

1 No \_\_\_\_\_  
2 IN THE SUPREME COURT OF THE UNITED  
3 STATES  
4  
5

---

6  
7 *DAVID C. WHITE Petitioner*

8  
9 V.

10 *Respondents*

11 *Federal Energy Regulatory Commission (FERC)*

12 *Chairman Willie L. Phillips, R1*

13 *Commissioner Mark Christie R2.*

14 *Commissioner David Rosner R3*

15 *Commissioner Lindsay S. See R4*

16 *Commissioner Judy W. Chang R5*  
17

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18  
19 On Petition for an Extraordinary Writ of Prohibition, Mandamus by Rule

20  
21 20 to the United States Federal, Court the Ninth Circuit Docket 24-

22  
23 5811  
24  
25

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26  
27 **Extraordinary Writ of Prohibition, Mandamus by Rule 20.**  
28

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29  
30 *Respondents Counsel of Record*

31 *Danielle Mechling*

32 *Federal Energy Regulatory Commission*

33 *Tel: 202-502-8924*

34 *Email: danielle.mechling@ferc.gov*

1  
2 **QUESTIONS[S] PRESENTED**

3 Q(x)

- 4 1. Shall any hydroelectric dam be removed in the United States without  
5 express consent of Congress, when the simple, scientific solution is  
6 dam maintenance to include dredging to remove contaminated silt,  
7 heat-scrubbing toxins, installing or repairing fish ladders, and  
8 retrofitting for earthquake if needed?  
9
- 10 2. Shall U.S. Courts persist in extreme bias against pro se or any litigant,  
11 contrary to Loper Bright, especially in use of Administrative Law to  
12 nullify Federal Law for Summary Judgment, by dismissing a case as  
13 frivolous when defense fails to Appear, in collusion for obstruction of  
14 justice?  
15
- 16 3. Shall a judge who dismisses a case when Defense fails to Appear be  
17 guilty of Misprision of Felony, having reviewed the felonies admitted by  
18 abandonment of the Defense, and then doing nothing to adjudicate  
19 them, in defiance of Loper Bright?  
20
- 21 4. Shall the Circuit Court of Appeals violate its protocol for selecting a  
22 unique panel of judges for each case tried when a litigant has  
23 simultaneously presented two or more unique cases for review?  
24
- 25 5. Shall “good behavior” in Article III, Section 1 be defined in part by  
26 compliance with Federal Rules, Federal Laws and the U.S. Constitution  
27 itself.  
28
- 29 6. Shall the Circuit Court of Appeals refer a PETITION FOR  
30 RECONSIDERATION OF DISPOSITIVE ORDER to the same panel of  
31 judges whose extreme bias in dismissing that very case is being  
32 challenged by pro se, or any litigants?  
33
- 34 7. Shall any Court dismiss a Complaint as frivolous when Defendants are  
35 in default by the 21+1 day FRCP rule or have otherwise made public  
36 confession of a crime such as killing hundreds of endangered fish?  
37
- 38 8. Shall judicial immunity be reserved exclusively for Courts convened

1 under Article III of the U.S. Constitution and denied to illegal  
2 Administrative Law courts convened in defiance of Loper Bright?

3  
4 9. Shall pseudo-scientists in an East Coast Agency be denied extra-  
5 Congressional authority to order vandalism of West Coast dams (2008  
6 Bi-Op), contrary to the opposition of West Coast scientists and local  
7 stakeholders?

8  
9 10. Shall judges in the Ninth Circuit persist in violation of Loper Bright, thus  
10 denying citizens 14th Amendment equal protection under the law,  
11 compared to citizens in other jurisdictions such as the Tenth Circuit, which  
12 comply with Loper Bright, per their home page?

13  
14 11. Shall a ruling of “frivolous” be rendered only after a thorough  
15 investigation of case facts, rather than subjective Judicial Discretion.

16  
17 12. If a case is found to be frivolous after thorough investigation shall the  
18 accuser be subject to the same penalty that he attempted to inflict on the  
19 accused?

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17 **TABLE OF AUTHORITIES**

18

19 **Court Cases:**

20

21 13) Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002): 12.

22 14) 22–451 June 28th, 2024 Federal Case number 22–451 in Loper Bright

23 Enterprises v. Raimondo and Relentless, Inc. v. Department of Commerce

24 that all courts shall no longer function as administrative law courts.

25 [https://www.supremecourt.gov/opinions/23pdf/22-451\\_7m58.pdf](https://www.supremecourt.gov/opinions/23pdf/22-451_7m58.pdf) 10, 11, 12,

26 14, 17, 23, 28.

27

28 **Federal Law:**

29

30 1)18 USC 3 accessory after the fact 9, 13, 30.

31 2) 16 USCA § 1532(19); 9, 11.

32 3) 18 U.S. Code § 41. 9, 11.

33 4) The Endangered Species Act of 1973.

34

35 <https://www.fws.gov/laws/endangered-species-act/section-11>.....9, 11.

36

37 5) 18 U.S.C. § 1001 False Statements, Concealment....9, 11, 23...

38

39 6) 29 CFR § 1606.8 (1) – Harassment. 9, 11.

40

1 7) 28 U.S. Code § 4101 Defamation 9, 11, 28.

2  
3 9) 33 U.S.C. §1251 Clean Water Act, Section 404. 9, 11.

4  
5 10) [https://www.uscourts.gov/judges-judgeships/code-conduct-united-](https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges)  
6 [states-judges](https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges) . 15, 22, 23, 28.

7  
8 11) 28 U.S. Code § 455 (b), (1) 9, 11, 30.

9  
10 13) 18 U.S.C. 4: Misprision of Felony 23.

11  
12 15) 8 U.S.C. 4.

13  
14 **Constitutional Provisions:**

15  
16 8) Article III of U.S. Constitution, Section 1. 30, 31.

17  
18 Article VI, Section 2 of U.S. Constitution.

19 Amendment V of the U.S. Constitution.

20 Amendment XIV of the U.S. Constitution.

21  
22  
23 **(Table of Authorities Ends)**

24  
25 IN THE SUPREME COURT OF THE UNITED STATES

26  
27 Extraordinary Writ of Prohibition, Mandamus by Rule 20.

28  
29 Petitioner respectfully prays that an Extraordinary Writ to review the  
30 judgement below be granted.  
31

32  
33 **OPINIONS BELOW**

34  
35 **ORDER FILED.** (Sidney R. THOMAS, Jay S. BYBEE, Daniel P. COL  
36 Upon a review of the record, the response to the court's  
37 October 11, conclude this appeal is frivolous. We  
38 therefore deny appellant's motion Entry No. 5), see 28  
39 U.S.C. § 1915(a), and dismiss this appeal as frivolous

(court shall dismiss case at any time, if court determines it is frivolous entertained in this closed case. DISMISSED.  
[Entered: 11/20/2024

09/17/2024	10	<p>ORDER FILED. Michael McShane</p> <p>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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## JURISDICTION

Date of order to review is 11/20/2024 in Docket 24-5811. Basis for

Jurisdiction for this case is a federal environmental question. An

environmental disaster in the Klamath Basin has resulted from

Respondent's licensee, Klamath River Renewal Corporation's (KRRC)

willful destruction of the environment in violation of known stipulations and

restrictions of the FERC license. FERC cherry-picked data, ignoring an

approximate 80% public vote opinion poll and adamant public testimony

1  
2 against illegal dam removal by 20).

3  
4 Therefore, Respondents illegally gave KRRC a license to remove Klamath  
5  
6 River dams by the now obsolete Chevron Doctrine (back to 2005 by Loper  
7  
8 Bright). This makes Respondents guilty of KRRC's alleged crimes by  
9  
10 Accessory after the Fact 1).

11  
12 Additional violations are: 18 USC 3, 16 USCA § 1532, 2) 18 U.S. Code §  
13  
14 41 3), Item 3 below, The Endangered Species Act of 1973, 4), 18 U.S.C. §  
15  
16 1001, 5), 18 USC 3, 29 CFR § 1606.8, 6), 28 U.S. Code § 4101,  
17  
18 7) 33 U.S.C. §1251, 9), 18 U.S.C. 1743, 28 U.S. Code § 455 (b), (1) and  
19  
20 FRCP 16.

