I love any discourse of rivers and fish and fishing.

- Isaac Walton

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21:19/01. 9TH CIRCUIT REVERSES, RULES FOR FISH ON WATER DELIVERY CONTRACTS: A federal appeals court this week reversed its earlier decision and determined that the U.S. Bureau of Reclamation (BOR) violated the National Environmental Policy Act (NEPA) by failing to analyze a 'no project' alternative to a series of contracts for water deliveries into the San Joaquin Valley. The reversal is a victory for fish and fishermen, who simply asked BOR to compare the environmental impacts of transferring water from the Sacramento River into the San Joaquin Valley against the impacts of not moving the water at all. BOR had argued that the environmental baseline against which the impacts should have been measured presupposed the existence and execution of the contracts.

PCFFA, IFR and the San Francisco Crab Boat Owners’ Association brought suit against BOR for its failure to comply with NEPA in executing a series of contracts with San Joaquin Valley irrigation districts, including Westlands Water District. The fishing groups had previously prevailed on several issues in the case, proving that BOR did have discretion to consider reducing the amount of water delivered under the contracts, and that BOR erred by assessing environmental impacts at the site of delivery, rather than the site from which water was removed. However, the Court initially ruled for BOR on the question of whether the environmental baseline could assume the existence of the delivery contracts.
The new ruling will force BOR to go back to the drawing board in determining whether Delta water exports under the contracts are justified as against the environmental impacts to migrating Chinook salmon, Delta smelt, and a host of other flora and fauna in the Delta.

For more information, see this 27 July press release from the fishing groups’ attorneys, and the revised 9th Circuit decision.

21:19/02. LANDMARK DECISION IN WASHINGTON TRIBAL FISHERIES LAW SETS STAGE FOR FISH PASSAGE: The Ninth Circuit Federal Court of Appeals ruled on 27 June, 2016 in United States, et al. v State of Washington 13-35474, 2:01-sp-00001-RSM,2:70-cv-09213-RSM, that Washington State must more quickly repair hundreds of road culverts blocking salmon migration, affirming a 2013 lower court decision. The Ninth Circuit ruled that Salmon passage through these culverts (large pipes under roadways that can become damaged or clogged with debris) is protected by treaties establishing Tribal rights to salmon spawning areas. The suit, brought by 21 Tribes and the U.S. Government, alleged that Washington’s road culverts blocked as much as 1,000 miles of salmon-spawning habitat. At the State’s current work rate, it would have taken more than 100 years to complete the current backlog of culvert repairs.

The 1854-55 treaties, known as the Stevens Treaties, granted off-reservation fishing rights to Tribes in exchange for relinquishing huge tracts of land to the government. The ruling finds that Washington’s refusal to correct its culverts blocks salmon from entering streams, thus impinging on Tribal rights and violating the Stevens Treaties.

The ruling is a follow-up to the finding in the famous 1974 case, United States v Washington, commonly known as the Boldt Decision, 384 F. Supp. 312 (W.D. Wash. 1974), aff’d, 520 F.2d 676 (9th Cir. 1975), that found that Washington State Tribes still retained a Tribal treaty right even after they ceded lands to harvest up to 50 percent of the salmon available for harvest in that State. After the Stevens Treaties, Washington State had been steadily impinging on Tribal fishing rights by utilizing technology to remove fish before they could reach Tribal fishing areas and by banning native fishing practices, such as fish weirs. The Boldt Decision ruling reaffirmed the right of Tribes to a 50 percent share of salmon harvests. This landmark extension of that right now recognizes a parallel obligation by the State of Washington to also protect access to salmon spawning and rearing habitat as a federal Treaty obligation.

PCFFA/IFR filed an amicus curiae brief at the invitation of the Tribes to assist with their case. The 9th Circuit Court's ruling could have far-reaching implications for affirming tribal fishing rights as well as habitat protections in other areas of the west coast.

For more information, see the Opinion here, and PCFFA/IFR's amicus brief here.

