actually needed for salmon populations.

When government officials with these attitudes work in tandem with the professional radicals from environmentalist groups, as they regularly do, the results are devastating. More than 500 animal species and over 700 plant species are listed under the ESA as "endangered" or "threatened." Dozens more plant and animal species have been officially proposed for listing and hundreds more species are official candidates for listing. Hundreds of "habitat conservation plans" affecting millions of acres have been mandated. These ESA mandates regularly place absurd restrictions on human activity in every state of the union for the alleged benefit of dung beetles, snail darters, minnows, sand flies, spiders, spotted owls, mice, toads, snakes and other feathery, furry and scaly critters.

The ESA listings are used to stop or severely restrict farming, grazing, logging, brush trimming, fire fighting, manufacturing, mining, hunting, fishing, hiking, camping, rafting, boating, snowmobiling, four-wheeling and many other activities. They are used to stop the building of barns, homes, hospitals, schools, factories, parks, golf courses and many other projects.

Lethal Policies

The fanatical zeal of the militant enviros and government bureaucrats can even prove deadly for humans. That's what happened on July 10, 2001, when four fire fighters trapped in the "Thirty Mile Fire" in Washington's Okanogan National Forest were sacrificed to the supposed benefit of the endangered bull trout. The stranded fire fighters radioed for helicopter water drops and waited in vain for

more than nine hours, before they were killed by the blaze. Meanwhile, Forest Service officials dithered, worried that dipping the helicopter buckets into the nearby river might violate the habitat of the bull trout.

The Klamath Basin policies may not have caused any human deaths thus far, but it is arguably the largest and most severe assault on a single area. The Klamath Basin area directly affected encompasses the city of Klamath Falls (20,000 population) and the smaller Oregon towns of Merrill, Keno, Malin and Midland, as well as the California border communities of Tulelake, Hatfield and Tuber.

Not long ago the Klamath Falls area had a robust wood products industry base. But in the 1980s and 1990s, the Fremont and Winema National Forests were largely closed to logging, thanks to the ESA and the spotted owl. Bill Ransom, a Klamath Falls farmer, also worked many years in the timber business. "People around here see the same thing happening to the farming base that happened to our timber industry," he told *The New American*. "Most of the mills around here have been closed down. The same government agencies and environmentalists are now trying to use the same kinds of arguments and fake science to destroy farming in the area."

Despite the NRC/NAS findings and other recent developments favoring Klamath farmers and discrediting the government's water policies, the federal agencies continue to use the discredited biological opinions to mandate water levels that deny farmers most of their irrigation water. Prior to 2001, area farmers could count on 350,000 to 400,000 acre/feet of water for the area's 200,000 to 220,000 acres of crops — mostly potatoes, onions, cereal grains, mint and alfalfa. In 2001, the water was cut off completely, then turned back on to a bare trickle in July, after it was too late for most crops. Since then, the farmers have been forced to give up 75,000 acre/feet of water per year, ostensibly to help the fish and area wetlands. In 2005, the water they must yield up increases to 100,000 acre/feet.

Glimmers of Hope

"Constantly losing more and more of our water is bad enough," says Bill Ransom, "but the real problem is that you just live under the constant fear that they could come in like in 2001 and do it again, just cut off all the water, at any time, right in the middle of growing season, and destroy everything, without any rational basis, without any peer-reviewed science — just by a simple, bureaucratic mandate. That's not right and that's what we're fighting."

Earlier this year the Ninth Circuit Court of Appeals, generally recognized as the most radical federal court in the land, surprised most observers by ruling against the federal government's listing of Oregon Coastal coho salmon as threatened. The Ninth Circuit let stand an earlier ruling by U.S. District Court Judge Michael Hogan that the National Marine Fisheries Service must count hatchery coho along with "wild" coho. The reason: According to the DNA evidence and the scientific consensus, the two fish populations are indistinguishable from one another, swim side by side in the rivers and streams, and have

been spawning together for the past century. The illegal counting method used by the agency's "scientists" allowed them to obtain a false low fish count to justify listing the coho as threatened, as well as to justify draconian land use and water use policies.

