



Written by [Bonnie Gillis](#) on August 9, 2004

“Water Is for Fighting”

Menacing storm clouds have been hovering over the Upper Klamath Basin on the Oregon-California border for the past three years. Unfortunately, they are not the kind of clouds that bring rain, which would be most welcome in this beautiful, but arid, high plateau on the eastern slope of the Cascade Range. These dark clouds have produced only political thunder and lightning in a heated struggle between the area’s farming/ranching community and federal agencies allied with environmental activists.



In the dry lands of the Western states, there is an old saying: “Whisky is for drinking, water is for fighting!” And nowhere is the fight over water more intense than in the Klamath Basin. On July 17, five U.S. congressmen representing California and Oregon districts held a special hearing in Klamath Falls, Oregon, on the impact of the Endangered Species Act (ESA) on rural communities throughout the West. Farmers, scientists, and public officials testified concerning the destructive effects of ESA policies on people, as well as animals and the environment. Hundreds of area residents turned out at a pre-hearing rally that symbolized the frustration felt by millions of Americans who are feeling the brunt of the federal environmental hammer. (See: [ESA: Reform or Abolish?](#))

Although the ingredients for the present conflict had been brewing for years, even decades, the shot that started things was fired by the federal government on April 6, 2001. On that date, the U.S. Bureau of Reclamation (BOR) decreed that area farmers and ranchers would not be allowed to use any of their allotted irrigation water. “April 6, 2001 has been etched in the minds of people in these parts as another ‘Day of Infamy,’ like Pearl Harbor, December 7, 1941,” Professor Ken Rykbost, a hydrology expert and critic of the federal policy, told *The New American*.

The federal government cited the Endangered Species Act (ESA) as justification for cutting off the farmers’ water in the critical planting season. The farmers’ water had to be taken, said the BOR, for the benefit of the Lost River sucker and the shortnose sucker, both of which had been listed as “endangered” in the Upper Klamath Lake, and the coho salmon, which was listed as “threatened” in the Klamath River. This meant, said the BOR, that Upper Klamath Lake must be kept at historic high levels for the sucker fish and that more water had to be released into the Klamath River for the coho — *ergo*, water for the fishies, not for the farmers.

The rich, volcanic soil of the Klamath Basin is excellent agricultural land, but the area averages only 13-15 inches of rain per year. Irrigation is essential to growing crops in this region, and surface water from Upper Klamath Lake and the Klamath River is the main irrigation source. Cutting off access to water is the equivalent of sounding a death knell for area farms.

Many of the roughly 1,500 farmers who cultivate the Klamath Basin are veterans or descendents of war veterans, who were lured to the area as homesteaders following World Wars I and II. Along with the deeds to their land, they received deeded water rights, guaranteeing allotments of water for each



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growing season, “in perpetuity.” The April 2001 cutoff was unprecedented. It was also economically devastating to the entire region, not just to the farmers directly affected.

When the cutoff occurred, many farmers had already spent or borrowed thousands or tens of thousands of dollars for seed, fertilizer, fuel, and labor for that year’s growing season. Many already had contracts to deliver their crops. Some of those who had already planted were forced to let their crops parch in the sun; some were able to irrigate with well water — at a much higher price that wiped out most, if not all, profit. Cattle were auctioned off at distressed prices. Many family farms were forced into bankruptcy, and many of the farmers who have managed to hang on are still hovering close to the financial edge.

Greg Williams, a banker with Northwest Farm Credit Services in Klamath Falls, Oregon, told *The New American* that the cost to the area for the 2001 water shut-off is estimated to be around \$200 million. Many of the region’s farmers calculate the cost at several times that amount and have brought a suit against the federal government for \$1 billion in damages.

Fedgov’s Fish Story

Adding salt to the farmers’ wounds is the knowledge that the ostensible reason for their woes — the supposedly endangered species — is merely a pretext for a broader agenda based on radical environmental ideology and quack “science.” The 2001 BOR decision to refuse water to the farmers was based on two “biological opinions” — one issued by the U.S. Fish and Wildlife Service for the sucker fish and the other by the National Marine Fisheries Service for the ocean-going coho salmon. It was soon revealed that the biological opinions that were endangering the survival of many family farms had not been subjected to outside peer review and were badly flawed in many important respects.

In response to the uproar caused by the federal water policy, the National Research Council (NRC), the operating arm of the National Academy of Sciences (NAS), established a special committee of scientists to investigate the matter. On March 13, 2002, Dr. William M. Lewis, chairman of the NRC/NAS committee, testified before the Resources Committee of the U.S. House of Representatives. Dr. Lewis, professor of Environmental Science and director of the Center for Limnology at the University of Colorado, reported that the NRC/NAS consensus contradicted the opinions undergirding the government’s draconian water policies.

