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APPENDICES

APPENDIX A

The Extraordinary Writ of Prohibition, Mandamus by Rule 20 is needed so Salmon Protection Device and Class action members can remedy the massive environmental damage to the Klamath River Basin.

The Federal District Court in Medford, Oregon issued an illegal and biased by 11) administrative law order saying Plaintiff in that action was suing KRRC and Not the FERC defendants. Petitioner in the instant action postulates Judge McShane didn't even read the complaint. Therefore, Petitioner humbly asks the Court to review this illegal order with the review based on the case facts herein in light of Mandamus and prohibition against this administrative law Judge. Therefore the illegal orders below must be vacated.

Ninth Circuit Court of Appeals illegal biased, administrative law order.

11/20/2024 11 **ORDER FILED.** (Sidney R. THOMAS, Jay S. BYBEE, Daniel P. COL

Upon a review of the record, the response to the court's October 11, conclude this appeal is frivolous. We therefore deny appellant's motion Entry No. 5), see 28 U.S.C. § 1915(a), and dismiss this appeal as fri (court shall dismiss case at any time, if court determines it is frivolous entertained in this closed case. DISMISSED.
[Entered: 11/20/2024 0

Federal Court District of Portland Oregon illegal biased and administrative law

1 order. Failure to adjudicate felonies.

09/17/2024	23	<p>ORDER: To the extent Plaintiff seeks to challenge the final dismissal in 3:24-cv-00755-JR, the federal rules preclude it. And to the extent Plaintiff seeks to challenge the licensing decision made by FERC regarding the Klamath Hydroelectric Project, this Court lacks jurisdiction. For these reasons, the Court cannot grant Plaintiff's request to proceed IFP. The Application, ECF No. 2, is DENIED. Plaintiff's Complaint, ECF No. 1, is DISMISSED with prejudice and without leave to amend. Any outstanding motions are DENIED as moot.</p> <p>IT IS SO ORDERED.</p> <p>DATED this 17th day of September, 2024.</p> <p>s/Michael J. McShane Michael McShane United States District Judge</p>
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2
3 **APPENDIX B**
4 **Complaint filed against Wayward Judge McShane**

5
6 Judicial Council of the Ninth Circuit

7
8 **COMPLAINT OF JUDICIAL MISCONDUCT**

9
10 **United States Court of Appeals for the Ninth Circuit**
11 **Office of the Circuit Executive**

12 **P.O. Box 193939**

13 **San Francisco, CA 94119-3939**
14

15 1. Name of Complainant: Dave White Pro Se Contact Address: 18965
16 NW Illahe st
17 Portland, OR 97229
18 Daytime telephone: (503) 608-7611
19

202. Name(s) of Judge(s): Judge McShane Court: Portland Oregon Federal court

1 Does this complaint concern the behavior of the judge(s) in a particular lawsuit or
2 lawsuits?

3 ☒ Yes ☐ No

4 If "yes," give the following information about each lawsuit:

5 Court:

Case

6 Number: 1:24-CV-1301-MC
7

8 Docket number of any appeal to the 9th Circuit: 24-5811_ Are
9 (were) you a party or lawyer in the lawsuit?

10 ☒ Party ☐ Lawyer ☐ Neither

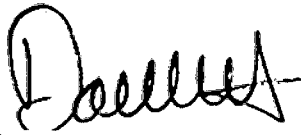
11 3. Have you filed any lawsuits against the
12 judge? ☐ Yes ☒ No

13
14 4. **Brief Statement of Facts.** The Judge believed untruthful nonsense of Judge
15 Russo and Nelson in KRRC's lawsuit See case docket report below. The case
16 was illegally dismissed when the defendants were in default.
17

18 5. **Acknowledgment, declaration and signature:**

19
20 I declare under penalty of perjury that the statements made in this complaint
21 are true and correct to the best of my knowledge.
22
23

1 (Signature) _____
2
3
4



10/22/24

5 6. The overriding, foundational complaint against Judge McShane is his
6 failure to convene as an Article III, Section 2 Court of the U.S.
7 Constitution. In violation of the recent Roper decision of the U.S.
8 Supreme Court, he used administrative rules in an unlawful manner
9 to excuse cherry-picked data and to override violation of Federal laws
10 under the U.S. Constitution.

11
12 Plaintiff filed the case in federal court in Portland Oregon on August
13 8, 2024 and served the defendants with the complaint and Preliminary
14 injunction. On August 26, 2024 Plaintiff filed a memorandum of
15 ignored stakeholder testimony in the court docket and served the
16 defendants. This document is the 2018 baseline FERC mitigation
17 document which contained no less than 21 errors.

18
19 The final day for the defendants to file anything in the docket was
20 8/29/2024. However, defendants still have not filed anything in the
21 case even though Plaintiff reminded them by email and phone many
22 times.

