

1 UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF OREGON  
3 MEDFORD DIVISION

4 **Case**

5 **David White, Pro Se P1**

6 18965 NW Illahe St,

7 **Portland OR.**

8 [dave@salmonprotectiondevice.com](mailto:dave@salmonprotectiondevice.com)

9 503-608-7611

CLASS ACTION COMPLAINT

\$1 million

COMPLAINT FOR  
DECLARATORY  
JUDGEMENT, DAMAGES  
AND INJUNCTIVE RELIEF  
JURY REQUESTED

14  
15 **vs.**

16 **Defendant 1. (D1)**

17 **Susana Dietrich**

18 **601 Jackpine Dr,**

19 **Grants Pass, OR 97526**

20 **2140 Bobcat Ave SW**

21 **Albany, OR 97321-4872**

22 **mitt@dietrichconst.com**

23 **541-974-3251**

24  
25 **Defendant 2. (D2)**

26 **Mary Lou Soscia in her**

27 **Personal capacity as President of**

28 **Water Watch of Oregon**

29  
30 **Defendant 3 (D3)**

31 **Bryan Sohlin in his Personal capacity as Vice**

32 **President of Water Watch of Oregon**

33  
34 **Defendant 4 (D4)**

35 **Neil Brandt in his personal capacity as**

36 **Executive Director of**

37 **Water Watch of Oregon**

38 **503-295-4039x 101**

39 [neil@waterwatch.org](mailto:neil@waterwatch.org)

1  
2 Melanie Klym (D5)  
3 River Design Group  
4 311 SW Jefferson Avenue  
5 Corvallis, Oregon 97333  
6 Phone: 541.738.2920  
7 [info@riverdesigngroup.com](mailto:info@riverdesigngroup.com)

---

8 Legal Counsel for Water Watch defendants

9 Kaitlin Lovell

10 Attorney-Advisor

11 213 SW Ash St., Suite 208

12 Portland, OR 97204

13 213 SW Ash St., Suite 208

14 Portland, OR 97204

15 (503) 295-4039

16 [info@waterwatch.org](mailto:info@waterwatch.org)

17  
18 Janette Brimmer

19 [jbrimmer@earthjustice.org](mailto:jbrimmer@earthjustice.org)

20 Molly Tack-Hooper

21 [mtackhooper@earthjustice.org](mailto:mtackhooper@earthjustice.org)

---

22  
23  
24 Class action members are local stakeholders who have been  
25  
26 intimated and harassed (29 CFR § 1606.8 (1)) by Defendants from Water  
27  
28 Watch. Therefore, the identities of the class action members will be  
29  
30 withheld until a trial commences.

31  
32 Note to the Court. Your Honor please care about the environment like  
33  
34 plaintiff and class action members do. Defendants should be in jail. The  
35  
36 dam was illegally removed.

37  
38 TABLE OF AUTHORITIES  
39

- 1 1) 18 USC 3 accessory after the fact.....17  
 2 2) 16 USCA § 1532(19);.....3  
 3 3) Scott, J. M. & Karl, J. (1999) “Local and national protection of  
 4 endangered species: An assessment,” Environmental Science & Policy, 2,  
 5 pp. 43-59.  
 6 4) 18 U.S. Code § 41 - Hunting, fishing, trapping; disturbance or injury on  
 7 wildlife refuges.....3  
 8 5) The Endangered Species Act of 1973, .....4  
 9 <https://www.fws.gov/laws/endangered-species-act/section-11>.  
 10  
 11 6) 18 U.S.C. § 1001 False Statements, Concealment.....17  
 12  
 13 7) 18 U.S.C. 1621 Perjury.....17  
 14  
 15 8) 29 CFR § 1606.8 (1) – Harassment has the purpose or effect of creating  
 16 an intimidating, hostile or offensive working environment.....17  
 17  
 18  
 19 9) 33 U.S.C. §1251 et seq. (1972) Clean water act Section 404.....14, 17,  
 20 29  
 21  
 22  
 23 10) 28 U.S. Code § 4101.....3  
 24  
 25 11) 22–451 June 28th, 2024 Loper Bright Enterprises v. Raimondo and  
 26 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  
 29 12) FRCP 3 (4).....3  
 30  
 31 13) 42 U.S.C. §7401 1970 Clean Air Act  
 32  
 33 14) Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002): Pagtalunan  
 34 was Pro Se and made numerous mistakes in filing his complaint resulting  
 35 in the case being dismissed. However, upon appeal, the higher Court  
 36 ruled that the lower Court was in error because they did not give allowance  
 37 for Pagtalunan’s lack of legal  
 38 training.....3  
 39  
 40 Plaintiff also has lack of legal training and respectfully requests the same

1  
2 allowance the higher court said Pagtalunan should have received.  
3 15) 33 CFR Part 329 - PART 329—DEFINITION OF NAVIGABLE  
4 WATERS OF THE UNITED STATES

5  
6 16)

7 <https://usace.contentdm.oclc.org/utils/getfile/collection/p16021coll7/id/2009>  
8 [9](#) Nationwide permits for habitat restoration.

9  
10 17) [https://www.federalregister.gov/documents/2021/01/13/2021-](https://www.federalregister.gov/documents/2021/01/13/2021-00102/reissuance-and-modification-of-nationwide-permits)  
11 [00102/reissuance-and-modification-of-nationwide-permits](#) Reissuance and  
12 modification of Nation Wide permits for habitat restoration.

### 13 JURISDICTION

14  
15  
16 Jurisdiction

17  
18 Basis for Jurisdiction

19  
20 Basis for Jurisdiction is a federal environmental question. The  
21  
22 Pomeroy Dam is on the Illinois River which flows from Oregon to California  
23 then to the ocean. Therefore, this case is Federal Jurisdiction. An  
24  
25 Environmental disaster in the Pomeroy Dam removal has resulted from  
26  
27 Water Watch D2 and D3 (D23) willful destruction of the environment in  
28  
29 violation of known stipulations and restrictions of the Wild and Scenic  
30  
31 Rivers Act and Clean Water Act, Section 404. These are in clear violation  
32  
33 of the Federal Clean Air and Federal Clean Water Acts of the US  
34  
35 Congress.

36  
37 This also includes violations of killing fish including endangered Salmon  
38  
39 without permits. Additional violations are: 18 USC 3, 16 USCA § 1532, 18  
40

1 U.S. Code § 41, Item 3 below, The Endangered Species Act of 1973, 18

2  
3 U.S.C. § 1001, 18 U.S.C. 621, 18 USC 3, 29 CFR § 1606.8, 28 U.S. Code

4  
5 § 4101, 33 U.S.C. §1251, 29 CFR § 1606.8, 28 U.S. Code § 4101, 18

6  
7 U.S.C. 1743 and FRCP. This Court has jurisdiction, over the subject matter  
8 of this complaint, because the illegal and unlawful actions of D23 are

9  
10 violating Federal Law, to include (Wild and Scenic Rivers Act, PL 90-542),

11  
12 (Clean Water Act), and (Commerce Clause of the Constitution). D1

13  
14 Is complicit in these statute violations by providing WW with its contract for  
15 dam removal.

16  
17 Additionally, This Court has jurisdiction, over the subject

18  
19 matter of this complaint, because of its geographical proximity to the

20  
21 massive environmental damage in the Illinois River basin.