“Despite the availability of a substantial amount of data collected by federal scientists and others, no clear connection has been documented between low water level in Upper Klamath Lake and conditions that are adverse to the welfare to the suckers,” the professor told the congressional audience. “For example,” Lewis stated, “incidents of adult mortality (fish kills) have not been associated with years of low water level. Extremes of chemical conditions considered threatening to the welfare of the fish have not coincided with years of low water level, and the highest recorded recruitment of new individuals into the population occurred through reproduction in a year of low water level.” Thus, said Lewis, the NAS scientists found “no sound scientific basis” for the federal policies ordering arbitrarily high lake levels and shutting off the irrigation valves.

The NRC/NAS study confirmed what many other scientists had already been saying about the so-called science providing the foundation for the new Klamath water policies. Among the many facts that are seldom, if ever, reported in the major media are these important points:

- There is no scientific “consensus” that the “endangered” sucker fish are truly endangered.
- Evidence shows that both species of sucker fish thrive with shallower, warmer lake levels, not with the historic high water levels recommended by the federal agencies.



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- Putting more of the warm Klamath Lake waters into the Klamath River instead of into irrigation not only hurts the farmers but the coho salmon, which need colder water.
- The Upper Klamath Lake area provides only 3.4 percent of the water flow at the mouth of the Klamath River and would not provide a much higher percentage even if all of the Upper Klamath waters were diverted to the river.
- Diverting more of the irrigation water to “wetlands” will hasten the dehydration of the area and could cause much of the Upper Klamath Lake and Klamath River to dry up completely in drought years.
- The seven years chosen as the basis for the government’s biological opinion were some of the wettest years on record in the past century, with 34 percent higher than normal inflows to the Upper Klamath Lake and 21 percent higher precipitation. Using these wet years as the norm radically skewed the BOR’s lake level recommendations to the ultra-high end.

In short, fedgov’s fish story is a whopper.

Weapon for Green Agenda

Like Americans in many other parts of the country who have been victimized by edicts and rulings under the Endangered Species Act, the overwhelming majority of Klamath Basin residents are thoroughly convinced the ESA is being used as a weapon *against* people — and specifically against the farmers — rather than as a remedy to help the fish. And, for once, even the ultra-liberal, ultra-green *New York Times* has voiced agreement. In a June 24, 2001 piece on the Klamath imbroglio entitled “An Endangered Act: Sacrifices to a Green Agenda,” *Times* writer Douglas Jehl noted that “much of the trouble the act has prompted comes from lawsuits brought by environmentalists who have learned to use the Endangered Species Act as a weapon.” Jehl, in a moment of candor rare for the *Times*, explained further:

Cast in the name of plants and animals, these lawsuits tend to have humans very much in mind. In their fights against logging, shopping malls, housing tracts and the like, environmentalists have found that they can erect no better barrier than persuading the Fish and Wildlife Service that the land is home to an endangered species. And they enlarge that obstacle by arguing that its home stretches far and wide.

That is precisely the pattern followed by the eco-fanatics in the actions that have brought about the present Klamath crisis. The federal decision to pull the plug on the farmers stems from ESA lawsuits brought by the Oregon Natural Resource Council, the Arizona-based Center for Biological Diversity, and the Earthjustice Legal Defense Fund (formerly Sierra Club Legal Defense Fund).

Many officials and scientists in the federal agencies resist the environmental radicals and try to administer the laws fairly and reasonably. But, over the years, a sizeable cadre of eco-extremists has grown within many of the agencies. For them, like their professional activist brethren in the Big Green organizations — Greenpeace, Environmental Defense, World Wildlife Fund, Sierra Club — the ESA is sacrosanct, trumping the U.S. Constitution, the Ten Commandments, the laws of nature, property rights, and common decency. For them, it is, as Timesman Douglas Jehl pointed out, a weapon — a political weapon of mass destruction.

Fishy Science

In June 2001, shortly after the government turned off the Klamath irrigation spigots, biologist David A. Vogel blasted that policy decision before the House Resource Committee field hearing in Klamath Falls. Vogel, a fisheries scientist with 29 years’ professional experience, including 15 years with the U.S. Fish



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and Wildlife Service and the National Marine Fisheries Service, declared that the Klamath farm situation is an “artificially created regulatory crisis that has been imposed on the Upper Klamath basin” without any semblance of sound science.

