

COMPANY SUING EPA OVER SALMON PROTECTION REQUIREMENTS IN HELLS CANYON

Judge puts hold on Idaho Power challenge to water quality standards

■ Idaho Power and federal officials had filed a joint motion to stay the lawsuit

By Keith Ridler
Associated Press

BOISE — A lawsuit by an Idaho utility against the U.S. Environmental Protection Agency concerning water temperature standards below a hydroelectric project where federally protected fall chinook salmon reproduce has been put on hold.

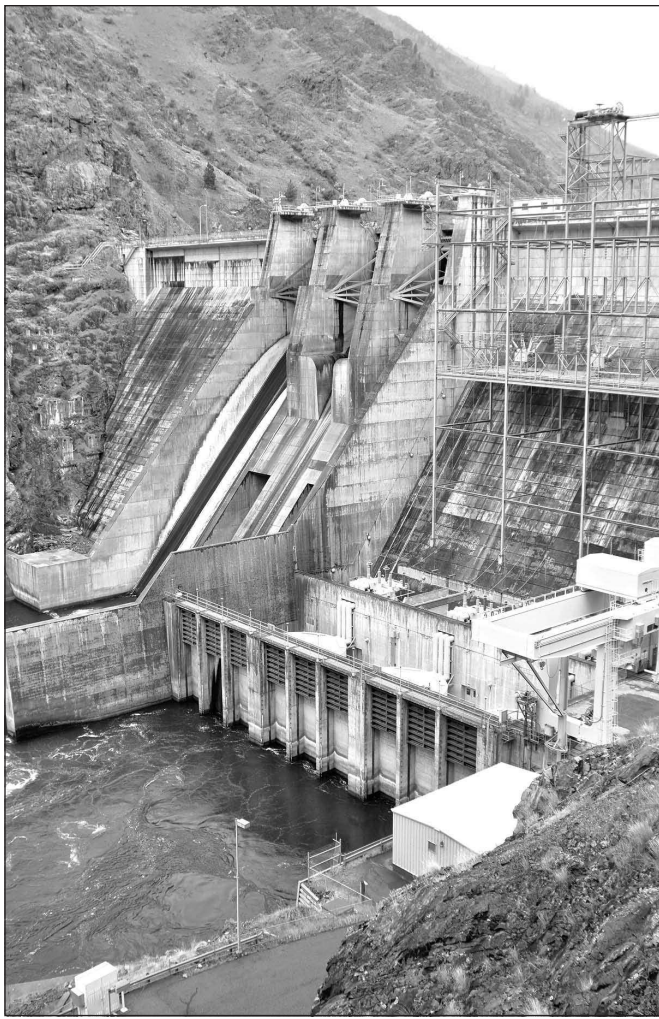
A U.S. District Court judge last week agreed to stay the lawsuit by Idaho Power against the EPA while the federal agency works to complete tasks requested by the state of Idaho in 2012.

“Essentially, this is what we wanted for six years,” Idaho Power spokesman Brad Bowlin said Friday. “We’re optimistic things are moving in the right direction. This is definitely a good step forward.”

Idaho Power in the lawsuit filed in June says the EPA is violating environmental and administrative laws by failing to approve or disapprove water temperature standards submitted by the Idaho Department of Environmental Quality for the Snake River below Idaho Power’s Hells Canyon Complex on the Idaho-Oregon border.

“Since filing of the complaint, the parties have engaged in discussions concerning actions EPA currently anticipates taking that may moot the issues in this litigation,” Idaho Power and the EPA said in a joint motion to stay the lawsuit at the end of last month.

Chief U.S. Magistrate Judge Ronald E. Bush in his order last week approving the stay required that the EPA file status reports every 30 days until the stay ends on March 11 or is otherwise



Hells Canyon dam.

terminated.

EPA spokeswoman Suzanne Skadowski said Friday the agency had no comment.

Hells Canyon is a mile-deep canyon carved by the Snake River, much of it popular for recreation but inaccessible by road. The three-dam Hells Canyon Complex built from the late 1950s through the 1960s partially tamed the river.

Snake River fall chinook were listed as threatened under the Endangered Species Act in the 1990s. A recovery plan released late last year by federal agencies identified the Snake River below the dams

as the best spot for boosting the number of naturally reproducing spawning fish for the cold-water species.

Idaho Power cites studies by scientists with National Oceanic and Atmospheric Administration Fisheries that concluded changing the water temperature standards would not harm salmon.

