

Siskiyou County Water Association
347 N. Main St.
Yreka, Ca. 96097
530 842-4400
Oct. 24, 2011

NMFS

✓ Assistant Regional Administrator, Protected Resources Division,
Attn: Rosalie del Rosario,
NMFS, 501 West Ocean Blvd., Suite 4200,
Long Beach, CA 90802-4213.

U.S. Dept of Commerce
1401 Constitution Ave. NW
Washington, D.C. 20230
Attention: Secretary Gary Locke

U.S. Dept of the Interior
1849 C Street, N.W.
Washington, D.C. 20240
Attention: Secretary Ken Salazar

Re: Violation of (16 U.S.C. 1533(b)(3)(A))

A de-listing petition was received by your NMFS on May 9, 2011 and according to the aforementioned section "finding is to be made within 90 days of the receipt to the maximum extent practicable". Publication of the finding on this petition occurred on Oct. 4, 2011 after 153 days. There was no explanation for the delay and I believe it is necessary and look forward to your explanation.

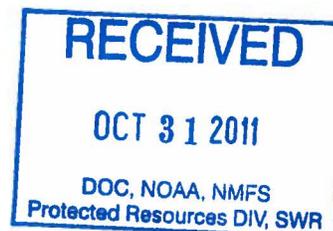
The attached revised de-listing petition is forwarded to you this date and a publication of findings would be appreciated within the 16 U.S.C. 1533(b)(3)(A)) 90 days. In addition to the revised petition a copy of the authenticated minutes of the 2001 Karuk Tribal Council are included for your review.

It should be noted that this de-listing petition is filed under the auspices of the Siskiyou County Water Users Association representing private property owners, farmers, fisherman and 79% of voters in Siskiyou County, California. In November of 2010 the voters of Siskiyou county overwhelmingly voted to retain the dams on the Klamath River which are considered for removal based on the unlawful listing of Coho Salmon, which were not indigenous to the Klamath Basin, by California ESA and NMFS.

Respectfully submitted,


Leo Bergeron, President SCWUA
Dr. Richard Gierak, Science consultant





**REVISED PETITION TO DELIST
Coho Salmon (*Oncorhynchus kisutch*)
Nomination for Delisting of a Taxon
of Flora or Fauna
(Endangered Species Act 1973)**



**Presented By
Siskiyou County
Water Users
Association**



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Petition to be forwarded to the following:

U.S. Department of the Interior
U.S. Fish and Wildlife Service
1849 C Street, N.W.
Washington, D.D. 20240
Attention: Secretary Ken Salazar

Calif. Fish & Game Commission
1416 9th. St. Suite 1320
Sacramento, CA. 95814

U.S. Department of Commerce
Attention: Secretary Gary Locke
1401 Constitution Ave. NW
Washington, D.C. 20230

Assistant Regional Administrator,
Protected Resources Division,
Attn: Rosalie del Rosario,
NMFS
501 West Ocean Blvd., Suite 4200
Long Beach, CA 90802-4213.

Statement identifying the taxon

Coho Salmon, Silver Salmon, *Oncorhynchus kisutch*...a salmonid which is a vertebrate fish. Based on historical evidence Coho Salmon located within the Klamath River are as a result of plantings in 1895, 1895, multiple plantings in the 1960's and 1980's **from multiple sources**. According to the **Expert Science Panel 4-25-2011** "it is to be noted that upon genetic analysis of the Coho Salmon in the Klamath Basin appears to be from plantings from Cascadia, Oregon."

[FINAL Report Coho Salmon-Steelhead Klamath Expert Panels 04 25 11](#) Therefore, no single subspecies of Coho Salmon can be identified as being exclusive to the Klamath River.

Known distribution of the taxon.

Occupies the entire Pacific Coastal region at this time. This petition specifically refers to Northern California and the present listing of Coho Salmon as endangered under the California Endangered Species Act on the Klamath River and the Federal ESA listing of Coho Salmon as threatened and consideration to list them as endangered. This petition specifically is regarding the Southern Oregon-Northern California ESU units.

Known threats which may affect the taxa.

Nature--Estuarine destruction--predation--over fishing--by catch--Ocean temperature, climatic changes.

Reasons for nominating the taxon for delisting including any reference in any scientific journal or other literature dealing with the taxon.

The Federal ESA has no provision for listing a non-indigenous species and there is no historical evidence that Coho Salmon were ever indigenous in the Klamath River Basin. The present listing by California ESA and NMFS has been based upon erroneous data and should be removed from the endangered or threatened listing under the California and Federal ESA. In

addition to same the following data clearly indicates that National Marine Fisheries Service ignored the science that was available to them and instead relied upon "junk science".