21  
22 This Court has jurisdiction, over the subject matter of this Complaint,  
23  
24 because the illegal and unlawful actions of KRRC are violated Federal  
25  
26 Law, to include the Wild and Scenic Rivers Act, PL 90-542, the Clean  
27  
28 Water Act, and the Commerce Clause of the U.S. Constitution. The  
29  
30 Respondents are complicit in these statutory violations by negligently  
31  
32 providing KRRC with its license.

## 33 34 **STATEMENT OF THE CASE**

### 35 36 **Flaunting of Loper Bright Enterprises Landmark Decision**

37  
38 Acceptance of this Writ is necessary -- indeed essential for survival of a  
39  
40 free nation -- due to universal flaunting of the Supreme Court's Loper,

1  
2 Bright, Enterprises landmark decision of June 28, 2024 by 1) among  
3  
4 judges of the Ninth Circuit Court of Appeals. See Q(2). The judicial  
5  
6 process unfolded according to procedural rules known only to “court  
7  
8 insiders,” as follows:  
9

10 To set the stage, Respondents refused to make any Appearance in the  
11  
12 federal case initiated in Portland, Oregon. Why would any rational actor  
13  
14 do this unless they were aware of being protected by some spoken or  
15  
16 unspoken stratagem of a dishonest judge? Sure enough, instead of  
17  
18 immediately granting Petitioner the Summary Judgment in compliance with  
19 the 21+1 day federal rule, Petitioner was penalized by illegal dismissal  
20  
21 under Administrative Law. See Q(7). This is Collusion in Obstruction of  
22  
23 Justice, whether spoken or unspoken. See Q(2).  
24

25 This same scenario has been played out in five unique, substantive  
26  
27 cases initiated by Petitioner in the past year. It’s the same kind of judicial  
28  
29 dishonesty that has frustrated countless other litigants in the Ninth Circuit  
30  
31 for decades. Hundreds, if not thousands, are longing for the Supreme  
32  
33 Court to exercise the authority and responsibility granted by the  
34  
35 Constitution to dismiss judges that are not living up to Article III standards  
36  
37 of “good behavior.” See Q(5).  
38



1 On August 8th, 2024, Petitioner filed a Complaint against the  
2  
3 Federal Energy Regulatory Commissioners (FERC) which had unlawfully  
4  
5 issued Klamath River Renewal Corporation (KRRC) a license to remove  
6  
7 four of the dams on the lower Klamath River. This was accomplished by  
8  
9 cherry picking data as part of a scheme to supplant federal  
10  
11 environmental law 12) which assumes and by implication requires  
12  
13 preservation of the dams. See Q(9).

14  
15 As evidence of KRRC lawbreaking, Petitioner found more than nine  
16  
17 violations of environmental law in the FERC licensing document itself.

18  
19 Judge McShane in the case 1:24-CV-1301-MC then misconstrued or  
20  
21 ignored this lawful evidence to claim that Petitioner was suing FERC in

1  
2 conjunction with KRRRC, resulting in Petitioner's loss of the KRCC case.

3  
4 This false correlation was legal duplicity and an egregious falsehood.

5  
6 Respondent was simply referring to the FERC document as evidence.

7  
8 Respondents were in Default by failing to respond to the Complaint.

9  
10 This, even though Petitioner called and emailed to remind them and also

11  
12 introduced the Complaint and Memorandum of Points Pleading which

13  
14 proves FERC violated their own rules and federal law by illegal cherry-

15  
16 picking data. This document was previously uploaded to this docket.

17  
18 About 80% of local stakeholders didn't want the dams removed.

19  
20 FERC blatantly ignored overwhelming and vociferous objections of local

1 stakeholders in polling and sworn testimony against removal of the dams  
2  
3 in both Siskiyou County, California and Klamath County, Oregon. One-  
4  
5 doctor stands out, who testified that his wife died due to the Chromium 6  
6  
7 poisoning and his steady flow of patients likewise suffering the same  
8  
9 symptoms. And this leads to the final unresolved issue of deadly arsenic  
10  
11 deposits left lining the banks of the Klamath River by FERC's  
12  
13 incompetent supervision of this project. This is an environmental  
14  
15 catastrophe more serious than the Exxon-Valdez oil spill of the last  
16  
17 century.

#### 18 19 **REASONS FOR GRANTING THE WRIT**

20  
21 Deadly arsenic deposits on the banks of the Klamath River must be  
22  
23 removed. But, the Federal Court illegally dismissed this case when

1  
2 Respondents (FERC Commissioners) were in default by the 21 + 1 day  
3  
4 Rule and the court should have granted Summary Judgment. See Q(7). In  
5  
6 addition, the Federal Court did not provide the requested hearing to argue  
7  
8 the Complaint.

9  
10 Thus, the Appeal was filed, but then three Ninth Circuit Court Justices  
11  
12 illegally dismissed the Appeal because they naively accepted the illegal  
13  
14 dismissal of the Federal Court instead of ruling on the illegal procedure.  
15  
16 The Federal Court judge had two Complaints pending against him at the  
17  
18 time in the Ninth Circuit for illegal judicial bias, violations of Judicial Code of  
19  
20 Conduct by 10) and illegal abuse of Administrative Law. Likewise, the three  
21  
22 Appeals Court Justices have similar Complaints and dockets filed in the  
23  
24 Ninth Circuit Court.

25  
26 The Appellees abandoned these case issues by failure to make a  
27  
28 response to any pleading in Docket 24-5811 and Case 1:24-CV-1301-MC.

29  
30 The judge's subsequent dismissal makes this a Conspiracy in Obstruction  
31  
32 of Justice and such judges must be held liable for Misprision of Felony.

33  
34 See Q(3). To nip future problems in the bud, the Court is urged to clarify  
35  
36 the definition of "good behavior" to include this kind of legal chicanery and  
37  
38 limit Judicial Immunity to Article III courts only. See Q(5) and Q(8).

39  
40 The much-abused concept of "frivolous" must be removed from the realm

1  
2 of subjective Judicial Discretion and rendered only after a thorough  
3  
4 investigation of the facts and law. See Q(11). At that point if the  
5  
6 accusation is found to be frivolous, the accuser should receive the same  
7  
8 judgment he sought to inflict on the accused See Q12).

9  
10 To avoid future illegitimate dam removals, the Court is urged to declare the  
11  
12 2008 Bi-OP (Biological Opinion) null and void, based as it is on junk  
13  
14 science.

## 15 16 **INTRODUCTION**

17  
18 This case is far from frivolous; it is a life and death matter that requires the  
19  
20 Court's immediate attention due to deadly arsenic deposits on the banks  
21  
22 of the Klamath River. It involves the Federal Energy Regulatory  
23  
24 Commission (FERC) Respondents who illegally cherry-picked emotional  
25  
26 demands of upstream stakeholders exclusively by 20) and illegally  
27  
28 provided Klamath River Restoration Corp. (KRRC) (NCA9 Docket 24-5275)  
29  
30  
31 a license to remove four dams on the Klamath River in Oregon and  
32  
33 California. See Q(1).

34  
35 The emotional hue and cry from upstream users was, "Take out the Iron  
36  
37 Gate and let the river run free," but long-time resident Hoyt Johnson,  
38  
39 spoke reality: "They had a beautiful river and now it's just a big mud hole  
40

1 all the way down."

2  
3 Chemical testing of the silt behind the dams by the Department of Interior

4  
5 in 2011 revealed levels of Chromium 6 and Arsenic a minimum of 40

6  
7 times the EPA safe level. Having failed to perform adequate research,

8  
9 and not bothering to read the chemistry test on the silt from the 2009-

10  
11 2011 Department of Interior study, KRRC released all of this

12  
13 contaminated

14  
15 silt at one time and without being heat-scrubbed. FERC failed to monitor

16  
17 the work in progress and was oblivious to this. KRRC washed their

18  
19 hands of the damage their incompetency created by simply planting grass

20  
21 in the contaminated silt, denying the scientific reality that the Arsenic does

22  
23 not leach out. Consequently, we request that this Writ is increased to

24  
25 \$100 million, which is needed to remove toxic silt deposits on both banks of

26  
27 the Klamath River for about 200 plus river miles.