22  
23 Plaintiff presents this Complaint respectfully reminding the Court to

24  
25 convene this case as an article III, of the U.S. Constitution Court case, per

26  
27 the recent US Supreme

28  
29 Court ruling in 11) 2024 Loper Bright Enterprises v. Raimondo and

30  
31 Relentless, Inc. v. Department of Commerce above. Article III, Section 2 of  
32 the U. S. Constitution stipulates that “The Judicial Power shall

33  
34 extend to all cases in law and equity, arising under this constitution, the

35  
36 laws of the United States and Treaties, which will be made under the

37  
38 Authority;

39  
40 - to all cases affecting ambassadors, other public Ministers and

1  
2 Counsels, to controversies to which the United States shall be a party;  
3  
4 - to controversies between two or more states, ... between citizens of  
5  
6 different states, between a state or the citizens thereof.

7  
8 First Page, second paragraph, Held: The Administrative Procedure Act  
9  
10 requires courts to exercise their independent judgment in deciding whether  
11  
12 an agency has acted within its statutory authority, and courts may not defer  
13  
14 to an agency interpretation of the law simply because a statute is  
15  
16 ambiguous; Chevron is overruled. Pp. 7–35.

17  
18 ([https://www.foleyhoag.com/news-and-insights/publications/alerts-and-  
19 updates/2024/july/chevrons-demise-and-what-it-means-for-healthcare-and-  
20 life-sciences-companies/](https://www.foleyhoag.com/news-and-insights/publications/alerts-and-updates/2024/july/chevrons-demise-and-what-it-means-for-healthcare-and-life-sciences-companies/) )

21  
22 Therefore, agencies like the Army Corp of Engineers are no longer  
23  
24 permitted to cherry pick data to match their administrative agenda. For  
25  
26 example, about 80% of Pomeroy Dam area residents were strongly  
27  
28 opposed to the dam being removed, however, they were bullied into  
29  
30 signing agreements by threat of legal complaints.  
31  
32

33  
34 Exhibit 1 contains affidavits of local residents who were bullied. To prevent  
35 further harassment by Defendants an emergency hearing is requested to  
36  
37 Initiate the signing of an injunction against the defendants to stop their  
38  
39 futher environmental damage  
40

VENUE

Venue is proper in this Court because the location of the Court is in the same geographical location as the Illegal act's that are NOW being perpetrated. The Court's location is close to the environmental damage incurred and ongoing, allowing for easy visual inspection.

STANDING

The Illinois River's right to a wild and scenic condition is actively being violated by D23 and D1 the D23's contractor, and therefore the Public (Plaintiff and Class action members) have a legal right to speak on behalf of the Illinois River. In addition, the public's right to enjoyment of that condition as mandated by Congress has forever been taken away. Therefore, Plaintiffs have standing. Additionally, this is a class action complaint with class action members residing in the Illinois Basin.

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## INTRODUCTION...

Plaintiff writes this Pleading to the Medford Federal Court with full knowledge of Defendants' willful violation of federal law, no permits, bullying local residence into signing a false agreement and being untruthful in their Army Corps of Engineers Joint Application. Their Joint Application declared that the Illinois River was not a "Wild and Scenic River" and not navigable in Section 8 of their Joint application below. They must check Yes, on questions 2 and 3 in section 8 of the Joint Application. This is a critical habitat for spawning salmon and a wild and scenic river by the legal definition below. Choosing yes then would have required Section 404 or 408 permits, which were withdrawn March 12, 2024.

(8) ADDITIONAL INFORMATION	
Are there <a href="#">state</a> or <a href="#">federally</a> listed species on the project site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
Is the project site within designated or proposed critical habitat?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown
Is the project site within a national <a href="#">Wild and Scenic River</a> ?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown
Is the project site within a <a href="#">State Scenic Waterway</a> ?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown
Is the project site within the <a href="#">100-year floodplain</a> ?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
<b>If yes to any above, explain in Block 6 and describe measures to minimize adverse effects to those resources in Block 7.</b>	
Is the project site within the <a href="#">Territorial Sea Plan (TSP) Area</a> ?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown
<b>If yes, attach TSP review as a separate document for DSL.</b>	
Is the project site within a designated <a href="#">Marine Reserve</a> ?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown
<i>If yes, certain additional DSL restrictions will apply.</i>	

This flawed Joint Application is Exhibit 2.

The Illinois River fits all three definitions in the link below the Illinois River



1 fits all three. By 15) above the Illinois River is;

2  
3 An Introduction to Wild & Scenic Rivers

4 <https://www.rivers.gov/rivers/rivers/sites/rivers/files/2022-06/wsr-primer.pdf>

5  
6 **Bottom of page 2 and repeated top of page 3**

7  
8 In recent years, a large number of designations have resulted from a little-

9  
10 noticed provision of the Act. This is Section 5(d)(1) which requires that, “In  
11 all planning for the use and development of water and related land

12  
13 resources, consideration shall be given by all Federal agencies involved to  
14 potential national wild, scenic and recreational river areas, and all river

15  
16 basin and project plan reports submitted to the Congress shall consider

17  
18 and discuss any such potentials.” The Bureau of Land Management (BLM)  
19 and the U.S. Forest Service (USFS) have identified a large number of

20  
21 rivers eligible for the National System while conducting their

22  
23 comprehensive land management planning processes. These have

24  
25 resulted in multiple designations in several states—Oregon (40), Michigan

26  
27 (14) and Arkansas (8). The National Park Service (NPS) also has identified  
28 eligible rivers in National Park System units.

29  
30 Top of page 4.

31  
32 “Wild” river areas – Those rivers or sections of rivers that are free of

33  
34 impoundments and generally inaccessible except by trail, with watersheds

35  
36 or shorelines essentially primitive and waters unpolluted. These represent

37  
38 vestiges of primitive America.

39  
40 “Scenic” river areas – Those rivers or sections of rivers that are free of

1  
2 impoundments, with shorelines or watersheds still largely primitive and  
3  
4 shorelines largely undeveloped, but accessible in places by roads.

5  
6 “Recreational” river areas – Those rivers or sections of rivers that are  
7  
8 readily accessible by road or railroad, that may have some development  
9  
10 along their shorelines, and that may have undergone some impoundment  
11  
12 or diversion in the past.

13  
14 33 CFR Part 329 - PART 329—DEFINITION OF NAVIGABLE WATERS  
15 OF THE UNITED STATES § 329.4 General definition.

16  
17 Navigable waters of the United States are those waters that are subject to  
18  
19 the ebb and flow of the tide and/or are presently used, or have been used  
20  
21 in the past, or may be susceptible for use to transport interstate or foreign  
22  
23 commerce. A determination of navigability, once made, applies laterally  
24  
25 over the entire surface of the waterbody, and is not extinguished by later  
26  
27 actions or events which impede or destroy navigable capacity.

28  
29 Defendants have claimed that they possess a national permit and that is  
30  
31 why their section 404 and 408 permits were withdrawn on March 12, 2024.  
32 [https://www.nwp.usace.army.mil/Portals/24/docs/regulatory/nationwide/20230720%202021\\_Nationwide\\_Permit\\_User\\_Guide%20NWP%20\(All%20NWP%20PS\).pdf](https://www.nwp.usace.army.mil/Portals/24/docs/regulatory/nationwide/20230720%202021_Nationwide_Permit_User_Guide%20NWP%20(All%20NWP%20PS).pdf)  
33  
34  
35 <https://www.nwp.usace.army.mil/Portals/24/docs/regulatory/nationwide/20220211%202021%20Regional%20Permit%20Conditions.pdf>  
36

37  
38 Neither the national nor regional permit is for dam removal. They are for  
39  
40 habitat restoration only.

