For immediate release
February 24, 2022

Groups announce intent to sue feds over threats to Shasta River coho salmon

Contacts:
Nick Joslin, Friends of the Shasta River, 530-905-0264, nick.joslin@shastariver.org
Tom Wheeler, EPIC, 206-356-8689, tom@wildcalifornia.org
Sangye Ince-Johannsen, Western Environmental Law Center, 541-778-6626, sangyeij@westernlaw.org

ARCATA, Calif.—Today, on behalf of the Friends of the Shasta River and Environmental Protection Information Center, the Western Environmental Law Center notified the National Oceanic and Atmospheric Administration’s National Marine Fisheries Service (NMFS) of the groups’ intent to challenge its flawed Shasta River safe harbor program in federal court. The NMFS safe harbor program provides legal immunity for harming protected species in exchange for stewardship practices on private land.

The groups allege NMFS violated the Endangered Species Act by allowing water diverters to kill threatened coho salmon under “enhancement of survival permits” based on unlawful and scientifically incorrect biological opinions. NMFS’s decision to issue the permits despite these flawed foundations violates its duty to not “jeopardize” threatened coho salmon or adversely modify their habitat.

“We are disappointed that the federal government has given a free pass to billionaire ‘ranchers’ at the expense of the Shasta River and its threatened coho salmon,” said Tom Wheeler, executive director of EPIC. “At a time when we are investing millions of dollars in the Klamath system, including removing four dams, endorsing practices that leave the Shasta River inhospitable to wild fish is unconscionable.”

NMFS’ Shasta River safe harbor agreements are purportedly intended to address the rapid decline in coho salmon in the Shasta. While these agreements with 14 water diverters are intended to provide a “net conservation benefit,” they let diverters off the hook for the damage they cause to the river. The cumulative benefit of all 14 agreements, even if they were all successfully implemented, would not be nearly enough to halt the spiraling decline in coho numbers, much less assure recover the species.

“We are taking this step with considerable reluctance” said Andrew Marx, board president of Friends of the Shasta River. “During the safe harbor planning process, a coalition of Tribal and conservation groups provided detailed comments outlining substantive concerns over the proposed Shasta River safe harbor agreement. But those comments were mostly ignored. Over the last year, our group expressed our concerns with the safe harbor agreement through briefings and dialogue with agency staff. Unfortunately, our concerns were again ignored. The agency has been unwilling to alter the program in any substantive way, forcing us into the courtroom.”

“The Shasta River safe harbor agreements represent a fundamental misuse of the Endangered Species Act and its permit provisions,” said Sangye Ince-Johannsen, attorney at the Western Environmental Law Center. “We intend to challenge a number of legal deficiencies underlying NMFS’s decision to enter the agreements and grant the permits to the landowners. At bottom, it just doesn’t pass the straight-face test to say that permits that allow landowners to continue to harm and kill threatened salmon somehow ‘enhance the survival’ of the species or provide a ‘net conservation benefit.’”

“We are seeking a restructuring of how much-needed federal and state assistance for Shasta River restoration is conceived and implemented,” said Bill Chesney, retired California Department of Fish and Wildlife fisheries biologist and Friends of the Shasta River board member. “Agencies first need to recommend and implement science-based flow and temperature standards sufficient for coho recovery in the Shasta River. That
needs to come first—not just as an afterthought once the safe harbor participants have already been given immunity for their destructive practices.”

The Shasta River was once the most important salmon-producing tributary of the Klamath River. Its fish have been an essential component of traditional Tribal livelihoods and culture. However, the river’s productivity has greatly diminished due to excessive diversions—which in 2021 virtually dewatered the river on occasions.

**Photos for reporter use:**
- [Parks Creek on Shasta Springs Ranch](Credit: Andrew Marx). Parks is the Shasta’s most potentially productive and agriculturally compromised tributary within safe harbor lands.
- [Shasta River salmon habitat at Big Springs](Credit: Andrew Marx). It was once known as Puru-Hey-Ee by the Native Shasta people.
- [Shasta River](credit: Andrew Marx)
- [Shasta River 1](Credit: Andrew Marx)
- [Shasta River 2](Credit: Andrew Marx)
- [Shasta River dry rocks](credit: Nick Joslin)
- [Coho juveniles 1](photographer requested no credit)
- [Coho juveniles 2](photographer requested no credit)
- [Coho juveniles 3](photographer requested no credit)

###