

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Mar 09, 2026

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CONFEDERATED TRIBES OF THE
COLEVILLE RESERVATION, and
CONFEDERATED TRIBES OF THE
CHEHALIS RESERVATION,

Plaintiffs,

v.

NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION,
SECRETARY OF COMMERCE
HOWARD LUTNICK, in his official
capacity, JENNIFER QUAN, Regional
Administrator NOAA Fisheries West
Region, in her official capacity, BUREAU
OF INDIAN AFFAIRS, and
SECRETARY OF THE INTERIOR
DOUGLAS BURGUM, in his official
capacity,

Defendants.

No. 2:26-CV-00061-SAB

**ORDER DENYING
PLAINTIFFS' MOTIONS FOR
EMERGENCY TEMPORARY
RESTRAINING ORDER**

**ORDER DENYING PLAINTIFFS' MOTIONS FOR TEMPORARY
RESTRAINING ORDER *1**

1 Before the Court are Plaintiffs’ Emergency Motion for Temporary
2 Restraining Order, ECF No. 13, related Motion to Expedite, ECF No. 20, and
3 Motion for Temporary Restraining Order, ECF No. 14. Plaintiffs are represented
4 by Thomas P. Peckham, Marty M. Raap, and Robbi M. Kesler. Defendants are
5 represented by Joseph P. Derrig and Derek T. Taylor. The Motions were
6 considered without oral argument.

7 Section 40001 of the Inflation Reduction Act (IRA) allocated \$2.6 billion to
8 The National Oceanic and Atmospheric Administration (NOAA) “for the
9 conservation, restoration, and protection of coastal and marine habitats, resources,
10 Pacific salmon and other marine fisheries.” Inflation Reduction Act of 2022, Pub.
11 L. No. 117-169, § 40001(a), 136 Stat 1818, 2028-29. \$184 million of these funds
12 have been allotted for competitive grants to support tribal salmon hatchery projects
13 in the Northwest region. The relevant IRA section does not specify how NOAA
14 should allocate these funds beyond that the funds should be directed to “Tribal
15 Governments” for salmon hatchery projects. NOAA and the Bureau of Indian
16 Affairs (BIA) have an agreement in which BIA ultimately handles and disburses
17 the grant funds. Eventually, NOAA decided grant funding would be limited to
18 tribes that meet the following criteria:

19 Federally recognized tribes that have a Pacific salmon or steelhead hatchery
20 facility or interest in a Pacific salmon or steelhead hatchery facility that
21 needs maintenance and/or modernization, and where an allocation of funds
22 for that facility would contribute to the exercise of tribal salmon fishing in
23 Washington, Klamath/Trinity, and Metlakatla fisheries.

24 According to NOAA, the Plaintiff Tribes do not meet the defined criteria,
25 which is not disputed by Plaintiffs. In April 2024, NOAA informed Plaintiffs they
26 would not be included on the list of tribes eligible to apply for the grants.

27 According to Plaintiffs, BIA intends to issue award letters of grant funds to
28 other tribes “no sooner” than March 6, 2026. Accordingly, Plaintiffs requested the

1 Court grant an emergency temporary restraining order enjoining BIA from
2 disbursing \$22 million of these grant funds, which represents the maximum
3 funding that could be granted to Plaintiffs if it is determined they are eligible to
4 apply for funding and their applications are accepted.

5 In their response, Defendants assert the decision to limit grant funding
6 opportunities to the list of 27 tribes was committed to agency discretion.
7 Defendants assert the decision to limit the applicant pool was based on the need to
8 direct funding to projects supporting fisheries in certain geographic regions, which
9 the Plaintiff Tribes do not work in. Further, the amount of funding available for
10 these projects is limited, and NOAA determined the number of eligible tribes
11 needed to be reduced for the grants to be more effective.

12 The standard for issuing a TRO is “substantially identical” to the standard
13 for issuing a preliminary injunction. *See Stuhlberg Int’l. Sales Co. v. John D.*
14 *Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). Preliminary injunctions and
15 temporary restraining orders are extraordinary and drastic remedies that “should
16 not be granted unless the movant, by a clear showing, carries the burden of
17 persuasion.” *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997). To successfully
18 move for a temporary restraining order, the moving party must establish: (1) the
19 likelihood that the movant will succeed on the merits, (2) the movant is likely to
20 suffer irreparable harm in the absence of injunctive relief, (3) the balance of
21 equities tips in the movant’s favor, and (4) the injunction is in the public interest.
22 *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 24-25 (2008).