Historical Coho Salmon

Fish & Game cannot document that Coho Salmon were ever native to the Klamath River. After each subsequent plantings there was a rise in returning Coho for the following three years, however, without further plantings Coho levels again dropped. With perceived improved hatchery and downriver conditions as a result of Iron Gate Dam construction, three additional attempts at planting were made utilizing Coho imported from previously untested watersheds. Two of the three attempts failed before the final trial using Coho of Cascadia origin was determined to be marginally successful. That trial planting was considered responsible for the present minimal upper midstem river returns. As a scientist, I would classify these failed plantings as an unsuccessful experiment. In 2001 the Karuk Tribal Council stated that Coho Salmon were never indigenous to the Klamath River prior to plantings.

“Although it cannot be determined with absolute certainty that the 1895 stocking did not result in a portion of the runs observed 15 years later in the Klamath River, this initial stocking was likely too small and in the wrong area to have had much chance of establishing a new, self reproducing population in the upper Klamath River and tributaries. At least some portion of the eggs reared and released in the Trinity system in 1895 originated from Redwood Creek; a much smaller system. Redwood Creek coho salmon are specifically adapted to swimming relatively short distances (<60 miles) to reach their customary spawning areas. It seems unlikely these fish could have strayed the additional 150 river-miles necessary to reach the upper Klamath River to successfully establish a new run. Further, the eggs hatched and reared at Fort Gaston had opportunity to imprint to the Trinity River, and this also would have reduced the chances of straying to the upper portions of the Klamath. Finally, as reported by the Klamath River Basin Fishery Task Force (1991).

http://www.dfg.ca.gov/fish/documents/SAL_SH/SAL_Coho_StatusNorth_2002/SAL_Coho_Stat usNorth_2002_D.pdf

In 2001, Not one person on the Karuk Tribal Council believed that Coho salmon were native to the Klamath River,

Within the Tribe's jurisdiction between Bluff Creek and Clear Creek on the California portion of the Klamath River, which is approximately between 91 and 140 miles below the lowest slated dam, Iron Gate, for removal this statement is reflected for example, in the **minutes of the Karuk Tribal Council Meeting of December 27, 2001**: Discussion was had by the Tribal Council and whether or not they [Coho] were ever present in the main streams and tributaries... ..“Council states it may be **easier to prove the Coho were never present**, and also the comment was made that if they were never here, then **they should not be encouraged to come back.**” . **(See attached 3 page addendum of Tribal Council Meeting minutes)**

Quote from 2009 Water Quality Klamath TMDL scoping comment responses -

"The Regional Water Board can not establish life cycle-based water quality objectives for the mainstem Klamath River because the DO concentrations associated with salmonid life cycle requirements **can not be met even under natural conditions**- conditions in which there are no anthropogenic influences. As such, the Regional Water Board staff has proposed water quality objectives that protect natural DO conditions from further degradation." This clearly indicates

that the Klamath will return to its original status as being the “Stinky River”, as named by the local tribes wherein early expeditions to the Klamath Basin could not find potable water to drink and that their pack animals refused to drink from the River.

Least desirable water originates at the shallow Klamath lakes and Keno reservoir and **California EPA Water Board confirms that water quality continues to improve as it flows downstream when reservoirs allow detritus to settle out.** Historically in 1913, before dams, the total number of Chinook Salmon counted by California Fish & Game Commission averaged 38,000. Five years after the dam was in place that number rose to over 65,000. This was possibly as a result of the reservoir allowing detritus to settle out and water quality was improved enticing more salmonids to spawn in the Klamath.

Effects of timber, mining, farming and mismanagement of inland streams and rivers

“It does not appear that it is resource users (timber, farming, mining,) in the mid-Klamath is the reason, but is instead Ocean and climatic conditions” on salmonid populations. [FINAL Report Coho Salmon-Steelhead Klamath Expert Panels 04 25 11](#)

Dr. John Palmisano formerly a Marine mammal biologist for NMFS in Juneau, Alaska, teaching fisheries and biology at U of Washington—an environmental scientist for a consulting firm in Bellevue, WA. (503 645-5676) 1997: pg2. **“Coastal waters from Mexico all the way to Alaska have gradually warmed since the climate shift of the 1970s and the subsequent, periodic affects of El Nino.”** “It is estimated that 40 - 80 percent of estuarine habitat along the Pacific Northwest has been diminished or destroyed”. **“It is clearly not the perceived mismanagement of inland streams and rivers that has caused the recent degradation of the salmonid population”.**

