

1 UNITED STATES COURT OF APPEALS

2
3 FOR THE NINTH CIRCUIT

4
5 **Docket 24-5811**

6 **Case 1:24-CV-1301-MC**

7 **David White, Pro Se**

8 18965 NW Illahe St,

9 **Portland OR.**

10 dave@salmonprotectiondevice.com

**DOCKET NOT FRIVOLOUS
ILLEGAL DISMISSAL**

11
12 **vs.**

13
14 **Defendant 1. (D1)**

15 **Chairman Willie L. Phillips, in his
16 personal capacity as chairman of**

17 **Federal Energy Regulatory Commission (FERC)**

18 **202-502-8550**

19
20 **Defendant 2. (D2)**

21 **Commissioner Mark Christie in his
22 personal capacity as Commissioner of**

23 **Federal Energy Regulatory Commission (FERC)**

24 **202-502-8110**

25
26 **Defendant 3 (D3)**

27 **Commissioner David Rosner in his
28 personal capacity as Commissioner of**

29 **Federal Energy Regulatory Commission (FERC)**

30 **202-502-6500**

31
32 **Defendant 4 D4**

33 **Commissioner Lindsay S. See in his
34 personal capacity as Commissioner of**

35 **Federal Energy Regulatory Commission (FERC)**

36
37 **Defendant 5 D5**

38 **Commissioner Judy W. Chang in her**

1 **personal capacity as Commissioner of**
2 **Federal Energy Regulatory Commission (FERC)**

3
4 **Kimberly D. Bose 6 D6**
5 **in her personal capacity as**
6 **Secretary, Federal Energy Regulatory**
7 **Commission**
8 **888 First Street, N.E.**
9 **Washington, D.C. 20426**

10
11 **Legal Counsel for all defendants**
12 **Danielle Mechling**
13 **Attorney-Advisor**
14 **Federal Energy Regulatory Commission**
15 **Office of Enforcement, Division of Investigations**
16 **Tel: 202-502-8924**
17 **Email: danielle.mechling@ferc.gov**

18
19 **TABLE OF AUTHORITIES**

- 20
21 1) 18 USC 3 accessory after the fact.
22 2) 16 USCA § 1532(19); see also Goble, D. D.; George, S. M.; Mazaika, K.;
23 3) Scott, J. M. & Karl, J. (1999) "Local and national protection of
24 endangered species: An assessment," Environmental Science & Policy, 2,
25 pp. 43-59.
26 4) 18 U.S. Code § 41 - Hunting, fishing, trapping; disturbance or injury on
27 wildlife refuges.
28 5) The Endangered Species Act of 1973,
29
30 <https://www.fws.gov/laws/endangered-species-act/section-11>
31
32 6) 18 U.S.C. § 1001 False Statements, Concealment.
33
34 7) 29 CFR § 1606.8 (1) – Harassment Has the purpose or effect of creating
35 an intimidating, hostile or offensive working environment.
36
37 8) 28 U.S. Code § 4101 The term "defamation" means any action or other
38
39 proceeding for defamation, libel, slander, or similar claim alleging that

1
2 forms of speech are false, have caused damage to reputation or
3
4 emotional distress, have presented any person in a false light, or have
5
6 resulted in criticism, dishonor, or condemnation of any person.

7
8 9) 33 U.S.C. §1251 et seq. (1972) Clean water act Section 404.

9
10 10) 29 CFR § 1606.8 (1).

11
12 11) 28 U.S. Code § 4101.

13
14 12) 29 CFR § 1606.8 (1).

15
16 13) 28 U.S. Code § 4101.

17
18 14) Judges Code of Conduct, Canons 2 and 3;
19 [https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-](https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges)
20 [judges](https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges)

21
22 15) 28 U.S. Code § 455 (b), (1)-Disqualification of justice, judge, or
23 magistrate judge.

24
25 16) 28 U.S. Code § 455 (b), (1) Remedy when Judge) has a personal
26 bias or prejudice concerning a party, or personal knowledge of disputed
27 evidentiary facts concerning the proceeding.