23
24 Therefore, plaintiff filed ECF 8 for a default judgement and ECF 9 for
25 a Summary judgement in the case on 9/1/2024. Legally these
26 pleadings were without error.

27
28 Then on 9/17/24 Judge McShane illegally dismissed the case.
29

1 This is a violation of:

2
3 14) 22-451 June 28th, 2024 Loper Bright Enterprises v. Raimondo
4 and Relentless, Inc. v. Department of Commerce.
5 https://www.supremecourt.gov/opinions/23pdf/22-451_7m58.pdf

6 18 U.S. Code § 4 - Misprision of felony

7 28 U.S. Code § 144 - Bias or prejudice of judge by 7)

8 Judges Code of Conduct by 10), Canons 2 and 3;
9 [https://www.uscourts.gov/judges-judgeships/code-conduct-united-](https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges)
10 [states-judges.](https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges)

11 To summarize, Judge McShane is guilty of mismanaging a case
12 involving senseless, illegal destruction of 4 dams on the Klamath
13 River. This judge ignored overwhelming evidence of a crime in
14 progress and refused to issue a stop-work injunction while the case
15 was being adjudicated. This has deprived local stakeholders of
16 critical hydro-electric power, irrigation water, flood control, property
17 value, and forest fire containment.

18 Judge McShane permitted Defendants to ignore basic principles of
19 scientific method by excluding overwhelming evidence of the harms
20 being inflicted on man and environment under FERC oversight. This
21 came in the form of two public hearings in Klamath (OR) and Yreka
22 (CA) Counties. Stakeholder testimony was unanimous against
23 removal of the dams, with one doctor in particular reporting that his
24 wife had died due to Chromium poisoning from silt behind the dams
25 and he was receiving a steady stream of patients with similar
26 symptoms. In spite of this, FERC allowed cherry-picked, ill-informed,
27 emotional testimony from upstream Native Americans to dominate
28 and determine the decision for dam removal. Judge McShane
29 ignored and overruled all of this testimony in his biased abuse of

30 Unbelievably, FERC failed to require KRCC to scrub the silt of toxicity
31 before release, thus killing all aquatic life in 120 River miles between
32 the Iron Gate Dam and the Pacific Ocean. This has left both banks of
33 the river permanently contaminated. Once again, Judge McShane
34 turned a blind eye to this Exxon-Valdez level environmental disaster

1 and annual flood damage projected at an average \$60,000,000. He
2 allowed trivial administrative procedure to completely blot out case
3 facts screaming for justice. Any such cherry-picking of evidence is
4 unlawful under the Loper decision of the U.S. Supreme Court.

5 Furthermore, Judge McShane ignored all evidence suggesting that
6 there were far less draconian solutions to alleged impedance of fish
7 migration than removing the dams. The dams are, in fact, to be
8 preserved under Article 7 of the Wild and Scenic River Act. If fish
9 were in fact being blocked from reaching their spawning grounds,
10 rather than mindlessly ripping out the dams the simple and sane
11 solution was/is to 1) dredge behind the dams, 2) heat scrub the silt
12 on-site, and 3) repair or install fish ladders. Plaintiff repeatedly called
13 attention to these common sense, scientific measures and the
14 evidence, but it was ignored, along with the 21 violations of law in the
15 FERC mitigation document, mentioned above. A Federal judge is
16 required by law to consider all material evidence in his ruling; which
17 Judge McShane obviously did not do.

18 For example, KRRC failed to install fencing required by FERC,
19 resulting in destruction of herds of elk and confessed to killing 2000
20 fish without a permit, including endangered species. Is a confession
21 not decisive in a court of law? FERC as the licensing agency is guilty
22 as Accessory after the Fact 1). Here again, Judge McShane ignored
23 all this clear and convincing case evidence and allowed trivial,
24 administrative procedure to supersede unprecedented vandalism of
25 public property and assault on the environment.

26 In addition, rather than judging the case on its merits, Judge McShane
27 relied in part on an illegitimate decision in another distinct lawsuit
28 against KRRC (now being appealed) to dismiss the instant case on
29 grounds that the two lawsuits were identical, or "regurgitated" as he
30 put it. In order to arrive at such a decision, the judge would have to
31 have not read one or both of the lawsuits in question.

32 The Judges' entire final ruling was based solely on this kind of
33 deceptive abuse of administrative law, which is trivial in light of the
34 evidence of monumental crimes committed that he swept under the
35 proverbial rug. He ignored all of the case facts and relevant Federal
36 law. This is precisely the kind of judicial malfeasance that the 22-451
37 June 28th, 2024 Loper decision was/is meant to curtail.