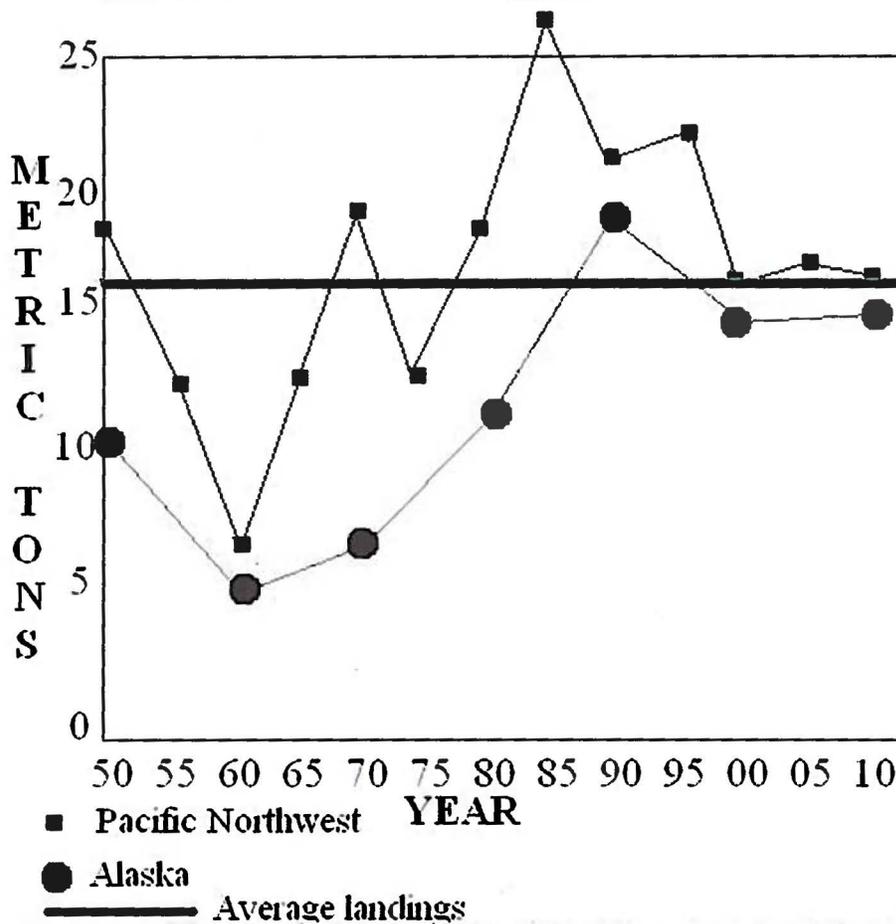
“Weitkamp et al. (1995) suggested that natural origin Coho production in the SONCC ESU may not be currently sustainable. Further reduction in survival at sea in response to climate shifts has the potential to offset potential improvements in the freshwater environment, or it could cause further reductions or even extinction of natural origin Coho populations that are presently threatened with extinction.” It is also to be noted that upon genetic analysis of the **“Coho Salmon in the Klamath Basin appears to be from plantings from Cascadia, Oregon.”** This statement also verifies the statement that Coho Salmon were never indigenous to the Klamath Basin. [FINAL Report Coho Salmon-Steelhead Klamath Expert Panels 04 25 11](#)

Pacific Northwest Coho Landings

Based on the following graph utilizing data from http://www.st.nmfs.noaa.gov/st1/commercial/landings/annual_landings.html

It becomes clear that Coho Salmon population in the Pacific Northwest is not declining and that the Coho have moved North into cooler Alaskan waters as a result of the historic rise in Pacific Ocean Temperature. Decreased landings in California, Oregon and Washington are not as a result of dams, farming, mining or other man related projects. This NMFS data clearly indicates that Coho Salmon in the Pacific Northwest is not in decline, but is maintaining a 62 year average landing with 91% of Coho being landed in cooler Alaskan waters in 2010. Prior to the warming of the Pacific Ocean the landings in 1950 of Coho Salmon in Alaskan waters was only 55%. **This data alone negates the listing by California ESA and NMFS for Coho Salmon in any ESU south of Alaskan waters.**

PACIFIC NORTHWEST COHO LANDINGS



http://www.st.nmfs.noaa.gov/pls/webpls/MF_ANNUAL_LANDINGS_RESULTS

Importance of salmonids to native populations of California and Dam effects

Native tribes have spoken of millions of Chinook Salmon in the Klamath River prior to the construction of dams. However, the reality based on California Division of Fish & Game 1930 report, fish bulletin #34, the total number of Salmon on the Klamath totaled between 30,000 and 45,000 prior to the dams being installed. After the dams the numbers went up to between 45,000 and 90,000 fish. Dr. Ken Gobalet Professor of Biology Ph.D. California State University, Bakersfield "The rarity of salmonids in archaeological materials suggests that the ethnographic record overstated the importance of salmonids to the Native Americans of California." It becomes clear based on this evidence that dams have improved salmonid populations in the Klamath River.

<http://www.informaworld.com/smpp/content~db=all~content=a932170617>

Siletz Tribes speak to low Coho numbers

Van de Wetering, Aquatics Program Leader of the Siletz Tribe, argues that "recent weak runs are most likely the result of unfavorable ocean conditions, which go through cycles".

http://indiancountrynews.net/index.php?option=com_content&task=view&id=3936&Itemid=118

1913 California Fish and Game Commission Report

(CFGFC 1913), W. H. Shebley, Superintendent of Hatcheries, writes “Most of the salmon and steelhead eggs were taken at the [Redwood Creek] substation, as there was **no run of either kind of Salmon in the Trinity River.**” Any reported Coho after 1895 were as a result of plantings in the Klamath.