28  
29 These actions are in clear violation of the Federal Endangered Species

30  
31 Act and Federal Clean Water Act of the U.S. Congress. Crimes also

32  
33 include voluntary confession to wanton killing of fish, including

34  
35 endangered

36  
37 Salmon without permits. See Q(7). This voluntary confession, containing

1  
2 detailed facts about the number of fish killed that only the accused could  
3  
4 know, is irrefutable evidence of guilt. The confession also contained an  
5  
6 assertion that Defendant knew ahead of time that these fish would be  
7  
8 killed, making it a premeditated crime. Judge McShane clearly did not  
9  
10 review the record as he claimed, or he would have seen and presumably  
11  
12 acted on this confession. But his commitment is to Administrative rules  
13  
14 over federal rules as required by Loper Bright Enterprises.

15  
16 Following are specific Statement of Claims:

17  
18 **STATEMENT OF CLAIMS**  
19

20 1. Class Action members of the Complaint are now subjected to millions  
21  
22 of dollars of private property damage due to future flooding, such as the  
23  
24 Columbus Day Storm of 1962, which resulted in about \$60 million of  
25  
26 uninflated dollars before the Iron Gate Dam was activated. Also, wells  
27  
28 drying up, loss of environmental values of recreation and tourism, and a  
29  
30 return to intermittent water flow in the river. A retirement village built on  
31  
32 one of the reservoirs has lost at least 50% of its property value.  
33

34 2. The silt left deposited on the sides of the river and all estuaries  
35  
36 downstream (and fish), are contaminated with 40-200 times the EPA limit  
37  
38 for Arsenic, according to a Department of Interior study in 2011. There are  
39  
40 also substantial amounts of Chromium 6 in the

1 deposits by a 2009 Department of Interior chemistry test on the silt behind  
2  
3 the illegally removed dams, that FERC ignored. See Chapter 3 in this link  
4  
5 to the study.  
6

7 [https://salmonprotectiondevive.com/CDM\\_2011\\_0119\\_Screening-Level-](https://salmonprotectiondevive.com/CDM_2011_0119_Screening-Level-Evaluation-of-Contaminants-in-Sediments.pdf)  
8 [Evaluation-of-Contaminants-in-Sediments.pdf](https://salmonprotectiondevive.com/CDM_2011_0119_Screening-Level-Evaluation-of-Contaminants-in-Sediments.pdf)

9  
10 3. People and scientists in Western states are being forced to remove  
11  
12 dams due to a 2008 “ivory tower” Biological Opinion which is now in  
13  
14 violation of Loper Bright Enterprise cancelation of the Chevron Doctrine.  
15

16 Here we have academic fish biologists on the East Coast telling the  
17  
18 Northwest what to do with their dams with almost no input from the West  
19  
20 Coast. See Q(9). This scientific nonsense has depopulated endangered  
21  
22 Salmon species in violation of the Clean Water Act and Wild & the Scenic  
23  
24 Rivers Act, while ignoring the inexpensive solution of dredging and  
25  
26 repairing the fish ladders. As a life-long Chemical Engineer, with Biology



1  
2 and Forestry training in college, Petitioner humbly asks the Supreme

3  
4 Court to declare this Biological Opinion to be null and void. See Q(1).

5  
6 [https://www.nwp.usace.army.mil/Missions/Environmental-Steward-](https://www.nwp.usace.army.mil/Missions/Environmental-Stewardship/Fish/WVP-BiOP/)  
7 [ship/Fish/WVP-BiOP/](https://www.nwp.usace.army.mil/Missions/Environmental-Stewardship/Fish/WVP-BiOP/)

8  
9 4. About Eighty percent of residents in Klamath County, Oregon and  
10 Siskiyou County, California (each end of the river) voted overwhelmingly  
11 to keep the dams. This is why in February 2023 Petitioner set up a table at  
12 the only Grocery Store in Klamath Falls and distributed 500 documents  
13 about the need to preserve the Klamath dams. Four Hundred Ninety-Nine  
14 People agreed and only one person disagreed. FERC, therefore, illegally  
15 cherry-picked data, flaunting Loper Bright, to illegally give KRRC a license  
16 to destroy the environment in the Klamath Basin. Respondents' Counsel of  
17 Record Danielle Mechling admitted in a phone call that FERC didn't follow  
18 their own rules for data collection. Petitioner believes this is why  
19 Respondents have not appeared in any Court Proceeding since that time  
20 because they know they are guilty. This, even though the Respondents  
21 have been duly served in each case and pleading.  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33

1  
2 The 2018 baseline document for granting KRRC a license, was found to be  
3  
4 seriously compromised by mitigation and regulatory violations, resulting in  
5  
6 irreparable vandalism of federal property. See Q(9). The Supreme Court  
7  
8 has an obligation to prosecute and declare the 2008 Biological Opinion  
9  
10 null and void to prevent further damage, because the lower courts refused  
11  
12 to honor requests for a stop-work injunction subject to investigation.

13  
14 5. Administrative Law is making a travesty of justice in the Ninth Circuit  
15  
16 Court of Appeals. The Court is urged to limit Judicial Immunity only to  
17  
18 Article III Judges. Article III, Section 1 of the U.S. Constitution grants no  
19  
20 such immunity to judges who fail to display “good behavior” by habitually  
21  
22 breaking federal law. See Q(5). The Circuit Court Complaint in Appendix  
23  
24 B contains this question: “have you filed a lawsuit against this Judge?”  
25  
26 This implies that Judicial Immunity is not absolute when a Court convenes  
27  
28 illegally under Administrative Law. See Q(2).

29  
30 6. The FERC 2018 mitigation document is based on junk science:  
31 [https://salmonprotectiondevice.com/Klamath-river-MEMORANDUM-OF-](https://salmonprotectiondevice.com/Klamath-river-MEMORANDUM-OF-POINTS-ferc.pdf)  
32 [POINTS-ferc.pdf](https://salmonprotectiondevice.com/Klamath-river-MEMORANDUM-OF-POINTS-ferc.pdf)  
33

34 Public testimony of Physicians in a 2017 California Water Board public  
35  
36 hearing confirmed levels of poisonous substance in silt behind the dams  
37  
38 harmful to human and animal life. This signaled the need for dredging and  
39

1 heat scrubbing poisons, which was being illegally by 14) ignored. See Q(1).

2  
3 Starting at page 52 of the link above please read testimony of PhD

4  
5 scientists who gave the Respondent licensee's far more colorful names

6  
7 than the "pseudo-scientist" label we have ascribed to them.

8  
9 7. FERC illegally by their own protocols (which they violated) and by

10  
11 Loper Bright 14) failed to evaluate this testimony -- in which University

12  
13 Professors called the Pseudo Scientists at KRRC names unfit to publish.

14  
15 Unheeded, their exhortations resulted in untold damage to man and

16  
17 environment in the Klamath River basin.

18  
19 [https://www.waterboards.ca.gov/waterrights/water\\_issues/programs/water](https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/docs/lower_klamath_ferc14803/comments/gierak1.pdf)  
20 [quality\\_cert/docs/lower\\_klamath\\_ferc14803/comments/gierak1.pdf](https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/docs/lower_klamath_ferc14803/comments/gierak1.pdf)

21  
22 Advertising in the Klamath Falls Herald and News appears in Appendix

23  
24 C. Local Stakeholders are signing up for this class action complaint.

25  
26 **End State of Claims**

27  
28 **ARGUMENT**

29  
30 Rather than first dredging and heat-scrubbing on-site, KRRC --

31  
32 Respondent's license holder -- released the sludge/silt all at one time,

33  
34 leaving Arsenic-laced silt on both banks for at least 200 river miles.