But the change could reduce the cost of electricity, the company said, saving customers up to \$100 million over 50 years.

When the water temperature standards aren’t met, Idaho Power must pay for mitigation for potentially

harming fall chinook. The proposed temperature standard change would mean Idaho Power would have to pay for less mitigation. Mitigation work involves improving habitat upstream of the dams with the goal of reducing water temperatures.

Specifically, the new proposed temperature standards would raise the allowable water temperature below the dams from 55.4 degrees to 58 degrees from Oct. 23 to Nov. 6.

Those two weeks are critical for fall chinook that are putting eggs in river bed gravel that might not survive if the water gets too warm.

Idaho Power said river temperatures under the current standard have never been met, with records going back to 1991. The company said the new standard wouldn’t be met in most years, but the level of mitigation to pay would still be less than under the current standard.

Idaho Power’s 50-year license for the Hells Canyon Complex with the Federal Energy Regulatory Commission expired in 2005, and it has been operating the dams under annual licenses.

Idaho Power officials have said the temperature standards are related to the relicensing but are also a stand-alone issue the company would like to get resolved.

Idaho Power supplies electricity to nearly 534,000 customers in southern Idaho and Eastern Oregon. The Hells Canyon Complex in a normal water year produces about 30 percent of the company’s total annual power generation.

CASH PRIZES FOR TOP SHOOTERS AT THE POWDER RIVER SPORTSMAN’S CLUB’S VIRTUE FLAT RANGE NEAR BAKER CITY

Turkey shoot set for Sunday

By Rick Rienks
For the Baker City Herald

With Thanksgiving fast approaching it is good to know even the kids can try to bring home a turkey. All they have to do is show up at a family friendly event and take their best shot.

Powder River Sportsman’s Club is having its annual Turkey Shoot at the Virtue Flat Shooting Range on Sunday, Nov. 18. The event begins at 9 a.m. and runs to about 4 p.m.

To get there, head east from Exit 302 on Highway 86, the Hells Canyon Scenic Byway, and look for the range gate to your left about one mile past the entrance to the Oregon Trail Interpretive Center.

There will be a variety of events so you can select the ones you or your family members participate in. The entry fee is \$3 per event and the rewards for each event winner will be \$10 in cash. The variety of events gives each member of the family an opportunity to compete in fun events at a safe location with friends and neighbors. As often happens you may come away with a prize and a few new friends to boot. Range safety rules will be in effect for the good of all. Please keep your weapons unloaded until ready to shoot.

The events scheduled include: .22 silhouette event special squads for all juniors, a Lucky .22 shoot at 10 yards (emphasis on luck with this one), centerfire handgun at 50-yard chicken silhouettes.

Beginning at 2:30 p.m. the shooters will take on a running deer target at 100 yards for iron sights, followed by the same at 200 yards for scoped rifle. Finally, those confident or adventurous with centerfire rifles take on turkey heads (not real turkeys) at 200 yards.

In the interest of choice and deferring to the logistics of earlier years, meat prizes changed to cash prizes for the winning shooters. And, as in years past, no live animals are shot at. This event has been run by PRSC for many years and never fails to draw a cheery group of adults and children.

I recall being told by Tabor Clarke of loading up the truck with the kids and coming home with loads of meat for the holiday season. Here is a chance to test your skill and feed the family in a beautiful setting surrounded by a great group of folks. Arrive early and join the fun.

LOCAL BRIEFING

Baker County Democrats meet Thursday

The Baker County Democrats will meet Thursday, Nov. 15, at Rogers Fellowship Hall, 1995 Fourth St., between the Courthouse and Baker Middle School.

Refreshments and conversation start at 5:30 p.m. with the meeting at 6 p.m. They will be discussing the election and holiday plans. All are welcome.

Oregon last state to allow non-unanimous jury convictions

By Garrett Andrews
WesCom News Service

When Louisiana voters struck down a law on Nov. 6 that allowed juries to convict someone without a unanimous verdict, Oregon became the last state in the nation to permit the practice in criminal cases.

Oregon’s constitution provides that a defendant can be convicted or acquitted by a vote of at least 10 jurors. Opponents of the law, which applies to most serious felonies, say it is a racist holdover from Jim Crow that unfairly denies due process. There’s now an effort in the Beaver State that would do away with it, and it includes Deschutes County’s outspoken district attorney, John Hummel, who Friday has an editorial in *The Oregonian* calling for repeal.