However, the litigants and their supporters, who had fought for so long to reverse the coho salmon's "threatened" designation, may have little to celebrate. On May 28, the Bush administration stunned many observers when it announced new proposals by NMFS to leave in place 26 ESA listings for Pacific salmon and steelhead populations, despite the rulings by Judge Hogan and the Ninth Circuit, and the steadily mounting scientific evidence that many of these fish populations are not at risk.

Now the ball is in Congress' court; it created the Endangered Species Act and has allowed its massive, unconstitutional abuses. It's time now for Congress to send the ESA to extinction.

ESA: Reform or Abolish? *by William F. Jasper*

The July 17 congressional hearing on the Endangered Species Act in Klamath Falls, Oregon, was chaired by Rep. Ken Calvert (R-Calif.), chairman of the House Water and Power Subcommittee. In his opening statement, Rep. Calvert noted that in the 30 years since the Endangered Species Act (ESA) was enacted, "only 7 species out of 1,300 listed have been 'recovered' and those are mainly due to other species conservation laws. That means that the Endangered Species Act has a success rate of .01% at best. But, at the same time, communities across the West are stopped cold in their tracks to the point where some legitimately wonder whether their way of life has become endangered. For instance, entire projects are suddenly scrapped in my district because of the delhi sands flower loving fly, or communities and forests are needlessly torched because the Endangered Species Act wouldn't allow for thinning. We are all too aware of the impacts here."

David A. Vogel, one of the most knowledgeable fish biologists concerning the Klamath Basin area, pointed out that the original listing of the Lost River and shortnose sucker fish were "based on a very limited, inappropriate technique and exceptionally small sample size." They were not endangered and should not have been listed. Federal officials, however, are making it nearly impossible to reverse that designation, he said, because "the standard to list a species is greatly different than the standard to delist a species."

"The two sucker populations are now conclusively known to be much greater in size, demonstrating major increases in recruitment, and are found over a much broader geographic range than originally reported in the 1988 ESA listing notice," Vogel said. "Despite this indisputable empirical evidence, current implementation of the ESA does not provide the flexibility necessary to downlist or delist the species."

Dave Carmen is a World War II veteran who came to Tulelake in the Klamath Basin as a homesteader, after surviving three amphibious landings in the Pacific, including the

retaking of the Philippines. "When I arrived to see my homestead there was nothing there, just an expanse of opportunity," he testified. "No roads, no houses, no trees, just bare ground. I then pitched my tent in the corner of my homestead." Mr. Carmen and about 300 other homesteaders and their families "united and began to build schools, churches and a hospital in Klamath Falls. We started a community. We were living the American dream and our dream was achieved by hard work and dedication." But, in 2001, said Mr. Carmen, "our dream was changed into a nightmare" by the ESA. "Our community has become the poster child of abuse by the Endangered Species Act. I respectfully request that the members of this congressional committee never allow us to be betrayed by an Act that has become a tool to destroy rural America."

Mr. Carmen's sentiments echoed the anger and disappointment expressed by many of the citizens who attended the pre-hearing rally. Elliot Schwartz, a leader of the Rural Resources Alliance, from Brookings, California, declared: "The ESA is nothing less than a weapon of mass destruction for the eco-al-Qaida." Nearby, people carried signs such as: "ESA — Economic Suicide Act."

Klamath basin overhaul is urged in report

The proposal for helping fish includes the removal of up to three dams.

By Stuart Leavenworth -- Bee Staff Writer

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The National Research Council called for a watershed-wide set of fixes Tuesday to help threatened salmon and other fish in the Klamath basin, an embattled expanse of farms, forests and depleted salmon streams on the California-Oregon border.

In a 334-page report, a scientific panel recommended the removal of up to three dams, restoration of wetlands and other measures to restore fish and prevent conflicts like one that exploded in 2001. The fight pitted farmers against environmentalists and Indian tribes and flashed a national spotlight on how the Bush administration handles water disputes.

Until now, much of the debate has revolved around the Klamath Project -- a federal irrigation project, mostly in Oregon, that diverts water for the farming of alfalfa and other crops. Tuesday's report also targeted logging practices and water diversions elsewhere in the watershed, including tributaries that flow out of Northern California.

