

Central Coast Forest Association

Protecting our land and our rights

News Release

Santa Cruz, CA; November 16, 2004 : The Central Coast Forest Association, a Santa Cruz County CA based alliance of forestland owners, has joined a dozen other organizations from four western states as clients of the Pacific Legal Foundation to notify the National Oceanic and Atmospheric Agency Fisheries Service of our intent to take sweeping legal action challenging proposed ESA relistings of west coast coho salmon and steelhead. For more information, see the attached news release from our council, the Pacific Legal Foundation.

For information about the Central Coast Forest Association or the basis for our legal action against NOAA Fisheries, go to the CCFA website www.ccfassociation.org or contact Bob Briggs at 831-423-6958.

PACIFIC LEGAL

FOUNDATION

NEWS RELEASE

Contact: Russell C. Brooks
Managing Attorney
Northwest Center
(425) 576-0484

Dawn Collier
Media Director
(916) 419-7111

PLF To File Lawsuit Challenging Proposed Hatchery Policy and ESA Relistings of Salmon and Steelhead Throughout the West

SEATTLE, WA; November 16, 2004: Pacific Legal Foundation today announced it will file a sweeping lawsuit challenging Endangered Species Act listings of salmon and steelhead spanning four western states if federal regulators enact a new policy that would continue to distinguish between hatchery and naturally spawned fish. PLF has notified NOAA Fisheries that the policy, proposed by the agency in June, violates the ESA and PLF's 2001 federal court victory in *Alsea Valley Alliance v. Evans*. PLF is bringing the lawsuit on behalf of a broad coalition of property owners, farmers, and business groups representing tens of thousands of citizens in Washington, Idaho, Oregon, and California.

“Three years ago, federal officials promised western citizens they would issue a new policy on salmon and steelhead listings that would comply with the court’s decision in *Alsea*,” said Russ Brooks, the managing attorney for PLF’s Pacific Northwest office who successfully litigated the *Alsea Valley Alliance* case. “Instead, they’ve proposed a policy that is in total contradiction of the court decision and the plain language of the ESA.”

“That federal regulators are thumbing their noses at federal court decisions is a slap in the face to the countless western citizens whose livelihoods are being held hostage by these illegal listings,” said Brooks. “Needless regulations to protect fish are crippling the economies of western states, driving prices up and killing jobs in almost every major economic sector from farming and agriculture to new home construction and transportation.”

“Under this new policy, property owners will continue to live under the threat of civil and criminal penalties for felling a tree, putting fertilizer on their lawns, using water, and a whole host of other common and otherwise legal activities, all to benefit fish that are not endangered,” added Brooks.

In 2001, PLF won a landmark victory in *Alsea Valley Alliance* when a federal court ruled the government had violated the ESA when it ignored the prolific numbers of hatchery salmon in listing the Oregon coast coho as threatened. Federal officials agreed to comply with the ruling by developing a new hatchery policy to govern its listing practices. In June, 2004, NOAA Fisheries proposed a new policy purporting to comply with the *Alsea* decision, while simultaneously stating that the new policy would result in the relisting—not delisting—of west coast salmon and steelhead populations.

The agency proposes to justify the “relistings” by continuing to “count” only the naturally spawned salmon in determining whether a given population warrants listing, then listing the entire population of both hatchery and naturally spawned fish. However, the agency intends to exclude hatchery salmon from ESA protection.

PLF argues that NOAA’s distorted policy amounts to an end run around the *Alsea* decision, and continues to ignore the legal and scientific reality that thousands of hatchery and naturally

spawned fish thriving in western rivers means that salmon and steelhead are not threatened with extinction.

“Federal regulators are playing a shell game. No provision of the ESA contemplates treating some members of a species differently than other members of the same population when they exist in the same river, in the same natural ecosystems, and interbreed together,” said Brooks. “Clearly, NOAA Fisheries is replacing sound science with science fiction.”

Brooks said PLF and many others warned NOAA Fisheries months ago that its proposed policy would result in extensive litigation, hampering the government’s ability to effectively implement the ESA and protect other listed species that truly are endangered. In July, House Resources Committee Chairman Richard Pombo sent a letter to Commerce Secretary Don Evans expressing similar concern over NOAA Fisheries’ ongoing failure to comply with court directions in managing salmon and steelhead populations throughout the western states.

PLF is representing the Washington Farm Bureau, Washington Realtors’ Association, Washington State Grange, Building Industry Association of Washington, Coalition for Idaho Water, Idaho Farm Bureau, Idaho Water Users’ Association, California State Grange, **Central Coast Forest Association**, Oregon State Grange, and Alsea Valley Alliance.

A copy of PLF’s 60-day notice of intent to sue is available at www.pacificlegal.org

About Pacific Legal Foundation:

Founded in 1973, Pacific Legal Foundation is a nonprofit, public interest legal organization dedicated to defending individual and private property rights. PLF is a national leader in the effort to reform the Endangered Species Act and raise awareness of the act’s impact on people. PLF’s Pacific Northwest Center is located in Bellevue, Washington. More information on PLF can be found at

www.pacificlegal.org.

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