23 The Administrative Procedure Act (APA) provides a right of judicial review
24 to any person adversely affected by agency action. 5 U.S.C. § 702. The APA
25 further provides that a court “shall... hold unlawful and set aside agency action,
26 findings, and conclusions found to be... arbitrary, capricious, an abuse of
27 discretion, or otherwise not in accordance with law. 5 U.S.C. § 706(2)(A). For an
28 agency action to be reviewable by a court, it must be a “final agency action” which

1 is defined as an action that “mark[s] the consummation of the agency’s
2 decisionmaking process” and is “one by which rights or obligations have been
3 determined, or from which legal consequences will flow.” *Bennett v. Spear*, 520
4 U.S. 154, 177-78 (1997); *Corner Post, Inc. v. Bd. of Governors of Fed. Rsrv. Sys.*,
5 603 U.S. 799, 808 (2024). The arbitrary and capricious standard is a deferential
6 and narrow standard of review under which an agency decision will be upheld
7 unless there is no rational connection between the facts found and the conclusions
8 made. *San Luis & Delta-Mendota Water Authority v. Locke*, 776 F.3d 971, 994
9 (9th Cir. 2014).

10 Here, the Plaintiff Tribes assert NOAA’s decision to exclude them from the
11 list of 27 pre-selected tribes eligible for salmon hatchery grant funding violates
12 §706 of the APA as the agency has failed to provide any legitimate reasoning or
13 justification for the exclusion. NOAA asserts the decision to limit the list of
14 eligible tribes was done to promote the efficacy of grant funds and support projects
15 within four geographically defined “significant tribal fisheries.”

16 The Plaintiff Tribes do not meet the standard for injunctive relief as they are
17 unlikely to succeed on the merits of their APA claims. The relevant IRA section
18 committed the distribution of funding for tribal salmon hatchery projects to
19 NOAA’s discretion. NOAA’s purported reasons behind limiting the list of tribes
20 eligible for these grant funds is rationally connected to the purpose of the grant
21 opportunity. As judicial review of agency decision-making is narrow in scope and
22 there is no clear evidence supporting the conclusion that Defendants acted beyond
23 the discretion afforded to them through the IRA, Plaintiffs fail to meet the standard
24 for injunctive relief.

25 Further, the timing of this suit and Plaintiffs’ request for injunctive relief
26 does not support Plaintiffs’ contention of irreparable harm in the absence of
27 judicial intervention. The Plaintiff Tribes have known since at least April 2024 that
28 they would not be included on the list of 27 pre-selected tribes that would be

1 eligible to apply for the salmon hatchery grant funding. However, Plaintiffs waited
2 until March 2, 2026, to seek injunctive relief. Bringing this action at this time and
3 moving the Court to halt disbursement of grant awards to a number of other tribes
4 does not tip the balance of equities in the Plaintiff Tribes' favor. By failing to bring
5 an action for injunctive relief earlier, Plaintiffs "demonstrate a lack of need for
6 speedy action," and fail to support claims of irreparable harm. *Lydo Enters., Inc. v.*
7 *City of Las Vegas*, 745 F.2d 1211, 1213 (9th Cir. 1984); *Oakland Tribune, Inc. v.*
8 *Chronicle Pub. Co.*, 762 F.2d 1374, 1377 (9th Cir. 1985).

9 Accordingly, **IT IS HEREBY ORDERED:**

10 1. Plaintiffs' Motion to Expedite, ECF No. 20, is **GRANTED**.

11 2. Plaintiffs' Motion for Emergency Temporary Restraining Order, ECF
12 No. 13, is **DENIED**.

13 3. Plaintiffs' Motion for Temporary Restraining Order, ECF No. 14, is
14 **DENIED**.

15 **IT IS SO ORDERED.** The District Court Executive is hereby directed to
16 file this Order and provide copies to counsel.

17 **DATED** this 9th day of March 2026.



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A handwritten signature in green ink that reads "Stan Bastian".

Stan Bastian
Chief United States District Judge