

# Tribe, others challenge water quality agreement

By ERIC BARKER  
Lewiston Tribune



Contributed photo by Idaho Power

**A recent deal between environmental regulators in Oregon and Idaho that promised to advance Idaho Power's attempt to relicense its three-dam Hells Canyon Complex is facing a pair of lawsuits.**

LEWISTON, Idaho — A recent deal between environmental regulators in Oregon and Idaho that promised to advance Idaho Power's attempt to relicense its three-dam Hells Canyon Complex is facing a pair of lawsuits.

Last week, the Nez Perce Tribe and the environmental groups Pacific Rivers and Idaho Rivers United challenged, in two separate lawsuits, Oregon's water quality certification of the dams for what they say is a failure to provide fish passage and adequately ensure water quality standards for temperature and mercury will be met.

The Nez Perce Tribe filed suit against the Oregon Department of Environmental Quality in Oregon's Marion County Circuit Court while the environmental groups filed their case against the agency in Oregon's Multnomah County Circuit Court.

Idaho Power is seeking a new 50-year license for the dams that were built between 1958 and 1967. The dams provide 70 percent of the power the company sells to 530,000 customers in southern Idaho and Eastern Oregon.

When they were built,

the dams lacked adequate fish passage and wiped out 80 percent of the spawning habitat for Snake River fall chinook, and eliminated other salmon and steelhead runs from reaches above the projects. To compensate, the power company agreed to fund salmon and steelhead hatchery programs downstream of the dams. But the reach above the dams remains identified as critical fall chinook habitat and, despite its degraded habitat and water quality, could one day see reintroduction of the fish.

The company's original license to operate the three-dam complex expired in

2005. Ever since, the company has been in the process of seeking a new license from the Federal Energy Regulator Committee and operating on temporary licenses issued on a year-to-year basis.

Key to getting a new license is securing state water quality certification stating the dams are in compliance with Section 401 of the federal Clean Water Act and Idaho and Oregon state water quality standards. For years, the two states that share a border along the Snake River in Hells Canyon took different approaches to water quality certification. Oregon had insisted that

the dams be outfitted with fish passage equipment that would allow salmon, namely fall chinook, to migrate upstream. Idaho, on the other hand, opposed fish passage measures or the reintroduction of threatened fish species above the dams.

Last month, the two states hammered out a water certification agreement that did not include fish passage at the dams but called for the company to spend \$400 million on projects designed to improve aquatic habitat and reduce water temperatures on tributaries to the Snake River. Each state's departments of environmental quality then issued

water quality certifications to Idaho Power, allowing the recertification process to proceed.

The lawsuits by the tribe and environmental groups contend that Oregon's certification violates both the Clean Water Act and Oregon statute. Oregon law requires all dams to provide fish passage unless exempted. Neither the state nor the federal government has issued the company an exemption. Rick Eichstaedt, a Spokane-based attorney representing the environmental groups, said they chose to file in Oregon because of the state's strong fish passage law.

Both the tribe and environmental groups also claim slack water behind the dams leads to the conversion of mercury to methylmercury that accumulates in the flesh of fish, which poses health risks to people who eat the fish. They also said the certification does not include concrete assurances that water quality standards for temperature and mercury will be met over the course of a new 50-year license.

"The tribe has consistently advocated for the adoption of 401 certifications for this project that are protective of the tribe's treaty-reserved rights and resources due to the central role water

quality plays in the protection of those resources," said Shannon F. Wheeler, chairman of the Nez Perce Tribal Executive Committee, in a news release. "This in turn helps protect the health and welfare of the tribe's citizens who exercise their treaty rights in waters within Oregon."

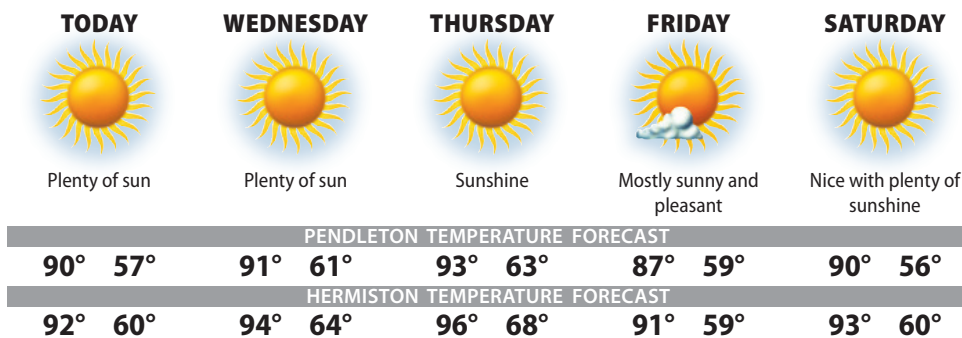
The dams are within the tribe's historic territory and tribal members once fished for salmon, steelhead, Pacific lamprey and white sturgeon there.

