

For immediate release

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# Judge: Federal Shasta River “Safe Harbor” coho salmon program violates Endangered Species Act

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Late yesterday, the U.S. District Court for the Northern District of California [ruled](#) against a federal “Safe Harbor” program on California’s Shasta River that allowed a dam owner and water diverters to harm threatened coho salmon in exchange for scant “stewardship” practices on private lands. The court halted the program, invalidating the underlying biological opinion and environmental assessment. Now, the National Marine Fisheries Service (NMFS) must prepare a new biological opinion and a more thorough environmental impact statement that do not violate the Endangered Species Act and National Environmental Policy Act, respectively.

The Shasta River was once the most important salmon-producing tributary of the Klamath River, but now fewer than 50 coho salmon are returning to the Shasta each year. The recovery target for coho salmon returning annually is in the thousands. In recent years, irrigators have virtually dewatered the river on several occasions.

“This decision is a victory for common sense, coho salmon in the Shasta River, and for our clients who have suffered immeasurable loss from salmon declines here,” said **Sangye Ince-Johannsen, attorney at the Western Environmental Law Center**. “The National Marine Fisheries Service rubber-stamped the very same practices that have so deteriorated conditions in the Shasta, overwhelmingly favoring irrigation at the expense of threatened coho salmon. These 20-year, transferable permits were poised to hasten the decline of returning coho in the Shasta, possibly to zero.”

NMFS’ Shasta River safe harbor agreements were purportedly intended to address the historic decline in coho salmon in the Shasta. While these agreements with 14 permittees were intended to provide a “net conservation benefit,” they let landowners off the hook for all the damage they cause to coho. The cumulative benefit of all 14 agreements, even if all are successfully implemented, would have fallen far short of halting the spiraling decline, much less aided their recovery.

“The Shasta River was once the most important tributary to the Klamath River; today, Shasta River coho salmon are nearly extinct. The court’s decision forces a reconsideration of what is necessary to not only forestall that extinction but to bring back the Shasta to a sustainable fishery,” said **Tom Wheeler, executive director of Environmental Protection Information Center**. “Salmon extinction is unacceptable, both for the human communities that have relied on salmon—particularly the tribal communities along the Klamath River—and for the non-human community, for which salmon are a cornerstone of healthy ecosystems.

“We have won a restructuring of how much-needed federal and state assistance for restoring the Shasta River is implemented,” said **Bill Chesney, retired California Department of Fish and Wildlife fisheries biologist and Friends of the Shasta River board member**. “Agencies first need to recommend and implement science-based flow and temperature standards sufficient to recover coho in the Shasta River. That needs to come first—not just as an afterthought once the safe harbor participants get immunity for their destructive practices.”

“We are concerned that NMFS has taken a turn down the wrong path in the way it is using Safe Harbor,” said **Nick Joslin, a fifth-generation river user with Friends of the Shasta River**. “It is saying even the most

minimal improvements in habitat are grounds for giving irrigators 20 years of leeway to ignore activities that will effectively extirpate coho in the Shasta River, in exchange for doing little more than sucking up millions of dollars in public funds for ranch improvements they should be doing themselves. It's crazy for NMFS to roll over and create a program to subsidize the destruction of our river."

Irrigators paid \$1,600 per year to participate in the safe harbor program, demanding to receive millions of dollars in taxpayer-funded infrastructure work on their properties as well as immunity from the law for harming threatened coho salmon. Billionaire Red Emmerson, whose Sierra Pacific Industries is the largest private landowner in the U.S., is among the participants.

*When the last tree is cut down, the last fish eaten and the last stream poisoned, you will realize that you cannot eat money.*  
-Cree Tribe Proverb

**In her [order](#), Judge Thompson astutely concluded:** "Lest we fail to heed the warning of the Cree Tribe, Tenayah Norris and members of the Yurok Tribe will raise their families with only stories to share about the coho salmon, a species that has been a staple of their culture for centuries." [[order at 27](#)]

**Photos for reporter use:**

[Shasta River \(credit: Andrew Marx\)](#)

[Shasta River 1 \(Credit: Andrew Marx\)](#)

[Shasta River 2 \(Credit: Andrew Marx\)](#)

[Shasta River dry rocks \(credit: Nick Joslin\)](#)

[Coho juveniles 1 \(photographer requested no credit\)](#)

[Coho juveniles 2 \(photographer requested no credit\)](#)

[Coho juveniles 3 \(photographer requested no credit\)](#)

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