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Lawsuit Challenges EPA Rollback of Human Health Water Standards

Environmental groups, regional tribes and fishing organizations head to court in defense of community health and critical protections for the consumption of fish

SEATTLE, WA – Regional tribes, environmental groups, water quality advocates and fishing organizations are going to court to fight the Trump administration's latest effort to dismantle laws that protect Washington State's clean water and public health. The decision to challenge the U.S. Environmental Protection Agency (EPA) comes at an unprecedented time when public health and the safeguarding of vulnerable communities and communities of color are being brought to the forefront in the midst of the coronavirus pandemic and protests throughout the state and the rest of the U.S.

On May 13, 2020, the EPA revoked its own 2016 decision that set strong water protection standards for Washingtonians and regional tribes by keeping water-borne toxics out of fish. The Trump administration's move paves the way for polluters to discharge much higher levels of harmful amounts of toxic pollution into state waters, threatening communities that rely on locally caught fish and the salmon and orca whales that rely on clean water to survive. This rollback will also disproportionately impact tribal communities and communities of color in our region that are known to eat large quantities of fish, making the debate around fish consumption an environmental justice issue.

Today, a coalition of organizations, in cooperation with regional tribes who have been leading this fight, filed a lawsuit to uphold these hard-won, critical human health protections. They include Columbia Riverkeeper, North Sound Baykeeper, the Pacific Coast Federation of Fishermen's Associations (PCFFA), Puget Soundkeeper Alliance and Spokane Riverkeeper, represented by Earthjustice.

"The degradation of water quality standards is a direct assault on the Makah Tribe's rights reserved under the 1855 Treaty of Neah Bay and constitutes a direct attack on our sovereign interests and our way of life. Fish and other seafoods have always been fundamental to our diet, economy and culture," stated **Makah Tribal Council Chairman T.J. Greene, Sr.** "Our people require safe water and seafood to survive. We absolutely oppose the EPA's actions and the agency's failure to meaningfully consult with the Tribe in its decisions."

“The EPA’s move is a betrayal of public health and the public trust and comes at a time when vulnerable citizens’ wellbeing is at ever greater risk,” said **Marisa Ordonia, attorney for Earthjustice**. “The Trump administration’s calculated attack on the Clean Water Act is unacceptable to all Washingtonians, for it will usher in weak, unprotective standards that will not safeguard tribes and other consumers of fish from state waters.”

“There is never a good time to roll back water quality standards, but to do so now, during the worst health crisis in over a century, is completely wrong-headed and irresponsible,” stated **Chris Rilling, executive director and Puget Soundkeeper at Puget Soundkeeper Alliance**. “Now is not the time to increase the discharge of toxic pollutants into our rivers and streams that will ultimately accumulate in the fish we consume. If anything, we should be strengthening the standards to protect our most vulnerable populations who rely on locally caught salmon and other fish species as a primary food source. Puget Soundkeeper and our allies stand united in opposition to this ill-conceived move on the part of EPA to support industrial polluters, and not the health of the public.”

“People rely on clean water and locally-caught fish. The Trump administration’s gift to polluting industries blatantly disregards people’s health and ignores decades of sound science,” stated Lauren Goldberg, legal and program director for [Columbia Riverkeeper](#).

“Especially in the current health crisis, allowing polluters to put more poisons in our rivers and expose more people to toxic health hazards is a terrible idea all around,” commented **Glen Spain, Northwest regional director with the Pacific Coast Federation of Fishermen’s Associations (PCFFA)**, which represents west coast commercial fishing families. “No one, and no corporation, should be given free rein to pollute the nation’s food supply, as these new rollback rules would allow. The Trump administration’s ‘economic argument’ for rolling back current pollution standards is also bogus—the state of Oregon already uses similar strict standards, and Oregon’s economy is doing just fine.”

“The Spokane River is so polluted with toxic polychlorinated biphenyls (PCBs) that a person cannot catch and eat a fish from our river without looking over their shoulder at a Department of Health fish consumption advisory,” said **Jerry White, Jr., Spokane Riverkeeper**. “This effort to end-run public safeguards is a new low for the EPA. Quite frankly, it calls into question the intentions and commitment of EPA-led cleanup efforts in the Spokane River Basin like the Spokane River Regional Toxics Task Force.”

"Suggesting we have to choose between economic stability and public safety is a false choice. As we have seen most poignantly in recent months, we need both," stated **Eleanor Hines, North Sound Baykeeper at RE Sources**. “Removing laws that protect people from getting cancer from the food we eat to justify industry profit is a lazy, irresponsible solution. We can do better than this in the 21st Century.”

The EPA’s current about-face on water quality standards is the Trump administration’s latest in a long string of attacks on the Clean Water Act and other environmental protections regionally and nationally. With this move, the administration is openly siding with industrial polluters who

have fought against scientifically-supported needs for stronger anti-pollution standards in Washington. The EPA's new rule would gut Washington state's existing water quality standards, increasing already high amounts of dangerous and carcinogenic PCBs and allowing other toxic chemicals to be discharged into our waters at unhealthy high levels.

Background

Water quality standards set levels of cleanliness for our waters and are a critical tool for reducing pollution and protecting public health. Before 2016, Washington's standards were based on 40 year-old-data, were based on the weakest fish consumption assumptions in the country, and did not meet the mandate of the Clean Water Act to ensure that all waters are drinkable, fishable and swimmable.

In November 2016, after years of research, engagement from tribal nations, public comment—and ultimately compelled by court order—the EPA finalized a set of water quality standards that EPA found necessary in order to protect all Washington residents against multiple toxics that accumulate in fish tissue. These toxics include mercury, arsenic, PCBs, lead and various industrial chemicals, many of which are known carcinogens. These recently improved standards are based on the exposure of people to toxic chemicals through consumption of locally-caught fish and include an assumed fish consumption rate by a person of 175 grams per day and a cancer risk rate of 1 in 1 million, meaning the standard reduced the risk to no more than 1 in 1 million.

But in 2017, groups representing the pulp and paper industry area manufacturers, the Washington Farm Bureau and Boeing, represented by the Association of Washington Business, filed a petition with the Trump administration to rescind these protective standards. This rollback on Washington state's water quality standards is the administration's response.

In Washington, harvesting and eating fish, including for subsistence by tribes and other groups, is a "designated use" of our waters that must be protected by water quality standards under the federal Clean Water Act. Washington state's history, culture and character are deeply connected to salmon and salmon fishing, resident fisheries and shellfish harvest. Data shows that tribal members, Asian and Pacific Islanders, and recreational fishers in Washington eat a significantly higher amount of fish and shellfish than other populations, and thus are more at risk when standards are lax. Commercial fishing families also consume higher than the assumed 175 grams per day average amounts of seafood.

As further evidence of risk, the Washington Department of Health already cautions people against eating more than two meals per month of resident Puget Sound chinook salmon and affirms that PCBs are the number-one reason why fish consumption advisories are issued in waterways all around Washington.

Toxic chemicals are a major threat to Washington's waters. As one example, though officially banned in 1979, PCBs remain prevalent in our fish, waters and sediment and still run off old industrial sites into our waters. Scientific studies also confirm that PCBs biomagnify up the food

chain. Top-of-the-food-chain species such as humans and especially our endangered southern resident orca whales often carry very high toxic chemical body burdens.

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Organizations represented by Earthjustice in this case include Puget Soundkeeper, Columbia Riverkeeper, North Sound Baykeeper, and Spokane Riverkeeper, Pacific Coast Federation of Fishermen's Associations (PCFFA) and the Institute for Fisheries Resources.