1  
2 This is Water Watch Legal Counsel from Earth Justice attempt to bully  
3  
4 Dave White of salmonprotectiondevice.com  
5

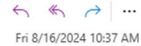
MT

Molly Tack-Hooper&lt;mtackhooper@earthjustice.org&gt;

To: You

Cc: Janette Brimmer; noahrobinson2012@gmail.com

Mr. White:



Fri 8/16/2024 10:37 AM

I understand that you have continued to contact Mr. McCarthy to threaten litigation since receiving my email yesterday informing you that Earthjustice represents WaterWatch of Oregon for the Pomeroy Dam removal and instructing you to direct your communications about that matter to me and my colleague instead of to our client. Once again: do not contact Mr. McCarthy or anyone else at WaterWatch about this matter. They are represented parties, and you need to go through their counsel (me and Ms. Brimmer).

Furthermore, it appears from your various communications that you may be under the mistaken impression that the Pomeroy Dam removal is in some way connected with the removal of dams on the Klamath River, or that WaterWatch of Oregon is involved with the Klamath dam removal project. Neither is correct. The Pomeroy Dam removal has nothing to do with the Klamath. Please stop contacting us and our clients about the Klamath dam removal.

With respect to your repeated demands for permits and your baseless allegations that the Pomeroy project is not properly permitted, we are under no obligation to explain the permitting for this project to you or supply you with copies of documents. You are of course free to file public records requests with the respective agencies involved.

Good luck with all your endeavors.

Sincerely,

Molly Tack-Hooper  
Supervising Senior Attorney, Northwest Office  
Earthjustice  
(she/they)  
810 3rd Ave., #610  
Seattle, WA 98104  
[mtackhooper@earthjustice.org](mailto:mtackhooper@earthjustice.org)

6  
7  
8 Molly Tack-Hooper<mtackhooper@earthjustice.org>

9  
10 To:  
11 You

12  
13 Cc:  
14 Janette Brimmer;  
15  
16 noahrobinson2012@gmail.com

17  
18 Fri 8/16/2024 10:37 AM

19 Mr. White:

20  
21 I understand that you have continued to contact Mr. McCarthy to threaten  
22 litigation since receiving my email yesterday informing you that Earthjustice  
23 represents WaterWatch of Oregon for the Pomeroy Dam removal and  
24 instructing you to direct your communications about that matter to me and  
25 my colleague instead of to our client. Once again: do not contact Mr.  
26 McCarthy or anyone else at WaterWatch about this matter. They are  
27 represented parties, and you need to go through their counsel (me and Ms.  
28 Brimmer).

1  
2 Furthermore, it appears from your various communications that you may be  
3 under the mistaken impression that the Pomeroy Dam removal is in some  
4 way connected with the removal of dams on the Klamath River, or that  
5 WaterWatch of Oregon is involved with the Klamath dam removal project.  
6 Neither is correct. The Pomeroy Dam removal has nothing to do with the  
7 Klamath. Please stop contacting us and our clients about the Klamath dam  
8 removal.

9  
10 With respect to your repeated demands for permits and your baseless  
11 allegations that the Pomeroy project is not properly permitted, we are under  
12 no obligation to explain the permitting for this project to you or supply you  
13 with copies of documents. You are of course free to file public records  
14 requests with the respective agencies involved.

15  
16 Good luck with all your endeavors.

17  
18 Sincerely,

19  
20  
21 Molly Tack-Hooper

22  
23  
24 Supervising Senior Attorney, Northwest Office

25  
26 Earthjustice

27  
28 (she/they)

29  
30 810 3rd Ave., #610

31  
32 Seattle, WA 98104

33  
34 [mtackhooper@earthjustice.org](mailto:mtackhooper@earthjustice.org)

35  
36 This bullying falls under 8) 29 CFR § 1606.8 (1) – Harassment.

37  
38 This is Plaintiff response.

39  
40 “Since there is no litigation filed I can contact anyone I want.

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Just so you know, these are facts.

1. Their joint application is not legal because they did not chose wild and scenic river which the Illinois is by legal definition.

a. They also did not check navigable which it is by legal definition. Either of these checked they would have had to get a section 404 or 408 which was withdrawn March 12<sup>th</sup> 2024.

2. Their so-called national permit NWP-2023-591 covers habitat restoration only not dam removal.

3. Your clients have been bullying the homeowners and the Q Bar X ranch. There will be sworn affidavits of local residents to this.

4. Your clients have a DEQ permit for turbidity. However, that says your client must have which they don't have. An excerpt is below.

5. Your client so far has violated these federal laws: 16 USCA § 1532(19), 18 U.S. Code § 41, The Endangered Species Act of 1973, .....4

<https://www.fws.gov/laws/endangered-species-act/section-11>, 29 CFR § 1606.8 (1) – Harassment, 33 U.S.C. §1251 et seq. (1972) Clean water act Section 404 and more.

“May 3, 2024 Melanie Klym River Design Group, Inc. 311 SW Jefferson Way Corvallis, OR 97333 RE: 401 Water Quality Certification Approval for 2023-591, Pomeroy Dam Removal on Illinois River. The US Army Corps of Engineers (USACE) has determined that your project will be authorized

1  
2 under Nationwide Permit (NWP) category #27. “

3  
4 “As described in the application package received and reviewed by the

5  
6 Oregon Department of

7  
8 Environmental Quality (DEQ), the project qualifies for the expedited 401

9  
10 Water Quality Certification (WQC), subject to the conditions outlined below.

11 If you cannot meet all conditions of this 401 WQC, you may apply for a

12  
13 standard individual certification. A standard individual certification will

14  
15 require additional information, a public notice, and a higher review fee.

16  
17 Certification Decision: Based on information provided by the USACE and

18  
19 the Applicant, DEQ has determined that implementation eligible activities

20  
21 under the proposed NWP will be consistent with water quality requirements  
22 including applicable provisions of Sections 301, 302, 303, 306, and 307 of

23  
24 the federal Clean Water Act, state water quality standards set forth in

25  
26 Oregon Administrative Rules Chapter 340 Division 41, and other

27  
28 appropriate requirements of state law, provided the following conditions are  
29 incorporated into the federal permit and strictly adhered to by the Applicant.

30 Duration of Certificate: This 401 WQC for impacts to waters, including

31  
32 dredge and fill activities, is valid for the duration of the USACE Section 404  
33 permit. **A new 401 WQC must be requested with any modification of the**

34  
35 **USACE 404 permit.”**

36  
37 The national or regional permits are for habitat restoration not Dam

38  
39 destruction. Please see items 16 and 17 in the TABLE OF AUTHORITIES

40

1 which describe this in the Corp documents.

2

3 No Section 408 permit -- it was withdrawn March 12, 2024.

4

5 NWP-2023-591 permit is a nationwide permit. It only allows habitat

6

7 restoration. NWP stands for Nation Wide Permit.

