

PUGET SOUND DISSOLVED OXYGEN: THE CASE IS NOW IN THE HANDS OF THE FEDERAL COURT

Aquatic animal life—whether fish, whales, or crabs—requires dissolved oxygen to survive and to thrive. The U.S. Environmental Protection Agency (EPA) and Washington Department of Ecology have known since the 1980s that Puget Sound has an excess of nitrogen, a pollutant that sucks dissolved oxygen from water, causing “dead zones.”

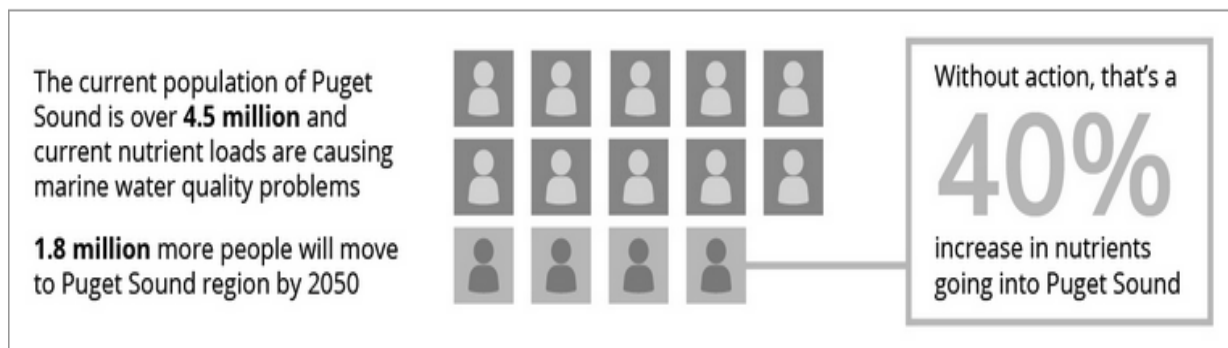
With the Puget Sound region’s tremendous population growth has come increased nitrogen and lowered dissolved oxygen levels, prompting the agencies to develop a sophisticated model of the Sound. The Salish Sea Model predicts how nitrogen moves around Puget Sound and has demonstrated that treated sewage is the primary source of excess nitrogen, leading Ecology to declare that all sewage treatment plants contribute to Puget Sound’s low dissolved oxygen. Even so, only a single sewage treatment plant of the roughly 100 that discharge nitrogen to Puget Sound is required to remove nitrogen, despite NWEA’s numerous legal actions taken since 2016.

NWEA actions have caused Ecology to take important steps, but EPA and Ecology persistently refuse to require pollution controls on sewage treatment plants. Now, this fall, we have fully briefed a federal court to force the agencies to comply with the Clean Water Act.

NWEA’s lawsuit challenges EPA’s long-standing failure to develop the clean-up plan the law demands for Puget Sound, called a Total Maximum Daily Load (TMDL). Once a TMDL is in place, discharge permits must include the nitrogen restrictions that have been missing for so long. For example, a TMDL for Long Island Sound achieved a 57 percent cut in nitrogen from over 100 sewage treatment plants in 15 years. By doing all of the technical work but never completing a TMDL

for Puget Sound using the model results, the Department of Ecology has been able to get away with not regulating such big-time polluters as King County and the City of Tacoma, both of which intervened in our lawsuit to oppose the development of a TMDL.

Ecology is not ignorant. Since 2014, the agency has warned of the threat to Puget Sound from population growth. Its current website contains the succinct explanation of the problem shown in its graphic below. What Ecology lacks is the courage of its convictions.



NWEA is represented in this case by attorneys Andrew Hawley and Sangye Ince-Johannsen of Western Environmental Law Center; Jamie Saul of the Wild & Scenic Law Center; and Bryan Telegin of Telgin Law.