21:19/03. NEW BUREAU OF OCEAN ENERGY MANAGEMENT STUDY REVEALS FULL ECONOMIC EXTENT OF BP OIL SPILL: The BOEM study covers the effects of the spill from May through December 2010. This time period is also being used to calculate damages paid to fishermen under their 2012 private settlement agreement with BP. The study shows that the well blowout cost the region’s commercial fishing industry anywhere from $94.7 million to $1.6 billion. Job loss was estimated at 740 all the way up to 9,315. The economics of the Gulf seafood industry are complex, with factors such as catch scarcity, fluctuating prices, and the availability of imported seafood. Additionally, certain retailers may have permanently shifted their business to other producers. The report used 2009 market prices for dockside sales, value-added seafood, and income.
The report showed that Louisiana was hit hardest by the spill compared to the other Gulf States. Crab, shrimp, oyster, and menhaden were the species most significantly affected. After the spill, sixty-five percent less shrimp was landed in Louisiana than the year before. Oyster catch declined by fifty-four percent, and menhaden landings were down by twenty-five percent. Louisiana, Mississippi, and Alabama all saw a decrease in blue crab (forty-two percent, thirty-eight percent, and thirty-six percent, respectively).

Despite the heavy losses, some states actually saw an increase in profits and/or landings. Texas increased its oyster harvests in 2010 and commanded higher prices the next year. Louisiana saw a doubling of its menhaden landings from 2010 to 2011, helping to mitigate that industry’s losses. Since the study only focuses on the eight months after the spill, effects on pelagic species such as tuna that were spawning in the Gulf at the time are unknown, but the study’s author warns that these longer-term costs could go much higher than the report’s estimates.

For more information, see this 27 June Times-Picayune article.

21:19/04. PCFFA JOINS FORCES WITH FISHING GROUPS TO OPPOSE OFFSHORE MONUMENTS: Over 40 commercial and recreational fishing groups in California, including the Pacific Coast Federation of Fishermen’s Association, working in conjunction with the National Coalition for Fishing Communities, have submitted a letter to the White House, Secretaries of Commerce and the Interior, and NOAA officials. The letter voices their opposition to the proposed designation of almost all Pacific seamounts, ridges, and banks (SRBs) as marine monuments – which would permanently close almost all of the SRBs to commercial fishing if enacted by an executive order from President Obama under the Antiquities Act. Some of the areas in question are critical fishing grounds for swordfish, tuna, spiny lobster, albacore, and bonito, among others. Closing the fisheries could have dire economic consequences for fishermen, processors, and other businesses.

The letter alleges that no National Environmental Policy Act (NEPA) analysis was done on the proposed designations, nor any meaningful peer-reviewed scientific analysis or public engagement. It also point out the value of fish as a healthy, renewable food source, and highlights California’s strict fisheries-management practices already in place. Further, the coalition alleges that unilateral action under the Antiquities Act would directly contravene the transparent and public process required by the Magnuson-Stevens Act and the President’s National Ocean Policy Plan.

For more information, see the fishing industry’s 6 July letter.

21:19/05. STATE SUPREME COURT PASSES ON DELTA ISLAND SALE APPEAL, PAVES WAY FOR 20,000 ACRES TO BE SOLD TO METROPOLITAN WATER DISTRICT: PCFFA, San Joaquin and Contra Costa counties, as well as Delta farmers, have been attempting to block a $175 million, 20,000 acre land sale in the Delta to Metropolitan Water District of Southern California. The Delta interests have been able to block the deal from going through twice. However, on 15 July, 2016, the state Supreme Court refused to hear their appeal for an emergency request to stop the deal, which appears to clear the way for the acquisition.

Despite refusing to grant the emergency request, the underlying lawsuit continues. The suit contends that Metropolitan cannot complete purchase of the land without first conducting an environmental impact study. Metropolitan has floated several proposed uses of the land, including equipment storage for the Delta Tunnels project, but maintains that they are not required to provide any environmental impact studies until land use is decided upon. Despite
assurances that Metropolitan will conduct environmental impact studies once land use is decided upon, the counties and farmers remain skeptical. Should the Delta interests prevail over Metropolitan, court would have the authority to void the deal.

