

Supreme Court tie favors Indian tribes

State must do more to restore salmon habitat

By PHUONG LE
Associated Press

SEATTLE — Washington state must restore salmon habitat by removing barriers that block fish migration after the U.S. Supreme Court on Monday left in place a lower court order.

The justices divided 4-4 in the long-running dispute that pits the state against Northwest Indian tribes and the federal government. The tie serves to affirm a lower court ruling.

Justice Anthony Kennedy stepped aside from the case because he participated in an earlier stage when he served on the 9th U.S. Circuit Court of Appeals.

At issue is whether the state must pay billions to fix or replace hundreds of culverts — large pipes that allow streams to pass beneath roads but can block migrating salmon if they become clogged or if they're too steep to navigate.

Leaders of several western Washington tribes cheered the decision Monday, calling it a victory that affirms their treaty rights while protecting salmon



AP Photo/Ted S. Warren

The Supreme Court is leaving in place a court order that forces Washington state to restore salmon habitat by removing barriers that block fish migration.

central to their way of life.

Jay Julius, chair of the Lummi Indian Business Council, said it was a win for treaty rights, river rights and salmon.

"This is not just about tribes' treaty right to fish, but also the inherent right to harvest from a plentiful, healthy supply of salmon," he said in a statement.

Lorraine Loomis, chair of the Northwest Indian Fisheries Commission, said the decision would "open hundreds of miles of high quality salmon habitat that will produce hun-

dreds of thousands more salmon annually for harvest by Indians and non-Indians."

The Supreme Court in April heard the state's appeal of a ruling by the 9th U.S. Circuit Court of Appeals. That court affirmed a lower court order in 2013 requiring the state to fix or replace hundreds of the highest-priority culverts within 17 years.

Washington state has argued that its treaties with the tribes created no obligation to restore salmon habitat. It said the ruling would force it to per-

form work that wouldn't benefit salmon because other barriers may completely block fish, and it would also make the state's taxpayers responsible for fixing problems created by the federal government when it specified the design for the state's old highway culverts.

"It is unfortunate that Washington state taxpayers will be shouldering all the responsibility for the federal government's faulty culvert design," state Attorney General Bob Ferguson said in a statement.

He said salmon can't reach

many state culverts because they are blocked by culverts owned by others, such as counties and the federal government.

"The Legislature has a big responsibility in front of it to ensure the state meets its obligation under the court's ruling," Ferguson said.

In seeking a Supreme Court review, Ferguson was at odds with other state officials, including Washington Gov. Jay Inslee and Public Lands Commissioner Hilary Franz.

"For some time now I've hoped that instead of litigation we could focus together on our ongoing work to restore salmon habitat," Inslee said.

"It is time to stop fighting over who should do what," Franz said.

The U.S. government sued Washington in 2001 on behalf of the 21 tribes to force it to replace the culverts with structures that allow fish to pass through. Because the pipes block salmon from reaching their spawning grounds, they deprive the tribes of fishing rights guaranteed by treaty, the lawsuit said.

In 2013, U.S. District Judge Ricardo Martinez ordered Washington to fix or replace more than 1,000 culverts blocking access to 1,600 miles of salmon habitat. He also set a deadline of 2030 for the

high-priority barriers.

By next year, the state transportation department would have spent \$200 million to fix 66 high-priority culverts with about 425 remaining, said Paul Wagner, who heads that agency's fish passage program.

"It will be a big victory for fisheries," said Bob Anderson, a law professor and director of the Native American Law Center at the University of Washington.

He said that since 1905, the court has consistently upheld the tribal position that they have a right to a fair share of the salmon, and implied rights that go along with that. "This case is a logical extension of those prior decisions."

State Sen. Reuven Carlyle, chairman of the Senate Energy, Environment and Technology Committee, said Monday's ruling was "a forcing function to double down on every level to re-prioritize our approach to salmon."

Carlyle said that while he doesn't think the Legislature needs an immediate special session to address the ruling, work will be done ahead of the next legislative session that begins in January.

