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**LAWSUIT SEEKS ACTION ON COLD-WATER REFUGES
FOR SALMON AND STEELHEAD MIGRATING THROUGH
THE COLUMBIA RIVER**

Portland, OR—Government paperwork does not help salmon and steelhead migrate through the overheated waters of the Columbia River, asserted an environmental group in a lawsuit filed today against the federal agency in charge of protecting threatened and endangered salmon. The suit targets the federal government’s failure to ensure cold-water refuges where fish can seek relief from dangerously high river temperatures in the Columbia.

Filed by Northwest Environmental Advocates in federal district court, the case accuses the National Marine Fisheries Service (NMFS) of focusing on paper plans that will bring no real protection to threatened or endangered salmon and steelhead listed under the Endangered Species Act. Today’s lawsuit builds on four previous cases brought by NWEA to address the unsafe and rising temperatures of streams and rivers in Oregon, starting in 2001.

“The region has been talking about the importance of cold-water refuges for three decades and all the agencies have to show for it at this point is a plan for a plan for a plan,” said Nina Bell, NWEA Executive Director. “Columbia River salmon and steelhead are not protected one iota from the dangers of unsafe water temperatures by the mounting number of paper plans. Fish need real action,” she said.

In January 2021, the Environmental Protection Agency (EPA) issued a report on the importance of cold-water refuges in the mainstem Columbia River. The report was the result of a 2015 biological opinion (BiOp) issued by NMFS, the outcome of one of NWEA’s earlier lawsuits. In its BiOp, NMFS found that EPA’s earlier approval of Oregon’s water quality standards for temperature was flawed because it relied on cold-water refuges that proved to be merely paper requirements that both the Oregon Department of Environmental Quality (DEQ) and EPA routinely ignored.

“The irony is that in 2015 NMFS looked at Oregon’s requirement for these critically needed cold water refuges and roundly criticized it as merely a paperwork exercise that failed to help fish but then NMFS turned around and created yet another paperwork exercise that fails to help fish,” said Bell.

“The Endangered Species Act is absolutely not supposed to be a paper tiger,” said Allison

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LaPlante, Co-Director of the Earthrise Law Center. “We count on agencies to follow this law and actually protect salmon and steelhead but instead of action all we’re seeing is an increasing amount of disease and death in fish trying to migrate through high water temperatures.”

In the Columbia, pockets of cooler water exist where tributaries flow into the mainstem. These are termed “cold-water refuges.” EPA’s 2021 report found that when temperatures are 20°C or higher, 60 to 80 percent of migrating steelhead use the cold-water refuges whereas Chinook salmon start to use the refuges at slightly warmer temperatures (20–21°C) and about 40 percent use cold-water refuges when temperatures reach 21–22°C.

In the summer of 2015, roughly 250,000 adult sockeye salmon died in the Columbia and Snake Rivers because excessively warm water prevented them from successfully migrating upstream.

In its report, EPA evaluated the impacts of climate change on Columbia River temperatures, predicting a rise from current mean temperatures near 22°C in August to near 23°C in 2040. EPA also predicted temperature rises in the tributaries that form the cold-water refuges.

Northwest Environmental Advocates is represented in this case by Bridgett Buss and Allison LaPlante, of the Earthrise Law Center at Lewis and Clark Law School.

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