28
29
30 17) Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002): Pagtalunan
31
32 was Pro Se and made numerous mistakes in filing his complaint resulting
33
34 in the case being dismissed. However, upon appeal, the higher Court
35
36 ruled that the lower Court was in error because they did not give allowance
37
38 for Pagtalunan's lack of legal training.

1
2 18) ORS 34.080.37) 18 U.S.C. 4: “Whoever, having knowledge of the
3 actual commission of a felony cognizable by a court of the United States,
4 conceals and does not as soon as possible make known the same to some
5 judge or other person in civil or military authority under the United States,
6 shall be fined under this title or imprisoned not more than three years, or
7 both.”

8
9 19) 2021 US Code Title 28 - Judiciary and Judicial Procedure Part I -
10 Organization of Courts Chapter 5 - District Courts Sec. 144 - Bias or
11 prejudice of judge.

12 Whenever a party to any proceeding in a district court makes and files a
13 timely and sufficient affidavit that the judge before whom the matter is
14 pending has a personal bias or prejudice against him or in favor of any
15 adverse party, such judge shall proceed no further therein, but another
16 judge shall be assigned to hear such proceeding.

17
18 20) 22–451 June 28th, 2024 Federal Case number 22–451 in Loper Bright
19 Enterprises v. Raimondo and Relentless, Inc. v. Department of Commerce
20 that all courts shall no longer function as administrative law courts.

21 https://www.supremecourt.gov/opinions/23pdf/22-451_7m58.pdf

22 Abuse of Administrative law is illegal and ALL courts must convene as a
23 court under Article three of the US Constitution. The Chevron doctrine is
24 invalid. Federal and state agencies can no longer cherry pick data for their
25 false agenda. Stare decisis must be vertical to the constitution not lower or
26 sideways. This is because any other case can't be guaranteed to have
27 enough similarities to warrant use unless the Judge and each counsel have
28 read that case transcripts, exhibits and final ruling. Six to three decision.
29 The 22–451 June 28, 2024 U.S. Supreme Court Loper Bright ruling now

30
31 forbids this abuse and reverts back to the U.S.

32
33 Constitution. Six to Three decision.

34 <https://thelawisyourattorney.com/loper-bright-enterprises/>

1 Associate Justice, Neil M. Gorsuch wrote an excellent dissertation on the
2 Loper Bright Enterprises v. Raimondo. Associate Justice, Neil M. Gorsuch
3 explained how illegal administrative law crept into the Judiciary and has
4 been made illegal back to the constitution. Associate Justice, Neil M.
5 Gorsuch also explained how the Chevron Doctrine is illegal and reverts to
6 2005. Associate Justice, Neil M. Gorsuch also explained how Stare decisis
7 must be vertical to the Constitution and not horizontal or lower. Plaintiff has
8 read the complete ruling including Associate Justice, Neil M. Gorsuch
9 excellent dissertation.

10
11 This court is therefore, obligated to convene as a Court under Article III of
12 the US Constitution. Four dockets have already been sent to circuit courts
13 by the US Supreme court in light of Loper Bright Enterprises v. Raimondo.
14 Administrative law is illegal.

15 Remanded Cases: The judgment is vacated, and the case is remanded to the
16 United States Court of Appeals for the Ninth Circuit for further consideration in
17 light of Loper Bright Enterprises v. Raimondo.

18 The US Supreme Court is extremely serious about its ruling in Loper Bright
19 Enterprises v. Raimondo. Explained here:

20 <https://thelawisyourattorney.com/loper-bright-enterprises/>

21
22 22-863 DIAZ-RODRIGUEZ, RAFAEL V. GARLAND, ATT'Y GEN.

23 The petition for a writ of certiorari is granted. The
24 judgment is vacated, and the case is remanded to the United
25 States Court of Appeals for the Ninth Circuit for further
26 consideration in light of Loper Bright Enterprises v. Raimondo,
27 603 U. S. ____ (2024).

28
29 22-868

30 BASTIAS, ARIEL M. V. GARLAND, ATT'Y GEN.

1 The petition for a writ of certiorari is granted. The
2 judgment is vacated, and the case is remanded to the United
3 States Court of Appeals for the Eleventh Circuit for further
4 consideration in light of *Loper Bright Enterprises v. Raimondo*,
5 603 U. S. ____ (2024).

