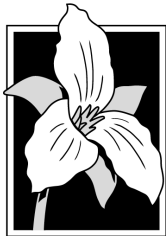


NORTHWEST ENVIRONMENTAL ADVOCATES



December 2021

Winter 2021 Newsletter

Dear Friends:

It's been a good year for protecting water quality in the Pacific Northwest. We won significant legal victories and filed important new lawsuits in 2021. Unfortunately, as the facts demonstrate time and time again, going to court is the only way to force compliance with the Clean Water Act and related laws. But the good news is that with 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.

We literally cannot do this work without our fantastic members. Behind each of the lawsuits you read about here is a group of NWEA members who have taken the time to work with our lawyers to prepare declarations of their interest in the waters and species we all want to protect. This membership involvement is what gives NWEA legal “standing” to bring our cases. It's also the reason your continued support is both essential to our work and truly appreciated!

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 or making a financial contribution.

NWEA WINS LAWSUIT TO PROTECT ROGUE RIVER

The City of Medford's foul-smelling discharge of poorly-treated sewage to the Rogue River triggers the growth of algae and weeds and is killing off pollution-sensitive aquatic bugs downstream, an indication of overall river health. NWEA is putting an end to this mess.

CLEANING UP MEDFORD'S SLIME IN THE ROGUE RIVER. In 2018, NWEA sued Medford for violating permit terms that required that the city's treated sewage to comply with water quality standards in the Rogue River. In 2021, we won the case. Although Medford admitted it is causing the nutrient-fueled mess of algae and weeds downstream of its discharge, the city still wanted to fight a legal battle over whether that mess is a violation of its permit. Building on NWEA's legal victory decades ago against the City of Portland—for discharges of raw sewage to the Willamette River—we won this case on the same legal principle.

Meanwhile, Oregon DEQ responded to the NWEA lawsuit by issuing a new permit to Medford that requires a significant reduction in nutrient pollution—both nitrogen and phosphorus—although not to the degree NWEA's experts say is necessary. NWEA has filed a petition for reconsideration with Oregon Department of Environmental Quality (DEQ).

www.NorthwestEnvironmentalAdvocates.org

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NWEA is represented in this case by James Saul and Lia Comerford, both at Earthrise Law Center. Thanks go to NWEA members John MacDiaramid and Bob Hunter for providing standing declarations to support this case.

NWEA SUES OVER FAILURE TO CLEAN UP OREGON RIVERS

Oregon DEQ's failure to protect the Rogue River is an excellent example of why Oregon's rivers and streams need clean-up plans mandated by the Clean Water Act. Called Total Maximum Daily Loads, or "TMDLs," these clean-up plans establish pollution limits for all sources. Had DEQ developed a TMDL for nutrient pollution in the Rogue, Medford and other cities would be properly regulated. But DEQ no intention of even starting one.

NWEA SUES TO CLEAN UP OREGON'S RIVERS. In fact, Oregon DEQ has not issued a single new TMDL clean-up plan since 2010, which is the year that NWEA's consent decree mandating the completion of TMDLs expired. That court order required the completion of over 1,500 TMDLs in a 10-year period. Oregon's colossal failure is the reason NWEA brought a new lawsuit this year, seeking the development of TMDL clean-up plans for thousands of rivers across Oregon, including many waters that have had unsafe pollution levels for decades.

NWEA is represented in this case by Jamie Saul at Earthrise Law Center.

PROTECTING THE COLUMBIA RIVER

Three decades ago, regulators began talking about protecting salmon and steelhead migrating through unsafe water temperatures in the Columbia River with "cold water refuges" where they could seek relief from the heat. Today, they are still just talking.

NWEA SUES TO HELP MIGRATING SALMON THROUGH HOT WATERS. In earlier lawsuits, NWEA pushed agencies to address the need for cold water refuges, resulting in EPA's and Oregon DEQ's cold water refuge plans for the Columbia and Willamette Rivers. But these plans do nothing to help fish. So, this year we have returned to court seeking more action and less talk from agencies that are required to protect salmon and steelhead migrating through the Columbia from unsafe water temperatures.

NWEA is represented by Bridgett Buss and Allison LaPlante at Earthrise Law Center.

NWEA: SAVING PUGET SOUND

The waters of Puget Sound, and the species that depend upon clean water, are suffering from nutrient and toxic pollution from sewage treatment plants, industrial dischargers, and polluted runoff from so-called nonpoint sources such as logging, farming, and septic systems. But government agencies sit on their hands, refusing to use the power of the Clean Water Act to regulate these pollution sources to save salmon, steelhead, and orcas.