In particular, the council called for studies on removing Iron Gate Dam and Dwinnell Dam in Siskiyou County to improve passage of coho salmon, a threatened species. If implemented, the latter recommendation would drain Lake Shastina -- a reservoir surrounded by hundreds of homes.

Jamie Lea, general manager of the Lake Shastina Property Owners Association, called the recommendation a "real shocker" late Tuesday. Removal of the dam would scare away home buyers around the 4,000-lot development, hurting developers and property owners, he said.

But Peter Moyle, a fisheries biologist from University of California, Davis, who helped write the report, said Dwinnell Dam and other structures hurt fish passage and prevent cool water from flowing to spawning areas downstream. At the very least, he said, agencies should study the costs and benefits of removing the dam.

The Klamath basin generated national headlines in 2001 when federal agencies cut water to farmers to help fish during a prolonged drought. The cutback became a rallying point for opponents of the Endangered Species Act, who organized protests to publicize their cause.

In a vindication for farmers, the report found insufficient data to support a 2001 decision by federal agencies to keep water levels high in Upper Klamath Lake to help native sucker fish that had dwindled during the mid-1990s.

Federal biologists had assumed that high water levels would reduce acidity in the lake and reduce fish-killing algae, but the research council said there was no "causal connection" to support that finding.

On the other hand, the research council credited federal biologists for using the best information they had available at the time and rejected claims they were using "junk science," as some members of Congress claimed.

The scientific panel also took a Solomon-like approach to another contentious issue -- how much water should flow from the Klamath Project downstream. **The National Marine Fisheries Service had concluded that extra flows would help threatened coho salmon, which spawn mostly in the tributaries of the Klamath. The council cast doubt on this finding, but said the extra water could be helpful to other species, such as chinook salmon, that aren't yet listed as threatened.**

Farm leaders in Klamath Falls said they were generally pleased Tuesday.

"This reaffirms our position that focusing solely on the Klamath Project -- which tends to be the focus of environmental groups -- isn't going to solve this huge problem," said Dan Keppen, executive director of the Klamath Water Users Association.

Environmentalists, however, note that the council calls for more cold water to be released downstream during key times of the year -- which could require Klamath farmers to do more in conserving water.

"This more or less verifies things that people in the lower river have said for years," said Glen Spain, a lawyer for the Pacific Coast Federation of Fishermen's Associations. "We need to get more water to help fish and get away from single-species management."

To the disappointment of some environmentalists, the research council sidestepped the question of what killed more than 30,000 salmon in the lower Klamath River last summer. Biologists for the California Department of Fish and Game blamed low flows from the Klamath Project, but the report noted that river flows or water temperatures alone could explain the fish kill.

The research council made several other findings sure to spark debate:

* Fish hatcheries on the Klamath and Trinity rivers are displacing wild salmon with hatched ones, possibly hurting the entire population. The report recommends a six-to-eight-year closure of one of the hatcheries.

* "High levels of erosion" from U.S. Forest Service logging activities are hurting fish spawning in the Salmon River.

* Grazing, agriculture, groundwater pumping and other activities are warming water and reducing flows in the Shasta and Scott rivers, two other key tributaries for salmon in California.

The National Research Council is an arm of the prestigious National Academy of Sciences, and its recommendations often set the agenda for Congress and regulatory agencies.

In a statement on Tuesday, Interior Secretary Gale Norton said her department was reviewing the report but agreed that a "broader approach" was needed.

Scientists spent 20 months on the report -- a long time, given all the environmental problems facing other parts of the West, said one member of the panel.

"But all the issues -- environment, property rights, agriculture, tribal obligations -- collide in the Klamath," said Jeff Mount, a UC Davis water scientist. "That is why it gets this attention."

About the Writer

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Study Says Irrigation Did Not Kill Salmon

Associated Press

Washington Post
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GRANTS PASS, Ore., Oct. 21 -- Voluntary steps to restore habitat, including removing dams, might be more effective in saving Klamath Basin fish than taking water from farmers, a federal report released Tuesday says.

