DOCKETED

ORIGINAL

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUN 21 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NATIONAL WILDLIFE FEDERATION; et al.,

Plaintiffs-Appellees,

v.

NATIONAL MARINE FISHERIES SERVICE; et al.,

Defendants,

FRANKLIN COUNTY FARM BUREAU FEDERATION; et al.,

Defendant-Intervenors,

and,

NORTHWEST IRRIGATION UTILITIES; et al.,

Defendant-Intervenors-Appellants,

v.

STATE OF OREGON,

Plaintiff-Intervenor-Appellee.

No. 05-35569

D.C. No. CV-01-00640-JAR
District of Oregon
(Portland)

05-35569, 05-35570

NATIONAL WILDLIFE FEDERATION; et al., Plaintiffs-Appellees, v. NATIONAL MARINE FISHERIES SERVICE; et al., Defendants-Appellants, and, NORTHWEST IRRIGATION UTILITIES; et al., Defendant-Intervenors, v. STATE OF OREGON, Plaintiff-Intervenor-Appellee.	No. 05-35570 D.C. No. CV-01-00640-JAR District of Oregon (Portland) ORDER

Before: TASHIMA and THOMAS, Circuit Judges

Appeal nos. 05-35569 and 05-35570 filed June 16, 2005, are preliminary injunction appeals. The court sua sponte consolidates these appeals.

Appellants and Intervenors-Appellants' motions for leave to exceed the page limitation for the emergency motions for stay of the district court's June 10, 2005 order pending appeal is granted.

Appellees' motions for leave to exceed the page limitation for the oppositions to the emergency motions for stay are granted.

Intervenors-Appellants' motion for leave to exceed the page limitation for its reply to the opposition is granted.

Columbia Snake River Irrigators Association and the Eastern Oregon Irrigators Association's motion for leave to file an amicus curiae memorandum in support of the emergency motion for stay is granted. The Clerk shall file amicus curiae memorandum received June 20, 2005.

The Treaty Tribes' joint motion for leave to file a joint amicus curiae memorandum in opposition to the emergency motion for stay is granted. The Clerk shall file the joint amicus curiae memorandum received June 20, 2005.

Appellants and Intervenors-Appellants' emergency motions for stay of the district court's June 10, 2005 order pending appeal are denied. Appellants and Intervenors-Appellants have not demonstrated "either (1) a likelihood of success on the merits and a possibility of irreparable injury, or (2) the existence of serious

questions on the merits and a balance of hardships tipping in its favor," under the Endangered Species Act. *Fund for Animals v. Lujan*, 962 F.2d 1391, 1400 (9th Cir. 1992) (citation omitted).

If they have not already done so, within 7 calendar days of the filing date of this order, the parties shall make arrangements to obtain from the court reporter an official transcript of proceedings in the district court which will be included in the record on appeal.

The briefing schedule for these consolidated appeals is set as follows. The parties shall file simultaneous briefs within 10 calendar days from the filing date of this order. The briefs must be received by the court on the due date. All parties on a side are encouraged to join in a single brief to the greatest extent practicable. *See* 9th Cir. R. 28-4. If appellants fail to file timely the opening briefs, these appeals will be dismissed automatically by the Clerk for failure to prosecute. *See* 9th Cir. R. 42-1.

These consolidated appeals shall be calendared as expeditiously as possible to be determined by further order of the court.