

For Release:

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**ENVIRONMENTAL GROUP GUIDES SETTLEMENT THROUGH NEW TRUMP
ADMINISTRATION GAUNTLET TO BRING PROTECTIONS TO
WASHINGTON SALMON**

A federal court approved the development of new salmon protections for Washington waters today, representing the first time an environmental group has shepherded a court settlement through procedures put in place by the Trump Administration to restrict them.

The settlement by the U.S. Environmental Protection Agency (EPA) and the Washington Department of Ecology with the Portland, OR-based Northwest Environmental Advocates (NWEA), sets in motion new salmon protections from pollution from such sources as logging and municipal sewage discharges. The lawsuit, filed in 2014, challenged EPA's approval of Washington water quality standards as inadequate to protect threatened and endangered salmon.

According to NWEA attorney Allison LaPlante, Co-Director of the Earthrise Law Center, the new EPA policy, established by former EPA Administrator Scott Pruitt, slowed the settlement process but did little to engage the public. "The Pruitt policy added more than a year to this settlement process and only resulted in six public comments, all of which supported protecting salmon," LaPlante said. "It's proven to be yet another excuse for agency delays in complying with the Clean Water Act and Endangered Species Act at a time when we can ill afford it, given the dwindling populations of wild salmon and of the orca whales that depend upon salmon."

In the settlement, EPA agreed to evaluate whether Washington's outdated ammonia standards protect salmon and other threatened and endangered species. Ammonia is a common toxic pollutant discharged from over 300 sewage treatment plants in Washington. During the

Obama Administration, EPA headquarters issued updated and more protective recommendations for ammonia standards to be adopted by states.

As part of the settlement, the Department of Ecology agreed to develop a water quality standard to protect salmon redds—the nests for salmon eggs—from fine sediments, along with guidance about how the standard will be used in regulatory actions. The commitment to develop a fine sediment standard resolved a dispute over the level of dissolved oxygen available to salmon eggs and embryos. Fine sediments smother salmon redds, resulting in lethally low levels of dissolved oxygen, and are often the result of logging activities.

“The result of our lawsuit forces EPA and Ecology to take actions to protect threatened and endangered salmon that these agencies should have taken many years ago,” said Nina Bell, Executive Director of NWEA. “For all of the lip service paid by the agencies to saving salmon, they are consistently short on taking any real actions. When species are struggling to survive, agencies should not be dragging their feet to do what the law requires,” she added.

EPA also agreed to reconsider some water quality standards on which it had taken no action or approved. This includes criteria for temperature that are established based on agency predictions of historic natural river temperatures rather than on temperatures known to protect salmon. Such so-called natural conditions standards in Oregon have been overturned by two federal courts.

NWEA was represented in this case by Allison LaPlante and Kevin Cassidy of the Earthrise Law Center at Lewis and Clark Law School, Portland, Oregon.

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NORTHWEST ENVIRONMENTAL ADVOCATES V. EPA
WASHINGTON WATER QUALITY STANDARDS
No. 2:14-cv-00196-RSM

U.S. ENVIRONMENTAL PROTECTION AGENCY agrees to:

- **Evaluate its approval of Washington’s December 8, 2006 ammonia criteria and request an Endangered Species Act (ESA) consultation** with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service within three years of signing. If, instead, Washington revises its ammonia criteria, EPA will take this ESA action within one year of Washington’s submission or within three years of signing, whichever is later.
- **Reconsider its approval of water quality standards for temperatures and dissolved oxygen that are not based on the biological needs of salmon, steelhead, and bull trout** but instead are based on agency predictions of natural historical conditions. Similar provisions were twice overturned by federal courts in Oregon. Based on the premise that salmon and steelhead could survive in historically warm waters, states have used these provisions to predict temperatures in which salmon cannot survive and claimed they were natural. Water temperatures are key to salmon survival.
- **Reconsider its decision to take no action on the following water quality standards:** Short Term Modifications, Marine Shellfish Harvesting Compliance, Marine Water Bacteria Averaging Narrative, and Temperature Guidelines (for increases over purported natural conditions).

WASHINGTON DEPARTMENT OF ECOLOGY agrees to:

- **Propose a criterion for fine sediments to protect salmonid redds** within three years of signing and a final rule no later than one year of the proposal. If the proposal is a narrative criterion, Washington will concurrently issue draft guidance regarding how it will interpret and apply its fine sediment criterion, including how it will use the new criterion for identifying waters as “impaired” on Washington’s 303(d) list. Ecology agrees to issue final guidance no later than 18 months following the final rule.
- **Propose to remove two rules pertaining to Short Term Modifications** within three years and issue a final rule within one year of the proposal.
- **Propose to amend a provision making clear that any adjustment to metals criteria requires EPA approval** within three years of signing, with a final rule not later than one years following the proposal.