

NORTHWEST ENVIRONMENTAL ADVOCATES



December 2024

Winter 2024 Newsletter

Dear Friends:

Pacific Northwest waters in Oregon, Washington, and Idaho continue to be plagued by high temperatures, too many toxics, and too little dissolved oxygen. The good news is that Northwest Environmental Advocates continues to make progress in reducing pollution.

The first story below, about EPA's permits to discharge pollution to Puget Sound, illustrates both how so much of our work is "hurry up and wait" and how so much takes place ingloriously behind-the-scenes. EPA invited public comments twice—in 2021 and 2023—and then issued the final permits this year, triggering a 30-day period in which NWEA could file a lengthy appeal. In other NWEA cases, long drawn-out court battles must be fought over what documents we can use to prove our case. It takes looking at thousands of records to build a successful lawsuit.

We greatly appreciate your support for our work to strengthen the Clean Water Act in the face of regulatory agencies that simply refuse to do their jobs.

Whether it's behind closed doors, or in the public eye, with the help of our superb legal team we are bringing the change you want—decreasing pollution, restoring salmon habitat, reducing toxics, protecting human health, and seeking to reduce the effects of climate change.

When we go into court, we are representing your interests—our members—a job we do best with your support, whether that's writing a declaration to support NWEA's standing in court or making a financial contribution.

EPA WITHDRAWS ILLEGAL PUGET SOUND DISCHARGE PERMITS FOLLOWING NWEA APPEAL

Recently, NWEA appealed three pollution permits issued by the U.S. Environmental Protection Agency (EPA) for sewage treatment plants' discharging to Puget Sound. Appeals of EPA-issued permits go to the national Environmental Appeals Board (EAB), which has a long history of upholding EPA permits when EPA wants to do the right thing, namely control pollution. Unfortunately, a desire to control pollution does not describe the motivations of EPA's Region 10, which represents the three Pacific Northwest states plus Alaska. Two months after our appeal, EPA withdrew all three permits, conceding that they failed to meet Clean Water Act requirements. Not only have these EPA permits already been expired

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for 8–10 years, it took EPA over four years to get the new, defective, permits issued. Other EPA permits allowing pollution discharges to Puget Sound remained entirely stalled out, a picture of EPA’s foot-dragging and incompetence.

Remarkably, even as EPA acknowledged that the Washington Department of Ecology has made a finding that all sewage treatment plants contribute to low levels of dissolved oxygen in Puget Sound, EPA decided to ignore the law and not require pollution controls to remove the offending pollutant: nitrogen. Nitrogen is the root cause of the depleted levels of dissolved oxygen and also contributes to Puget Sound’s extensive algae problem, exploding jellyfish populations, increased ocean acidification, and hazardous algal blooms. EPA also included a feeble attempt to address a group of “forever chemicals,” known as PFAS in the permits. Certainly EPA headquarters gets credit for moving ahead to regulate PFAS—albeit well after nearly all Americans have measurable levels of PFAS in our bodies—but a permit that requires nothing more than monitoring does nothing to protect people, fish, and wildlife. When EPA fails to model what good permits look like, we can’t expect the states to do better. And they don’t.

NWEA was represented in this appeal by Jamie Saul at Wild & Scenic Law Center. Thanks to Andrew Hawley of Western Environmental Law Center for assistance.

COLUMBIA RIVER LITIGATION HEATS UP . . . AS DO RIVER TEMPERATURES

It’s not just climate change that is warming Pacific Northwest rivers and streams. The denuding of streamside trees for logging, farming, grazing, and urban development has removed the shade that keeps water cool for cold-water fish such as salmon and steelhead. The Columbia River is home to multiple salmon species that are being pushed to extinction by unsafe water temperatures. Salmon and steelhead migrating through these lethal temperatures are forced to turn to cold water refuges to gain relief from the deadly heat. These refuges are formed by tributaries’ pouring somewhat cooler water into the Columbia. The problem is that these tributaries are not always *cooler*, they are often *not actually cool at all*, and they are getting *warmer*. And, there are not enough of them along hundreds of miles of river.

The only way to provide cold water refuges is by cooling the tributaries, such as Oregon’s Deschutes and Umatilla Rivers. And there is only one way to cool tributaries: dramatic action to protect and restore streamside trees. But the Oregon Department of Environmental Quality has no intention of taking any action, let alone dramatic action to cool waters for salmon. NWEA demonstrated this through our litigation that led to two federal agencies’ making a formal determination that Oregon has failed to have a program to protect water quality from logging. Today, Oregon still does not have a program to control polluted runoff from logging and farming.

NWEA’s lawsuit against EPA and the National Marine Fisheries Services (NMFS) seeks to bring real-life refuges to migrating salmon, not just the paper plans the agencies claim are sufficient.

NWEA is represented in this case by Allison LaPlante, attorney at law; Lydia Dexter at Earthrise Law Center; and Bryan Telegin at Telegin Law.

