



Court Settlement Benefits Washington Waters

January 11, 2021

A federal court settlement will give a much needed boost to Puget Sound and Washington rivers' water quality along with endangered species following a judge's sign-off late Friday (January 8th). The federal court order requires the U.S. Environmental Protection Agency (EPA) and the Washington Department of Ecology to take steps to reduce polluted runoff from land uses such as farming, grazing, logging, and septic systems. The order resolves a lawsuit filed by Northwest Environmental Advocates (NWEA) in 2016 challenging EPA's failure to carry out federal laws that require states to create programs to control polluted runoff or face federal sanctions. The court order pushes Washington in a direction to control polluted runoff that impacts Puget Sound and state water quality, a direction it has strenuously resisted. EPA and Ecology talk a good game about protecting salmon and orcas but talk is cheap. Both agencies have been sitting on their hands while polluted runoff from farms, urban areas, and logging assault salmon, orca whales, shellfish beds, and recreation in Puget Sound and on water quality across the whole state.

While Washington has a state program to control logging pollution, it has no such program for farming and livestock grazing, and local governments have failed to carry out state laws to limit nutrient pollution from septic systems around Puget Sound.

Today's settlement ensures that three federal agencies will review Ecology's work to make sure that the size of streamside buffers will be sufficient to protect salmon and other threatened and endangered species. "That's important because we have already seen Ecology try to jigger the science to make buffers too small to protect salmon.

The order requires:

- Ecology to complete guidance to farmers on actions that are necessary to protect water quality.
- Ecology to identify the width of streamside buffers that are needed on farmland to protect cold water needed by salmon.

- Ecology to specify the farm practices that are needed to meet water pollution clean-up plans.
- Ecology to identify where it is taking actions to control polluted runoff and report those actions to EPA.
- EPA to review a new Washington statewide nonpoint pollution plan in 2022.
- EPA to submit its proposed approval of Washington's nonpoint plan to expert federal fish and wildlife agencies to assess its impact on threatened and endangered species.

The order in this case includes a combination of commitments by federal and state agencies to ensure that Washington identifies how wide and how tall streamside buffers must be to protect salmon from extinction. That's the first step in making sure that Washington's rivers and streams have the protection they need. The next step is making those buffers a reality across the state.

The lawsuit challenged EPA's failures to conform with the Clean Water Act and the Endangered Species Act—to impose Congressionally-mandated funding cuts on Washington for failing to comply with a law that requires the state to protect water quality. The order was signed by U.S. District Court Judge John C. Coughenour. NWEA is represented in this case by Paul Kampmeier at Kampmeier & Knutsen (Seattle) and Allison LaPlante at Earthrise Law Center of Lewis & Clark Law School (Portland)

NW Environmental Advocates at

<https://www.northwestenvironmentaladvocates.org/2021/01/11/court-settlement-benefits-washington-waters/>