

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

NATIONAL WILDLIFE FEDERATION, IDAHO  
WILDLIFE FEDERATION, WASHINGTON  
WILDLIFE FEDERATION, SIERRA CLUB,  
TROUT UNLIMITED, PACIFIC COAST  
FEDERATION OF FISHERMEN'S  
ASSOCIATIONS, INSTITUTE FOR  
FISHERIES RESOURCES, IDAHO RIVERS  
UNITED, IDAHO STEELHEAD AND SALMON  
UNITED, NORTHWEST SPORTFISHING  
INDUSTRY ASSOCIATION, SALMON FOR ALL,  
COLUMBIA RIVERKEEPER, AMERICAN RIVERS,  
INC., FEDERATION OF FLY FISHERS, and NW  
ENERGY COALITION,

Plaintiffs,

and

STATE OF OREGON,

Intervenor-Plaintiff,

vs.

NATIONAL MARINE FISHERIES SERVICE,  
U.S. ARMY CORPS OF ENGINEERS, and  
U.S. BUREAU OF RECLAMATION,

Defendants,

CV 01-640-RE (Lead Case)  
CV 05-23-RE  
(Consolidated Cases)

OPINION AND ORDER  
OF REMAND

and

STATE OF IDAHO, NORTHWEST IRRIGATION UTILITIES, PUBLIC POWER COUNCIL, WASHINGTON STATE FARM BUREAU FEDERATION, FRANKLIN COUNTY FARM BUREAU FEDERATION, GRANT COUNTY FARM BUREAU FEDERATION, NORTHWEST REQUIREMENT UTILITIES, PACIFIC NORTHWEST GENERATING COOPERATIVES, INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES, ALCOA, INC., INTERNATIONAL ASSOCIATION OF MACHINISTS & AEROSPACE WORKERS, CLARKSTON GOLF & COUNTRY CLUB, STATE OF MONTANA, and KOOTENAI TRIBE OF IDAHO,

Intervenor-Defendants.

---

COLUMBIA SNAKE RIVER IRRIGATORS ASSOCIATION and EASTERN OREGON IRRIGATORS ASSOCIATION

Plaintiffs,

vs.

CARLOS M. GUTIERREZ, in his official capacity as Secretary of Commerce, NOAA FISHERIES, and D. ROBERT LOHN, in his official capacity as Regional Director of NOAA Fisheries,

Defendants.

REDDEN, Judge.

On May 26, 2005, in CV 01-640, I issued an Opinion and Order granting summary judgment in favor of plaintiffs that the 2004 Biological Opinion (2004BiOp) issued by defendant NOAA Fisheries (NOAA) addressing proposed operations of the Federal Columbia River Power System (DAM operations) by defendants Army Corps of

