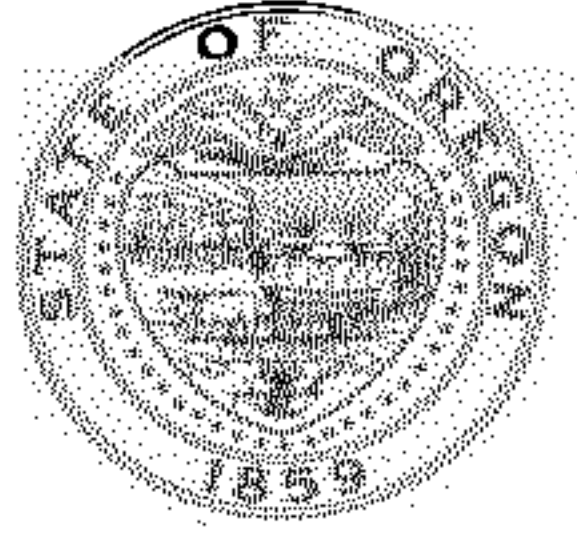


JOHN A. KITZHABER
GOVERNOR



June 1, 1998

SENT BY FACSIMILE

Commission on Structural Alternatives
for the Federal Courts of Appeals
Washington, D.C. 20544

Honorable Members of the Commission:

I write in opposition to proposals to divide the United States Court of Appeals for the Ninth Circuit.

In many ways the Ninth Circuit is the workhorse of the federal appeals court system. It covers the largest geographical area of any federal appellate court. It also manages to efficiently handle a tremendous caseload.

Beyond efficiency in disposing of cases, the Ninth Circuit has also been an innovator in use of Alternative Dispute Resolution (ADR) and mediation. In the West we have many interlocking and complex problems that I believe are better resolved through these collaborative methods rather than simple resort to litigation over unsettled questions of law.

As a Governor of a Western state, it is important to me that we have a unified national law guiding our actions in the American West. Splitting the Ninth Circuit will reduce opportunities for Western states to do the hard work of reach compromise on Western solutions for Western problems.

This is particularly true in the area of natural resources. Our state boundaries are the work of human political systems. But the ecosystems upon which we depend do not obey these artificial lines.

As an example, I believe that it is critically important for the political leaders who border the Columbia River to work together to achieve consensus on the river's future. We must have a common set of laws to guide us.

Oregon and California share the Klamath River. We are currently engaged in an extended process to address the future of that river and its many users. All of these proposals would remove California from the unifying force of national law necessary to achieve

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positive results at the negotiation table rather than in prolonged litigation to resolve disputes between circuits.

The possibility of "Balkanizing" national law in the West will potentially have a devastating effect on our abilities to develop trade opportunities along the Pacific Rim. It may as well complicate our abilities to take advantage of the opportunities in Mexico and Canada through the NAFTA agreement.

These are only some of the reasons that I join with the majority of Western judges, Western bar associations, federal and state, in opposing plans to split the Ninth Circuit. The advantages in efficiency that may be achieved are outweighed by the type of problems discussed above.

Sincerely,

A handwritten signature in black ink, appearing to read "John Kitshaber". The signature is written in a cursive, flowing style with a large initial "J".

John A. Kitshaber, M.D.

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