2002 California Position on Coho Salmon

The conclusion that Coho Salmon were native to the upper Klamath River system are negated by all previous historical accounts from the 1913 Fish & Game Commission report and the 2002 California Fish & Game Report. **There is not one historical document that alludes to the presence of Coho Salmon in California waters prior to 1895 plantings.** To quote the passage by Dr. Moyle in 1976, 81 years after initial plantings, is fallacious as he is not an expert on salmonids but is instead a freshwater species expert. Evermann and Clark 1931; stated that “Coho Salmon were extending from Alaska to Central California” some 36 years after initial plantings occurred in the Klamath River. “Lack of historical information on coho salmon in the Klamath River can be attributed, in part, to the lack of proper species identification” (Snyder 1931) and once again this statement is made 36 years after initial plantings. There is no evidence in historical documentation that Coho Salmon were ever native to the Klamath River prior to plantings in 1895 and 1899. **NMFS referral to statements made 36 years after initial plantings is arbitrary, capricious and ludicrous in an attempt to list a species that is non-indigenous to the Klamath River.** There is little doubt that this claim by NMFS that Coho were native to the Klamath River prior to 1895 would not be acceptable in a court of law

http://www.dfg.ca.gov/fish/documents/SAL_SH/SAL_Coho_StatusNorth_2002/SAL_Coho_StatusNorth_2002_D.pdf

2006 California Position on Coho Salmon

California Fish & Game Finfish and Shellfish Identification Book published in December 2006 does NOT list Coho Salmon as being present in California waters. This information alone should make it clear that California Fish & Game do not consider Coho Salmon native to the Klamath River, or for that matter, California waters at all. Consider that Coho populations in California waters have been identified as having their origin in Cascadia, Oregon. [FINAL Report Coho Salmon-Steelhead Klamath Expert Panels 04 25 11](#)

2003 California Position on Salmon Runs

The Fish & Game report published in 2003 indicated the following: “**The DFG concludes that low flows and other flow related factors (eg; fish passage and fish density) caused of the 2002 fish kill on the lower Klamath River. Furthermore, of the conditions that can cause or exacerbate a fish kill, flow is the only factor that can be controlled to any degree. Flow is regulated by upstream reservoirs operated by the USBR on both the Klamath and Trinity Rivers.**” Without regulatory flow and reservoirs of water in a dry year The Fall Run of Chinook will be seriously endangered as historically the Klamath would revert to marshes and swamps in late summer and Fall.

Predation by Pinnipeds

Both El Nino and drought conditions have been indicated as a significant effect on prey and predator species distribution. **Threatened California sea lions were porking out on**

threatened salmon. Efforts to capture and relocate harbor seals exhibiting the same tendency have been unsuccessful in solving the problem. The (LRP) Ch4, pages 37-39, states that estimates of mortality of anadromous salmonids from natural predators run as high as 98 percent (Fresh in Steward and Bjornn 1990) Yuroks traditionally harvested marine mammals (McEvoy 1987), but today many of these species are protected by the Marine Mammals Protection Act." In the typical logic of fisheries scientists, the report proceeds to ignore its own stated facts in favor of the politically correct.

1998 Report to Congress Prepared by NOAA, NMFS February 1998: pg 11 Conclusions: "California Sea Lions and Pacific Harbor Seals are abundant, increasing, and widely distributed on the West Coast. **Many salmonid populations, which are declining due to a host of factors, are being preyed upon by pinnipeds.**" **"Pinnipeds can have a significant negative impact on a salmonid population."** Status of Pinnipeds pg 2: "California sea lions, for example, are now found in increasing numbers in northern waters, in inland waters, and upriver in freshwater in many West Coast systems. They are also now found near man-made structures such as dams or fish passage facilities with increasing frequency".

Understanding Coho reduction in California Waters

In an attempt to understand the movement of commercial Salmon into Alaskan waters research found that **there has been a historic rise in temperature of the Pacific Ocean** which directly correlates with the historic increased activity in the Ring of Fire volcanoes. **In 2010 91% of all Coho Salmon have been caught in Alaskan waters. Although California, Oregon and Washington commercial fisheries are suffering, there is significant scientific evidence that the Pacific Ocean temperature increase is the primary cause. In 1950 the total catch of Coho Salmon in Alaskan waters was 55%.** This scientific data clearly demonstrates that the commercial Salmon industry is in better shape than it has ever been. However, severely reduced landings of Coho Salmon in California, Oregon and Washington have no scientifically substantiated direct correlation of that decline to prior and present conditions on the Klamath River and its tributaries. However, there is a direct correlation of salmon migration movement to the historic rise in Pacific Ocean temperatures. **Based on this scientific data it is clear that listing the Coho Salmon as endangered is fallacious as the ocean environment for these Salmon has forced them to move North into cooler waters.**

http://www.st.nmfs.noaa.gov/st1/commercial/landings/annual_landings.html

Pacific Ocean Temperature

http://www.google.com/search?q=history+of+pacific+ocean+temperature&hl=en&prmd=ivns&a=X&ei=D_N3TbhSg4KxA7b61ccE&ved=0CHAQpQI&tbs=&tbs=tl:1,tlul:1950,tluh:2010

