

# Judge says don't count hatchery fish with wild

(AP) - A federal judge ruled the government does not have to count hatchery salmon along with wild fish when deciding whether to protect a species.

U.S. District Judge Michael Hogan in Eugene denied a lawsuit brought by property rights advocates, farm groups and development interests against NOAA Fisheries. The lawsuit challenged all 16 listings of West Coast salmon under the Endangered Species Act.

Sonya Jones, an attorney for the Pacific Legal Foundation, which brought the lawsuit, said it was disappointed, particularly because in 2001 Hogan ruled in favor of its argument that NOAA Fisheries could not protect wild Oregon coastal salmon as a threatened species if it did not protect hatchery fish in the same population group.

"The debate over hatchery fish should be considered conclusively over," said Jan Hasselman, an attorney for Earthjustice, which represented

conservation groups intervening on the side of the government.

"This judge in 2001 gave them an inch and they tried to take a mile. It didn't work. So now the debate's over."

The 2001 ruling ultimately led to a new federal policy on using hatchery fish to rebuild dwindling salmon populations and taking Oregon coastal coho off the threatened species list.

"We believe this is an unlawful interpretation of the way the hatchery policy was applied to these 16 populations," Jones said of the latest ruling. "We will be appealing it."

The legal debate is not over. A federal judge in California was scheduled to hear similar arguments on whether to take 10 populations of steelhead off the threatened and endangered species lists, and the Pacific Legal Foundation is appealing another ruling directing NOAA Fisheries to count only wild fish in listing determinations.

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