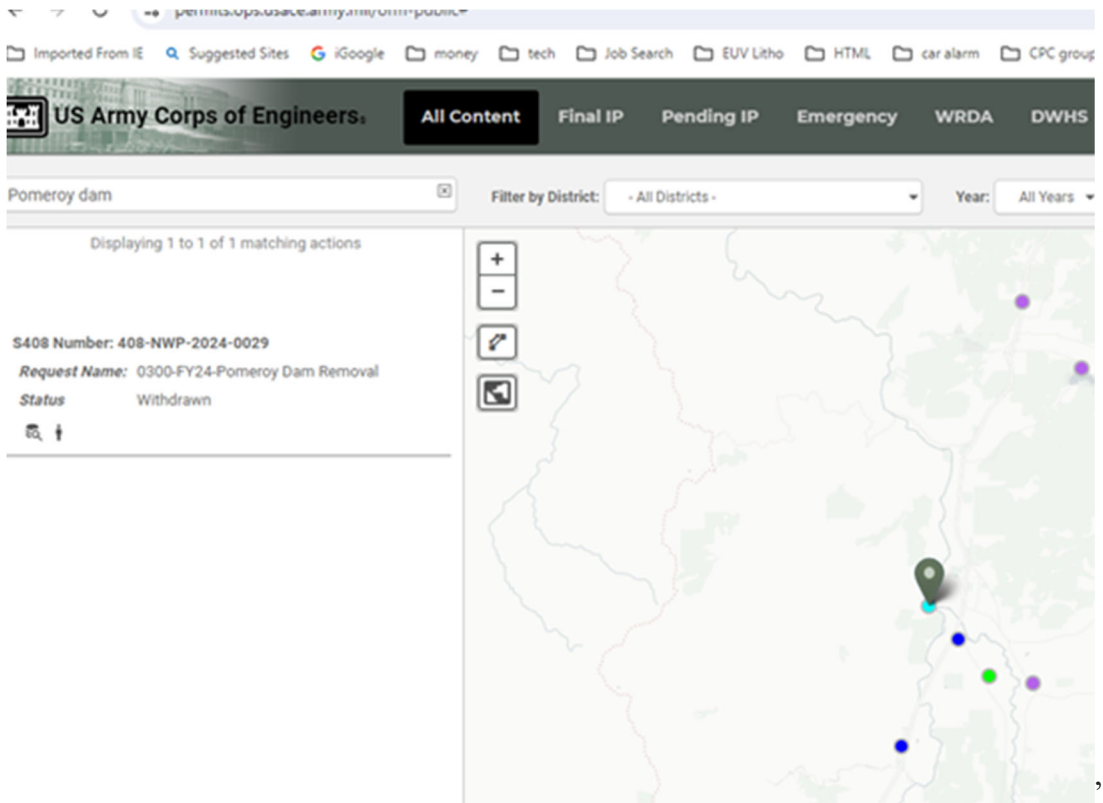
8

9 Oregon State Lands Permit is 64909-RF. This does not grant permission to  
10 remove the dam. Only the Clean Water Act Section 404 or 408 can grant

11

12 such permission.

13



14

15

16 Plaintiff filed a complaint with Corp of Engineers against Water watch.

17

Re: Pomeroy Dam permit hunt update

An official website of the United States government [Here's how you know](#)

**RRS** REGULATORY REQUEST SYSTEM

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The Regulatory Request System (RRS) is currently operating as a beta version [Learn More](#)

**Report Potential Violation**  
Report of Potential Enforcement

Request Status Submitted

Current Step: 4 of 5

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- Contact Information
- General Site Information
- Supporting Information**
- Certify, Sign, and Submit

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Are there any supporting documents you will be uploading?\*

Yes

[Add a Document](#) [Download All Documents](#)

Actions	File Name	Document Label	Document Type	Document Created Date	Information Source/Citation
<a href="#">+</a>	complaint against Water Watch.pdf	complain to be filed in federal court	Other	2024-08-19	law
<a href="#">+</a>	no_permits.pdf	no permits	Other	2024-08-19	Army and State search

From: Dave White &lt;dave@salmonprotectiondevice.com&gt;

There is no dam removal in section 27. <https://saw-reg.usace.army.mil/NWP2021/NWP-27.pdf>

May 3, 2024 Melanie Klym River Design Group, Inc. 311 SW Jefferson Way Corvallis, OR 97333 RE: 401 comment "Water Quality Certification

Approval for 2023-591, Pomeroy Dam Removal on Illinois River the US

Army Corps of Engineers (USACE) has determined that your project will be authorized under Nationwide Permit (NWP) category #27."

This is categorically false. No mention of dam removal in Section 27.

## **BACKGROUND**

<https://www.opb.org/article/2024/05/24/nearly-2-million-federal-money-headed-to-oregon-dam-removal-fish-restoration/>

"This project is a high priority dam," says Jim McCarthy, southern Oregon program director for WaterWatch Oregon. "It does not have a fish ladder, so it blocks or impedes access to 100 miles of habitat for coho, Chinook, Pacific lamprey, cutthroat trout and steelhead." "Water Watch of Oregon,



1 a Portland-based environmental nonprofit with an office in Ashland, will be  
2 in charge of removing the Illinois River's Pomeroy dam.”  
3  
4

5  
6 The second paragraph is categorically untrue. A section of the dam is only  
7 about 2 feet in height and spawning salmon can easily jump it. Other fish  
8 can and do jump it as well. The fingerlings coming down the river will easily  
9  
10 pass over with the strong spring runoff.  
11  
12  
13  
14



15  
16 Image 1 July 8th. However, water still flowing over the dam. A salmon  
17 going over the dam.  
18



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16  
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19

Image 2. Defendants illegally taking out the dam.

The dead aquatic species below are violation of these federal laws for each dead fish or other.

1) 18 USC 3 accessory after the fact for D1 and D5.

2) 16 USCA § 1532(19);

3) Scott, J. M. & Karl, J. (1999) "Local and national protection of endangered species: An assessment," Environmental Science & Policy, 2, pp. 43-59.

4) 18 U.S. Code § 41 - Hunting, fishing, trapping; disturbance or injury on wildlife refuges

5) The Endangered Species Act of 1973,

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

Three federal laws violated for each dead item. 4 years in Jail for each item times 3.





- 1
- 2 Image 3 a dead ?
- 3

1



2

3 Image 4 dead fish including endangered Salmon

4

5



- 1
- 2
- 3
- 4

Image 5 more dead fish.





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

Image 6 more dead fish.

Thus, from a scientific standpoint, there exists absolutely no scientific or other reason to remove the dam.

Water Watch of Portland's 2020 990 filing lists \$831,130 income. Total Assets of \$ 1,153,194. Therefore, a \$1 million request in this complaint is

1 reasonable compensation to the plaintiff and local stakeholders who have  
2  
3 suffered harassment.  
4

## 5 6 7 **ARGUMENT**

8  
9 The relatively simple task of dredging silt contained behind the dam to  
10  
11 resolve the problem has been overlooked or ignored. Fish are dying from  
12  
13 the turbidity.

