



Phone (541) 883-6100 ~ Fax (541) 883-8893 ~ 735 Commercial Street, Suite 3000 Klamath Falls, Oregon 97601

FOR IMMEDIATE RELEASE

July 26, 2018

Contact Information: Scott White
(541) 883-6100
scott@kwua.org

JUDGE SIDES WITH DEFENDANTS IN KLAMATH ESA LITIGATION

Klamath Falls, OR – Yesterday, a federal district court judge for the northern district of California denied a motion for preliminary injunction brought by the Klamath Tribes. The tribe’s request for preliminary injunction asked for higher lake levels in Upper Klamath Lake until a new ESA consultation is complete for two species of suckers that are listed as endangered. The preliminary injunction would have required an immediate halt to irrigation water deliveries in the Klamath Project.

“The law and science did not support this extraordinary request,” said Scott White, Executive Director for KWUUA. “Federal experts also did not agree with the argument for higher lake levels.”

Judge William Orrick stated in the [ruling](#) that, “the scientific evidence is very much in dispute, and I cannot conclude that the Klamath Tribes are likely to prevail on the merits nor that the sucker fish are suffering irreparable injury as a result of the lake elevation levels.” Additionally, the court said, “[the] Klamath Tribes have failed to show that their proposed remedy is in the sucker fish’s best interest.”

The ruling comes at a time when family farmers and ranchers are in mid-season of their operation. A preliminary injunction for higher lake levels would have resulted in immediate curtailment of water deliveries to the Klamath Reclamation Project where many millions of dollars have been invested in getting crops into the ground on over 150,000 acres.

Luther Horsley, a KWUUA board member and farmer near Midland, Oregon stressed the significance of continuing to farm for the remainder of the season. “I lived the ‘shut off’ of 2001 and we must never repeat that year ever again,” he explained. “This year was poised to be even more catastrophic given we’re in the middle of our growing season. I am so thankful for this decision.”

In additions to agriculture, the curtailment would also have precluded water deliveries for national wildlife refuges. Last week, conservationists and farmers alike wrote to Secretary of Interior, Ryan Zinke expressing concerns about impacts on waterfowl populations that could result from the proposed injunction for suckers. The [letter](#) stated that, “shutting down the Klamath Project would not only severely impact water deliveries to the Klamath Refuge Complex, but also to the important waterfowl food resources provided by local agriculture.”

Although it appears family farms will be able to bring their crops to harvest this year, the ruling did not end the case. The court granted KWUUA and the government’s motions to change venue to Oregon which means that this case could be heard in an Oregon court. But yesterday’s ruling makes clear that the Klamath Tribes would have to find different arguments in order to have a chance of obtaining the type of ruling they asked for.

White stressed that although KWUA is pleased and agrees with the ruling, there is still work to be done. The Lost River and shortnose sucker are important to Klamath Tribes. They are important to us,” asserted White. “The ESA or the courts are not going to solve the problems facing these fish. The solution will come within our community. We remain ready to address these challenges collaboratively, as partners.”

KWUA is a non-profit private corporation that has represented Klamath Reclamation Project farmers and ranchers since 1953. The Association’s membership includes rural and suburban irrigation districts, other public and private entities and individuals who operate on both sides of the California-Oregon border. These entities and individuals typically hold water delivery contracts with the United States Bureau of Reclamation and deliver water to over 1200 family farms and ranches encompassing more than 170,000 acres.

###