The report also says that funneling irrigation water to farmers in 2002 -- which decreased Klamath River flows -- was not clearly responsible for the deaths of

thousands of salmon later that year.

In 2001, Klamath Basin farmers pried open irrigation gates and formed a bucket brigade to dump water into irrigation ditches after the government cut off water to benefit salmon and other fish.

Interior Secretary Gale A. Norton's subsequent decision to divert water from the Klamath River to 1,400 farms was criticized by environmentalists and tribal leaders, who said it was the reason 33,000 salmon died last September.

The report commissioned by Norton raised the possibility of removing Irongate Dam on the Klamath to restore salmon spawning in tributaries, but also urged a three-year moratorium on hatchery releases, to see if that would help wild fish rebound.

Hatchery fish make up the bulk of salmon harvested by tribal, commercial and sport fishermen. Irongate Dam is one of a series of hydroelectric projects on the upper Klamath.

Scientists also found that the greatest threat to coho salmon comes from warm water in tributaries, such as the Scott and Shasta rivers, not flows in the main Klamath.

"We were told not to think about politics and economic issues, but think about what species need for recovery, and that is what we did," said William M. Lewis Jr., chairman of the National Research Council panel that issued the report.

The report estimated the cost of following its recommendations would be \$25 million to \$35 million over five years.

On Monday, the federal government and a northern California Indian tribe rejected a deal that would have ended a three-year legal fight over restoring water to the Trinity River, which flows into the Klamath.

Studies: Pacificorp Could Remove Klamath Dams Cheaply, Safely; DamRemoval May Be Best Option for Shareholders, Customers, Environment

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To: Business Desk, Environment Reporter

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KLAMATH RIVER, Calif., July 20 /U.S. Newswire/ -- Studies released today by a collection of conservation groups suggest that the option of removing one or more of the five mainstem dams on the Klamath River may be more cost effective and technically viable than previously thought. In line with the 2003 National Academy of Sciences' recommendation to study the removal of Klamath River dams, American Rivers, California Trout, Friends of the River, Trout Unlimited, and World Wildlife Fund (conservation groups) and the Klamath River Inter-Tribal Fish and Water Commission engaged experts to evaluate certain costs and effects of removing four dams, Iron Gate, Copco 1 and 2, and JC Boyle.

PacifiCorp, a subsidiary of Scottish Power, owns five dams on the Klamath River that block salmon and steelhead from reaching more than 350 miles of their historic habitat. The four lowest dams generate power but provide no flood control or water supply benefits. They have contributed to a 90 percent decline in salmon populations and add to degraded water quality far downstream of the dams. PacifiCorp is seeking a new 30-50 year license from the Federal Energy Regulatory Commission (FERC) to operate its hydropower project.

"Our goal is the recovery of native fish populations in the Klamath River basin. One cornerstone for reaching this goal is the reintroduction of salmon and steelhead to the 350 miles of habitat blocked by PacifiCorp's dams," said Brian Barr of World Wildlife Fund.

Conservation groups have worked collaboratively for the last four years with PacifiCorp, Native American tribes and other stakeholders to gather information to analyze alternatives for improving fish populations, water quality and other resources impacted by the dams. Although PacifiCorp acknowledges the need to restore salmon, the Company did not propose restoring salmon and steelhead passage in its 7,000-page license application. Several fish passage options have been discussed during the relicensing proceeding, including constructing ladders, hauling fish around the dams in trucks, and removing dams. Unlike the other fish passage options, however, PacifiCorp refuses to study dam removal in detail. The studies released today by conservation groups analyze the cost of deconstructing the dams, the economic value of foregone power generation, and the effects of releasing stored sediments to the lower river.

"The Klamath dams are pretty old and these studies suggest that they may not produce enough juice to pay off the investment that will be necessary to secure a new license," said Steve Rothert with American Rivers. "PacifiCorp has a responsibility to its shareholders and customers to examine this scenario for itself."

"We hope these studies will shed some light on restoration opportunities in the Klamath River and provide a basis for fact- based decisions on these important issues," said Chuck Bonham of Trout Unlimited.