35  
36 Respondent's licensee killed no less than one herd of elk, and confessed to

37  
38 killing more than 2000 fish, including endangered salmon. See Q(7). This

39  
40 confession was recorded in a publication of record (OPB) but it was

1 ignored by the Courts, contrary to laws of evidence. This  
2  
3 highly toxic silt now covers both sides of the riverbank. It does not leach  
4  
5 out over time as Defendant pseudo-scientists have falsely claimed. By  
6  
7 contrast, KRRC Appellee's license holder performed a sham test in the  
8  
9 mouth of tributaries, claiming  
10  
11 no poison whatsoever left in the river. KRRC, Respondent's license  
12  
13 holder, has now attempted to cover up their crime by simply planting  
14  
15 grass that will be eaten by unsuspecting deer & elk, eventually to be  
16  
17 consumed, along with contaminated fish, by humans.

18  
19 As a life-long Chemical Engineer, with expertise in hydrology and advanced  
20  
21 statistics, Petitioner is warning unequivocally that both sides of the Klamath  
22  
23 River Bank need to be scraped and heat-scrubbed to mitigate this assault  
24  
25 on both human and wildlife in the Klamath Basin. This is an EPA super-  
26  
27 fund level environmental catastrophe. That's why we need the Court's help  
28  
29 to release the \$100 million dollars, which is being denied by  
30  
31 scientifically naïve, lower court judges.

32  
33 The reason for this extraordinary Writ by Rule 20 is the unmitigated  
34  
35 damage to the Klamath River Area in Southern Oregon by Respondent's  
36  
37 licensee. This is a clear violation of the Clean Water Act by 9). The silt on  
38  
39 the sides of the river is highly toxic with 40-200 times the EPA limit of  
40

1 Arsenic, that does not leach out. Respondents are Accessary after the  
2  
3 Fact by 1) for laws violated by well-documented, clear and convincing  
4  
5 evidence. See Q(3).  
6

7 The federal Judges in Ninth Circuit Court and Portland Federal Court were  
8  
9 never charged with Misprision of Felony for deliberately failing to  
10  
11 adjudicate these crimes and failing to honor a legal stop-work injunction.  
12  
13 See Q(3).  
14

15 Public testimony warned of this disaster, by one doctor in particular who  
16  
17 lost his wife by Chromium 6 poisoning, and claimed to be flooded with  
18  
19 patients suffering the same symptoms. Respondents and their licensee  
20  
21 ignored these dire preliminary findings, contrary to the Scientific Method,  
22  
23 and “cherry-picked” data from ill-advised, upstream water users only.  
24

25 The impetus behind radical dam removal in the Western states is an  
26  
27 illegitimate Biological Opinion (Bi-OP) in 2008, which now violates  
28  
29 Loper Bright’s cancelation of the Chevron Doctrine. See Q(2).  
30

31 Petitioners' lifelong friend, Steve Cramer of Cramer Fish Scientists, had  
32  
33 testified before Congress every year and received annual funding for  
34  
35 Salmon research. This company is the “go to” source for Salmon  
36  
37 Research in the Northwest since 1985. Petitioner recalls Steve being very  
38  
39 upset when the BI-OP didn't invite him, *the* expert to testify. Steve called

1  
2 the Bi-OP “a farce!” See Q(9). These are agenda-driven, fish biologists  
3  
4 on the East Coast -- oblivious to the common-sense dredging option --  
5  
6 presuming to order radical vandalism of Northwest dams, with virtually no  
7  
8 input from the Northwest. This scientific nonsense has killed endangered  
9  
10 Salmon species, violated the Clean Water Act, and left an environmental  
11  
12 catastrophe in its wake on the banks of the Klamath. Meantime, self-  
13  
14 absorbed, upstream stakeholders are congratulated by the Oregon  
15  
16 Governor for sighting of a single (contaminated) salmon, after rejecting  
17  
18 scientific solutions that would have benefited everybody.

19  
20 [https://www.nwp.usace.army.mil/Missions/Environmental-](https://www.nwp.usace.army.mil/Missions/Environmental-Stewardship/Fish/WVP-BiOP/)  
21 [Stewardship/Fish/WVP-BiOP/](https://www.nwp.usace.army.mil/Missions/Environmental-Stewardship/Fish/WVP-BiOP/)  
22

23 Petitioner humbly asks the Supreme Court to rescind this eccentric,  
24  
25 agenda-driven, bureaucratic order to vandalize and destroy fully  
26  
27 capitalized, public property that benefits everybody, including the fish.  
28

29 See Q(1).

30  
31 Ignoring these facts, the lower courts proceeded with reckless disregard  
32  
33 for human life and the environment, to convene under authority of illegal,  
34  
35 local Administrative Law to dismiss this case as frivolous. See Q(7). They  
36  
37 illegally denied Petitioner’s urgent plea for an injunctive Restraining

1  
2 Order. As the Court is well aware, under the Loper Bright Enterprises  
3  
4 ruling, Administrative Law is illegal and ALL courts must convene as a court  
5  
6 under Article III of the U.S. Constitution. By failing to do so, the lower Court  
7  
8  
9 is criminally liable. See Q(8).

10  
11 The Chevron doctrine is invalid. Therefore, the cherry-picking  
12  
13 data method of FERC (Respondents) was illegal and the lower court is  
14  
15 criminally liable for failing to adjudicate it by Loper Bright. See Q(8).  
16  
17 Federal and state agencies may no longer cherry pick data for their false  
18  
19 agenda like this glaring example of contumacy in defiance of Supreme  
20  
21 Court orders. Stare decisis must be vertical to the Constitution not lower  
22  
23 or sideways.

24  
25 <https://thelawisyourattorney.com/loper-bright-enterprises/>  
26

27 **CONSTITUTIONAL AND OTHER**  
28 **LEGAL REASONS FOR ALLOWANCE OF THIS WRIT**  
29

30 Allowance for this Writ is necessary -- indeed essential for survival of a  
31  
32 free people -- due to universal flaunting of the Supreme Court's Roper,  
33  
34 Bright, Enterprise landmark decision of June 28, 2024 among judges of  
35  
36 the Ninth Circuit Court of Appeals. The questions posed for review are  
37

1 not isolated incidents, but are violations ingrained in the culture and daily  
2 routine of the Ninth Circuit judges. The violations strike at the very heart  
3 of a just legal System and have frustrated citizens for decades. See  
4 Q(2). In five unique, substantive lawsuits filed by Petitioner during 2024,  
5 the same illegal stratagem for dismissal was executed by corporate  
6 defense attorneys and the Court, in what seems to be a set of unwritten  
7 “insider rules.” Statistically, that means the injustice is systemic throughout  
8 the entire Ninth Circuit. This case is but one example, which presents a  
9 unique opportunity for reform. In the instant case the process unfolded  
10 as follows:

- 11 1. To set the stage, Defendant refused to appear in the case during the  
12 21+1 days of time allotted. Why would a rational person do that unless  
13 aware that they are shielded by some unspoken, insider, protection  
14 stratagem. See Q(7).
- 15 2. Plaintiff then filed for Summary Judgment by 10) after 21 plus 1 days,  
16 per Federal Rules of Court Procedure FRCP 12.
- 17 3. With astonishing bias, the judge then declared the violations  
18 frivolous and dismissed them by local Administrative Law, leaving  
19 allegations of federal crimes committed un-investigated and un-  
20 adjudicated. See Q(3).

21 How long will we tolerate such distortions of justice to prevail under the  
22 guise of Judicial Immunity? See Q(8). As in a family, it does no good to  
23 lay down a rule if it is not subsequently enforced.



1 Specifically:

2  
3 **1. Federal Court in Portland, Oregon Systemic Denial of Due Process of Law:**

4  
5 **Article VI, Section 2:**

6  
7 This Constitution, and the laws of the United States which shall be  
8 made in pursuance thereof; and all treaties made, or which shall be  
9 made, under the authority of the United States, shall be the supreme  
10 law of the land; and the judges in every state shall be bound thereby,  
11 anything in the Constitution or laws of any State to the contrary  
12 notwithstanding.

