

'We can do better' for fish, judge says

Columbia salmon - A federal judge promises "very harsh" measures if a solution is not found

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The federal judge pressing the government to remedy the damage Columbia River dams wreak on protected salmon warned Wednesday of "very harsh" consequences if federal agencies fail to find a solution.

U.S. District Judge James Redden did not specify the consequences, but he has previously mentioned draining reservoirs and diverting water from other uses to help fish.

That could curtail the cheap electricity the dams generate, a mainstay of the Northwest economy. It also could limit irrigation supplies and barge traffic on the river.

During a hearing in his Portland courtroom, his message for the federal government appeared to be that the draft government plan to help salmon is inadequate and must do more for fish. "We can do better than that," he said after reading part of a list of measures the federal agencies proposed.

Redden said he was pleased that collaboration among federal agencies, states and tribes had yielded some progress. But he said the government must explore other options to meet requirements of the Endangered Species Act.

The federal government has struggled for years to find a legal way to operate the dams while also making up for the protected salmon that dams injure and kill each year. Federal agencies have proposed millions of dollars in dam upgrades, habitat restoration and changes at fish hatcheries.

But Redden has thrown out two federal proposals because they were based on flimsy and uncertain commitments.

He told attorneys in a letter last week that the government's newest draft has many of the same weaknesses. He said he wanted to hear other options to help salmon.

He specifically mentioned an idea by Oregon officials to draw down the reservoir behind John Day Dam, which he termed one of the worst dams for its impact on salmon. Fish migrated with the quick, cool current of the river before the dam was built but now struggle through the warm water that backs up behind it.

Redden asked for details on the impact of lowering reservoir levels, such as how it would affect irrigation and barge traffic. He said he recognized that the federal government would not pursue breaching four dams on the Lower Snake River, though he asked for that to be considered. "But what can we do in addition to that?"

He set a March 18 deadline for the federal government to complete a final strategy on how to legally operate the system of dams while reducing the effect on protected fish.

He will consider appointing a panel of independent scientists to help him sort through the measures that would help salmon, he said, although federal attorneys questioned whether he could do that.

Attorneys from the federal government, states and tribes occasionally sniped at one another during the hearing.

An attorney for Montana, which wants to retain water for fish and other demands at the upper end of the Columbia system, chastised Oregon officials for bypassing other states and tribes and pushing the John Day option directly with the federal government.

Oregon's behavior "is nothing short of appalling," said Mark Stermitz, representing Montana. "It's like dad didn't give them what they want, so they're going to mom."

Another judge found in a separate court case involving protection for Oregon coast coho that Oregon officials "will cherry-pick scientific evidence to suit their own purposes," Stermitz said.

Lawyers for conservation groups said they probably would seek an injunction asking for extra measures for salmon until the government comes up with a legal plan to operate the dams.

Federal attorneys said such a move would distract from the federal effort to finish the plan. The government would be willing to extend provisions of the court order that provided extra help for salmon last year to cover 2008 if conservation groups agreed not to pursue a new injunction, they said. Conservation groups said they'd consider it.

"I think it's a pretty good offer," Redden said.