A principal concern of dam removal is the management of sediments built up in the reservoirs. "Our studies show that the Klamath River's flow would quickly carry the sediment to the ocean. In a matter of months after removal, it would be difficult to notice

a difference in the lower river," said Steve Rothert of American Rivers. Because information gathered to date suggests it would be possible to allow the river to carry the sediment downstream, the excavation and disposal of reservoir sediment -- a costly aspect of dam removal -- would be eliminated.

"Our engineering study indicates the four lowest dams could be dismantled and safely disposed of for less than \$40 million. By contrast, the construction of fish ladders and fish screens at those same four dams could cost up to \$150 million," said Curtis Knight of California Trout.

The Klamath River dams supply less than 1 percent of PacifiCorp's customer demand, and the California Energy Commission has concluded that project power could easily be replaced by existing and planned power plants in the area.

The study on foregone power generation estimates the annual value of Klamath hydropower is approximately \$21 million currently. PacifiCorp's license application states it would cost \$23 million per year to produce power on the Klamath under the Company's proposed plan, which does not include fish passage facilities. NOAA Fisheries has indicated it may require fish ladders to be constructed, which could increase costs to \$30 million per year or more. According to PacifiCorp estimates, the cost of replacing its hydro project with wind power would cost less than \$27 million per year.

"We do not take the issue of dam removal lightly -- we recognize that people have interests in these dams that must be addressed. We conducted these studies because we believe citizens are entitled to informed choices from decision makers," said Curtis Knight of California Trout.

The FERC is starting an Environmental Impact Statement under the National Environmental Policy Act (NEPA) to analyze the impacts of PacifiCorp's dams. In this Environmental Impact Statement, FERC will study alternatives to PacifiCorp's proposal to leave all dams in the river without providing fish passage for salmon and steelhead. Conservation groups will submit the three commissioned studies to FERC this week to improve the understanding of one of the alternatives already identified by FERC for detailed analysis -- the decommissioning and removal of at least some Klamath River dams and facilities.

Trout Unlimited's Chuck Bonham said, "Even though the backdrop for the relicensing of these dams may be the most contentious river basin in the West, it need not be that way going forward. We stand firm in our belief that the impacts these dams cause to salmon and steelhead are best resolved by bringing the basin's stakeholders together to forge a solution."

Study authors:

Klamath River Dam Removal Investigation -- Dennis Gathard, P.E., 206-547-4148

http://www.amrivers.org/doc_repository/DamRemoval/Klamath%20River%20Dam%20Removal%20Investigation1.pdf

Economic impacts of removing or re-regulating various Klamath River dams -- preliminary analysis -- David Marcus, 510-528-0728

http://www.amrivers.org/doc_repository/DamRemoval/Marcus%20report.pdf

A Preliminary evaluation of the potential downstream sediment deposition following the removal of Iron Gate, Copco, and JC Boyle dams, Klamath River, CA -- Stillwater Sciences, Dr. Yantao Cui

http://www.amrivers.org/doc_repository/DamRemoval/Stillwater%20Final%20Report%20-%20full.pdf

A summary of key findings is at:

http://www.amrivers.org/doc_repository/DamRemoval/klamath%20dam%20removal%20summary.doc

<http://www.usnewswire.com/>

Klamath Tribes sue for salmon loss

The lawsuit seeks \$1 billion from PacifiCorp, citing the loss of historic treaty rights to fish the headwaters

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MICHELLE COLE

The Klamath Tribes filed a lawsuit against PacifiCorp, citing the loss of salmon in the upper Klamath Basin created by the Portland-based utility's hydroelectric operations.

The complaint seeks \$1 billion in compensation for the tribes' historic treaty rights to fish for salmon in the headwaters of the Klamath River.

Court documents filed in U.S. District Court this week assert: "The Tribes' traditional reliance upon salmon for subsistence and trade is undisputed; and the existence of dams blocking salmon passage beginning in 1911 is undisputed."

On Friday, Klamath Tribes Chairman Allen Foreman declined to comment further about the complaint, which also lists seven individuals and the Klamath Claims Committee as plaintiffs.

Jon Coney, a PacifiCorp spokesman, also declined to comment. PacifiCorp's lawyers are reviewing the complaint, he said.