1
2 By 8) Judge McShane can be removed by the US Supreme Court.
3 Article three of US Constitution section 1 by 8) also by 28 U.S. Code
4 § 455 (b), (1)-Disqualification of justice, judge, or magistrate judge by
5 11).
6

7 **APPENDIX C -- Images**
8



SalmonProtectionDevice.com

Had a table at the local supermarket in Klamath Falls with documents about not removing the Klamath River dams. I had a conversation with a man whom has a dredging device. I need him to contact me. 503-608-7611. We are a 501 C3 Nonprofit research corp. Donations are tax deductible

No legal or scientific reason to remove any dam. Fish ladders work.

Class action members of the Complaint are now subjected to millions of dollars of private property damage due to future flooding, wells drying up, and loss of recreation and tourism

2. The silt left deposited on the sides of the river and all estuaries downstream (and fish), are contaminated with 40-200 times the EPA limit for Arsenic. There are also substantial amounts of Chromium 6 in the deposits by a 2009 Department of Interior chemistry test on the silt behind the illegally removed dams, FERC ignored. See Chapter https://salmonprotectiondevice.com/CDM_2011_0119_Screening-Level-Evaluation-of-Contaminants-in-Sediments.pdf

3. People and scientists in Western states are being forced to remove dams due to an "Ivory tower" Biological Opinion in 2008 which is now in violation of Loper Bright Enterprises cancellation of the Chevron Doctrine. Here we have academic fish biologists on the East coast telling the Northwest what to do with their dams with almost no input from the West coast. This scientific nonsense has depopulated endangered salmon species of salmon in violation of the Clean Water Act and Wild & Scenic Rivers Act, while ignoring the inexpensive solution of dredging and repairing the fish ladders. [https://www.nwp.usace.army.mil/Missions/Environmental-Stewardship/Fish/WVP-BiOP/As a life-long Chemical Engineer, Petitioner humbly asks the Supreme court to declare this Biological Opinion to be null and void.](https://www.nwp.usace.army.mil/Missions/Environmental-Stewardship/Fish/WVP-BiOP/As%20a%20life-long%20Chemical%20Engineer,%20Petitioner%20humbly%20asks%20the%20Supreme%20court%20to%20declare%20this%20Biological%20Opinion%20to%20be%20null%20and%20void.)

4. About Eighty percent of residents in Klamath County and Siskiyou County, California (each end of the river) voted overwhelmingly to keep the dams. FERC therefore illegally cherry-picked data contrary to the Loper Bright decision, to illegally give KRRC a license to destroy the environment in the Klamath Basin. The 2018 document, the baseline document for granting KRRC a license, was found to be seriously compromised by mitigation and regulatory violations resulting in vandalism of federal property, which the Supreme Court has an obligation to declare null and void

5. Administrative law is making a travesty of justice in the Ninth Circuit Court of Appeals. Judicial Immunity should be limited only to Article III Judges. Article III, Section 1 of the US Constitution grants no such immunity to judges who fail to display "good behavior." The Circuit Court Complaint in the Appendix contains this question in Section 3 "have you filed a lawsuit against this Judge?" implying that Judicial Immunity is not absolute when a Court convenes illegally under Administrative Law.

6. FERC 2018 document is junk science. <https://salmonprotectiondevice.com/Klamath-river-MEMORANDUM-OF-POINTS-ferc.pdf>
Public testimony of Physicians in a 2017 California Water Board public hearing confirmed levels of poisonous substance in silt harmful to human and animal life, which was and is being ignored. Starting at page 52 read testimony of PhDs who gave the Defendants far more colorful names than the "pseudo-scientist" label we have ascribed to them.

7. FERC illegally by Loper Bright failed to evaluate this testimony, in which University Professors called the Pseudo Scientists at KRRC names unfit to publish, resulting in untold damage to man and environment. https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/ocs/lower_klamath_ferc14803/comments/gjerak1.pdf

DISTRICT 4, COLORADO



1987年、1988年、1989年

Contact Us



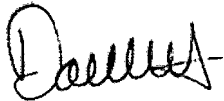
Court Plans and General Orders

Hon. Timothy M. Tymkovich

Hon. David M. Ebel

Chairman Phillips Meetings@ferc.gov;
Commissioner Christie Meetings@FERC.gov;
Commissioner Rosner Meetings@FERC.gov;
Commissioner See Meetings@FERC.gov;
Commissioner Chang Meetings@FERC.gov

1 Attorney for Legal Counsel for all defendants
2 Danielle Mechling
3 Attorney-Advisor
4 Federal Energy Regulatory Commission
5 Office of Enforcement, Division of Investigations
6 Tel: 202-502-8924
7 E.mail: danielle.mechling@ferc.gov
8 ☐ Via hand delivery
9 ☐ Via U.S. Mail, 1st Class,
10 Postage Prepaid
11 ☐ Via Overnight Delivery
12 ☐ Via Facsimile
13 XX Via Email
14 ☐ Via CM/ECF notification
15 to the extent registered DATED: 9/29/2025
16 By: David White

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