

Justices won't question California Delta smelt protections

By MATEUSZ PERKOWSKI
Capital Press

The U.S. Supreme Court will not review an appeal to irrigation restrictions in California that could have had broader implications for the Endangered Species Act.

The nation's highest court declined to hear arguments in an appeal of irrigation curtailments aimed at protecting threatened smelt.

Earlier this year, the 9th U.S. Circuit Court of Appeals found that federal scientists were justified in finding that major irrigation projects in

California jeopardized the small fish.

That opinion overturning a previous decision by U.S. District Judge Oliver Wanger, who said the U.S. Fish and Wildlife Service inadequately supported its conclusions about the impacts of irrigation on the species.

For irrigators, the Supreme's Court's refusal to review the case maintains the "status quo," said Damien Schiff, an attorney specializing in environmental law and property rights.

Although Wanger disagreed with federal regula-

tors, he allowed their irrigation restrictions to stay in place, he said.

However, the fact that the 9th Circuit's decision has been allowed to stand reinforces a very strict interpretation of the Endangered Species Act and has disappointed proponents of reforming the statute, Schiff said.

Irrigators hoped the Supreme Court would overturn the 9th Circuit opinion and find that economic impacts can be considered in devising ESA restrictions, he said.

With the Supreme Court staying out of the dispute,

the 9th Circuit's ruling is the "law of the land," Schiff said.

In other words, human impacts are irrelevant when the federal government enacts protections for species, he said.

"That will have a significant impact on how the ESA is administered," Schiff said.

Federal agencies try to minimize disruption from the statute but cannot allow corporate profits to supersede efforts to prevent extinction, said Doug Obeigi, senior attorney for the Natural Resources Defense Council.

"Economic considerations don't trump protections for endangered species," he said.

As for the specific impacts of smelt protections on irrigation, the federal approach is still prone to change despite the Supreme Court's refusal to review the case, he said.

The U.S. Bureau of Reclamation, which oversees water projects that shift water from northern California to the central and southern portions of the state, has undertaken a new environmental study of the systems.

When that analysis is completed, the "jeopardy" conclusions in the Fish and Wildlife Service's "biological opinion" will warrant reconsideration, Schiff said.

At that point, the agency may decide to improve the water regime for irrigators — or it could impose even more demanding restrictions, he said.

Obeigi of NRDC said the previous conclusions regarding the smelt withstood several rounds of scientific review, but it is possible that protections may be changed based on new research.

Mediators prevent dispute from escalating

Intervention reduces risk of strike or lockout, experts say

By MATEUSZ PERKOWSKI
Capital Press

Federal intervention in a labor contract dispute between longshoremen and container terminal operators will stop the conflict from escalating but won't immediately end port disruptions, experts say.

The longshoremen's union and their employers recently allowed federal mediators to participate in contract negotiations, which will probably prevent a strike or lockout, said Michael LeRoy, a law professor at the University of Illinois who specializes in labor relations.

While the mediators can keep the parties from going over the brink, persuading them to hammer out a resolution usually involves a longer process, LeRoy said.

"It's a bit like untying a knot that's tied very tightly," he said. "I would not expect a quick outcome."

The International Longshore and Warehouse Union's prior labor contract expired in July 2014, and in recent months terminal operators represented by the Pacific Maritime Association accused it of deliberately staging work slowdowns to gain leverage in negotiations.

The ILWU was initially undecided about PMA's request for federal intervention but agreed to let mediators participate in early January after thinking over the option for two weeks.

Federal mediators are able to settle more than 80 percent of collective bargaining disputes, according to government statistics.



Mateusz Perkowski/Capital Press

A view of a cargo container ship at the Port of Portland is seen in this file photo taken in April 2011. Experts say federal intervention in a labor contract dispute between longshoremen and container terminal operators will stop the conflict from escalating but won't immediately end port disruptions.

"It's an encouraging sign," said Peter Friedmann, executive director of the Agriculture Transportation Coalition. "It's better than the two of them not talking to each other."

Even so, agricultural exporters continue to face a "dire" situation at ports along the West Coast as congestion impedes the shipping of perishable crops, meat and dairy products while overseas buyers secure alternate sources of farm goods, he said.

"Foreign customers are looking elsewhere for dependable suppliers," Friedmann said.

The Federal Mediation and Conciliation Service's engagement in the talks is a relief for shippers, as the public vitriol between ILWU and PMA over the reasons for port congestion had grown worse in late 2014, said Eric Schinfeld, president of the Washington Council on Interna-

tional Trade.

"It was pretty clear they were not on the same page at all," he said. "That was sort of the 'darkest before the dawn' moment."

However, even under the most optimistic timeline, the parties probably will not reach a tentative agreement before the end of January, Schinfeld said.

After that, it will still take many months to clear the backlog of cargo that has accumulated at container yards, he said.

Until they strike a deal, it's unlikely that the longshoremen and terminal operators will resume the public sniping seen in late 2014, said LeRoy.

Parties are discouraged from speaking to the media to avoid aggravating tensions and but are allowed to vent their frustration to mediators, he said.

"These mediators are like giant shock absorbers," LeRoy

said. "They absorb a lot of negative energy."

Mediators often speak separately to negotiators from opposing camps to focus on the fundamental issues and avoid confrontational tactics, he said.

This process provides the mediators with insights about points of possible compromise and allows them to spot "horse trading" opportunities, LeRoy said.