PacifiCorp operates a 151-megawatt hydroelectric project on the Klamath River that includes five dams and generates enough power to serve about 77,500 homes.

The utility's license to operate the Klamath projects expires in 2006, and PacifiCorp has applied to the Federal Energy Regulatory Commission for renewal.

Coney said the Klamath River project is important to PacifiCorp because it allows flexibility to adjust water flows to meet peak summer energy demands.

Conservationists and others argue the utility should not receive new licenses for an outdated hydropower operation built between 1908 and 1962.

Migrating salmon stopped coming up the Klamath River following completion of the Iron Gate Dam, located in Siskiyou County, Calif. The dam is not equipped to allow for fish passage.

A 2003 report by the National Research Council recommended evaluating the removal of the Iron Gate Dam to aid salmon recovery.

Glenn Spain, an Oregon-based representative of the Pacific Coast Federation of Fishermen's Associations, said the National Research Council Report made it clear "that

Iron Gate Dam be considered for decommissioning because of the water quality problems it creates."

"At this point," Spain said, "it's doubtful whether PacifiCorp could ever meet modern water quality standards with the dam at that location."

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Judge affirms Klamath Tribes' water right of time immemorial

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U.S. Water News Online

PORTLAND, Ore. -- A federal judge has reaffirmed that the water rights of the Klamath Tribes stretch back to time immemorial, and backed their right to claim water to support food gathering.

The ruling by U.S. District Judge Owen M. Panner in Portland did not appear to have an immediate effect on the ongoing battle over water for fish and farms in the Klamath Basin, said tribal attorney Carl Ullman.

However, it reaffirms that the tribes have the oldest water right in the basin at a time when that was being challenged under a formal adjudication process to sort out competing claims for water, Ullman said.

And it confirms that the tribes have the right to water to support gathering, such as seeds from the wocus plant in basin marshes, as well as hunting and fishing, he said.

Last summer, the federal government was forced to shut off irrigation water to most of the Klamath Reclamation Project to maintain reserves for fish, including endangered Lost River suckers and shortnosed suckers which are sacred to the Klamath Tribes.

"This is an important decision for the tribes," said tribal chairman Allen Foreman. "It is vital to protecting the tribes' treaty resources," such as hunting, fishing and gathering.

The tribes have maintained that the federal government has a responsibility to leave enough water in marshes and lakes to support fishing, hunting and gathering guaranteed by treaty.

The ruling came in a case known as *United States vs. Adair*, which was originally filed on behalf of the tribes in 1975 to guarantee water for a marsh on the Klamath Forest National Wildlife Refuge.

The marsh was part of a reservation taken away from the tribes in the 1950s. However, the tribes retained the right to hunt, fish, and gather plants on the old reservation lands.

The seeds of a marsh plant called wocus, which resembles a water lily, were a food staple of the Klamath people. The wocus population has declined along with water quality and quantity as agriculture has taken the place of gathering in the basin.

"The ruling makes it clear that the right to water to protect treaty resources, including fish, is senior

The New York Times

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As Thousands of Salmon Die, Fight for River Erupts Again

By TIMOTHY EGAN

SEATTLE, Sept. 27

More than 10,000 chinook salmon have died in the **Klamath** River in northern California in recent days, leaving biologists stunned and Indian tribes and fishermen angered at the Bush administration, which they say caused the deaths by favoring farmers in one of the most contentious water disputes in the West.

Federal officials, while not conceding that administration policy had anything to do with the die-off, said they would reverse an earlier policy and begin releasing water from Upper **Klamath** Lake in southern Oregon in an effort to revitalize the **Klamath** River downstream. The slow-moving river is littered with thousands of dead, bloated salmon, rotting in the sun.

Biologists say they have never seen a salmon kill of this size. It comes six months after the Bush administration decided to divert more Klamath Lake water to irrigation in the Klamath basin, saying the decision would satisfy farmers and comply with environmental laws.

Indian tribes and fishermen say the administration broke the law -- and starved the river -
- by favoring farmers over fish.

