

# pcffa *NEWS*

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## **COMMERCIAL FISHERMEN SUE FOR MORE 2002 SPRING FLOWS IN THE KLAMATH RIVER**

### **Salmon Fisheries, Coastal Communities, At Stake as Lower Klamath River Flows Dropped Below 2001 Drought Levels**

**Oakland CA (24 April)** – Commercial salmon fishermen filed a lawsuit today in U.S. Federal District Court in Oakland, CA, requesting that the Bureau of Reclamation be required to release enough water into the Lower Klamath Basin through May 31st to keep from devastating this year's commercially valuable juvenile Klamath River salmon runs.

“Quite simply, fish gotta swim,” said Zeke Grader, Executive Director of the Pacific Coast Federation of Fishermen’s Associations (PCFFA), the west coast’s largest organization of commercial fishing families and the lead Plaintiff in the suit. “Fishing families are having a hard time paying their bills and the government is just trying to write off the lower river and coastal economy. There is a lot more rainfall this year than during last year’s drought, and all we are asking is a fair share so the lower river and its fisheries can survive.”

Adequate Spring flows are crucial to the survival of both juvenile ESA-listed coho salmon, as well as Klamath River chinook salmon. Juvenile steelhead runs important to the Yurok and Karuk Tribes as well as to economically valuable recreational fisheries also need strong springtime flows. This year there has been far more rainfall than in 2001’s near-record drought (the worst in 72

years), so there should be more than enough water to provide for the survival of lower river fisheries and still meet most irrigation needs.

Nevertheless, this May the Bureau of Reclamation plans to allow only a small fraction of the water these fish need to survive to flow into the Lower Klamath River, effectively plunging the lower river into a severe man-made drought. Releases proposed by the Bureau for May are only about 60% of what was considered last year as the “minimum to prevent extinction.” (See Table 1 attached). The National Marine Fisheries Service (NMFS) is being sued over its consent to those flows in a two page ‘letter of concurrence’ that had no scientific justification.

The diversion of the upper river comes at a critical time for freshly hatched salmon as well as one-year-olds ready to migrate to the sea. Without more flows during May, far fewer juvenile salmon will survive, and fishing seasons (when they return as adults in 3 years) would suffer more major closures as far south as Fort Bragg, CA and as far north as Coos Bay, OR. These ports, once the most productive salmon ports in the Lower 48 states, have suffered huge economic losses over the past decade as Klamath fish declined in numbers. Klamath water-related fisheries loses to these ports already have been estimated at 4,000 family wage jobs and \$80 million/year since at least 1992.

Restored Klamath Basin salmon runs could provide an economic boost not only to commercial fishermen along the coast but also to outfitters, resorts and hotels, sport shops, fishing charter operations, tourism and many other businesses along the coast and in the rivers. The economic benefits of restored Klamath Basin salmon runs could mean tens to hundreds of millions of additional dollars to the Northern California and Southern Oregon economy.

“There is a lot more water available this year than last year,” said Glen Spain of PCFFA’s Northwest Office in Oregon. “It’s mind boggling that the Administration would give the lower river even less water this year than during last year’s record drought. Fishermen deserve a fair share of water in the river just as much as farmers deserve water in the fields. It simply makes no sense to destroy thousands of coastal jobs and devastate coastal communities by artificially creating a downriver drought that does not have to exist.”

### **Impact of the Suit Limited to Spring Flows**

The lawsuit’s impact will be limited to the 2002 Spring flows, and is unlikely to greatly affect allocations of water to upper basin farmers, particularly as this year there is a lot more water to go around. Fishermen are concerned only about the interim water plan for this Spring. The lawsuit asks for an emergency order requiring the Bureau of Reclamation to return river flows for May 2002 to levels that will keep the salmon alive and aid in their recovery. The final Klamath Project water plan is not, however, the subject of this lawsuit. No final water plan is likely to be adopted until after June 1, 2002.

