

## Judge: Science on coho ignored

**Salmon - The coast fish could end up back on the endangered list, thwarting a federal-state agreement**

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It seemed like a rare good-news story for Northwest salmon: a Democratic governor rallies industry to help a troubled species, a supportive Republican White House hands the reins to the state, and happily, salmon numbers bounce back.

The only problem: A federal judge concluded Friday that the story of Oregon coast coho was based on smoke and mirrors. The only evidence things are looking up for the salmon was a faulty analysis by Oregon officials that federal scientists said "does not meet the red face test," the judge said.

Although federal biologists warned that Oregon's analysis had serious flaws, the Bush administration used that analysis to drop Endangered Species Act protections for the coho, leaving the state in charge, U.S. Magistrate Judge Janice M. Stewart concluded.

Stewart found that the Bush administration's decision was illegal because it ignored the best available science about what's really happening to coho -- which is not as rosy as Oregon suggested.

Coho numbers swing widely from year to year, and last year fell to their lowest level since 2000, according to the Oregon Department of Fish and Wildlife. Many biologists believe the fish surged briefly thanks to a few years of unusually good ocean conditions.

Stewart's findings came in the form of a recommendation, which the state and federal governments can object to and which must still be approved by a higher judge. Higher judges typically go along with such recommendations, though.

If that happens, the Bush administration may have to restore endangered species protections to the Oregon coast coho. That could slow logging and other development along coastal rivers and streams where the species spawns, and give the state less latitude.

It would simultaneously blow a big hole in a deal between Gov. Ted Kulongoski and the Bush White House that they billed as a model partnership between state and federal authorities in rebuilding a species without resorting to rigid endangered species restrictions.

Stewart's findings came in a lawsuit filed against the administration by Trout Unlimited, the Pacific Rivers Council and several other fishing and conservation groups.

Michael Carrier, natural resources adviser to Kulongoski, called her findings "very disappointing," and said they could jeopardize state efforts to help salmon.

Those efforts took off with former Gov. John Kitzhaber's Oregon Plan for Salmon and Watersheds, a state initiative that sought to keep coho off the endangered list. The plan sharply restricted coho fishing and encouraged loggers and others to voluntarily repair damaged salmon habitat.

Carrier said the state will continue working to advance those efforts, regardless of the court decision.

"The longer we suffer having these stocks on the threatened and endangered list, the longer it affects our quality of life," he said.

The Oregon coho, which spans a range from the Columbia River to Cape Blanco, is one of the few Northwest salmon species not on the endangered list

The National Marine Fisheries Service, the federal agency overseeing salmon, decided in 1997 that the Oregon plan did enough for coho so that they did not need federal protection. But a court ruled otherwise, starting a series of on-again, off-again moves that returned and then dropped the species from the protected list.

The species later got caught in the long-running dispute over whether hatchery-raised fish should be counted as part of the protected population.

"Oregon coast coho have always been kind of on the edge in terms of decision making," said Brian Gorman, a spokesman for the National Marine Fisheries Service. "It has always been a close call. The current case reflects the closeness of the science."

Kulongoski's deal with the White House gave the state an unusual role in determining whether coho need federal protection. The state compiled its own report assessing the outlook for the species, concluding coho are more resilient than previously thought.

The state depended on a novel theory that coho do better when their numbers fall to low levels, with less competition between remaining fish among the reasons. It was soundly criticized by federal fisheries scientists who said small populations face a higher risk of extinction.

Anything else "simply does not pass the red face test -- too much theoretical and empirical data suggest otherwise," the federal scientists said.

They also said that Oregon cited data from specific streams in specific years that supported its argument, but omitting results from other years.

Stewart pointed out that Oregon acknowledged its coho analysis was an attempt "to tell Oregon's story of the assessment -- rather than to produce a paper for a scientific journal."

"This is almost tantamount to an admission that the final assessment does not constitute the best available science," she wrote.

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