Volcanic activity in the Pacific Ocean

<http://www.google.com/search?q=volcanic+history+of+eruptions+in+the+ring+of+fire&hl=en&a=X&ei=GHiWTKjHISGqsAPNsvTkCQ&ved=0CHUQpQI&tbs=tl:1,tlul:1950,tluh:2010>

Heat Content of the Pacific Ocean

<http://earthobservatory.nasa.gov/Features/OceanCooling/page4.php>

Genetic Analysis of Hatchery vs. Natural Salmon

The initial statement regarding the controversy between "natural" and "hatchery" fish was

made in a report by Busack and Currens in 1995, wherein they stated, "Interbreeding with hatchery fish might reduce fitness and productivity of a natural population". Mr. Michael Rode of the California Department of Fish and Game at a Hatchery Evaluation meeting on September 19, 2002 at Iron Gate Hatchery disclosed that less than a 2% genetic survey has been taken to date and **no genetic differences have been noted between "hatchery" or "natural" Coho Salmon.** A 2011 report by the Expert Panel indicated that their genetic analysis indicated the Salmon in Northern California were from Cascadia, Oregon plantings.

It should be noted that the NMFS listing of Coho Salmon in Northern California and Southern Oregon in 1997, (Federal Register: May 6, 1997 (Volume 62, Number 87, 50 CFR Part 227 [Docket No. 950407093-6298-03; I.D. 012595A]) Page 24588-24609) utilized the same data as in the coastal Oregon Coho listing. This listing also distinguishes "natural Coho" from "hatchery Coho" and they did not count "hatchery Coho" even though there is no biological distinction between the two. Citing justification that hatchery reared salmon 'may' display slight 'behavioral differences' upon planting dismisses the fact that returning marked and unmarked hatchery reared salmon known to spawn instream have demonstrated no such scientifically identifiable 'behavioral differences'.

In a 2001 ruling of the ninth District where the listing affecting Northern California and Southern Oregon Salmon is that "naturally spawned" and "hatchery spawned" argument for listing Oregon coastal Coho salmon The NMFS listing decision, contained at 63 Federal Register 42,587, is declared unlawful and set aside as arbitrary and capricious. United States District Judge, **Michael R. Hogan stated the NMFS listing decision was arbitrary and capricious and thus unlawful** under the Administrative Procedures Act 5 U.S.C. 706. **Therefore, the listing affecting Northern California and Southern Oregon is also unlawful and should be set aside as arbitrary and capricious.**

Continued hatchery and Reservoir evaluation in Salmonid production

Salmon and steelhead hatcheries have historically had the twin goals of (1) helping to recover and conserve natural spawning populations, and (2) supporting sustainable commercial, recreational, subsistence, and ceremonial fisheries. Most hatcheries in the Pacific Northwest and Alaska have been operating for many decades and have generally been very successful in producing fish for harvest and compensating for declines in wild salmon populations. Hatcheries are critical to maintaining future recreational and commercial fishing in the Pacific Ocean and in meeting Treaty harvest obligations. Like it or not, hatchery populations now comprise a major component of Pacific salmon/steelhead species gene pools. The year (2001) for example, 60-80% of salmon that will be harvested originated in state, federal, and Tribal hatcheries. Given the additional 20-40 million in human population growth predicted for the Pacific Northwest in coming decades, it is almost certain that the downward trend in purely wild salmon populations will continue simply as a condition of mathematical progression. As a practical matter, it is clear that the cyclic variables affecting a purely 'wild' reproduction would never allow maintaining the species under the vastly more consequential circumstances outside of U.S. control (reference 2008 NMFS Sockeye Salmon Return Study). For example, the east coast of the US, Europe, China, Japan, and Korea formerly supported large populations of purely wild salmon. They no longer do so and it is unlikely they will ever do so again (Lackey, 2001).

http://www.propertyrightsresearch.org/role_o.htm

Not only did today's hatchery salmon originate from the eggs and sperm of naturally reproducing salmon populations, hatchery produced fish have been thriving and returning

to Pacific Northwest Rivers in unprecedented numbers. Unfortunately, these same hatchery fish are now being labeled genetically inferior, hunted down and clubbed, and their eggs sold as fish bait. There is a very real danger that present anti-hatchery policies will, if pursued, reduce salmon/steelhead populations to the point that there will be no significant recreational or commercial fishing for decades to come. In addition, the deliberate destruction of these hatchery populations by natural resource management agencies may actually be destroying genetic material needed for the continued health of salmon populations in general. Once genetic material is lost from a species gene pool, it can never be recovered. The populations of some remaining "wild" fish are now so small that their genetic diversity has been reduced to the point that, if not the case presently as there is no current scientifically studied or unmarked identifiable distinction between the two, they may be unable to grow in numbers sufficiently without an infusion of genetic material from hatchery fish.