PUGET SOUND LITIGATION HEATS UP—No. 1

The EPA and Washington Ecology have known since the 1980s that Puget Sound has too much nitrogen, a pollutant known for causing “dead zones” in places around the globe, such as Chesapeake Bay, Lake Erie, and the Gulf of Mexico. The agencies’ actions can very easily be described as “too little, too late.” For example, only a single permit of the over one hundred sewage treatment plants that discharge nitrogen to Puget Sound has a limit on nitrogen that has reduced pollution. Even sewage treatment plants that have been upgraded to reduce pollution don’t have permits that require them to use their pollution controls to protect water quality. Such is the stunning lack of regulatory zeal demonstrated by EPA and Ecology.

NWEA has sued EPA for not stepping in and addressing Ecology’s long failure to develop the clean-up plan required by the Clean Water Act called a Total Maximum Daily Load (TMDL). If Ecology had completed a TMDL, based on its many years of monitoring and modeling nitrogen’s effects on Puget Sound, it would have been required to issue discharge permits requiring pollution controls to those 100+ sewage treatment plants. By not developing a TMDL, it has been able to get away with taking no meaningful action to clean up Puget Sound.

NWEA is represented in this case by Andrew Hawley at Western Environmental Law Center; Jamie Saul of the Wild & Scenic Law Center; and Allison LaPlante, attorney at law.

PUGET SOUND LITIGATION HEATS UP—No. 2

You can find Budd Inlet at the southern part of Puget Sound, where the Deschutes River enters Capitol Lake under the shadow of the Washington State Capitol dome in Olympia. The Deschutes River basin is one of many over-polluted watersheds in the region, but Budd Inlet’s history of extreme degradation dates back many decades, including a 1981 kill of 40,000 Chinook salmon from lack of dissolved oxygen. NWEA’s years-long litigation against EPA over its failure to control pollution in South Puget Sound resulted in EPA’s disapproval and replacement of some of Washington Ecology’s flawed TMDL clean-up plans in the Deschutes River Basin, EPA’s approval of others, and Ecology’s subsequent issuance of a TMDL clean-up plan for Budd Inlet. But all three plans are fatally flawed.

Summary judgement, sometimes known as “trial by paper,” will start early next year in NWEA’s case against EPA over the three sets of flawed plans.

NWEA is represented in this case by Bryan Telegin of Telegin Law and Lia Comerford of the Earthrise Law Center.

ROGUE RIVER POLLUTION SAGA CONTINUES, NOW IN STATE COURT

Inadequately treated sewage is at the heart of NWEA’s 2018 lawsuit against the City of Medford for its discharges of nutrient pollution to the Rogue River. Following NWEA’s win in federal court, the Oregon Department of Environmental Quality (DEQ) issued a new

permit to Medford with pollution limits. Another instance of “too little, too late,” DEQ gave Medford over a decade to reduce its pollution to the Rogue by too little. NWEA has now appealed the inadequate terms of the permit in state court where we are awaiting a decision. Following resolution of the permit issues in state court, NWEA will return to the federal case, where the court will next decide how to remedy the permit violation.

NWEA is represented in this case by Jamie Saul at Wild & Scenic Law Center.

SOME SHORT UPDATES

- After years of NWEA’s petitioning and successful lawsuits, Washington has—at long last—adopted updated and new water quality standards to regulate toxics to protect fish.
- We continue to work for a sustainable energy future free of nuclear power, including a proposed new nuclear reactor at the Hanford Nuclear Reservation. The new reactor and the data centers it would serve spell bad news for Columbia River salmon—from increased chemical and temperature pollution to increased water consumption in a world of climate change. Learn more at NWEA’s website or Stopnuclearworkgroup.org.

FROM LAWSUITS TO POLICY, NWEA IS WORKING FOR YOU

Please check out our website. There, you can join as a NWEA member—paid or entirely free—or just sign up for email updates.

When you support NWEA, you are supporting the enforcement of the nation’s environmental laws in Oregon, Washington, and Idaho—and nationally. But NWEA does a lot more. Because we’re often the “go-to” group on clean water issues, you are also helping the organizations, citizens, and journalists across the region and the country who rely on NWEA for our expertise.

Please remember that Northwest Environmental Advocates does a lot with very few resources so we count on your financial support. Contributions are tax deductible and greatly appreciated! It’s easy to donate on our website, where you can also read more about our work.

Sincerely,



Nina Bell
Executive Director

P.S. To explain our role, I often say, “NWEA’s job is to make EPA and the states do their jobs.” In enforcing the nation’s environmental laws, **NWEA guarantees you a no frills operation—giving you highly credible and vigorous advocacy** without fancy slogans and glossy magazines. We really put your financial contribution to work, whether we’re going to court or helping citizens. I hope that you will consider making a tax-deductible contribution to NWEA where your contribution will be put to good use!