14 No permit means what D23 is doing breaks federal law, punishable by 10  
15  
16 years in prison, 33 U.S.C. §1251 et seq. (1972) Clean water act. The

17  
18 Oregon DEQ 401 is only related to turbidity. It also requires you to have a

19  
20 Clean Water Section permit. Consequently, Defendants must restore

21  
22 everything at the dam to its original condition and vacate. Your permit was

23  
24 withdrawn March 12, 2024. The DEQ 401 permit is related only to turbidity

25  
26 maximums. It also requires that you need a section 404 permit which you

27  
28 do not have. Below is our Section 404 permit and Joint application applied

29  
30 for in January for salmonprotectiondevice.com. You must cease and desist  
31  
32 your vandalism of public property and restore the dam to its original

33  
34 condition. Should you persist in your vandalism, we have no choice but to

35  
36 file a complaint in Medford Federal Court asking for adjudication of federal

37  
38 law violations. Please refer questions to 503-608-7611.

39  
40 Defendants are pseudo-scientists (WW) with no appreciation of

1 the scientific method. The first step in the scientific method is thorough  
2 literature search to include existing reports of previous quantitative testing  
3 and surveys as well as qualitative reports such as public hearings or focus  
4 Groups. However, Defendants did not perform this task and were  
5 untruthful in statements to the media and their permit applications. Plaintiff  
6 already has shown Defendants Joint application was false. This was their  
7 application to Army Corp of Engineers and Oregon DEQ Section 401.  
8

9 “May 3, 2024 Melanie Klym River Design Group, Inc. 311 SW Jefferson  
10 Way Corvallis, OR 97333 RE: 401 Water Quality Certification Approval for  
11 2023-591, Pomeroy Dam Removal on Illinois River The US Army Corps of  
12 Engineers (USACE) has determined that your project will be authorized  
13 under Nationwide Permit (NWP) category #27. As described in the  
14 application package received and reviewed by the Oregon Department of  
15 Environmental Quality (DEQ), the project qualifies for the expedited 401  
16 Water Quality Certification (WQC), subject to the conditions outlined below.  
17 If you cannot meet all conditions of this 401 WQC, you may apply for a  
18 standard individual certification. A standard individual certification will  
19 require additional information, a public notice, and a higher review fee.  
20 Certification Decision: Based on information provided by the USACE and  
21 the Applicant, DEQ has determined that implementation eligible activities  
22 under the proposed NWP will be consistent with water quality requirements  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40



1 including applicable provisions of Sections 301, 302, 303, 306, and 307 of  
2  
3 the federal Clean Water Act, state water quality standards set forth in  
4  
5 Oregon Administrative Rules Chapter 340 Division 41, and other  
6  
7 appropriate requirements of state law, provided the following conditions are  
8  
9 incorporated into the federal permit and strictly adhered to by the Applicant.  
10 Duration of Certificate: This 401 WQC for impacts to waters, including  
11  
12 dredge and fill activities, is valid for the duration of the USACE Section 404  
13 permit. **A new 401 WQC must be requested with any modification of the**  
14  
15 **USACE 404 permit.”**

16  
17 The national or regional permits are for habitat restoration not Dam  
18  
19 destruction. Please see attachments which describe this in the Corp  
20  
21 documents.

22  
23 D23 Section 408 permit was withdrawn March 12, 2024.

24  
25 The decision to vandalize and destroy this incredibly valuable |  
26  
27 public property was based entirely on ill-informed, and unscientific  
28  
29 complaints of non-residents. Defendants are proceeding with no regard  
30  
31 whatsoever for the water-rights of downstream users, and the far less  
32  
33 draconian remedies that would have respected the environmental  
34  
35 rights of everybody involved, upstream and downstream, in  
36  
37 accordance with the 7 environmental values of the Wild and Scenic  
38  
39 Rivers Act.

40

1           This debacle stands as testimony of compliance with half-baked,  
2  
3 emotion charged, “radical environmentalist” ideology, while  
4  
5 completely ignoring sound principles of environmental science.

6  
7 This is 18 U.S.C. § 1001 False Statements, Concealment, 18 U.S.C. 1621  
8  
9 Perjury and 29 CFR § 1606.8 (1).

10  
11 The electric power from all Oregon dams is desperately needed for the  
12  
13 Northwest grid this Winter. This action entails senseless destruction of a  
14  
15 vital source of clean energy because power from all sources is projected to  
16 fall 900 megawatts short in 2024.

17  
18 Promotion of Electric Vehicles has exacerbated the situation. In light of our  
19 looming power crisis removal of this vital source of clean, renewable  
20  
21 energy can only aggravate the problem. Removal of the Pomeroy dam  
22  
23 amounts to corporate insanity.

24  
25  
26 The table below, along with other critical information, was presented by a  
27  
28 grid expert at an October 18, 2023 Cascade Policy Institute Conference.

29  
30 Note that for this Winter, 2024-2025 the Northwest electric grid is projected  
31 to fall 927 megawatts short of demand. It is projected to be almost nine  
32  
33 times as bad in 10 years. The grid expert said they are talking about  
34  
35 activating virtual generators at homes to help make up the difference when  
36 needed. For example, a virtual generator is equipped to switch the smart  
37  
38 meter on a home which is charging an electrical vehicle at night and drain  
39

1 the Ev battery charge back into the grid.

2

## Northwest Region Requirements and Resources

**Table 1. Northwest Region Requirements and Resources – Annual Energy** shows the sum of the individual utilities' requirements and firm resources for each of the next 10 years. Expected firm load and exports make up the total firm regional requirements.

Average Megawatts	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	2031-32	2032-33
<b>Firm Requirements</b>										
Load <sup>1/</sup>	21,814	22,791	23,694	24,558	25,545	26,225	26,485	26,681	26,841	27,006
Exports	520	502	502	501	501	501	501	501	501	501
<b>Total</b>	<b>22,334</b>	<b>23,293</b>	<b>24,195</b>	<b>25,060</b>	<b>26,046</b>	<b>26,726</b>	<b>26,986</b>	<b>27,182</b>	<b>27,342</b>	<b>27,507</b>
<b>Firm Resources</b>										
Hydro <sup>2/</sup>	11,459	11,439	11,424	11,462	11,424	11,402	11,200	11,200	11,161	11,005
Small Thermal/Misc.	28	28	28	28	28	18	11	11	11	11
Natural Gas <sup>3/</sup>	4,107	4,497	4,801	4,551	4,546	4,544	4,474	4,426	4,225	4,222
Renewables-Other	276	275	273	274	269	268	268	266	264	260
Solar	503	503	503	502	502	501	501	500	498	483
Wind	1,757	1,747	1,747	1,721	1,661	1,623	1,611	1,596	1,596	1,622
Cogeneration	41	41	34	32	31	31	31	31	31	31
Imports	488	488	467	467	453	380	324	310	310	222
Nuclear	1,116	994	1,116	994	1,116	994	1,116	994	1,116	994
Coal	2,583	2,356	1,593	1,065	1,068	891	593	479	497	508
<b>Total</b>	<b>22,357</b>	<b>22,366</b>	<b>21,985</b>	<b>21,096</b>	<b>21,097</b>	<b>20,652</b>	<b>20,127</b>	<b>19,810</b>	<b>19,708</b>	<b>19,357</b>
<b>Surplus (Deficit)</b>	<b>22</b>	<b>(927)</b>	<b>(2,210)</b>	<b>(3,963)</b>	<b>(4,949)</b>	<b>(6,074)</b>	<b>(6,859)</b>	<b>(7,372)</b>	<b>(7,634)</b>	<b>(8,150)</b>

<sup>1/</sup> Load net of energy efficiency

<sup>2/</sup> Firm hydro for energy is the generation expected assuming critical (8%) water condition (the methodology is changed for the 2023 report)

<sup>3/</sup> More energy may be available from natural gas power plants

3

4 Also, anything that is done to reduce emissions of carbon dioxide

5

6 takes 150 years to have an effect due to the phenomenon of residence

7

8 time. Believe it or not, It takes that long for existing Carbon Dioxide

9

10 to dissipate, so Electric Vehicles have no effect whatsoever on any  
11 imagined ill-effects of current CO2 levels.