NWEA SUES TO IMPROVE WASHINGTON POLLUTION PERMITTING PROGRAM. When NWEA uncovered Washington Department of Ecology's massive failure to regulate

pollution discharges to Puget Sound from sewage treatment plants, we petitioned EPA to remove the state's legal authority to issue discharge permits. After five years without an EPA response, this year NWEA sought an extraordinary court order from the Ninth Circuit Court of Appeals.

NWEA is represented in this case by Dani Replogle, Allison LaPlante, and Lia Comerford—all at the Earthrise Law Center. Thanks to NWEA members Harry Branch, Mike Karas, and Ron Peltier for providing standing declarations for this case.

NWEA: WORKING TO PROTECT WASHINGTON WATERS

There is a lot of talk in Washington about saving salmon and steelhead in Puget Sound and the Columbia River. For all that talk, there is strikingly little regulatory action—using the tools of the Clean Water Act—to prevent these species from extinction.

TACKLING POLLUTED RUNOFF FROM NONPOINT SOURCES. Earlier this year, NWEA signed a settlement that requires Ecology to complete guidance documents to establish what farmers need to do to protect water quality. In addition, EPA is required to review these “best management practices” and submit them to the expert federal fish and wildlife agencies in to ensure they are adequate to protect threatened and endangered species. We have high hopes that this historic settlement will help restore salmon habitat across the state.

NWEA was represented in this first-of-its-kind case by Paul Kampmeier and Emma Bruden at Kampmeier & Knudsen PLLC and Allison LaPlante at Earthrise Law Center. Thanks to NWEA members Marcy Golde, Toby Thayler, Erin Conroy, Dan Mensher, and Chris Noble.

WASHINGTON FAILS TO PROTECT FISH & WILDLIFE FROM TOXICS. Because Ecology has ignored the requirement to update its water quality standards for toxics to protect salmon and orcas, in 2013 NWEA petitioned EPA to take responsibility. We had to sue EPA to get a response, resulting in EPA's denial of our petition. In our new lawsuit, we have challenged EPA's denial of our petition, still seeking updated toxic standards for Washington waters.

NWEA is represented in the Washington toxic criteria case by Lia Comerford at Earthrise Law Center and Bryan Telegin at Bricklin & Newman LLC. Thanks to NWEA members Greg Wingard, Jerry White, and Harry Branch for providing standing declarations.

NWEA FORCES WASHINGTON PROTECTION OF SALMON SPAWNING. Salmon and steelhead are highly sensitive to pollution at early life cycle stages. Salmon eggs in nests called “redds” cannot get the oxygen they need if these redds are smothered with fine sediment from logging and farming. As the result of our lawsuit, Ecology has proposed new water quality standards aimed at preventing salmon eggs from being smothered.

NWEA was represented in the Washington standards litigation by Allison LaPlante at Earthrise Law Center and Bryan Telegin at Bricklin & Newman LLC. With NWEA's support, Dr. Christopher Frissell served on Ecology's science advisory panel for this rulemaking.

NWEA WINS LAWSUIT OVER MERCURY IN IDAHO WATERS

One legacy of the extensive mining in Idaho is mercury pollution that contaminates the entire food chain. Cleaning up mercury in Idaho waters and preventing further pollution requires water quality standards that protect the most sensitive species in this food chain.

COURT ORDERS NEW MERCURY STANDARDS FOR IDAHO. A federal court ordered EPA to promulgate new mercury standards to protect fish in Idaho in response to our 2013 lawsuit over an EPA action in 2008. Justice for Idaho waters has been rather slow. EPA had disapproved Idaho's deletion of mercury standards, which shifts the burden to EPA to put safe standards in place. But then EPA refused to act, saying that it had no such duty. The court held otherwise, that EPA's 13 years of failure was contrary to law. The court also soundly rejected the "parade of horrors" that EPA claimed would ensue if it were ordered to fix the problem.

NWEA is represented in the Idaho mercury lawsuit by Allison LaPlante and Kevin Cassidy at Earthrise Law Center. Special thanks to law student Michael Benjamin Smith for presenting NWEA's case before the court and NWEA members Drs. Karen Balch and Olin Balch.

FROM LAWSUITS TO POLICY, NWEA IS WORKING FOR YOU

Please check out our website. There, you can join as a NWEA member—paid or free of charge—or just sign up for email updates. And check out my Director's Blog for a more personal take on how our government agencies are doing (or not doing).

When you support NWEA, you do more than support enforcement of the nation's environmental laws. 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.

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. In enforcing the nation's environmental laws, **NWEA guarantees you an old-fashioned 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!