6
7 22-1246
8 EDISON ELEC. INST., ET AL. V. FERC, ET AL.

9 The petition for a writ of certiorari is granted. The
10 judgment is vacated, and the case is remanded to the United
11 States Court of Appeals for the District of Columbia Circuit for
12 further consideration in light of *Loper Bright Enterprises v.*
13 *Raimondo*, 603 U. S. ____ (2024).

14
15 24–5006. Jason Steven Kokinda, Petitioner v. United States. On
16 petition for writ of certiorari to the United States Court of Appeals for
17 the Fourth Circuit. Motion of petitioner for leave to proceed in forma
18 pauperis and petition for writ of certiorari granted. Judgment vacated,
19 and case remanded to the United States Court of Appeals for the
20 Fourth Circuit for further consideration in light of *Loper Bright Enterprises*
21 *v. Raimondo*, 603 U. S. — (2024).

22
23 24–92. Kwok Sum Wong, Petitioner v. Merrick B. Garland, Attorney
24 General. On petition for writ of certiorari to the United States

1 Court of Appeals for the Second Circuit. Petition for writ of certiorari
2 granted. Judgment vacated, and case remanded to the United States
3 Court of Appeals for the Second Circuit for further consideration in
4 light of *Loper Bright Enterprises v. Raimondo*, 603 U. S. — (2024).

5
6 The Appeals Court Justices should have paid no attention to what the
7
8 Federal Judge said in the lower court. A complaint filed in the 9th Circuit
9
10 Court against the lower court judge is in the Appendix. In the lower case
11
12 the final ruling was wrong because Appellees were in default. That case
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 felonies. The judges,
17
18 therefore, deserve prosecution for Misprision of Felony 18) and official
19
20 Judicial Misconduct. The Complaint in Appendix is filed against the
21
22 Federal Judge who with illegal bias 14) 15), 16), 17) and 19) and illegal
23
24 administrative law 20) illegally dismissed the case. Also, failure to
25
26 adjudicate felonies by accessory after the fact 1) of the confession by
27
28 Klamath River Renewal (KRRRC), the Appellees
29
30 licensee, of killing over two thousand fish, some protected species,
31
32 (Docket 24-5275), deserves to be charged with 18), Misprision of Felony.
33
34 Judicial Council of the Ninth Circuit

1 **COMPLAINT OF JUDICIAL MISCONDUCT**
2 **United States Court of Appeals for the Ninth Circuit**
3 **Office of the Circuit Executive**
4 **P.O. Box 193939**
5 **San Francisco, CA 94119-3939**

6
7 Appendix is the Complaint lodged against the Federal judge in this case
8
9 who based his decision on illegal bias 14), 16), 17) and 19) and illegal
10
11 administrative law 20). Also, the judge who failed to adjudicate more than
12
13 2000 well-documented felonies deserves to be charged with 18) illegal bias
14
15 by 14), 16), 17) and 19), abuse of administrative law 20), and official
16
17 Judicial Misconduct.

18
19 The Appeals court Justices should not have based their opinion on what
20
21 the lower court Judge said, but rather on their flagrant disregard of felonies
22
23 committed.

24
25 Likewise, the Appeals court Justices should be charged with 18) for
26
27 failure to adjudicate more than 2000 well documented felony's and Official
28
29 Judicial Misconduct.

30
31
32
33
34
35 **BACKGROUND**

36
37 This appeal is not frivolous. Plaintiff filed case 1:24-CV-1301-MC against
38

1 the Defendants for cherry picking data (against the Chevron doctrine made
2
3 null and void 20)) and their licensee destroying the environment in the
4
5 Klamath Basin. A requested hearing was not provided. The final decision
6
7 of the judge was not based on the merits of the case facts. Rather, it was
8
9 based only on the Judges bias and illegal beliefs as illegal by 14), 16), 17)
10
11 and 19) above. The well-documented felonies of licensee included were
12
13 from killing more than 2000 fish and a herd of elk without permits, and
14
15 releasing 5 million yards of silt from the Iron Gate dam, which killed all
16
17 aquatic life in 120 river miles. The clean water permit said a maximum of
18
19 1500 yards could be released at one time. With no dams the Klamath river
20
21 has been above flood stage many times now. This will get much worse with
22
23 the spring snow melt, as seen in the graph below.

