

PRESS RELEASE

KARUK TRIBE

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JUDGE'S RULING A MAJOR BOOST FOR KLAMATH DAM REMOVAL PLAN

Decision will likely prompt rewrite of FERC's draft license

Happy Camp, CA – After weeks of stalemate, this week saw a flurry of activity in the relicensing of PacifiCorp's aging Klamath River dams. The latest development is a judicial decision that may force the Federal Energy Regulatory Commission to amend the draft Environmental Impact Statement released Monday to include millions of dollars' worth of fish ladders.

Although the Judge was not asked to consider dam removal, his ruling could result in that outcome. According to FERC's own analysis, dam removal would be a cheaper option for PacifiCorp and their ratepayers than ladders.

Tribes, fishermen, and conservation organizations are demanding removal of the lower four dams as they have led to steady declines in salmon and steelhead populations since their construction began in 1918.

The dams block over 350 miles of salmon spawning grounds upstream, degrade water quality and host massive blooms of toxic blue green algae. The result has been fishing restrictions along 700 miles of coastline, crippled economies, and an assault on native cultures that depend on salmon for subsistence and ceremonial use.

"We voiced disappointment Monday when we saw that FERC staff was recommending a 'trap and haul' plan. Today, a federal Judge set the record straight," said Karuk Vice-chairman Leaf Hillman of the Judge's ruling.

The ruling is the result of a trial type hearing established by last year's Energy Policy Act. The Act essentially changed the dam relicensing process by providing companies such as PacifiCorp an opportunity to challenge fish passage prescriptions set forth by federal agencies.

Last March, NOAA Fisheries and the US Fish and Wildlife Service prescribed 'volitional' fish passage in order for the dams to be relicensed. In other words they demanded that salmon swim upstream as opposed to hitching a ride in trucks. NOAA went as far as recommending dam removal as the best means to achieve this.

PacifiCorp challenged the agencies' prescriptions, calling for a hearing on issues of fact. However, PacifiCorp's challenges failed to undermine the agencies.

"It was an historic moment," explains Troy Fletcher, relicensing director for the Yurok Tribe, "for the first time all the Tribes, fishermen, environmentalists, and federal agencies were supporting one another as we fought off PacifiCorp's challenge. We've never ALL been on the same page at once before."

Possibly the most significant issue the Judge ruled on has to do with fish habitat between the dams. The Judge stated that, "While the exact miles of habitat for use by anadromous fish within the Project reach is unknown, 58 miles is a reasonable estimate based on the evidence contained in the record." This establishes that there are 58 miles of habitat for the ESA listed coho salmon in between the dams.

PacifiCorp had argued that the reaches of river between the dams was unsuitable for salmon while at the same time arguing that things were great for resident trout populations. "Obviously, salmon, including threatened coho, would use the same habitat that resident trout currently use. PacifiCorp's lawyers were essentially contradicting themselves as they desperately fought for status quo," according to Mike Belchik, a biologist for the Yurok Tribe and key expert witness in the proceeding.

This ruling along with the sediment analysis filed yesterday by California agencies, will likely force significant changes to FERC's draft EIS. The sediment study showed that no toxins reside in the dams' sediment load and that the amount of sediment flushing down river after dam removal would be less than previously suspected. Now, say Tribes, FERC will likely be forced to include the agency's mandates in a new license - that means millions of dollars worth of fish ladders.

"Our analysis, as well as FERC's, concludes that dam removal is cheaper for PacifiCorp's ratepayers than relicensing. This means that doing the right thing makes economic sense for PacifiCorp," adds Hillman.

Still, nothing is set in stone. Everything is in draft form and Tribes are prepared to follow the proceeding closely. Comments on FERC's draft EIS are due in 60 days and the current license expires in March, 2007.

Hillman concludes, "We're ready to negotiate a fair settlement with PacifiCorp. Hopefully this ruling will motivate the company to do the same."

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