12

1 [https://cctruth.org/residence\\_time.pdf](https://cctruth.org/residence_time.pdf)  
2  
3

#### 4 **Exhibit list**

5 Exhibit 1 contains affidavits of local residents who were bullied by  
6 defendants into assent for dam removal. To prevent further harassment  
7 (8) 29 CFR § 1606.8 (1)), the  
8

9 Sworn affidavits of local residents will be presented as exhibits at an  
10 emergency hearing.  
11

12 Exhibit 2 is D23 illegal Joint Application

13 The file is over 80 pages so a link is provided instead.

14 [https://salmonprotectiondevice.com/joint\\_application\\_filed\\_with\\_state\\_lan  
15 ds.pdf](https://salmonprotectiondevice.com/joint_application_filed_with_state_lands.pdf)  
16  
17

18 Exhibit 3 is D23 illegal agreement with residents not signed by an officer  
19 of D23.  
20

21 Exhibit 4 is residence time of Atmospheric Carbon dioxide.  
22  
23

#### 24 **CONCLUSION**

25  
26 D1, D23 killed fish including endangered Salmon without permits.  
27

28 D23 has broken numerous environmental laws which transfer to D1 by 18  
29 USC 3 accessory after the fact.  
30

31 Standing is inherent or built-in by the class action nature  
32

33 of this case. Class Action members, residing only a few miles from

1  
2 the Pomeroy Dam have legal standing on the basis of direct harm inflicted.  
3 Their life and property are now at risk by the return of surge flood waters  
4  
5 that were endemic prior to installation of the dam.

6  
7 Standing is also inherent by D23 violations of Federal Environmental law  
8  
9 and the seven values articulated therein, reserved for every citizen of the  
10  
11 United States **and for the river itself.**  
12

### 13 14 15 **PRAYER FOR RELIEF**

- 16  
17 1. Plaintiff respectfully requests the Federal Court to acknowledge  
18  
19 standing based on Federal Environmental laws broken with  
20  
21 associated 7 Values denied to Plaintiff, class action members due to  
22  
23 harms inflicted by D1, D23' malfeasance.  
24
- 25 2. Plaintiff respectfully requests the Federal Court for strong  
26  
27 adjudication of Defendants to the Federal Prosecutor for felony  
28  
29 charges against them  
30
- 31 3. Plaintiff hereby respectfully requests the Court to issue a Writ of  
32  
33 Mandamus charging Plaintiffs' team with the task of  
34  
35 restoring the Illinois river back to its Original Wild and Scenic  
36  
37 condition with dams and fish ladders as mandated by Congress, and

1  
2 grant Injunctive Relief to halt all further vandalism of the Pomeroy  
3  
4 dam.

- 5  
6 4. Also, to issue a Summary Judgement because Defendants continue  
7  
8 to ignore what they are legally required to do by the Army Corp of  
9  
10 Engineers, and the federal Clean Water Act, Section 404. The  
11  
12 gravity of this case requires a court order that commands a  
13  
14 government official or entity to perform an act it is legally required to  
15  
16 perform as part of its official duties, or refrain from performing an act  
17  
18 the law forbids.

- 19  
20  
21 5. Plaintiff hereby respectfully requests the court to order Defendants  
22  
23 to immediately stop deconstruction and transfer all remaining control  
24  
25 and funds to Salmon Protection Device non-profit for remediation.

26  
27 Salmonprotectiondevice.com retains engineers and scientists who  
28  
29 know how to mitigate the contaminated silt, dredge behind the dam,  
30  
31 and install fish ladders if needed on Pomeroy Dam.

- 32  
33  
34 6. Plaintiff hereby respectfully requests the court to provide relief with  
35  
36 and take judicial notice of the lethal environmental consequences  
37

1 D23's actions, which must cease immediately. Rule Salmon  
2  
3 Protection Device remediation team to the task of project mitigation  
4  
5 immediately, to avoid more lethal environmental consequences of  
6  
7 D23's gross negligence.

8  
9 7. Plaintiff again requests a writ of mandamus and a Summary

10  
11 Judgment in Plaintiff's favor because Defendants are clearly biased  
12  
13 against Federal Environmental law, not doing what they are legally  
14  
15 required to do.

16  
17 8. Plaintiff respectfully requests the federal court to provide any cost up  
18  
19 to \$1 million **to** Plaintiff's mitigation team as the court sees fit.

20  
21  
22  
23  
24 **Service**

25  
26 Fed. R. Civ. P. 4(e)". says (e)(1) "following state law for serving  
27  
28 a summons in an action brought in courts of general jurisdiction in the state  
29  
30 where the district court is located or where service is made; However, by  
31  
32 Oregon law email service is allowed. UTCR 8 21.10 (2) explains a  
33  
34 document may be a pleading or many other documents.  
35  
36 Rule 4M states plaintiffs can serve the summons up to 90 days' after

1  
2 the complaint is filed.  
3  
4

5  
6 **CERTIFICATE OF SERVICE**

7 I hereby certify that on August 22nd, 2024, a true and correct copy of the  
8 above document was electronically filed with the Clerk of the Court using  
9 CM/ECF. A copy of the document will be served upon interested parties via  
10 the Notices of Electronic Filing that are generated by CM/ECF. Additionally,  
11 a courtesy copy is being provided as follows:  
12

13 

---

**Attorney for Legal Counsel for D23 defendants**

14  
15 Kaitlin Lovell

16  
17 Attorney-Advisor

18  
19 213 SW Ash St., Suite 208

20  
21 Portland, OR 97204

22  
23 213 SW Ash St., Suite 208

24  
25 Portland, OR 97204

26  
27 (503) 295-4039

28  
29 info@waterwatch.org  
30  
31

32  
33 Janette Brimmer

34  
35 jbrimmer@earthjustice.org  
36

37 Molly Tack-Hooper

38  
39 mtackhooper@earthjustice.org



1  
2 mitt@dietrichconst.com

3  
4 info@riverdesigngroup.com

5  
6  
7

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 XX Via CM/ECF notification

15 to the extent registered DATED: August 22nd, 2024.

16 By: David White

17



18  
19 David C. White Pro Se. August 22nd, 2024

20

21

22 EXHIBITS

23

24 Exhibit 1 will be sworn affidavits of local residents who were bullied by

25

26 defendants. To keep Defendants from committing further harassment (8)

27 29 CFR § 1606.8 (1)), the Sworn affidavits of local residents will be

28

29 exhibits at an emergency hearing.

30

31 Exhibit 2 is D23 illegal Joint Application

32

1 [https://salmonprotectiondevice.com/joint\\_application\\_files\\_with\\_state\\_lands.pdf](https://salmonprotectiondevice.com/joint_application_files_with_state_lands.pdf)

2

3 Exhibit 3 is D23 illegal agreement with the residence not signed by an

4

5 officer of D23.

