

Committee on Resources

Statement

Idaho's Perspective and
Regional Contribution to Recovery of Columbia Basin Anadromous Fish
Dirk Kempthorne, Governor
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Before the
Committee on Resources
United States House of Representatives
Hydropower, River Management, and Salmon Recovery Issues
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Madam Chair and distinguished members of the Committee, my name is Michael Bogert and I am counsel to Idaho Governor Dirk Kempthorne.

I appreciate the opportunity to appear before you today and articulate Governor Kempthorne's perspective on one of the most complex issues of the day - salmon recovery in the Pacific Northwest.

I. Idaho's Perspective on the Problem

Prior to the time we took office in January of 1999, the Kempthorne Administration has been preparing for the upcoming decisions to be made very soon by the federal agencies. And we have been preparing for a very compelling reason: Idaho stands to lose nothing short of everything in the aftermath of the salmon recovery debate and, perhaps, ironically, with no recovery of the salmon.

Let me give you Idaho's common perspective on this issue as perhaps articulated by some of our stakeholders in this process.

The federal agencies charged with recovering the anadromous fish believe that they need Idaho water to help flush the fish ~~migrate~~ out to the ocean. Some groups argue that the four Snake River dams, which support important transportation and agriculture components in Idaho, should be destroyed.

Meanwhile, some of the fish that leave Idaho in the spring are being eaten alive by birds in the estuary before they even have a chance to migrate to sea. Once out in the ocean, they might be harvested.

Several years later, if they are lucky, they will return and could be eaten by predators at the mouth of the estuary or, further up the river, subject to tribal harvest. If they are *really* lucky, maybe a few fish will return home to spawn and die. But to Idaho, these returning fish are few and far between.

My point of all this is not to point the finger at any single component of this problem, but instead describe how, from Idaho's perspective, sacrificing our state's water and voluntarily improving our native habitat may seem like a futile exercise when it is such a Herculean effort to get anadromous fish out and back to our state.

II. Idaho's Role in the Process

With this perspective in mind, I would like to briefly describe what we see as our role in recovering the species and how we are willing to participate in the process.

Governor Kempthorne believes that only through a regional collaborative effort will there ever be a real chance for recovery of anadromous fish in the Pacific Northwest.

Every state in the region and all of the stakeholders impacted by this process must step forward and contribute. No one state can recover salmon scientifically, and no single state can afford to shoulder a disproportionate burden of the process. Only through regional cooperation - not dictated by the federal government - is there a chance to achieve real success.

To that end, Governor Kempthorne sent his staff to meet with the staff of his fellow governors in the region. We have provided our regional partners Governor Kempthorne's perspective on salmon recovery, and his effort has been well-received.

III. Idaho's Perspective and Contribution to Salmon Recovery

This hearing is about what can be done now and in the near-term to help the fish, and I would like to briefly describe Governor Kempthorne's outlook on these issues.

In general, the Governor believes that any effective program to recover the species must be supported by science, politically palatable, and economically feasible. We begin our analysis of this problem by slightly revising the traditional "All-H" approach - Habitat, Harvest, Hatcheries, and Hydropower - with an additional H - Humans.

A. Humans

From our vantage point, much of our state's culture and economy are at stake in the decision to be made by the federal government in the coming weeks.

Accordingly, Governor Kempthorne believes that no singular component of the salmon recovery burden should be borne on the backs of any single stakeholder to the process, including the states. Let me give you the most recent example of this problem, and it is going on as we speak.

The United States Army Corps of Engineers recently estimated that over 640,000 listed salmon and tens of millions of hatchery stock are eaten alive at the mouth of the Columbia River estuary during the spring migration season. The culprits: the world's largest colony of voracious fish-eating Caspian terns who just happen to be nesting on federally-created Rice Island at the time the young salmon are attempting to make their way to sea.

Idaho participated in a collaborative process involving the states and federal agencies, including the Corps

and the United States Fish and Wildlife Service. This process resulted in a plan that involved providing alternative nesting habitat for these birds, which happen to be protected under the Migratory Bird Treaty Act. The plan that was developed included a component that ~~included~~ entailed harassing these birds from the most critical of areas where the endangered fish are slaughtered by the birds.

Not surprisingly, a group of environmentalists brought a lawsuit a few weeks ago and claimed that the Corps had failed to comply with the National Environmental Policy Act and asked that the harassment strategy be halted immediately.

Their key piece of evidence? Written comments by the Fish and Wildlife Service that science had yet to prove that saving 640,000 listed individual species had any proven benefit to salmon recovery. A federal judge bought the argument and endangered fish are now being consumed by non-endangered birds with the willing assistance of the Fish and Wildlife Service.

We submit that this is a paradigm of dysfunction. As a matter of fundamental science, a protected young salmon that is eaten alive by a bird is not going to come back to Idaho to spawn.

But our perspective is more focused. At the same time that Fish and Wildlife is telling us that saving 640,000 listed fish will do nothing to recover these endangered species, the federal government is assessing how much Idaho water is needed to seemingly make fish migration easier. The answer to this question goes to the very life blood of our state's agricultural economy in the Upper Snake River Basin.