“In my entire professional career,” Vogel said, “I have never been involved in a decision-making process that was as closed, segregated, and poor as we now have in the Klamath Basin. The constructive science-based processes I have been involved in elsewhere have involved an honest and open dialogue among people having scientific expertise. Hypotheses are developed, then rigorously tested against empirical evidence. None of those elements of good science characterize the decision-making process for the Klamath Project.”

Vogel charged that the U.S. Fish and Wildlife Service “so selectively reported the available information that it can only be considered a distorted view of information available to the agency at that time.” The government’s own USFWS surveys, he pointed out, found both species of sucker fish to be “relatively abundant.” In short, listing the suckers as endangered was rotten science, if not outright fraud.

This was not the first time government biologists had resorted to fraud; in some cases, their conduct has gone beyond unethical into the criminal realm. Such was the case, for instance, regarding the planting of Canadian lynx hair in forests in Washington State to stop logging and recreational activities. Forest Service officials also were caught spreading seeds of ESA-listed plants in the San Bernardino Forest to stop mining operations and knowingly using false data concerning spotted owl habitat to stop timber harvests in California.

In 2002, the National Association of Home Builders scored a major coup in exposing the fraudulent “science” employed by the National Marine Fisheries Service in designating more than 150 watersheds in California, Oregon, Washington, and Idaho as critical habitat for salmon and steelhead. In a lawsuit challenging those watershed designations, the builders association produced a “smoking gun” internal memo by a high-level government official admitting to bogus methodology. “When we make critical habitat designations,” said the memo, “we just designate everything as critical, without an analysis of how much habitat” is actually needed for salmon populations.

When government officials with these attitudes work in tandem with the professional radicals from environmentalist groups, as they regularly do, the results are devastating. More than 500 animal species and over 700 plant species are listed under the ESA as “endangered” or “threatened.” Dozens more plant and animal species have been officially proposed for listing and hundreds more species are official candidates for listing. Hundreds of “habitat conservation plans” affecting millions of acres have been mandated. These ESA mandates regularly place absurd restrictions on human activity in every state of the union for the alleged benefit of dung beetles, snail darters, minnows, sand flies, spiders, spotted owls, mice, toads, snakes, and other feathery, furry, and scaly critters.

The ESA listings are used to stop or severely restrict farming, grazing, logging, brush trimming, fire fighting, manufacturing, mining, hunting, fishing, hiking, camping, rafting, boating, snowmobiling, four-wheeling, and many other activities. They are used to stop the building of barns, homes, hospitals, schools, factories, parks, golf courses, and many other projects.

Lethal Policies

The fanatical zeal of the militant enviros and government bureaucrats can even prove deadly for humans. That’s what happened on July 10, 2001, when four firefighters trapped in the “Thirty Mile Fire” in Washington’s Okanogan National Forest were sacrificed to the supposed benefit of the



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endangered bull trout. The stranded fire fighters radioed for helicopter water drops and waited in vain for more than nine hours, before they were killed by the blaze. Meanwhile, Forest Service officials dithered, worried that dipping the helicopter buckets into the nearby river might violate the habitat of the bull trout.

The Klamath Basin policies may not have caused any human deaths thus far, but it is arguably the largest and most severe assault on a single area. The Klamath Basin area directly affected encompasses the city of Klamath Falls (20,000 population) and the smaller Oregon towns of Merrill, Keno, Malin, and Midland, as well as the California border communities of Tulelake, Hatfield, and Tuber.

Not long ago the Klamath Falls area had a robust wood products industry base. But in the 1980s and 1990s, the Fremont and Winema National Forests were largely closed to logging, thanks to the ESA and the spotted owl. Bill Ransom, a Klamath Falls farmer, also worked many years in the timber business. "People around here see the same thing happening to the farming base that happened to our timber industry," he told *The New American*. "Most of the mills around here have been closed down. The same government agencies and environmentalists are now trying to use the same kinds of arguments and fake science to destroy farming in the area."

Despite the NRC/NAS findings and other recent developments favoring Klamath farmers and discrediting the government's water policies, the federal agencies continue to use the discredited biological opinions to mandate water levels that deny farmers most of their irrigation water. Prior to 2001, area farmers could count on 350,000 to 400,000 acre/feet of water for the area's 200,000 to 220,000 acres of crops — mostly potatoes, onions, cereal grains, mint, and alfalfa. In 2001, the water was cut off completely, then turned back on to a bare trickle in July, after it was too late for most crops. Since then, the farmers have been forced to give up 75,000 acre/feet of water per year, ostensibly to help the fish and area wetlands. In 2005, the water they must yield up increases to 100,000 acre/feet.