13  
14 **Fifth Amendment:**

15  
16 ... nor shall any person be subject for the same offence to be twice  
17 put in jeopardy of life or limb;... nor be deprived of life, liberty, or  
18 property, without due process of law;

19  
20 The unjust procedure described above (1-3) makes a mockery of federal  
21 rules, the Constitution, and Loper Bright Enterprises, denying  
22 Plaintiff his "day in court" and due process of law by "Judicial  
23 Discretion." See Q(1).

24  
25 Local Administrative Law must no longer be allowed to violate  
26 Federal Rules, such as the 21+1 day deadline for making an appearance.

27  
28 In the instant case, the judge refused to render the required Summary  
29 Judgment by 10) for Plaintiff and dismissed the case, after Defendant  
30 suspiciously failed to Appear within the 21 plus 1 day deadline. See Q(7).

31  
32 The Court is urged to consider a more equitable definition of Judicial  
33  
34  
35  
36  
37  
38  
39

1 Immunity to balance judicial protection with citizen's Constitutional  
2 rights. These rights are currently vulnerable to the demonstrably  
3 unjust legal collusion being practiced in the Ninth Circuit, such as  
4 that of R2 in the instant case. See Q(8).  
5  
6

7  
8  
9 **2. Federal Court in Portland, Oregon Systemic Denial of “Thorough**  
10 **Investigation” for Frivolity:**

11  
12 **English Common Law Under Alfred the Great:**

13  
14 And the judges shall investigate thoroughly; and if the witness is a  
15 false witness and he has accused his brother falsely, then you shall  
16 do to him just as he intended to do to his brother. Thus, you shall  
17  
18  
19  
20 purge the evil from among you” (Deut. 19:18,19).  
21

22 The unjust procedure described above (1-3) denies the opportunity for a  
23  
24 “thorough investigation” of clear and convincing evidence of federal crimes  
25  
26 committed prior to a determination that the case is “frivolous.” See Q(2).  
27  
28 Introduction of frivolous cases would be severely reduced if the accuser  
29  
30 knew that he would be subject to the same penalty he sought to inflict on  
31  
32 his opponent if it was shown to be untruthful. See Q(12). Instead, the  
33  
34 determination of “frivolous” is based on the judge’s subjective impressions  
35  
36 as defined by the nebulous concept of “judicial discretion.” See Q(11). Is  
37  
38 this any different than a return to rule by “Divine Right of Kings” dressed up  
39

1 in modern, judicial "trade jargon." It was for this offense that Charles I of  
2  
3 England was executed. A ruling of "frivolous" must no longer be permitted  
4  
5 until all facts, felonies and federal law are thoroughly examined in light of  
6  
7 federal rules, law and the U.S. Constitution. See Q(11). Otherwise, we  
8  
9 end up with an avalanche of frivolous dismissals, such as Petitioner has  
10  
11 seen in the Ninth Circuit Court on five out of five substantive cases.  
12

### 13 **3. Federal Court in Portland, Oregon Systemic Denial of** 14 **Constitutional and Statutory Provisions Involved**

15  
16 The lower court dismissals leave clear violations of the Federal Clean Air  
17  
18 and Federal Clean Water Acts of the U.S. Congress un-adjudicated.  
19

20 Also, their contumacious refusal to forsake illegal Administrative Law has  
21  
22 left the confession to wanton killing of fish including endangered Salmon  
23  
24 without permits un-adjudicated. See Q(7). Likewise, more than one case  
25  
26 of entire herds of elk have been reported trapped in the pools of  
27  
28 quicksand created by Respondent's licensee. Local stakeholders tried in  
29  
30 vain to rescue these victims of FERC criminal lack of mitigation oversight.  
31

32 See Q(3). Additional violations are: 18 USC 3, 16 USCA § 1532, 2) 18  
33  
34 U.S. Code § 41, 3) Item 3 below, The Endangered Species Act of 1973, 4),  
35  
36 18 U.S.C. § 1001, 5) 18 USC 3, 29 CFR § 1606.8, 6) 28 U.S. Code § 4101,  
37  
38 7), 33 U.S.C. §1251, 9, 18 U.S.C. 1743, 28 U.S. Code § 455 (b), (1), and  
39

1 FRCP 16.

2  
3 **4. Federal Court in Portland, Oregon Systemic Denial of Equal Protection of the**  
4 **laws:**

5  
6  
7 **14<sup>th</sup> Amendment:**

8  
9 No State shall make or enforce any law which shall abridge the  
10 privileges or immunities of citizens of the United States; nor shall any  
11 State deprive any person of life, liberty, or property, without due  
12 process of law; nor deny to any person within its jurisdiction the equal  
13 protection of the laws.

14  
15 The unjust procedure described (1-3) above makes a mockery of equal  
16 protection under the laws among the states, and leaves well-documented  
17 federal crimes un-adjudicated. Systemic refusal to adhere to Loper  
18  
19 Bright Enterprises denies citizens in the Ninth Circuit Court, rights enjoyed  
20  
21 by citizens in other Circuits where Loper Bright Enterprises is honored,  
22  
23 such as the Tenth Circuit. See Q(10).

24  
25  
26  
27 Therefore, Ninth Circuit Judges, and all others, need to be held liable for  
28  
29 Misprision of Felony for refusing to thoroughly investigate evidence of  
30  
31 federal crimes due to their capricious and frivolous dismissals in violation  
32  
33 of federal rules. See Q(3).

34  
35 The Tenth Circuit has already made the transition to Article III Court status  
36  
37 as seen on their home page (Appendix C). A Court order that directly  
38  
39 addresses this contumacy by judges in the Ninth Circuit is needed to help

1  
2 secure their conversion to Article III court status in compliance with Loper  
3  
4 Bright. But the best way to secure compliance is to reserve judicial  
5  
6 immunity exclusively for Courts convened under Article III of the U.S.  
7  
8 Constitution and deny it to illegal Administrative Law Courts. See Q(8).  
9

10 **5. Federal Court in Portland, Oregon Systemic Denial of FRCP rules**  
11  
12 **for Court Process and Procedure:**  
13

14 Respondents abandoned these case issues by making no response  
15  
16 to any Complaint Pleading in Docket 24-5811 and Case 1:24-CV-1301-  
17  
18 MC. See Q(3).  
19

20 The federal court was in error by not providing the requested hearing.  
21

22 It was also in error by convening under illegal Administrative Law by 14).  
23

24 By no stretch of the imagination was this ever a frivolous case. Only in the  
25  
26 mind of judges committed to illegal Administrative Law is this frivolous.  
27

28  
29 **CORPORATE DISCLOSURE STATEMENT**  
30

31 The Corporation associated with Plaintiff in this case is  
32

33 Salmonprotectiondevice.com a non-profit 501C3 research corporation.  
34

35 There is no parent or publicly held company owning 10% or more of the  
36  
37 corporation's stock.  
38  
39

**LIST OF ALL PROCEEDINGS IN STATE  
AND FEDERAL TRIAL AND APPELLATE COURTS**

No state courts are involved. Illegal Orders are below. In each case the Respondents were in default, having abandoned their defense, and, a summary judgment(s) on the default was filed in the docket. Then the Judge(s) illegally dismissed the cases. See Q(7). For case 3:24-cv-00755-JR the court is correct in lacking jurisdiction to remove the debunked 2018 FERC document. However, the court did have jurisdiction to charge Defendants in this action as Accessory after the Fact for KRRC's crimes. In addition, Judge McShane filed the order without leave to amend with no legal standing.

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 frivolous (court shall dismiss case at any time, if court determines it is frivolous entertained in this closed case. DISMISSED. [Entered: 11/20/2024]

ORDER FILED. Michael McShane  
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

1 Court cannot grant Plaintiff's request to proceed IFP. The Application, ECF  
2 No. 2, is DENIED. Plaintiff's Complaint, ECF No. 1, is DISMISSED with  
3 prejudice and without leave to amend. Any outstanding motions are DENIED  
4 as moot.