6

7

**COOPERATIVE LANDOWNER AGREEMENT**  
**FOR A RESTORATION PROJECT ON ILLIOIS RIVER**

This Agreement is entered into this 16<sup>th</sup> day of January, ~~2023~~ 2024 by and between WaterWatch of Oregon, (hereinafter "WaterWatch"), and the Pomeroy Park PUD Homeowners Association, Inc. (hereinafter "Landowner");

Whereas, the Landowner owns real property lying along the Illinois River at 231 Pomeroy View Drive, Cave Junction, Josephine County, Oregon, and described in Exhibit A attached hereto (hereinafter "Landowner's Property");

Whereas, a concrete diversion dam, commonly known as Pomeroy Dam, is located on the Illinois River, near Pomeroy View Drive, Cave Junction (hereinafter "Pomeroy Dam");

Whereas, Pomeroy Dam is not owned by the Landowner but the dam is partially located on Landowner's Property;

Whereas, state and federal fishery agencies, conservation organizations, and fishing groups have identified Pomeroy Dam as a dam they wish to have removed as part of a larger restoration project intended to enhance passage and habitat for native fish, such larger project known as the Pomeroy Dam Removal, Pumping, and Water System Improvement Project;

Whereas, Q Bar X Ranch, is the sole owner of and sole water user on Pomeroy Dam;

Whereas Q Bar X Ranch is a party to the Pomeroy Dam Removal, Pumping, and Water System Improvement Project and has consented to the removal of Pomeroy Dam and associated obsolete infrastructure;

Whereas, WaterWatch is a party to the Pomeroy Dam Removal, Pumping, and Water System Improvement Project, and among the conservation organizations that wishes to see Pomeroy Dam removed;

Whereas, Landowner's Property provides habitat for native fish and wildlife, and that habitat can be improved by the removal of Pomeroy Dam and other restoration actions.

Whereas, Landowner consents to removal of Pomeroy Dam, agrees to cooperate in the dam removal process, and agrees to grant limited access to Landowner's Property for dam removal and site restoration, provided there is no financial cost to Landowner;

IT IS THEREFORE AGREED AS FOLLOWS:

**I. POMEROY VIEW RESTORATION PROJECT**

WaterWatch and Landowner agree to work together, as provided in this Agreement, to remove Pomeroy Dam, to restore the dam site and areas affected by the dam and its removal, and to undertake restoration actions on Landowner's Property (hereinafter "Pomeroy View Restoration Project"). WaterWatch and the Landowner agree that the Pomeroy View Restoration Project shall include the following elements:

- removal of blackberry and other non-native vegetation on Landowner's Property and replacement with plantings of native vegetation;

- inspections of Pomeroy Dam and Landowner's Property adjoining and surrounding the dam, and the Illinois River;
- environmental review as required by any applicable state or federal law;
- permitting as required by any state, federal, or local laws;
- engineering and design;
- pre-removal activities including site preparation and site access preparation;
- removal of Pomeroy Dam and associated infrastructure;
- fish habitat improvements to the Illinois River including placement of large wood structures and/or boulders; *BBB*
- cleanup and removal of debris on the Landowner's Property as a result of dam removal, non-native vegetation removal, plantings, and associated activities;
- restoration of the former dam and reservoir site to a more natural condition with plantings of native vegetation;
- annual monitoring of the site (which shall include the Illinois River, the former site of the dam, and the former reservoir pool area) for up to three years after dam removal is complete or for such period as funding agencies may require.

The parties agree to work together in good faith to implement the Pomeroy View Restoration Project in accordance with their respective obligations as set forth in this Agreement.

## II. WATERWATCH OBLIGATIONS

**A. Funding.** WaterWatch shall exercise due diligence and good faith to secure grant or other funding for implementation of the Pomeroy View Restoration Project, including funding for necessary engineering for the project described above. WaterWatch is not committing itself to make any financial contribution to the Pomeroy View Restoration Project and is not providing any representations, warranties or guarantees that such funding will be obtained as a result of WaterWatch's efforts. Pomeroy Dam will not be removed until funding for the Pomeroy View Restoration Project has been secured.

**B. Pomeroy View Restoration Project.** WaterWatch will exercise due diligence to partner with state agencies, federal agencies, and/or other partners or contractors to conduct required environmental review, obtain necessary permits and to implement the Pomeroy View Restoration Project, provided funding satisfactory to WaterWatch has been identified and secured and all necessary approvals from third parties are secured, including approval from any third parties owning any portion of the land on which the dam is situated and/or land that will need to be accessed or used for the Pomeroy View Restoration Project. WaterWatch is not obligated to serve as project manager, administrator, or a general contractor for the Pomeroy View Restoration Project, and expects other project partners or assigns to serve in this capacity.

**C. Condition Precedent to WaterWatch Obligations.** WaterWatch has reached an agreement for removal of Pomeroy Dam with Q Bar X Ranch, the owner of the dam. In the event that the agreement with Q Bar X Ranch is terminated or breached, WaterWatch, at its sole option, may elect to suspend moving forward with its obligations under this Agreement.

## III. LANDOWNER'S OBLIGATIONS

**A. Consent.** Landowner hereby consents to the implementation of the Pomeroy View Restoration Project, in accordance with this Agreement and as described in the Pomeroy View Restoration Project section above. This consent shall be for the benefit of WaterWatch, its funders, its partners (including state and federal agencies), its contractors, and its assigns.

**B. Cooperation.** Landowner shall cooperate in good faith with WaterWatch, its funders, partners, contractors, and assigns and any state, federal, or local agencies or their personnel



required to be involved in the Pomeroy View Restoration Project, in securing funding for the Pomeroy View Restoration Project, and in and implementing the Pomeroy View Restoration Project. The Landowner shall exercise due diligence and good faith to facilitate implementation of the Pomeroy View Restoration Project. Landowner acknowledges that any required permits for any work on Landowner's Property may have to be applied for in the Landowner's name and Landowner shall cooperate as necessary, with WaterWatch and its partners, to secure permits and funding for the Pomeroy View Restoration Project. The Landowner acknowledges time is of the essence when preparing and completing permit applications, and shall cooperate in achieving their completion in a timely manner by providing necessary signatures on permit applications within seven (7) days of Landowner receipt of permit applications or other paperwork prepared by WaterWatch, its agents, funders, or contractors for project purposes. **Notwithstanding the above, the Landowner shall not be required to make any direct financial contribution to the Pomeroy View Restoration Project.**

C. **Access.** Landowner shall permit WaterWatch, its officers, agents, employees, contractors, funders, partners, and assigns, and any state, federal, or local agencies or their personnel that are involved in the Pomeroy View Restoration Project, access over and use of Landowner's Property as is reasonably necessary to assess, study, monitor, and implement the Pomeroy View Restoration Project. Landowner shall also permit contractors to store equipment, materials, and supplies on Landowner's Property during the construction phase of the Pomeroy View Restoration Project at a reasonable location to be mutually agreed upon between contractor and Landowner. **However, excepting reasonable access in order to conduct blackberry removal and plantings of native vegetation, no entry shall be made by heavy equipment via Pomeroy View Drive to Landowner's Property without first obtaining Landowner's specific consent. Heavy equipment entry for all Pomeroy Dam Removal, Pumping, and Water System Improvement Project activities shall be initiated through Q Bar X Ranch property.**

D. **Oregon Watershed Enhancement Board.** Landowner is aware that WaterWatch and/or its partners may be seeking funding from the Oregon Watershed Enhancement Board (OWEB), and that if OWEB funding is provided the Landowner agrees to allow OWEB and its representatives access over Landowner's Property for inspections and evaluations of the Pomeroy View Restoration Project. The Landowner is aware that information related to work under an OWEB grant is public information and agrees that this fact will not prevent full cooperation by Landowner in applying for OWEB funding for the Pomeroy View Restoration Project.