The environmental groups say their members enjoy fishing for salmon and steelhead and have a mission to protect and restore rivers, anadromous fish runs and water quality.

"Idaho Power has failed to protect the rights of Idahoans in sustaining the important fisheries of the Snake through the proposed actions on the dams it operates," said Nic Nelson, executive director of Idaho Rivers United at Boise. "Compliance with water quality standards is not optional, and we must take action to preserve the integrity of this river system."

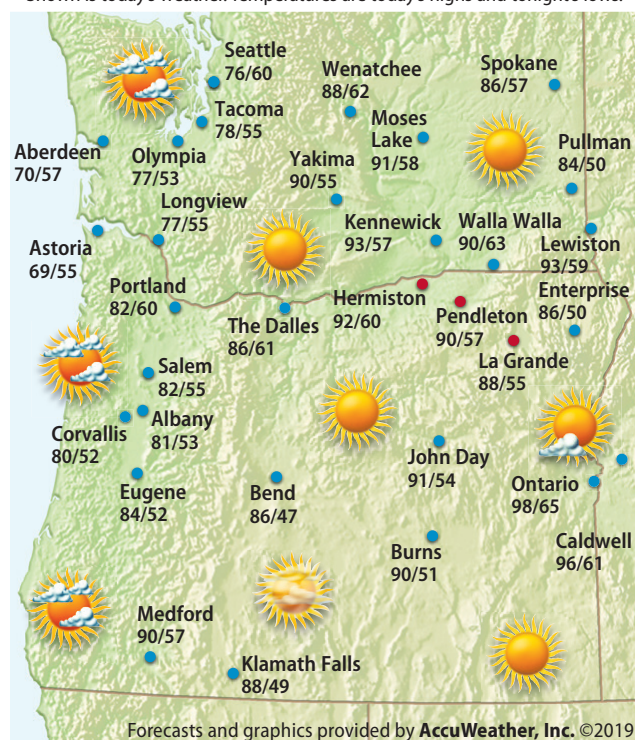
Jennifer Flynt, chief public information officer for the Oregon Department of Environmental Quality, said the agency does not comment on pending litigation.

## Forecast for Pendleton Area



## OREGON FORECAST

Shown is today's weather. Temperatures are today's highs and tonight's lows.