AP writers Mark Sherman in Washington, D.C., and Rachel La Corte in Olympia contributed.

Some mayors want pot removed from federal list of illegal drugs

Wheeler among the seven mayors

By GILLIAN FLACCUS
Associated Press

PORTLAND — Mayors from seven U.S. cities in states with legal marijuana said Monday they have formed a coalition to push for federal marijuana policy reform just days after President Donald Trump expressed support for bipartisan congressional legislation to ease the federal ban on pot.

Mayors from Portland, Denver, Seattle, San Francisco, Los Angeles, Las Vegas and West Sacramento — all in marijuana-friendly states — sponsored a resolution at the U.S. Conference of Mayors in Boston that asked the U.S. government to remove cannabis from a list of illegal drugs, among other things.

It was approved unanimously by the broader gathering Monday, Larry Jones said, a spokesman for the conference.

Mayors from Oakland, California, and Thornton, Colorado, weren't sponsors but pledged to advocate for federal reforms.

"As mayors of cities that have successfully implemented and managed this new industry, we have hands-on experience that can help Congress take the right steps to support other local governments as they prepare to enter this new frontier," said Denver Mayor Michael B. Hancock,

who led the coalition. "We all face common challenges."

Portland Mayor Ted Wheeler said marijuana businesses employ thousands of people and generate millions of dollars in Oregon.

"Cannabis prohibition has failed. It has failed to keep our children safe, it has failed law enforcement, and it has especially failed communities of color disproportionately targeted and prosecuted for low-level drug offenses," he said in an email Monday.

"Eventually, legalization will come to every state — and we want to make sure it's done so safely and effectively."

The resolution comes after Trump said he would "probably" back a bipartisan congressional effort to ease a U.S. ban on the drug that about 30 states have legalized in some form. The bill supported by both parties was introduced Thursday and would dramatically reshape the nation's legal landscape for pot users and businesses.

The federal ban that puts marijuana on the same level as LSD and heroin has created a conflict with states that have legalized pot in some form, creating a two-tiered enforcement system at the state and federal levels.

The legislation with four

sponsors, including Republican U.S. Sen. Cory Gardner of Colorado, would ensure states have the right to determine the best approach to marijuana within their borders. Some U.S. restrictions would remain, however, including sales of nonmedical pot to people under 21.

"I support Sen. Gardner. I know exactly what he's doing," Trump told reporters in Washington, D.C., on Friday, when asked about the legislation. "We're looking at it. But I probably will end up supporting that, yes."

The mayors' resolution adopted Monday asks Congress, among other things, to:

- remove cannabis from the federal Controlled Substances Act
- allow employers in the marijuana industry to take tax deductions similar to those allowed in other businesses
- provide guidance to financial institutions that provide banking to cannabis businesses
- extend legal access to medical marijuana for U.S. veterans

The resolution's approval means that the U.S. Conference of Mayors as an organization will now create federal policy recommendations to submit to Congress starting next year.

As Ohio purges voter rolls, Oregon goes in the other direction

By DIRK VANDERHART
Oregon Public Broadcasting

Oregon Secretary of State Dennis Richardson has no interest in following Ohio's lead.

In the wake of news Monday that the U.S. Supreme Court had upheld Ohio officials' policy of aggressively taking "inactive" voters from the state's voter rolls, Richardson announced he'll continue taking Oregon in the

opposite direction. He's even got a bill in mind.

"Despite today's ruling by the U.S. Supreme Court, Oregon remains a national leader in protecting voting rights," Richardson said in a statement. "In Oregon, we believe that a registered voter should not lose their voting rights solely because they haven't participated recently."

The law upheld by a 5-4 court opinion allows Ohio officials to take voters off the rolls if they don't vote or

respond to notices for a total of six years.

It's considered one of the stricter laws in the nation, but it's not unique. Until last year, Oregon policies allowed voters to be labeled "inactive" if they didn't update their voter registrations or vote in at least five years.

Richardson changed that rule. In one of his first acts as secretary of state, he announced he'd be taking voters off the rolls after 10 years of inactivity — not five.

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