5 IT IS SO ORDERED.

6 DATED this 17th day of September, 2024.

7 s/Michael J. McShane Michael McShane

8 United States District Judge

9  
10 **CONCISE STATEMENT OF THE**  
11 **BASIS FOR JURISDICTION IN THIS COURT**  
12

13  
14 **Proposal for Judicial Immunity Reform**  
15

16 Judicial Immunity does not / should not exist in an illegal Administrative  
17

18 Law Court, yet Ninth Circuit Judge(s) rely on it habitually to excuse their  
19

20 unjust rulings. The question is, shall any Judge of an illegal  
21

22 Administrative Law Court be privileged with judicial immunity in violation of  
23

24 Loper Bright? See Q(8).  
25

26 Article III, Section 1 of the U.S. Constitution is mute on the subject, except  
27

28 for the assumption of "good behavior," which such a contumacious  
29

30 Administrative Law judge is clearly lacking. See Q(5).  
31

32 Article III <https://www.law.cornell.edu/constitution/articleiii>  
33

34 Compensation is pay and benefits, with a universal assumption, of "good  
35

36 behavior" for acceptable performance of the "job description," which in this  
37

38 case is the Loper Bright Ruling. Why is a judge paid for habitual,  
39

40 contumacious refusal to perform by the requirements of the Job

1  
2 Description?

3  
4 The Circuit Court Complaint Form, Section 3, in the Appendix asks : “4.

5  
6 Have you filed any lawsuits against the judge? [ ] Yes [X] No” This

7  
8 implies that no judicial immunity exists in an Administrative Law Court in

9  
10 which the judge refuses to comply with neither Loper Bright nor the U.S.

11  
12 Constitution. See Q(8). Petitioner humbly suggests the following:

13  
14 A judge’s normal Article III Court decisions shall have Judicial  
15  
16 Immunity. However, violations of federal laws and court rules (as in the  
17  
18 wayward Judge of Article III, Section 1) shall not enjoy Judicial Immunity  
19  
20 by

21  
22 ([https://www.law.cornell.edu/constitution-conan/article-3/section-1/good-](https://www.law.cornell.edu/constitution-conan/article-3/section-1/good-behavior-clause-doctrine-and-practice)  
23 [behavior-clause-doctrine-and-practice](https://www.law.cornell.edu/constitution-conan/article-3/section-1/good-behavior-clause-doctrine-and-practice)).

24  
25 This Court likewise has the Constitutional responsibility to police itself by  
26  
27 removing – or at least correcting -- the wayward judge in Appendix 1 who  
28  
29 has two Judicial Performance complaints pending against him see  
30  
31 Appendix 2. The other is in docket 24-6787.

32  
33 Therefore, Petitioner requests a Supreme Court ruling that only courts  
34  
35 convened under Article III of the U.S Constitution have Judicial Immunity.

36  
37 Illegal Administrative Law court judges do not have Judicial Immunity.

38  
39 See Q(8).  
40



1                                   **CONSTITUTIONAL AND OTHER**  
2                                   **LEGAL REASONS FOR ALLOWANCE OF THIS WRIT**

3  
4                                   **Judicial Misconduct In the Federal Court**  
5

6   On 11/20/2024 docket 11 in Docket 24-5811 Circuit Court Justices filed an  
7  
8   order and by extreme judicial bias and illegal Administrative Law  
9  
10   dismissed the docket which most certainly deserves to be remanded by  
11  
12   the U.S. Supreme Court, as in other recent decisions. This case ruling  
13  
14   was based on illegal bias 14) 15), 16), 17) and 19), illegal abuse of  
15  
16   Administrative Law 20), and failure to adjudicate clear and convincing  
17  
18   evidence of felonies. These Respondent licensees by 1) are guilty by  
19  
20   confession to killing more than 2,000 fish, some endangered species, as  
21  
22   un-adjudicated felonies in Docket 24-5275 (KRRC) of the Ninth Circuit  
23  
24   Court. These judges, therefore, deserve prosecution for Misprision of  
25  
26   Felony 18) and official Judicial Misconduct. See Q(3). The Complaint in  
27  
28   the Appendix is filed against the Federal Judge who with illegal bias 14)  
29  
30   15), 16), 17) and 19) and illegal Administrative Law by 20) illegally  
31  
32   dismissed the case. See Q(2). Also, failure to adjudicate felonies by  
33  
34   accessory after the fact 1) in the public  
35  
36   (OPB) confession by Klamath River Renewal (KRRC), the Defendant's  
37  
38   licensee, of killing over two thousand fish, some protected species. See  
39  
40   Q3). The judges, (appeals case and lower court), therefore, deserve

1  
2 prosecution for Misprision of Felony 18) and official Judicial Misconduct,  
3  
4 because the judicial system seems incapable of policing itself.

5  
6 Defendant's in (Docket 24-5275), deserve to be charged with 18),  
7  
8 Misprision of Felony.

9  
10 Is voluntary "confession," not the ultimate evidence of guilt? Why then did  
11  
12 the Courts ignore it? It follows that this appeal is emphatically not  
13  
14 frivolous, by virtue of the confession alone. See Q(7). Plaintiff filed case  
15  
16 1:24-CV-1301-MC against the Defendants for cherry-picking data based on  
17  
18 the now defunct Chevron Doctrine by 14) and their licensee for destroying  
19  
20 the environment in the Klamath Basin with arsenic-laced and chromium 6-  
21  
22 laced silt. A requested hearing was not provided. The final decision  
23  
24 of the judge was not based on the merits of the case facts. Rather, it was  
25  
26 based solely on the Judge's bias and illegal beliefs by 14), 16), 17)  
27  
28 and 19) above. See Q(11). The well-documented felonies of licensee  
29  
30 were public confession to killing more than 2000 fish and a herd of elk  
31  
32 without permits, and releasing 5 million yards of silt from the Iron Gate  
33  
34 dam, which killed all aquatic life in 120 river miles. The Clean Water  
35  
36 permits specified a maximum of 1500 yards could be released at one  
37  
38 time. With dams removed, the Klamath River has been above flood  
39  
40 stage many times thus far this Winter. This will get much worse with the

1  
2 spring snow melt. And it is only a matter of time before another notorious  
3  
4 “Columbus Day Storm” ravages the Klamath basin with no dam protection.

5  
6 [https://waterdata.usgs.gov/monitoring-](https://waterdata.usgs.gov/monitoring-location/11530500/#dataTypeId=continuous-00065-0&period=P365D&showMedian=false)  
7 [location/11530500/#dataTypeId=continuous-00065-](https://waterdata.usgs.gov/monitoring-location/11530500/#dataTypeId=continuous-00065-0&period=P365D&showMedian=false)  
8 [0&period=P365D&showMedian=false](https://waterdata.usgs.gov/monitoring-location/11530500/#dataTypeId=continuous-00065-0&period=P365D&showMedian=false)

9  
10 (<https://thelawisyourattorney.com/loper-bright-enterprises/>) is recognized  
11  
12 by the US Supreme Court and Ninth Circuit Court as illegal Judicial  
13  
14 Misconduct.

15  
16 [https://thelawisyourattorney.com/judicial-bias-against-litigants-in-dam-](https://thelawisyourattorney.com/judicial-bias-against-litigants-in-dam-removal-cases/)  
17 [removal-cases/](https://thelawisyourattorney.com/judicial-bias-against-litigants-in-dam-removal-cases/)

## 18 19 **CONCLUSION**

20  
21 Respondents illegally gave Klamath River Renewal Corp (KRRC) a license  
22  
23 to remove four dams. In turn their flawed mitigation document which  
24  
25 ignored the need to heat scrub the silt deposits, and their failure to  
26  
27 supervise destroyed the environment in the Klamath Valley of Washington.  
28  
29 Respondents violated the Loper Bright Supreme Court Opinion which  
30  
31 makes the Chevron Doctrine null and void to 2005, when they listened only  
32  
33 to upstream users.