"We're seeing dead fish everywhere; it's just tragic," said David Hillemeier, a biologist with the Yurok Indian Tribe in northern California. "No matter what happens now, the damage is done. We could lose 30,000 fish."

Although biologists disagree on what caused the fish to die, they say a very warm and dry September in the Pacific Northwest and low water flows in the Klamath River are the two major reasons the river is too low for fish to move upstream and spawn, as they would normally do this time of year. Instead, the fish are crowded into small pools and dying of disease.

On Thursday, fishermen and environmental groups went to federal court in Oakland, Calif., charging the Bush administration with giving too much water to irrigation interests at the risk of thousands of salmon, including coho, which are listed as threatened with extinction, and king salmon, or chinook, which are considered the most desirable and

grow to 70 pounds or more.

"Basically, the administration created a drought in the lower river," said Zeke Grader, with the Pacific Coast Federation of Fishermen, the largest trade group of salmon fishers on the West Coast.

"We were expecting a really good run of fish this year. And now we've got the federal government essentially killing fish to satisfy their irrigation interests."

Bush officials said they had acted on the best information from scientists and were baffled by the death of the salmon. Allocating more water to irrigators, who staged protests last summer when they were denied their usual amount of water for farming, may not have been a factor in the die-off, the officials said.

"It's an anomaly," said Mark Limbaugh, director of external affairs at the Bureau of Reclamation, which controls water in the upper Klamath Basin. "No one has ever seen a problem like this, and it may very well turn out to be a natural phenomenon."

The Indians say that the warm and dry weather has not affected any river except the Klamath and that the fish die-off can be directly tied to the withholding of river water.

"We begged them for more water, starting in the spring," said Sue Mastern, chairwoman of the Yurok Indian Tribe, which has 4,500 members and lives in northern California. "They would not consult with us. They ignored us. And now people are feeling helpless and outraged. It's just a sickening feeling."

Just six months ago, the Bush administration held an elaborate ceremony in Klamath Falls, where officials released water for irrigation that had been held up because of concerns for endangered fish. As farmers chanted, "Let the water flow," Bush officials unveiled a 10-year plan that they said would settle the water war, one of the biggest in the West.

Property rights groups and farm interests portrayed the fight as a battle between sucker fish, which live in Upper Klamath Lake and were dying because of little water, and farmers, who depend on backed up river water to irrigate 200,000 acres. The downstream salmon, and the Indians and fishermen who depend on them, were largely forgotten in the debate, though some biologists warned that there was not enough water to satisfy all the interests.

Under Indian treaty law, the federal government has a "trust" responsibility to tribes and their water, fishing and property rights.

"This water will be released beginning today to meet tribal trust responsibilities and to support the migrating salmon during this emergency," Interior Secretary Gale A. Norton said. "We are doing our best to respond to this situation."

Federal officials say the water release, which they call a "pulse" and will go on for 14 days, may not be enough to help the thousands of fast-dying fish. "No one is certain exactly what effect the water will have on fish," said Steve Williams, director of the United States Fish and Wildlife Service. "But we are all determined to do something to quickly address the situation."

Fish runs vary greatly. The 10,000 fish killed this week are more than the river's entire salmon population in some years. Other years, like this one, are more bountiful, and biologists had been expecting a big run on the Klamath.

It will take about three days for today's first release of water to make it downstream to where the fish are trapped in warm pools. The release comes at a time when irrigators say they have adequate water to give some back to fish.

"We believe increasing the flows is justified at this time," said Dan Keppen, executive director of the Klamath Water Users Association, which represents 1,500 farm families. "We had an extra slug of water available, and we've got a cushion right now."

Indians and fishermen say it is precisely that extra water that should have gone to other needs of the river starting last spring.

"It's been clear all summer long that this river is ailing," said Kristen Boyles, a lawyer with Earthjustice, an environmental legal group, which is suing the administration on behalf of fishing groups and others. "Now we have this massive die-off, and it's the result of six months of water mismanagement."

<http://www.nytimes.com>

GRAPHIC: Photo: Biologists disagree on what caused salmon in the Klamath River to die but say the water has been too low for them to move upstream and spawn. (Associated Press)(pg. A13)

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