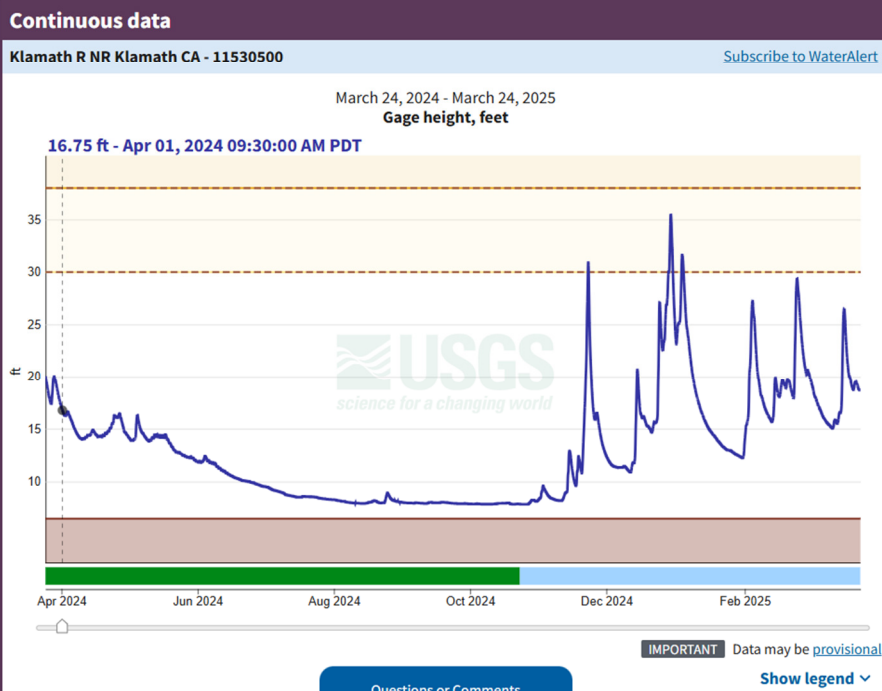
24
25 [https://waterdata.usgs.gov/monitoring-](https://waterdata.usgs.gov/monitoring-location/11530500/#dataTypeId=continuous-00065-0&period=P365D&showMedian=false)
26 [location/11530500/#dataTypeId=continuous-00065-](https://waterdata.usgs.gov/monitoring-location/11530500/#dataTypeId=continuous-00065-0&period=P365D&showMedian=false)
27 [0&period=P365D&showMedian=false](https://waterdata.usgs.gov/monitoring-location/11530500/#dataTypeId=continuous-00065-0&period=P365D&showMedian=false)

Klamath R NR Klamath CA - 11530500

IMPORTANT Legacy real-time page

7 days 30 days 1 year

Scale



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

Four dockets have already been remanded to Circuit Courts for illegal abuse of Administrative Law. The example below is remanded to the 9th Circuit for this very reason.

22-863 DIAZ-RODRIGUEZ, RAFAEL V. GARLAND, ATT'Y GEN. The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Ninth Circuit for further consideration in light of *Loper Bright Enterprises v. Raimondo*, 603 U. S. ____ (2024).

Attached is a letter by Federal Express to each justice of the U.S. Supreme

1
2 Court and to the 9th Circuit Court Chief Justice. They arrived March
3
4 26th. Federal Express numbers: 880003733694, 880003758070
5

6 Illegal Judicial bias, illegal administrative law
7 (<https://thelawisyourattorney.com/loper-bright-enterprises/>) is recognized by
8 the US Supreme Court and 9th Circuit Court
9

10 as illegal Judicial Misconduct. [https://thelawisyourattorney.com/judicial-](https://thelawisyourattorney.com/judicial-bias-against-litigants-in-dam-removal-cases/)
11 [bias-against-litigants-in-dam-removal-cases/](https://thelawisyourattorney.com/judicial-bias-against-litigants-in-dam-removal-cases/)
12