34  
35 Respondents are also therefore Accessory after the Fact for KRRC’s killing  
36  
37 of more than 2000 fish including endangered salmon, as well as a herd of  
38  
39 elk. KRRC also let out more than 5 million yards of highly contaminated silt,  
40

1 laced with extremely high levels of arsenic and chromium-6. This is a  
2  
3 violation of the Clean Water Act because the toxic silt still lines the banks of  
4  
5 the Klamath River for no less than 120 river miles. Respondents' Counsel  
6  
7 of Record Danielle Mechling admitted in a phone call that FERC didn't  
8  
9 follow their own rules for data collection. Petitioner believes this is why  
10  
11 Respondents have not appeared in any Court Proceeding since that time  
12  
13 because they know they are guilty. This, even though the Respondents  
14  
15 have been duly served in each case and pleading.

### 16 17 **PRAYER FOR RELIEF**

18  
19 **PRAYER #1:** Petitioner Pro Se hereby respectfully requests the Court to  
20  
21 provide relief and order FERC to provide funds (\$100 Million) for cleaning  
22  
23 the poisoned silt left deposited on the sides of the river and all estuaries  
24  
25 downstream.

26  
27 **PRAYER #2:** As a life-long Chemical Engineer, Petitioner humbly asks  
28  
29 the court to declare the 2008 Biological Opinion to be null and void.  
30

31 **PRAYER #3:** Issue an official Court order that "first-line" resolution of  
32  
33 any problems associated with dams owned or regulated by the  
34  
35 government of the United States shall be 1) dredging behind the dam,  
36  
37 2) heat-scrubbing of silt dredged immediately on-site, 3) repair or  
38  
39 installation of fish ladders, 4) chemical treatment of reservoir water 5)  
40

1 retrofitting of dams for earthquake protection where necessary.

2  
3 <https://www.rivers.gov/rivers/rivers/sites/rivers/files/2023-07/section-7.pdf>

4  
5 **PRAYER #4:** Plaintiff Pro Se requests update of the definition of “Judicial  
6  
7 Immunity” by U.S. Supreme Court ruling that only Courts convened under  
8  
9 Article III of the U.S Constitution shall enjoy Judicial Immunity. Illegal  
10  
11 Administrative Law courts shall not have Judicial Immunity.

12  
13 **PRAYER #5:** Petitioner Pro Se requests Issuance of an official Court  
14  
15 Order requiring all judges within the jurisdiction of the Ninth Circuit Court to  
16  
17 Cease and Desist convening as Administrative Law Courts, thereby  
18  
19 flaunting Loper Bright. Repeat violators shall be dismissed after one  
20  
21 warning, consistent with the revised definition of “Judicial Immunity.”

22  
23 **PRAYER #6:** Issue an official Court Order that vandalism of publically  
24  
25 owned dams by removal shall not be a remedy for any problems  
26  
27 associated with dams owned or regulated by the government of the United  
28  
29 States apart from an act of Congress. Owners of privately owned dams  
30  
31 shall not be coerced by threat of lawsuit to remove their dams ~~and any~~

32  
33 **PRAYER #7:** Petitioner humbly requests the Court to order Respondents  
34  
35 (FERC) to embrace the overwhelming Water Board testimony against dam  
36  
37 removal and remove KRRC’s license immediately.

1 [https://www.waterboards.ca.gov/waterrights/water\\_issues/programs/water](https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/docs/lower_klamath_ferc14803/comments/gierak1.pdf)  
2  
3 [quality\\_cert/docs/lower\\_klamath\\_ferc14803/comments/gierak1.pdf](https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/docs/lower_klamath_ferc14803/comments/gierak1.pdf)

4  
5 **PRAYER #8:** Petitioner humbly requests the Court to take  
6  
7 appropriate disciplinary action in light of the fact that such behavior of  
8  
9 Judicial bias and judicial discretion is subject to permanent removal of the  
10  
11 bar license and defrocking of any Federal Judge in violation of 14) 20-  
12  
13 1199

14  
15 Loper Bright Enterprises, 15) Judges Code of Conduct by 10), Canons 2  
16  
17 and 3;

18  
19 <https://www.uscourts.gov/judges-judgeships/code-conduct-united-states>  
20  
21 judges, 18 U.S.C. § 1001 5) False Statements, Concealment., 15) 18 U.S.  
22  
23 Code § 1621 – Perjury, by 16), and 28 U.S. Code § 455 (b), (1)

24  
25 **PRAYER #9** Petitioner Pro Se hereby respectfully requests the Court to  
26  
27 add to this complaint, \$100 million needed to replace the Iron Gate Dam  
28  
29 and the CopCo dam with fish ladders serving the retirement community  
30  
31 formerly located on the edge of the reservoir whose property values have  
32  
33 been decimated.

34  
35 Restoration to the original condition is the lawful penalty for vandalism.  
36

1 Kewit Construction shall be required to bear an equitable portion of the  
2  
3 expense (determined by the Court) because they were warned by  
4  
5 Petitioner of the illegal nature of their vandalism and proceeded anyway.  
6  
7 Kewit's project supervisor has since been dismissed by the company,  
8  
9 presumably for his role in releasing the contaminated silt.  
10

11 [https://salmonprotectiondevive.com/CDM\\_2011\\_0119\\_Screening-Level-](https://salmonprotectiondevive.com/CDM_2011_0119_Screening-Level-Evaluation-of-Contaminants-in-Sediments.pdf)  
12 [Evaluation-of-Contaminants-in-Sediments.pdf](https://salmonprotectiondevive.com/CDM_2011_0119_Screening-Level-Evaluation-of-Contaminants-in-Sediments.pdf)  
13

14 **PRAYER #10:** Petitioner Pro Se respectfully requests the Court to vacate  
15  
16 the 3:24-cv-00755-JR final dismissal on 7/26/2024. This Federal Court  
17  
18 dismissal was based on KRRC legal counsel's concocted ECF's and  
19  
20 manipulation of case law and Federal Law.  
21

22 **PRAYER #11:** Petitioner Pro Se respectfully requests the Supreme Court  
23  
24 to acknowledge standing based on Federal Environmental laws  
25  
26 broken with associated 7 Environmental Values denied to Petitioner  
27  
28 Pro Se, Class Action members, and the River itself. Likewise,  
29

1 standing based on harms inflicted on Petitioner Pro Se resulting in  
2  
3 preparations taken to move out of state due to harms inflicted by  
4  
5 KRRC's malfeasance.  
6

7 **PRAYER #12:** Petitioner Pro Se hereby respectfully requests the Court to  
8  
9 provide relief, and take judicial notice of the lethal environmental  
10  
11 consequences of Respondent's licensee KRRC's actions, which  
12  
13 require immediate mitigation. Rule Salmon Protection Device  
14  
15 remediation team to the task of project mitigation immediately, to  
16  
17 avoid further lethal environmental consequences from KRRC's gross  
18  
19 negligence. Local courts have failed to  
20  
21 impede a crime in progress and are thus guilty of Misprision of Felony?"  
22

23 **PRAYER #13:** Petitioner requests a Writ of Mandamus and a  
24  
25 Summary Judgment in Petitioner's favor because Defendants are clearly  
26  
27 biased against Federal Environmental law, not doing what they are  
28  
29 legally required to do.  
30

31  
32 **PRAYER #14** Petitioner Pro Se hereby respectfully requests the  
33  
34 Supreme Court to a ruling that FERC illegally by Loper Bright failed to  
35  
36 evaluate this testimony, in which University Professors called the Pseudo  
37



1 Scientists at KRRC names unfit to publish, resulting in untold damage to  
2  
3 man and environment.  
4

5 [https://www.waterboards.ca.gov/waterrights/water\\_issues/programs/water\\_](https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/docs/lower_klamath_ferc14803/comments/gierak1.pdf)  
6 [quality\\_cert/docs/lower\\_klamath\\_ferc14803/comments/gierak1.pdf](https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/docs/lower_klamath_ferc14803/comments/gierak1.pdf)  
7