#### **IV. CONTRACTORS**

Once funding has been secured for the Pomeroy View Restoration Project, WaterWatch and/or its partners and assigns shall retain a contractor or contractors to implement the project.

The parties agree that all contractors implementing the Pomeroy View Restoration Project will be licensed and insured and contracts with them will contain the following provisions:

- a) The contractors shall be responsible for any liability that arises with respect to the performance of its work or the work of its employees or subcontractors;
- b) The contractors shall hold harmless and indemnify the Landowner, WaterWatch, and WaterWatch's partners from any liability or loss associated with performance of contractor's work;
- c) The project will be implemented in accordance with all laws, rules and regulations;
- d) The hours and days of work that contractors will be allowed to perform their work on Landowner's Property shall be coordinated with the Landowner, but shall be at least Monday through Friday from 8:00 am to 5:00 pm;

e) Once actual dam removal, blackberry removal, and other work has been initiated, the work shall be completed in a reasonable time;

g) All materials, debris, supplies, and equipment from the removed dam and associated work shall be removed from Landowner's Property;

h) The contractors shall acknowledge that the work of the Pomeroy View Restoration Project is being performed for the benefit of the Landowner and all guarantees and warranties shall be for the benefit of the Landowner.

#### **V. LIMITATION OF LIABILITY**

A. WaterWatch will be acting only as a facilitator to secure funding, partners, and contractors to implement the Pomeroy View Restoration Project. WaterWatch shall have no responsibility or liability for the dam removal, site restoration, or other work performed other than paying for any obligations WaterWatch incurs with contractors.

B. The parties shall implement the Pomeroy View Restoration Project in cooperation and consultation with the State Department of Fish and Wildlife and/or the Oregon Watershed Enhancement Board so that the Landowner will qualify for the liability protections offered by ORS 496.270(3).

#### **VI. PRIOR AGREEMENTS/CONTRACTS**

This document represents the entire, final, and complete Agreement of the parties pertaining to the Pomeroy View Restoration Project. WaterWatch has made no commitments or agreements with the Landowner that are not specifically set forth in this Agreement.

#### **VII. MODIFICATIONS AND CHANGES**

No modification or amendment of this Agreement shall be valid unless in writing and signed by the parties.

#### **VIII. REMEDIES**

In the event any party should fail to perform any terms or provisions of this Agreement, the non-breaching party shall be entitled to all rights and remedies provided in law or equity including the right to specific performance.

#### **IX. TERM**

The parties acknowledge that it will take some time to acquire the needed funding, to conduct the needed environmental review, to obtain the necessary permits, to do the contracting and to implement the project. Therefore, the parties agree that the term of this Agreement shall end on the earlier of: (1) a date five years from the date of this Agreement if funding has not been secured during that period; or (2) upon completion of blackberry removal, dam removal, site restoration, and subsequent monitoring.

#### **X. OTHER PROVISIONS**

Time is of the essence of this Agreement. The obligations and covenants of the parties to this Agreement are irrevocable during the term of this Agreement.

#### **XI. BINDING AFFECT**

This Agreement shall run with the land and shall be binding on and inure to the benefit of the parties and their respective heirs, successors and assigns, and to any subsequent owners of Landowner's Property. It is acknowledged by Landowner that WaterWatch may find it desirable to partner with other entities to better implement the Pomeroy View Restoration Project, and that all rights that WaterWatch has under this Agreement may be assigned to third parties.

**XII. CONTACT INFORMATION**

WaterWatch  
Contact Person: Neil Brandt  
Phone Number: 503-295-4039

Landowner  
Contact Person: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

**XIII. LANDOWNER'S REPRESENTATION AND WARRANTY**

Landowner represents and warrants that they are the sole owners of Landowner's Property and have the right and authority to enter into this Agreement without the consent of any other party. The board of directors of the Landowner have approved this agreement and authorized Stacey Grabarz as president to sign on behalf of the Pomeroy Park PUD Homeowners Association, Inc.

**XVI. COUNTERPARTS**

This Agreement may be executed in counterparts, each of which will be considered an original and all of which together will constitute the same Agreement.

**IN WITNESS WHEREOF, the parties set their hands on the date above written.**

WaterWatch of Oregon  
BY: Neil Brandt  
Neil Brandt, Executive Director

Landowner  
Pomeroy Park PUD Homeowners Association, Inc.  
BY: Stacey Grabarz  
STACEY GRABARZ, President

1  
2 Atmospheric Carbon Dioxide residence time

3  
4 In a 2003 IPCC report, The Intergovernmental Panel on Climate Change  
5  
6 gave a range of 5 years to 200 years for residence time, which can be a  
7  
8 range of time. However, most Chemical Engineers use average  
9  
10 residence time. That is what we are interested in. We need to know on  
11  
12 average how long it takes a molecule to be consumed by photosynthesis,  
13  
14 Or diffused to the exosphere. This time is at least 150 years. The full  
15  
16 manuscript can be accessed at:

17  
18 <https://agupubs.onlinelibrary.wiley.com/doi/full/10.1002/2017JD028121>

19  
20 This is more than 160 PhD in 19 published manuscripts summarized in  
21  
22 one published manuscript.

Residence Time (Years)	Author	Year
<b>700</b>	Allen	2009
<b>610</b>	Zickfeld	2013
<b>500</b>	Matthews	2008
<b>300</b>	Plattner	2008
<b>270</b>	Cao	2010
<b>230</b>	Zickfeld	2012
<b>220</b>	Solomon	2012
<b>220</b>	Knutti	2012
<b>210</b>	Gillett	2011
<b>180</b>	Frolicher	2010
<b>150</b>	Hare	2006



1 Even at a residence time of 100 years, atmospheric CO<sub>2</sub> never lowers  
 2  
 3 due to reducing emissions. Constraints for this chart. 45% reduction in  
 4  
 5 fossil fuel CO<sub>2</sub> emissions by 2030 55% reduction in fossil fuel CO<sub>2</sub>  
 6  
 7 emissions by 2130 due to depletion of those fuels. 2030 45% reduction in  
 8 the rate of rise of Atmospheric CO<sub>2</sub>.

9  
 10 2130 45% reduction in CO<sub>2</sub> concentration

11  
 12 2230 55% reduction in CO<sub>2</sub> concentration and rate.

13  
 14 Another way to look at residence time is a signature from past events,

15  
 16 which lowered CO<sub>2</sub> emissions. As an example, oil embargo in the  
 17  
 18 1970's, multiple recessions and the big worldwide recession in 2009. The  
 19 \

20 COVID-19 pandemic. These are examples of lowered worldwide

21  
 22 emissions. Below is the current graph of Mauna Loa CO<sub>2</sub>. You can

23  
 24 clearly see no signature from these events.