13 Four cases have been remanded to the Circuit court for illegal
14 administrative law. The link is
15 https://www.supremecourt.gov/opinions/23pdf/22-451_7m58.pdf
16

17 Appellant encourages you to read it. Appellant has.
18
19
20

21 **Conclusion**

22
23 Your honor, this case is far from frivolous; it is a life and death matter that
24

25 requires your immediate attention. It is Appellees who illegally with cherry
26

27 data picking illegally provided KRRC (Docket 24-5275) a license.
28

29 Chemical testing of the silt behind the dams by the Department of Interior in
30

31 2011 revealed levels of Chromium 6 and Arsenic a minimum of 40 times
32

1 the EPA safe level. See Chapter 3.

2 [https://salmonprotectiondevive.com/CDM_2011_0119_Screening-Level-](https://salmonprotectiondevive.com/CDM_2011_0119_Screening-Level-Evaluation-of-Contaminants-in-Sediments.pdf)
3 [Evaluation-of-Contaminants-in-Sediments.pdf](https://salmonprotectiondevive.com/CDM_2011_0119_Screening-Level-Evaluation-of-Contaminants-in-Sediments.pdf)

4

5 Public testimony warned of this, one doctor in particular who lost his wife by

6

7 Chromium 6 poisoning and claimed to be flooded with patients suffering the

8

9 same symptoms. Appellees ignored these preliminary findings, contrary

10

11 to the Scientific Method, and “cherry-picked” data from ill-advised,

12

13 upstream water users only.

14

15 Rather than being first dredged and heat-scrubbed on-site, KRRC

16

17 Appellees license holder released the sludge/silt all at one time in January

18

19 2024. This highly toxic silt now covers both sides of the Riverbank to the

20

21 Pacific Ocean. By contrast, KRRC Appellees license holder performed a

22

23 sham test claiming no poison whatsoever. KRRC, Appellees license holder

24

25 have now attempted to cover up their crime by simply planting grass –

1 grass that will be eaten by unsuspecting deer & elk, eventually to be
2
3 consumed along with contaminated fish by humans. As a life-long
4
5 Chemical Engineer, with expertise in hydrology and advanced statistics,
6
7 Appellant is telling you unequivocally that both sides of the Klamath River
8
9 bank need to be scraped and heat-scrubbed to mitigate this assault on both
10
11 human and wildlife in the Klamath Basin. That's why we need the Court's
12
13 help to release the \$10 million dollars, which is being denied by well-
14
15 meaning, but scientifically naïve, lower court judges.

16 17 18 Rulings requested

19
20 1. Plaintiff respectfully request the federal court for injunctive relief
21
22 and force FERC to remove KRRRC license and give it and their money to
23
24 salmonprotectiondevice.com.

25
26 2. Plaintiff hereby respectfully requests the court to provide relief of the
27
28 ten million dollars sought in the complaint.

29

1 3. Plaintiff hereby respectfully requests the court to make the 2018
2
3 Appellees baseline document from cherry picking data null and void.
4
5 2017 California water board testimony ignored.

6
7 <https://salmonprotectiondevice.com/Klamath-river-MEMORANDUM-OF-POINTS-ferc.pdf>
8

9
10 4. Plaintiff hereby respectfully requests the court to provide relief to
11
12 Plaintiffs (class action members) because they are likely to suffer
13
14 irreparable harm in the absence of preliminary relief. A simple solution
15
16 to issues on the Klamath River could have been arrived at by talking
17
18 with stakeholders as Plaintiff has done on his own time and dime.
19
20 The Balance of Equities Favors the Plaintiffs. Defendants through
21
22 KRRC had no exemption for civil or criminal penalties for killing over
23
24 2,000 fish and a herd of elk who wandered onto the mud and sank as
25
26 if it were quicksand.

27
28
29
30 5. Plaintiff respectfully request the federal court for injunctive relief. This
31
32 designation as signs ever ¼ mile and at ever road and parking spot needs
33
34 to specify that no person shall go near the Klamath River
35

1 without wearing a gas mask until the salmon protection device team
2
3 removes and scrubs the contaminated silt on the riverbanks. This
4
5 included signage in English and
6
7 Spanish like this:

8
9 The river and silt are contaminated with very high levels of Arsenic,
10
11 Chromium 6 and DDT. Do not come near without a gas mask on. Do
12
13 not eat any fish from the river they are contaminated also.