“Oregon is no longer in a notorious club with Louisiana. Voters there had the good

sense to back out,” Hummel writes. “Now, Oregon has assumed the mantle of the sole state defending non-unanimous jury verdicts. It is long past time to give up that fight. I encourage the legislature to give Oregonians the opportunity to do the right thing.”

Hummel estimated an average of 20 percent of verdicts in Deschutes County Circuit Court were rendered with fewer than 12 jurors, though his office doesn’t keep numbers.

Oregon’s jury law dates to 1933 and the case of Jacob Silverman, a Jewish man accused of murder. Eleven of 12 jurors in his case wanted to convict for second-degree murder, but a holdout didn’t agree. Silverman was eventually convicted of manslaughter and sentenced to three years in prison, prompting public uproar over a supposedly light sentence.

The next year, Oregon amended its constitution.

This episode was the subject of hearings last year before the Oregon Senate Judiciary Committee. Lewis & Clark Law School professor Aliza Kaplan traced Oregon’s jury law to exclusionary provisions in the state constitution and said it was founded to erase minority viewpoints. She and other critics say the law denies racial minorities the chance to be judged by a jury of their peers and eliminates the critical burden of the prosecution to prove guilt beyond a reasonable doubt.

Kaplan’s testimony in Salem piqued the interest of legislators, according to Mary Sofia, legislative director for the Oregon Criminal Defense Lawyers Association. “Most of them had never heard about this,” she said.

The lawyers association has tried for years to overturn

Oregon’s jury law — at the high court, the Legislature and the ballot box. Sofia said the group is optimistic next year will finally be the year. Two lawmakers, Sen. James Manning and Rep. Jennifer Williamson, have agreed to carry two pieces of legislation that would overturn the law. One would alter the state constitution and the other would put the question to voters.

The focus appears to have staying power. Williamson recently was interviewed on the subject by prominent civil rights activist DeRay Mckesson on his podcast.

The matter of non-unanimous jury verdicts was highlighted this year with

two high-profile exonerations. One involved Joshua Gene Horner, a Redmond man convicted in 2017 of rape and sexual assault of a minor. Hummel said the Oregon Innocence Project had provided evidence that Horner’s accuser had lied. A judge reversed Horner’s conviction in July, and Hummel announced he would not re-try the case.

Clatsop County District Attorney Josh Marquis agreed the political winds are shifting, and Oregon may soon abandon its unique jury rule.

It was Marquis who last year provided a response to Kaplan’s testimony to the Judiciary Committee, disputing her account of the law’s racist origins.

“I’m opposed to overturning the Oregon law. I think the way it works now is fair,” Marquis said. “If anything, it protects the rights of minorities, because often, a juror doesn’t want to believe that a nice, clean-cut 22-year-old white kid in a suit could possibly commit a heinous act.”

He said the law does what it was intended to do: reduce the number of juries that are unable to reach a verdict.

“As a prosecutor and a defense attorney for the last 38 years, I can tell you we don’t get more guilty verdicts because of it,” he said. “You just get fewer hung juries.” He said the law is as likely to yield not guilty verdicts as guilty verdicts.



Baker County Ducks Unlimited

P.O. Box 446 Baker City, OR 97814
Area Chairman, Bob Mason 541-523-7642

Baker County Ducks Unlimited will hold their annual banquet on Saturday, November 17, 2018 at Community Connections, 2810 Cedar Street. This is a great opportunity to support wildlife and wild places.

Ducks Unlimited has spent over \$16,000,000 on wetland restoration projects in Oregon on over 160 projects. Over 900 species depend on wetlands for their habitat needs.

Barley Brown’s handles the no-host bar. Events include special drawings for a gun safe, kids (Greenwings in DU lingo), guns, ducks unlimited items and many donated products and services from the community. Other activities include a goose pluck, dart throw, live auction, silent auction, raffle, and more. A hallmark of DU banquets is the high quality, wildlife oriented merchandise, particularly waterfowl artwork.

Doors open at 5 p.m. Dinner is served at 6 p.m.

Membership and dinner is \$45 for an individual, \$70 for a couple.

A Greenwing (youth) membership and dinner is \$30.

Questions? Call Bob Mason at 541-523-7642

Baker County Historical Society Presents...

“Baker’s Potato History” by Mac Kerns & Ralph Ward

Thursday, November 15th · Geiser Grand Hotel
\$20 · Dinner & Program at 6 p.m.
(no-host Happy Hour 5:30 - 6 p.m.)

Call Denny at 541-523-1635
or Jessie at 541-523-5993 for reservations