Mediators have an "encyclopedic knowledge" of the problems facing the ILWU and PMA — like increased automation aimed at relieving high labor costs — and can float proposals that allow the parties to save face and not appear to be backing down, he said.

"It's a way of resetting the conversation," LeRoy said. "It's a good way of injecting some new energy into the talks."

Apple sales up to Mexico, Canada

By DAN WHEAT
Capital Press

WENATCHEE, Wash. — The Washington apple industry is exporting more apples than a year ago despite a work slowdown by longshoremen at West Coast ports.

That's because a lot of apples are being trucked to Mexico and Canada without using the ports.

Mexico has long been Washington's No. 1 apple export market, taking 13.6 million, 40-pound, fresh-packed boxes during the previous record crop of 128.8 million boxes in 2012.

From September through December, Mexico bought 2.7 million boxes of the record 150-million-box crop compared with 1.9 million for the same period the year before, says Tim Evans, general sales manager of Chelan Fresh Marketing in Chelan.

Canada, long the No. 2 export market, is at 2.1 million boxes versus 1.6 million a year ago, Evans said.

Exports are up 40 percent to Mexico, 39 percent to Canada and 39 percent to Taiwan, he said.

The Mexican market could be affected by May if allegations stick that Washington dumped apples there below market values in 2013.

Overall, the industry exported 25 percent more apples in the first four months this season than last, Evans said. Total export volume for that period was 15.2 million boxes compared with 12.2 million a year ago and 12.6 million two

years ago, during the previous record crop.

Asked if that's good news, Todd Fryhover, president of the Washington Apple Commission in Wenatchee, said: "If there weren't the port issue, it would be remarkably better and that's what we need when we have a record crop is remarkably better."

Figures on overseas exports only for November and December were not available but are believed to be down. The longshoremen's slowdown that began Nov. 1 has been estimated by the Washington State Tree Fruit Association to be costing tens of millions of dollars weekly in lost revenue.

China may open soon to all varieties of U.S. apples, but Fryhover said if it happens and even if the longshoremen slowdown is resolved it will be too late for shipments for the prime sales window before the Feb. 19 Chinese New Year. It could be a 2 million to 2.5 million market for the year, he said. He had hoped for 5 million with better timing.

As of Jan. 1, 47.9 million boxes of apples have been sold domestically and exported. That's 32 percent of the crop shipped compared with 33.9 percent a year ago and 33.7 percent two years ago, Evans said.

"So we're a couple percent behind. It's a manageable number. Our pace is well ahead of the past two years and we need to keep it going," he said.

Potato Board wants to donate salad bars to schools

By JOHN O'CONNELL
Capital Press

The United States Potato Board hopes to donate up to 3,000 salad bars to U.S. schools over several years to promote potatoes in a healthy diet.

USPB President and CEO Blair Richardson announced the program Jan. 8 during the Na-

tional Potato Council's Potato Expo 2015. He asked industry leaders to consult with members and offer feedback before USPB votes on the project during its March meeting in Colorado Springs, Colo. Richardson said it's the first time USPB has sought such broad industry input on a program.

Richardson said each salad

bar would cost about \$2,800. He envisions USPB will average about 300 donated salad bars per year, with industry donors reserving the right to chose specific schools.

Colorado growers have already donated the first four salad bars to pilot the program — two of which will go to Denver schools.

A related USPB program will provide food service directors of any U.S. school offering a salad bar creative, thematic potato preparation ideas.

Richardson said USPB will draw its preparation ideas from its extensive recipe database, as well as the work of various state commissions and industry sources. Some display tips and recipes would be centered around holiday themes, such as Cinco De Mayo and St. Patrick's Day.



Onlookers at Ag Expo 2015 in Orlando, Fla., on Jan. 8 view one of the salad bars U.S. Potato Board plans to donate to a U.S. school to pilot a proposed program.

Bill Schaefer/For Capital Press

The salad bars are fitted with trays that hold hot or cold items and are compatible with potatoes. Though USPB

wouldn't require that schools offer potatoes, Richardson considers spuds a natural fit, especially with USPB's menu suggestions.

"The idea is to promote healthy eating through salad bars," Richardson said. "Potatoes, fortunately, are a very healthy and nutritious vegetable, and they are also one of the most cost-effective vegetables."

USPB has consulted on the project with United Fresh Produce Association, which has already donated 4,000 salad bars to U.S. schools since November 2010 through its Let's Move Salad Bars to Schools Program.

Andrew Marshall, director of foundation programs and partnerships with United Fresh, said his program's salad bars serve more than 2 million students per day.

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Cameron Bruett; Chief Sustainability Officer, JBS, Windsor, CO

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10:45-11:45 Beef Industry Sustainability
Kim Stackhouse-Lawson; Director of Sustainability Research, NCBA

11:45-1:00 Lunch (provided by sponsors)

1:00-2:00 Outlook for Agriculture and Rural Interests in Washington, DC
Todd Van Hoose; Senior Vice President, Government Affairs, Co-Bank, Washington, DC

2:00-3:00 Weather and Climate, Past, Present & Future... in Oregon and Beyond
George Taylor; President, Applied Climate Services, Corvallis, OR

3:00-3:15 Break (provided by sponsors)

3:15-4:15 Value Based Marketing for Feeder Cattle
Tom Brink; Founder/Owner, Brink Consulting/Trading, Brighton, CO

Note: for more information, please contact Kim McKague or Tim DelCurto at (541) 562-5129
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