For more information, see this 15 July Recordnet article. For more information on PCFFA’s role in fighting the Delta island sale, see this 29 April 2016 PCFFA blog

21:19/06. GOVERNOR BROWN QUIETLY INSTALLS BRUCE BABBITT AS DELTA TUNNELS POINT MAN: Governor Brown has hired former Arizona Governor and Secretary of the Interior Bruce Babbitt to serve as special advisor on Sacramento-San Joaquin Delta issues. The appointment was revealed in a 14 July 2016 Sacramento Bee opinion piece. It is unusual for the appointment of a prominent official to not be announced by the administration. Mr. Babbitt’s salary will be $120,000 per year, paid out of state funds through the Department of Water Resources.

Babbitt’s role will be to push for the completion of the Delta Tunnels project, which is vehemently opposed by many private and commercial groups, Native American Tribes, and environmental advocates. Babbitt has received praise from some groups for his work on the Trinity River Decision, allocating flows for fish, and the installation of temperature controls at Whiskeytown Reservoir and Shasta Dam to benefit winter-and-spring run Chinook salmon. However, babbitt has also been criticised for his work on the CalFed deal, which excluded environmental groups, fishing groups, and PCFFA’s own Zeke Grader from the press conference, leading to outrage which eventually led to a state special committee hearing challenging the exclusions. Additionally, Babbitt’s record as an environmentalist has been challenged over his work in a law firm representing large, environmentally unfriendly corporations.

For more information, see this 15 July Daily Kos article.

21:19/07. NATIONAL PARK SERVICE AIMS TO SAVE WETLANDS: The National Park Service (NPS) is changing its policies in National Parks, from an emphasis on visitor convenience and creature comforts, toward renewal and protection of the natural resources of America’s precious landmarks. By removing roads, parking lots, vending machines and souvenir shops, “the hope is to restore natural wetlands for endangered frog species and salmon,” said Mia Monroe, an NPS Marin County liaison.

Wetlands are critically important for the safe passage of salmon, from their fresh water spawning grounds through briney waters, to the ocean. The shaded and cloudy waters prevent birds and other predators from feeding on small salmon, some of which are listed as endangered species. Aquatic insects, and other delicious crustaceans, are primary foods for salmon, who need to eat as much as possible before arriving in the ocean. Over several centuries, California has lost nearly 99% of its wetlands because of agriculture in the Central Valley, commercial and residential development, road construction, pollutants from road runoff, garbage landfills, and pesticides and fertilizers from lawns and golf courses. Since the mid-1800’s, Central Valley farmers have diked and drained the flood-plain areas for cultivation.

Muir Woods, Muir Beach and Yosemite are examples of parks being developed for visitor accommodations. But the roads, parking lots and buildings started damaging the natural environment. While development was... “well intentioned, there’s a huge trend to reduce the human footprint...We’re a national park not a national parking lot,” concluded Ms. Monroe.

For more information, see this: 19 July San Francisco Chronicle article.
21:19/08. PCFFA/IFR PORT WORKSHOPS OPENING COMMUNICATION LINES TO FLEET: In conjunction with local fishermen’s marketing associations, PCFFA and IFR in July hosted a series of workshops for commercial fishermen at locations across California. The workshops were designed for two purposes: first, to share PCFFA and IFR’s current work on issues impacting the commercial fishing industry; and second, to gather information on how the organizations can be refined or reshaped to better serve the needs of the fleet. Executive Director Tim Sloane and Fishing Communities Consultant Kalla Hirschbein visited Morro Bay, Half Moon Bay, Fort Bragg and Eureka during July and gained valuable insights about where fishermen would like to see the organizations aimed into the future. Look for a host of changes PCFFA and IFR to be implemented over the next year, and for additional workshops in California and Washington later this year.

For more information, contact PCFFA/IFR Executive Director Tim Sloane at tsloane@ifrfish.org or (415) 561-5080.

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