14
15 See <https://salmonprotectiondevice.com/klamath-dams/>

16
17 El río y el cieno están contaminados con niveles muy altos de arsénico,
18 cromo 6 y DDT. No se acerque sin una máscara de gas. No coma ningún
19 pescado del río, ya que también está contaminado. Consulte
20 <https://salmonprotectiondevice.com/klamath-dams/>

21
22
23 **CERTIFICATE OF SERVICE**

24 I hereby certify that on April 2nd, 2025, a true and correct copy of the above
25 document was electronically filed with the Clerk of the Court using
26 CM/ECF. A copy of the document will be served upon interested parties via
27 the Notices of Electronic Filing that are generated by CM/ECF. Additionally,
28 a courtesy copy is being provided as follows:

- 29
30
31 Via hand delivery
32 Via U.S. Mail, 1st Class,
33 Postage Prepaid
34 Via Overnight Delivery
35 Via Facsimile
36 Via Email to **danielle.mechling@ferc.gov**

1 XX Via CM/ECF notification
2 to the extent registered
3



4
5 David C. White Pro Se. April 2nd, 2025
6

7 Appendix
8

9 Judicial Council of the Ninth Circuit

10
11 **COMPLAINT OF JUDICIAL MISCONDUCT**

12
13 **United States Court of Appeals for the Ninth Circuit Office**
14 **of the Circuit Executive**
15 **P.O. Box 193939**
16 **San Francisco, CA 94119-3939**
17

18 **1.** Name of Complainant: _____
19 Dave White Pro Se

20 Contact Address: 18965 NW Illahe
21 st Portland, OR 97229

22 Daytime telephone: (503) 608-7611 _____
23

24 **2.** Name(s) of Judge(s): Judge McShane _____

25 Court: Portland Oregon Federal court _____
26

27 **3.** Does this complaint concern the behavior of the judge(s) in a particular lawsuit
28 or lawsuits?

29 Yes No

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

31 Court: _____ Case

32 Number: 1:24-CV-1301-MC _____

Docket number of any appeal to the 9th_Circuit: 24-5811__

Are (were) you a party or lawyer in the lawsuit?

Party Lawyer Neither

4. Have you filed any lawsuits against the judge?

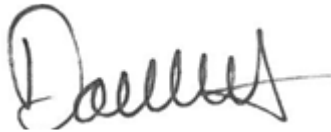
Yes No

9th circuit

5. **Brief Statement of Facts.** The Judge believed untruthful nonsense of Judge Russo and Nelson in KRRC’s lawsuit See case docket report below. The case was illegally dismissed when the defendants were in default.

6. **Acknowledgment, declaration and signature:**

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



(Signature)_____

10/22/24
(Date)

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

Plaintiff filed the case in federal court in Portland Oregon on August 8, 2024 and served the defendants with the complaint and Preliminary injunction. On August 26, 2024 Plaintiff filed a memorandum of ignored stakeholder testimony in the court docket and

served the defendants. This document is the 2018 baseline FERC mitigation document which contained no less than 21 errors.

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

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

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

This is a violation of:

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

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

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

Judges Code of Conduct, 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 Administrative Law to support a political agenda.

A scientific survey of respondents in Yreka County revealed about 80% opposition to dam removal. The extent of the danger was reported by an in-depth chemical assessment of silt behind the Klamath dams conducted by the Department of the Interior in 2011. That assessment found levels of Arsenic and Chromium 6 at a minimum of 40 times the EPA safe level for human exposure. FERC was apparently unaware of this research because of a failure to perform adequate preliminary research. Judge McShane allowed this criminal neglect to go unnoticed and unrequited in his unlawful ruling.

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

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

In addition, rather than judging the case on its merits, Judge McShane relied in part on an illegitimate decision in another distinct lawsuit against KRRC (now being appealed) to dismiss the instant case on grounds that the two lawsuits were identical, or "regurgitated"

as he put it. In order to arrive at such a decision, the judge would have to have not read one or both of the lawsuits in question.

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