In February, the National Research Council issued an interim report criticizing some of the science that led to last year’s decision to cut back river diversions to Klamath Basin farmers to help salmon and lake fish survive. At the same time, the NRC panel rejected the Bureau of Reclamation’s proposed 2001 operations plan as far too risky. Remarkably, the Bureau has called for the same

flow rates this year as those the NRC found too risky last year, even though there is far more water available now than during last year's near-record drought. (see NRC Report Fact Sheet attached)

### **Congressional Action Needed to Ultimately Solve the Problems**

The problems of water over-allocation in the Klamath Basin will not be solved without serious federal efforts to reduce overall water demand, increase overall water supply, conserve water more efficiently, and repair the damaged Klamath Basin ecosystem's ability to store water naturally.

“Congress has before it the Senate version of the Farm Bill, with \$175 million earmarked for the Klamath Basin to undo the damage that decades of federal mismanagement have done. These problems will not just go away; they are inherent in a system that has promised far more water than is available to far too many people,” noted PCFFA's Glen Spain. “It is time to put politics aside and pass the language drafted by the four Oregon and California Senators. This would go a very long way toward solving these problems once and for all, basin-wide.”

The fishermen's lawsuit was filed by Earthjustice on behalf of PCFFA and the Institute for Fisheries Resources. The fishermen's groups were joined by The Wilderness Society, Water Watch of Oregon, North Coast Environmental Center, Oregon Natural Resource Council, Defenders of Wildlife, and the Klamath Forest Alliance.

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See Attached Charts and Fact Sheets

**THE 2002 COHO FLOW REGIMES  
FOR KLAMATH PROJECT OPERATIONS  
IN THE BUREAU OF RECLAMATION'S  
FINAL BIOLOGICAL ASSESSMENT OF 2/25/02**

**TABLE 1: Comparison of Phase II Hardy Study Flows to Final 2002 Bureau of Reclamation Proposed Flows at Iron Gate Dam (IGD) (in cfs)**

Time Step	Phase II Flows <sup>1</sup> 50% Level	BuRec Proposed <sup>2</sup> (Above Av.)	BuRec Proposed (Below Av.)	BuRec Proposed ( Dry Yr)	BuRec Proposed (Critically Dry Yr)	2001 Biop Min. Flows <sup>3</sup>
Oct	1470	1345	1345	879	920	
Nov	1710	1337	1324	873	912	
Dec	2030	1387	1621	889	929	
Jan	2400	1300	1334	888	1101	
Feb	2720	1300	1806	747	637	
Mar 1-15	3400	1953	2190	849	607	
Mar 16-31	3400	2553	1896	993	547	
Apr 1-15	3300	1863	<b>1742</b>	969	874	1700
Apr 16-30	3300	2791	<b>1347</b>	922	773	1700
May 1-15	3100	2204	<b>1021</b>	761	633	1700
May 16-31	3100	1466	<b>1043</b>	979	608	1700
June 1-15	2300	827	959	741	591	2100
June 16-30	2300	934	746	612	619	1700
July 1-15	1530	710	736	547	501	1000
July 16-31	1530	710	724	542	501	1000
Aug	1250	1039	1000	647	517	1000
Sep	1350	1014	1300	749	722	1000

Source: Bureau of Reclamation Draft 2002 Biological Assessment, pages 45 and pages 66-67. Where we are now, under the current interim flow regime, is marked in ***bold italics***.

<sup>1</sup> Phase II or 'Hardy Study' flows are those minimal flows recommended for coho salmon recovery by the scientific team doing the current multi-agency flow study of the Klamath Basin system, which represents the best available science to date on in-stream flow salmonid requirements. We used the 50% Exceedance Level for these numbers as the mid-range for an average water year for purposes of comparison. The Bureau claims that these studies do not apply to them and therefore have not factored these flow levels into their Biological Assessment.

<sup>2</sup> These are flow averages. Flow minimums, under the Bureau's current plan outlined in the Biological Assessment, can be considerably less, down to as little as 400 cfs for a 'dry' or 'critically dry' year.

<sup>3</sup> Considered by NMFS in the 2001 Biological Opinion as the minimum flows necessary to prevent extinction during the midst of the record drought of 2001.