Although genetic management of naturally spawning fish populations is not possible, inherited traits in hatchery salmon populations can be readily adjusted to suit management goals and objectives. Establishing and maintaining hatchery populations with a prescribed pattern of life history variation similar or identical to the naturally spawning populations with which they may interbreed is an attainable management goal that could ameliorate concerns about detrimental interactions. **At the present time, hatchery runs are thriving and must not be destroyed.** Hatchery fish that are now being wasted are a resource that should be used proactively in recovery efforts. As one example, surplus adult salmon could be outplanted in barren habitats. This would be unsuccessful in some cases but would yield positive results in others. Even allowing excess salmon quotas to remain instream has been proven effective for many to redistribute and spawn both mainstem and within other accessible tributaries. Any success would be highly cost effective because the fish that already exist are going to waste.

Any scientist that can claim that there are "wild salmon" left in California waters is not facing reality. After 116 years of planting salmonids from various sources how can there be any "wild salmon" left. **The only "wild salmon" are those hatchery fish that did not return to the hatchery but did spawn in areas prior to the hatcheries.**

IN SUMMARY,

Based on evidence presented in this petition Coho Salmon were **never indigenous to the Klamath River and the listing of Coho Salmon by California ESA and Federal ESA should be terminated.** Concluding that Coho Salmon were not indigenous, there is no provision in the Endangered Species Act to list a non-native species. Based on the Expert Panels Final Report, dated 4-25-11, **what is the rationale for continuing to list a species that is considered to be on the verge of extinction.** Not only were they not indigenous, scientific evidence is conclusive that planted Coho runs in the Klamath Basin in Northern California have moved North due to historic warming of the Pacific Ocean. This clearly indicates that said listings are in violation of the Federal ESA and are unlawful, arbitrary and capricious. [FINAL Report Coho Salmon-Steelhead Klamath Expert Panels 04 25 11](#)

Further, the Department of the Interior and U.S. Fish & Wildlife are in violation of the Federal ESA as their mandates are restricted to freshwater species and their involvement in the Dam Removal issue for Coho Salmon is out of their jurisdiction. NMFS is in violation of the Federal ESA as there is no provision for listing a non-indigenous species. NMFS is charged with an attempt to blackmail the Karuk Tribal Council. (Page 3 of the addendum to this petition) Serious consideration of this de-listing petition is in order prior

to any future litigation that may be brought about based on the above scientific information.

References

CH2M Hill. 1985. Klamath River Basin fisheries resource plan. For U.S. Department of the Interior. Kier, William M., Associates. 1991. Long range plan for the Klamath River Basin conservation area fishery restoration program. The Klamath River Basin Fisheries Task Force. Markle, D., L. Grober-Dunsmoor, B. Hayes, and J. Kelly. 1999. Comparisons of habitats and fish communities between Upper Klamath Lake and lower Klamath reservoirs. Abstract in The Third Klamath Basin Watershed Restoration and Research Conference. March 1999. U.S. Fish and Wildlife Service. 1988. Final Rule: Endangered and Threatened Wildlife and Plants; 2 ODFW estimates made by applying relative catch per unit of effort to previous population estimates (Fortune 1986). 3 U.S. Bureau of Reclamation. 2001. Biological Assessment for the Klamath Project. Supporting links embedded within the de-listing petition and Karuk tribal Council minutes included in the three page addendum.

Respectfully submitted:

A handwritten signature in black ink, appearing to read "Leo Bergeron", written over a horizontal line.

SCWUA President; Leo Bergeron

Addendum to the SCWUA petition to de-list Coho Salmon on the basis that they were not indigenous to the Klamath Basin. A total of three pages that are an integral part of the SCWUA Coho De-listing petition.

The following minutes of the Karuk Tribal Council Meeting of December 27, 2001 were given to us by Gary Lake, Member of the Tribal Council Meeting on that date.

“Council states it may be easier to prove the Coho were never present and also the comment was made that if they were never here then they should not be encouraged to come back.”