8 **PRAYER #15:** Petitioner respectfully requests the Court to  
9

10 award any other cost to the Petitioner Pro Se as the Court sees fit.  
11

12 With a favorable ruling against FERC or the Federal Court, Petitioner Pro  
13

14 Se will relocate to the Klamath Basin in California and supervise mitigation  
15

16 of the environmental mess created and left unmitigated by KRRC.  
17

18 Petitioner Pro Se's home is for sale at 18965 NW Illahe St, Portland, OR  
19

20 97229 | Zillow pending a favorable decision and the Court signatures  
21

22 needed to satisfy the County Recorder. The devastation in the Klamath  
23

24 Basin is akin to a war zone.  
25

26 David White Pro Se 9/13/2025

27   
28  
29  
30

## 31 APPENDICES

### 32 APPENDIX A

33  
34  
35 The Extraordinary Writ of Prohibition, Mandamus by Rule 20 is needed so  
36

37 Salmon Protection Device and Class action members can remedy the  
38

1 massive environmental damage to the Klamath River Basin.  
2  
3 The Federal District Court in Medford, Oregon issued an illegal and biased  
4  
5 by 11) administrative law order saying Plaintiff in that action was suing  
6  
7 KRRRC and Not the FERC defendants. Petitioner in the instant action  
8  
9 postulates Judge McShane didn't even read the complaint. Therefore,  
10  
11 Petitioner humbly asks the Court to review this illegal order with the review  
12  
13 based on the case facts herein in light of Mandamus and prohibition  
14  
15 against this administrative law Judge.

16  
17  
18 Ninth Circuit Court of Appeals illegal biased, administrative law order.

19 11/20/2024 11 **ORDER FILED.** (Sidney R. THOMAS, Jay S. BYBEE,  
20 Daniel P. COL

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

29 Federal Court District of Portland Oregon illegal biased and administrative law  
30 order. Failure to adjudicate felonies.

09/17/2024	23	<b>ORDER:</b> 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.  IT IS SO ORDERED.
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		<p>DATED this 17th day of September, 2024.</p> <p>s/Michael J. McShane Michael McShane United States District Judge</p>
--	--	---

**APPENDIX B**  
**Complaint filed against Wayward Judge McShane**

Judicial Council of the Ninth Circuit

**COMPLAINT OF JUDICIAL MISCONDUCT**

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

**P.O. Box 193939**

**San Francisco, CA 94119-3939**

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

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

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

☒ Yes ☐ No

If “yes,” give the following information about each lawsuit:

Court:	Case
Number:1:24-CV-1301-MC	

1  
2 Docket number of any appeal to the 9th Circuit: 24-5811\_ Are  
3 (were) you a party or lawyer in the lawsuit?

4 [X ] Party [ ] Lawyer [ ] Neither

5 3. Have you filed any lawsuits against the  
6 judge? [ ] Yes [X] No

7  
8 4. **Brief Statement of Facts.** The Judge believed untruthful nonsense of Judge  
9 Russo and Nelson in KRRC's lawsuit See case docket report below. The case  
10 was illegally dismissed when the defendants were in default.  
11

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

13  
14 I declare under penalty of perjury that the statements made in this complaint  
15 are true and correct to the best of my knowledge.  
16  
17

18 (Signature)\_\_\_\_\_



19 \_\_\_\_\_  
20 10/22/24  
21

22 6. The overriding, foundational complaint against Judge McShane is his  
23 failure to convene as an Article III, Section 2 Court of the U.S.  
24 Constitution. In violation of the recent Roper decision of the U.S.

1 Supreme Court, he used administrative rules in an unlawful manner  
2 to excuse cherry-picked data and to override violation of Federal laws  
3 under the U.S. Constitution.

4  
5 Plaintiff filed the case in federal court in Portland Oregon on August  
6 8, 2024 and served the defendants with the complaint and Preliminary  
7 injunction. On August 26, 2024 Plaintiff filed a memorandum of  
8 ignored stakeholder testimony in the court docket and served the  
9 defendants. This document is the 2018 baseline FERC mitigation  
10 document which contained no less than 21 errors.

11  
12 The final day for the defendants to file anything in the docket was  
13 8/29/2024. However, defendants still have not filed anything in the  
14 case even though Plaintiff reminded them by email and phone many  
15 times.

16  
17 Therefore, plaintiff filed ECF 8 for a default judgement and ECF 9 for  
18 a Summary judgement in the case on 9/1/2024. Legally these  
19 pleadings were without error.

20  
21 Then on 9/17/24 Judge McShane illegally dismissed the case.

22  
23 This is a violation of:

24  
25 14) 22–451 June 28th, 2024 Loper Bright Enterprises v. Raimondo  
26 and Relentless, Inc. v. Department of Commerce.  
27 [https://www.supremecourt.gov/opinions/23pdf/22-451\\_7m58.pdf](https://www.supremecourt.gov/opinions/23pdf/22-451_7m58.pdf)

28 18 U.S. Code § 4 - Misprision of felony

29 28 U.S. Code § 144 - Bias or prejudice of judge by 7)

Judges Code of Conduct by 10), Canons 2 and 3;  
<https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges>.

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

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

Unbelievably, FERC failed to require KRCC to scrub the silt of toxicity before release, thus killing all aquatic life in 120 River miles between the Iron Gate Dam and the Pacific Ocean. This has left both banks of the river permanently contaminated. Once again, Judge McShane turned a blind eye to this Exxon-Valdez level environmental disaster and annual flood damage projected at an average \$60,000,000. He allowed trivial administrative procedure to completely blot out case facts screaming for justice. Any such cherry-picking of evidence is unlawful under the Loper decision of the U.S. Supreme Court.

Furthermore, Judge McShane ignored all evidence suggesting that there were far less draconian solutions to alleged impedance of fish migration than removing the dams. The dams are, in fact, to be preserved under Article 7 of the Wild and Scenic River Act. If fish were in fact being blocked from reaching their spawning grounds, rather than mindlessly ripping out the dams the simple and sane

1 solution was/is to 1) dredge behind the dams, 2) heat scrub the silt  
2 on-site, and 3) repair or install fish ladders. Plaintiff repeatedly called  
3 attention to these common sense, scientific measures and the  
4 evidence, but it was ignored, along with the 21 violations of law in the  
5 FERC mitigation document, mentioned above. A Federal judge is  
6 required by law to consider all material evidence in his ruling; which  
7 Judge McShane obviously did not do.

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

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

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

28  
29 By 8) Judge McShane can be removed by the US Supreme Court.  
30 Article three of US Constitution section 1 by 8) also by 28 U.S. Code  
31 § 455 (b), (1)-Disqualification of justice, judge, or magistrate judge by  
32 11).  
33

## 34 **APPENDIX C -- Images**



## 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](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 U.S. 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/gierak1.pdf](https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/ocs/lower_klamath_ferc14803/comments/gierak1.pdf)





## THE UNITED STATES DISTRICT COURT

### DISTRICT OF COLORADO

Hon. Philip A. Brimmer, Chief Judge  
Jeffrey P. Colwell Esq., Clerk of Court

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	<a href="#">Hon. David M. Ebel</a>

## CERTIFICATE OF SERVICE

I hereby certify that on 9/13/2025, a true and correct copy of the above document was paper filed by Federal Express two day with the Clerk of the US Supreme court.

A copy of the document will be served upon interested parties via the email service on thelayisyourattorney.com FRCP 4 defaults to state service rules. In Oregon ORCP 9 C 3 says any court documents can be mail.

[Chairman\\_Phillips\\_Meetings@ferc.gov](mailto:Chairman_Phillips_Meetings@ferc.gov);  
[Commissioner\\_Christie\\_Meetings@FERC.gov](mailto:Commissioner_Christie_Meetings@FERC.gov);  
[Commissioner\\_Rosner\\_Meetings@FERC.gov](mailto:Commissioner_Rosner_Meetings@FERC.gov);  
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7 Email: 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: 9/13/2025  
16 By: David White