## **NRC REPORT FOUND BUREAU'S PLANS TO REDUCE LOWER RIVER FLOWS TOO RISKY**

The February 2002 National Research Council (NRC) "Interim Report" on the Klamath did not support the Bureau of Reclamation's proposed river flow levels for 2001. Those discredited 2001 flow proposals were nearly the same, however, as those proposed for 2002-2012. These are excerpts from the National Research Councils "Interim Report" on the Klamath Biological Opinions. Although the Committee had concerns about warm water summer inflows, it took no position on Spring flows, which come from new snowmelt and are generally very cold, and did not support the Bureau's proposal to reduce the inriver flows to very low levels similar to those now in effect:

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"The committee, however, did not find clear scientific or technical support for increased minimum flows in the Klamath River main stem.... *At the same time, reduction in main-stem flows, as might occur if the USBR proposal were implemented, cannot be justified. Reduction of flows in the main stem would lead to habitat conditions that are not documented, and thus present an unknown risk to the population.*" (NRC Report, pg. 3)

"On the basis of its interim study, the committee concludes that there is no substantial scientific foundation at this time for ..... higher minimum flows in the Klamath River main stem for the threatened coho population. *The committee concludes that the USBR proposals also are unjustified, however, because they would leave open the possibility that water levels in Upper Klamath Lake and minimum flows in the Klamath River main stem could be lower than those occurring over the past 10 years for specific kinds of climatic conditions.* Thus, the committee finds no substantial scientific evidence supporting changes in the operating practices that have produced the observed levels in Upper Klamath Lake and the observed main-stem flows over the past 10 years." (NRC Report, pg. 3-4)

"Water temperature is a major concern for the welfare of the Klamath Basin coho salmon. Summer temperatures appear to be especially critical.... Summer temperatures in the Klamath River main stem are suboptimal or even lethal to juvenile. *High temperatures are the result of reduced flow in the main stem and in tributaries as a result of diversions, warming of water in lakes prior to its flow to the main stem, and loss of shading.*" (NRC Report, pg. 18)

## **FACT SHEET ON THE FISHERMEN'S LAWSUIT AND KLAMATH FLOWS**

**Q: Will this lawsuit cut into water allocations for Klamath Project farmers?**

**A:** Not much, if at all. There is far more water this year than during last year's near-record drought, and therefore a lot more water flexibility throughout the system. This means a lot more for agriculture, and should mean a lot more for fish as well, if the lower basin were given its fair share of the greater rainfall. All the fishermen are asking is for enough water during May of 2002 to make sure lower river salmon are not further damaged and fishing-dependent communities are not forced to endure yet more economic losses of their own.

**Q: Is this suit attacking the Klamath Project water plan as a whole?**

**A:** No. This lawsuit is aimed specifically at the hastily arrived at 'interim flows' for the month of May only, which are so low that they could seriously jeopardize the health of downriver salmon during their critical Spring out-migration period. The planned May flows are so low, in fact, that they are only about 60% of the minimum required during last year's near-record drought just to prevent extinction. The suit will not affect the rest of the water plan, which has not even been finalized and will not in fact be finalized until at least June 1, 2002.

**Q: What is the real issue in the Klamath water crisis?**

**A:** The real issue is the gradual cutoff of water to the lower basin and its fisheries by a combination of increased Klamath Project water diversions and increasing non-Project water diversion in the arid Upper Klamath Basin. This unfortunately pits lower river fishing-dependent communities and Tribes against upper basin farming communities. There are whole downriver economies that have been economically strangled over the past 20 years as a result. It is thus not a 'fish vs. farmers' problem at all, as sometimes simplistically portrayed, but a "jobs vs. jobs" problem caused by the federal government's mismanagement and over-allocation of water throughout the Upper Klamath Basin, compounded by state water policies that have put no limits on how much water could be diverted from Klamath Basin rivers and its tributaries.

**Q: What is the real solution to the Klamath Basin water allocation crisis?**

**A:** There is no simple or fast solution. The reality is that the Upper Klamath Basin is very dry, getting only about 12 inches of rainfall a year on average, and water is inherently limited. Too much water has been promised to too many people. The Klamath Basin water budget is badly out of balance.

Real solutions will come through a comprehensive basin-wide restoration effort, and federal money (such as the \$175 million provided for in the Senate version of the Farm Bill) to undo problems created by decades of federal water mismanagement. Passing the Klamath provisions in the Senate version of the Farm Bill is thus an urgent priority for the health of the entire Klamath Basin economy.