Sandi Tripp states “NMFS has scientific proof that there were Coho present”

NMFS Position on Coho Salmon

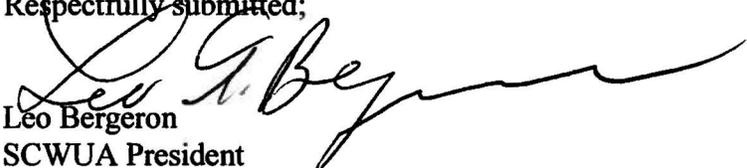
NMFS referral to statements made 36 years after initial plantings is arbitrary, capricious and ludicrous in an attempt to list a species that is non-indigenous to the Klamath River.

The conclusion that Coho Salmon were native to the upper Klamath River system are negated by all previous historical accounts from the 1913 Fish & Game Commission report and the 2002 California Fish & Game Report. **There is not one historical document that alludes to the presence of Coho Salmon in California waters prior to 1895 plantings.** To quote the passage by Dr. Moyle in 1976, 81 years after initial plantings, is fallacious as he is not an expert on salmonids but is instead a freshwater species expert. Evermann and Clark 1931; stated that “Coho Salmon were extending from Alaska to Central California” some 36 years after initial plantings occurred in the Klamath River. “Lack of historical information on coho salmon in the Klamath River can be attributed, in part, to the lack of proper species identification” (Snyder 1931) and once again this statement is made 36 years after initial plantings. There is no evidence in historical documentation that Coho Salmon were ever native to the Klamath River prior to plantings in 1895 and 1899. This vain attempt by NMFS to convince the Karuk Tribal Council to list a non-indigenous species is unlawful, arbitrary and capricious.

NMFS, in the Karuk Council minutes, attempted to manipulate the Karuk into admitting they were indigenous and were promised that if they capitulated the NMFS presence would disappear.

http://www.dfg.ca.gov/fish/documents/SAL_SH/SAL_Coho_StatusNorth_2002/SAL_Coho_StatusNorth_2002_D.pdf

Respectfully submitted;


Leo Bergeron
SCWUA President

Consensus: Due to closeness of the bids for cooking a decision was made to have the two new bidders cook at the next two meetings to determine the level of competency for the amount of people that attend the meetings.

Consensus: To adjourn at 8:15 PM.

Respectfully Submitted by, Alvis Johnson, Chairman, Recording Secretary, Sara Spence.

KARUK TRIBE OF CALIFORNIA Tribal Council Meeting Minutes
December 27, 2001 Happy Camp, California

The meeting was called to order at 5:03 PM by Carol Day, Secretary.

ROLL CALL Present- Carol Day, Secretary ~ Paula McCarthy, Treasurer ~ Hermanett Albers, Member ~ Karen Derry, Member ~ Robert Goodwin, Member ~ Gary Lake, Member ~ Absent Alvis Johnson, Chairman - excused Frank Wood, Member - excused. Quorum is established.

Approval of the Agenda for December 27, 2001. Amanda Alexander, Troy Hockaday and Connie Reed were added to Open Session.

Motion: To approve the Agenda for December 27, 2001 with additions. Motion by: Karen Derry, 2nd by: Paula McCarthy, Results: Motion carried.

Approval of the Minutes for November 29, 2001. Various typos were noted and will be corrected.

Motion: To approve the Minutes with corrections. Motion by: Paula McCarthy, 2nd by: Karen Derry, Results: Motion passed. (1 abstention - Hermanett Albers).

Amanda Alexander. Amanda Alexander, Tonya Albers and Tamara Alexander were present to report on their recent trip to San Diego for the Native Youth Leadership Conference they attended with Hermanett Albers, Kathy Brower and Jean Martin. They each reported on what they learned and what they enjoyed at the conference. They stated they were happy to attend and appreciated the opportunity.

Connie Reed. Connie was present to discuss staffing in her department. She states she has a staff member that is going on vacation for two weeks and she needs to have someone fill that slot while she is gone. She would like to hire April Spence as a Full Time Temporary employee to cover this position. She also states she would like to work with Judy and CIMC to have more Tribal Members trained in this position. She states this has been discussed and approved through the TERO office. Motion: To hire April Spence as a full time temporary employee in the CHS office. Motion by: Karen Derry, 2nd by: Robert Goodwin, Results: Motion carried.

Connie also took the opportunity to thank them for her health and how much better she feels.

Judy Madden. Judy included a written report and reviewed it with them. She updated them on the AVT (Adult Vocational Training) Program. She is also looking into establishing an ROP (Regional Occupational Program) for this area. She states the Tribe was awarded the Outside Sales Position through CIMC at the Karuk Building Center and this position is being advertised. She states she will be meeting with CIMC to start two more Tribal Members into training programs, one in Eureka and one in Yreka. She states her review of the Personal Service Contracts resulted in the addition of item 19 which requires payment of TERO tax at 1% on all contracts initiated in the ancestral territory. She requested approval of this addition as the TERO Board has already approved it. Motion: To approve the addition of item 19 to all Personal Service Contracts. Motion by: Karen Derry, 2nd by: Paula McCarthy, Results: Motion carried.