Glimmers of Hope

"Constantly losing more and more of our water is bad enough," says Bill Ransom, "but the real problem is that you just live under the constant fear that they could come in like in 2001 and do it again, just cut off all the water, at any time, right in the middle of growing season, and destroy everything, without any rational basis, without any peer-reviewed science — just by a simple, bureaucratic mandate. That's not right and that's what we're fighting."

Earlier this year the Ninth Circuit Court of Appeals, generally recognized as the most radical federal court in the land, surprised most observers by ruling against the federal government's listing of Oregon Coastal coho salmon as threatened. The Ninth Circuit let stand an earlier ruling by U.S. District Court Judge Michael Hogan that the National Marine Fisheries Service must count hatchery coho along with "wild" coho. The reason: According to the DNA evidence and the scientific consensus, the two fish populations are indistinguishable from one another, swim side by side in the rivers and streams, and have been spawning together for the past century. The illegal counting method used by the agency's "scientists" allowed them to obtain a false low fish count to justify listing the coho as threatened, as well as to justify draconian land use and water use policies.

However, the litigants and their supporters, who had fought for so long to reverse the coho salmon's "threatened" designation, may have little to celebrate. On May 28, the Bush administration stunned many observers when it announced new proposals by NMFS to leave in place 26 ESA listings for Pacific salmon and steelhead populations, despite the rulings by Judge Hogan and the Ninth Circuit, and the



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steadily mounting scientific evidence that many of these fish populations are not at risk.

Now the ball is in Congress' court; it created the Endangered Species Act and has allowed its massive, unconstitutional abuses. It's time now for Congress to send the ESA to extinction.

Sidebar — ESA: Reform or Abolish?

The July 17 congressional hearing on the Endangered Species Act in Klamath Falls, Oregon, was chaired by Rep. Ken Calvert (R-Calif.), chairman of the House Water and Power Subcommittee. In his opening statement, Rep. Calvert noted that in the 30 years since the Endangered Species Act (ESA) was enacted,

Only 7 species out of 1,300 listed have been 'recovered' and those are mainly due to other species conservation laws. That means that the Endangered Species Act has a success rate of .01% at best. But, at the same time, communities across the West are stopped cold in their tracks to the point where some legitimately wonder whether their way of life has become endangered. For instance, entire projects are suddenly scrapped in my district because of the delhi sands flower loving fly, or communities and forests are needlessly torched because the Endangered Species Act wouldn't allow for thinning. We are all too aware of the impacts here.

David A. Vogel, one of the most knowledgeable fish biologists concerning the Klamath Basin area, pointed out that the original listing of the Lost River and shortnose sucker fish were "based on a very limited, inappropriate technique and exceptionally small sample size." They were not endangered and should not have been listed. Federal officials, however, are making it nearly impossible to reverse that designation, he said, because "the standard to list a species is greatly different than the standard to delist a species."

"The two sucker populations are now conclusively known to be much greater in size, demonstrating major increases in recruitment, and are found over a much broader geographic range than originally reported in the 1988 ESA listing notice," Vogel said. "Despite this indisputable empirical evidence, current implementation of the ESA does not provide the flexibility necessary to downlist or delist the species."

Dave Carmen is a World War II veteran who came to Tulelake in the Klamath Basin as a homesteader, after surviving three amphibious landings in the Pacific, including the retaking of the Philippines. "When I arrived to see my homestead there was nothing there, just an expanse of opportunity," he testified. "No roads, no houses, no trees, just bare ground. I then pitched my tent in the corner of my homestead." Carmen and about 300 other homesteaders and their families "united and began to build schools, churches and a hospital in Klamath Falls. We started a community. We were living the American dream and our dream was achieved by hard work and dedication." But, in 2001, said Carmen, "our dream was changed into a nightmare" by the ESA. "Our community has become the poster child of abuse by the Endangered Species Act. I respectfully request that the members of this congressional committee never allow us to be betrayed by an Act that has become a tool to destroy rural America."

Carmen's sentiments echoed the anger and disappointment expressed by many of the citizens who attended the pre-hearing rally. Elliot Schwartz, a leader of the Rural Resources Alliance, from Brookings, California, declared: "The ESA is nothing less than a weapon of mass destruction for the eco-al-Qaida." Nearby, people carried signs such as: "ESA — Economic Suicide Act."

Photo of Klamath Basin



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