Our initial reaction is how dare - how dare the federal government tell Idaho and the world that preventing the outright slaughter of hundreds of thousands of endangered young salmon in the Columbia River estuary will have no impact on the problem, and then in the same breath tell us that more water from our state is needed to get the fish out to sea? We appreciate the committee's brief indulgence for this moment of righteous indignation.

Notwithstanding the current position of Fish and Wildlife on predator control, we shudder to think of what the federal government would do to the unfortunate soul on a rafting trip who accidentally floats his boat over a salmon spawning bed during the height of their reproductive season. I wonder if he could use Fish and Wildlife's current position on Caspian terns as a legal defense?

I use this example to highlight the contributions from all of the stakeholders that must occur in order for there to be any chance of progress in salmon recovery. With this, I will quickly move on to our perspective on the other Hs.

B. Habitat

Our perspective on habitat improvement is that the Endangered Species Act, as currently implemented, provides no safe harbors if private landowners voluntarily improve conditions for salmon. Many of our stakeholders in this process would just as soon take their chances on becoming ensnared in the ESA's "take" prohibition under section 9 than voluntarily undertake habitat improvement projects.

But we also understand that we can make important habitat improvement in Idaho. We are committed to identifying things we can do immediately, such as diversion screening and water quality improvement, in order to make things better for fish in Idaho.

On the other hand, as we move forward on these things, we expect that the region will look seriously at predator control and improvement in the estuary conditions.

C. Harvest

Idaho continues to be perplexed that wild fish, listed under the Endangered Species Act, can be subjected to a regulated harvest at all. Can you imagine the hue and cry if the government suddenly declared a "harvest" season on the grizzly bear?

We are sensitive to the industries in the Pacific Northwest that depend on a yearly salmon harvest, and we are similarly mindful of the harvest rights possessed by Native American tribes through treaties with our federal government.

Idaho, as with other states in the region, is committed to the process of discussing harvest allotment through the *United States v. Oregon* litigation. This is one area where collaboration by all of the region is ongoing and should continue.

D. Hatcheries

The hatchery arena has a symbiotic relationship with harvest allocation, and Idaho generally supports scientifically-based hatchery programs.

In the case of captive brood stock hatcheries, this remains a program of vital and important investment to our state.

As a means of supplementation, the hatcheries in our state provide our sportsmen an opportunity for a fishing season and are an excellent management tool while we rebuild our wild stocks.

E. Hydropower

From Governor Kempthorne's perspective, the debate over dam breaching will continue as long as reasonable scientists differ over the data. And even if the science was clear today - and it is not - it would take at least a decade of political debate on Capitol Hill before they are removed.

The costs of dam removal could be as high as \$1 billion, and, by the Corps own calculation, it could be several years before the silt and debris left behind the dams becomes manageable enough to provide any benefit to the fish. We are left with the unsettling impression that with such political and scientific controversy ahead in the next 20-25 years, the game could be lost before it has even started.

Accordingly, until we have clear evidence that the salmon can expect immediate improvement if the dams are removed, Idaho is opposed to taking on the risks to our Port of Lewiston and Idaho agricultural economy.

But this perspective does not end the "to do" list for the dams. During his tenure as a United States Senator, Governor Kempthorne was committed to investing in dam improvements while the science continues to be debated.

At an irreducible minimum, the best and brightest minds in the federal government and the states should be dedicated to making fish passage at the dams better so that the fish receive the benefits of the finest

technology our nation has to offer.

Idaho supports minimum gap runner turbine technology in order to improve the reasonable accommodation that must be made for the regions' hydropower needs and the salmon migration. This technology is being installed at Bonneville Dam and the preliminary results have indicated increased fish survivability.

Likewise, fish collectors, fish ladders, and bypass systems have suffered from technological neglect while the controversy over the existence of the dams has raged onward. This must end immediately, because the losers in the failure to make capital improvements in these structures are the salmon.

Finally, at the risk of sounding repetitive, we must put on the record our position about augmented Snake River flows as a benefit to out-migrating juvenile salmon. At Governor Kempthorne's direction, our Department of Water Resources has studied the issue extensively in cooperation with our Department of Fish and Game. They have determined that based on the current flow-survival data developed by NMFS, there is no basis for NMFS concluding that early or late summer flows from the Upper Snake provide significant biological benefits for out-migrating juvenile salmon.

Nonetheless, our State Legislature just enacted and the Governor signed a one year authorization for the Bureau of Reclamation to access 427,000 acre feet of Idaho water for flow augmentation purposes. This good faith gesture should be recognized as our willingness to continue to participate in a regional solution.

IV. Conclusion

Governor Kempthorne appreciates the opportunity to present his perspective on these important issues today, and we look forward to the challenging work ahead for all of us in the region.

Idaho is optimistic that the state and regional stakeholders will join together and empower themselves throughout this process. At the end of the day, the best solutions are those that are owned by the participants rather than those that are imposed by edict.

Thank you.

[Attachment](#) - February 18, 2000 letter from the United States Fish and Wildlife Service referenced in testimony.

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