Karen also requested that the Council review item number 14 again regarding copyrights. Judy requested a Special Meeting with the Council to review the TERO Ordinance. She will have Lori get with them after the first of the year to set a date.

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She included a training report from her recent trip to the CTER Tribal Workforce Protection 2002 and Legal Update Conference in Las Vegas, Nevada, December 5-6, 2001. She also distributed some information regarding Tribal taxation for their review as it was a main point at the conference. **Motion:** To approve Judy's report. **Motion by:** Karen Derry, 2nd by: Gary Lake, **Results:** Motion carried.

April Attebury. April submitted a written report for their review and approval. She was present to go over the contents of her report with the Council. She states that in late January there will be a training in San Diego that will address Housing issues and a Trust Reform meeting is being held at the same time in San Diego. She states she plans to attend both. She also states she needs to sit down with the Council and develop a plan for what areas they want her to pursue and focus on. John Frank encourages her to attend the Housing training as there are projects coming up within 45 days that will need to be dealt with. She states that she has had trouble getting in contact with David Arwood to discuss the easement across the Bunker Hill mine and it is holding her back, Council states she should go forward and work with Harold and Leaf on this issue. **Motion:** To approved April's report. **Motion by:** Paula McCarthy, 2nd by: Robert Goodwin, **Results:** Motion carried.

Sandi Tripp. A written report was included in the packets and Sandi was present to review it with the Council. She addressed questions and concerns the Council members had. Discussion was had regarding Coho salmon and whether or not they were ever present in the main stream and tributaries. Sandi states NMFS has scientific proof that there were Coho present and if they can make the river conducive to these fish they can work towards getting them off the Endangered Species List and get rid of the NMFS presence. Council states it may be easier to prove the Coho were never present and also the comment was made that if they were never here then they should not be encouraged to come back. Robert also inquired how the Coho effect Steelhead and Chinook. He is also interested in reading the study that proves the Coho were here. Sandi states she will forward copies of the studies to the Council. She states the Tribal Environmental Plan is 50-60% completed and she has plans to have the Council members review it and approve it at the next meeting, she states it will detail what they have done and where they expect to go in the future. She is preparing the plan with coordination from all of the DNR staff. She states this will only be a preliminary draft that will be updated and revised on a regular basis. Robert suggests in the near future seeing one and five year plans from all department directors so that they have a time line on what the employees hope to see happen and the Council can oversee their progress. She states she is getting involved with EPA to begin the process of a Performance Partnership Grant (PPG) which simplifies the reporting and budgeting tasks on their grants. The GAP and Water Quality programs would be the first two to go into this. It will give them longer funding periods and more efficient reporting. She submitted a contract between KTOC and the Inter-Tribal Fish and Water Commission in the amount of \$180,000 for the hiring of Fishery Biologists and Natural Resources Technicians to perform water related tasks. She states currently they have no Biologists on staff, yet Yurok has thirteen. Having this technical data and expertise will give them more credibility into issues and involve them more in the studies that go on. This would be a study of the green sturgeon and will be done in cooperation with the Yurok Tribe. **Motion:** To approve the Contract with the Inter-Tribal Fish and Water Commission in the amount of \$180,000. **Motion by:** Paula McCarthy, 2nd by: Robert Goodwin, **Results:** Motion carried. **Harold** updated the Council on the Fuel Reduction Projects. He is also working on getting the fire crew together for next year. Currently he has two Tribal Members in Happy Camp and three Tribal Members in Orleans doing brushing work. After the first of the year he has plans to bring on more staff as he will get more funding. **Motion:** To approve the DNR report. **Motion by:** Karen Derry, 2nd by: Robert Goodwin, **Results:** Motion carried.

John Frank. John included a written report for the Council to review. It included revised housing plans for 1998, 2000, 2001 and the five-year plan. The first step is for the Housing Committee to review and approve the plans. Then they must open and close a public hearing to review the plan. The Council needs to then approve the plans and then he can forward them to HUD. He reviewed the changes that were made to the plans, although minor they require revised plans and therefore require revised five year plans be submitted to HUD following the approval process. Karen inquired about the waiting list for housing. Elsa briefed the Council on what the point scoring system is and how you make your way up the list. Karen inquired when they have a low-income family move into housing and then over time they become an "above low-income" family with two working parents are they encouraged to leave housing so that other low income families can have the opportunity to move in. John states they encourage them to pursue the homeownership programs they have but cannot force them to leave housing. Many are just barely above low-income and if they were forced to pay full rent they would be back where they were when they moved in. A public hearing was opened to review the revised plans. Are there any plans for an Elder's program to assist the Elders in Housing? John Frank was told this was not a legal activity through HUD and should be funded through social services, he is currently arguing that it should be included. What type of heating will the modulares have in them? John states they will have two sources of heat, but since the individuals are buying the homes it is their