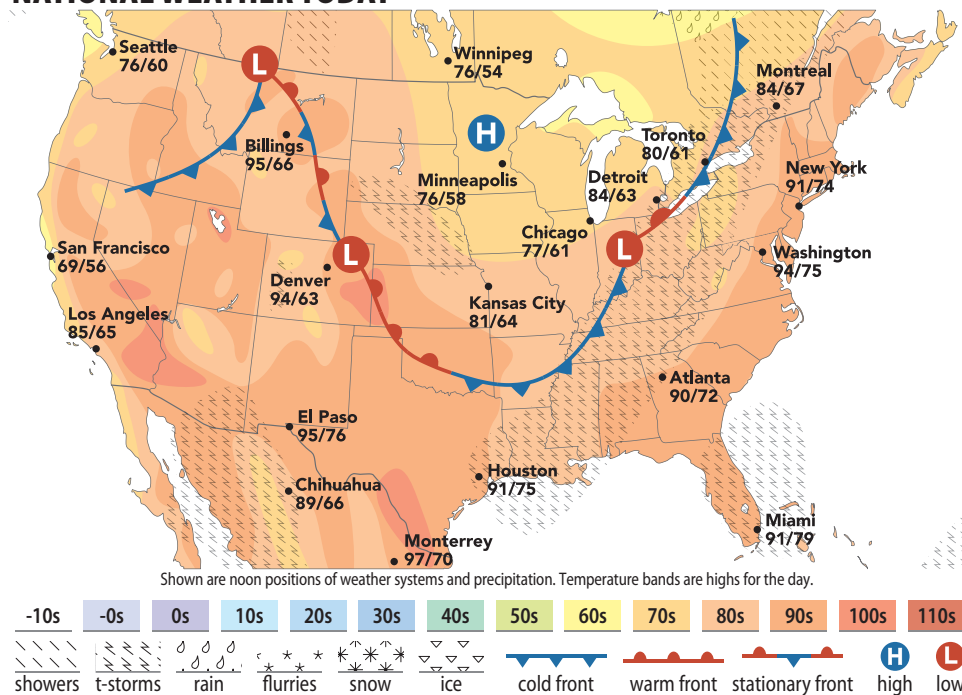
## ALMANAC

PENDLETON through 3 p.m. yest.		
TEMP.	HIGH	LOW
Yesterday	90°	53°
Normals	90°	60°
Records	104° (2014)	38° (1917)
PRECIPITATION		
24 hours ending 3 p.m.	0.00"	
Month to date	0.04"	
Normal month to date	0.33"	
Year to date	9.61"	
Last year to date	6.49"	
Normal year to date	7.91"	
HERMISTON through 3 p.m. yest.		
TEMP.	HIGH	LOW
Yesterday	92°	53°
Normals	90°	60°
Records	107° (2018)	42° (1959)
PRECIPITATION		
24 hours ending 3 p.m.	0.00"	
Month to date	0.01"	
Normal month to date	0.21"	
Year to date	4.56"	
Last year to date	5.10"	
Normal year to date	5.91"	
WINDS (in mph)		
Today	WSW 8-16	Wed. SW 6-12
Pendleton	W 7-14	W 6-12
SUN AND MOON		
Sunrise today	5:36 a.m.	
Sunset tonight	8:27 p.m.	
Moonrise today	3:44 a.m.	
Moonset today	7:39 p.m.	

## NATIONAL EXTREMES

Yesterday's National Extremes: (for the 48 contiguous states)  
High 115° in Needles, Calif. Low 33° in Dillon, Colo.

## NATIONAL WEATHER TODAY



## Union County woman transferred to Hermiston rehabilitation center

By SABRINA THOMPSON  
La Grande Observer

LA GRANDE — Jacki Mulhair, who fell from Indian Rock Overlook July 15 after sitting near the edge, has been transferred to Regency Hermiston Nursing and Rehabilitation Center where she will spend the next three months recovering from her injuries.

Since her fall, the 34-year-old La Grande woman has had multiple surgeries at Kadlec Hospital in Richland, Washington, to repair her broken leg and hip.

When her family asked what she is going to do about the rod in her leg, which broke in three places, Mulhair told them she was "going to dance it off," according to Nicole Mulhair, Jacki's sister.

Mulhair will have to use a wheelchair during the next few months, but her family and doctors are hoping she

will be able to use a walker as well. Since the swelling has gone down, the full extent of her injuries has been evaluated, and the only injury not previously found was a fracture to her wrist, according to the doctors at Kadlec Regional Medical Center in Richland, Washington. Doctors said Mulhair is also having some memory issues.

"She is a strong person with a lot of will and fight in her," Nicole said.

The family created a GoFundMe page to help offset the medical costs and other expenses while Mulhair is unable to work. The campaign has gone viral on social media and as of July 26 has raised \$1,150 of its \$9,000 goal, according to Nicole and the GoFundMe page.

Money has gone toward her cellphone service, storage unit fees and towing her car, which could not be moved because the keys are missing, possibly lost in the fall.

Jacki has been able to see her two children now that the healing has begun. They are still staying with family while she recovers but Nicole said when the children visited, that was the happiest she had seen her sister since arriving at the hospital.

"It was a smile on my sister's face that I have never seen before," Nicole said.

Mulhair was visiting Indian Rock for the first time to watch the sunset with her boyfriend, Jeff Hill, when she jumped out of the truck to take a look over the edge. While Hill was backing up the car, Mulhair got too close to the ledge and slipped over, falling 86 feet. She had taken off her boots and sat on her butt to scoot down to the lower bench of the cliff for a better view when she started to slide. When she realized she was falling, Mulhair flipped onto her stomach to try and grab something, slipping off the cliff's edge.

## BRIEFLY

### 10 abandoned boats removed from Swan Island Lagoon

SWAN ISLAND (AP) — State and local agencies removed 10 abandoned boats from the water at Portland's Swan Island in the first of several cleanups being discussed.

The Oregon State Marine Board says they along with the Oregon Department of State Lands and the Multnomah County River Patrol coordinated the abandoned boat cleanup Friday in the Swan Island Lagoon.

Marine Industrial Contractors used two barges to remove watercraft and transport the boats, some of which were along the shoreline and others which were partially submerged in the lagoon.

Marine Board spokeswoman Ashley Massey says the Swan Island Lagoon cleanup effort will cost approximately \$18,000 and includes taking the boats to a storage facility, removing hazardous or recyclable materials, and dismantling each boat.

The Department of State Lands and Marine Board are covering the costs.

### Firefighter injured battling Oregon blaze

CANYONVILLE (AP) — A firefighter battling a large blaze in southwestern Oregon was injured when he was struck by rolling debris.

Authorities say the firefighter was transported early Monday to a medical center, where he was treated and released. The firefighter was one of about 1,000 people battling the 11,600-acre Mile Post 97 fire that broke out Wednesday near Canyonville, apparently from an illegal campfire.

Officials said the fire was growing slowly toward the south, paralleling Interstate 5.

The fire was at 10 percent containment. Crews hoped to make progress as clouds and cooling temperatures were forecast for the area.

The Federal Emergency Management Agency has also authorized the use of federal funds to help with firefighting costs.

An Oregon Department of Environmental Quality air advisory issued due to smoke was extended Monday for Jackson, Josephine and Klamath counties, and now includes southern Douglas County.

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