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TRUMP ADMINISTRATION ATTEMPTS TO BLOCK WASHINGTON FROM PROTECTING SALMON FROM HOT WATER CAUSED BY FEDERAL DAMS

Olympia, WA (June 10, 2020)—On June 8, 2020, the Trump administration tried to stop Washington state from exercising its authority—for the first time ever—to keep the Columbia and Snake rivers cool enough for salmon survival. In a [notice of appeal](#) to the Washington State Pollution Control Hearings Board, the U.S. Army Corps of Engineers (Army Corps) sought to un-do critical protections for water quality and endangered salmon. The Washington Dept. of Ecology (Ecology) issued a [statement](#) expressing disappointment over the Army Corps' appeals, noting that the Army Corps "is ignoring the plain language of the Clean Water Act that gives states the authority to condition federal permits."

On May 7, 2020, Washington state [issued](#) Clean Water Act 401 Certifications that require eight federal dams on the Lower Columbia and Lower Snake rivers to meet safe limits for temperature and oil pollution. The State of Oregon issued a similar [objection](#) for the four lower Columbia River dams. Currently, the stagnant reservoirs caused by the Army Corps' dams make the river too hot for salmon. Washington and Oregon said that must change.

The Army Corps, the federal agency that operates the dams, asked Ecology to waive Washington's authority to require dams to meet state laws that protect salmon. The Trump administration has repeatedly tried to undermine states' rights under the nation's environmental laws, including the Clean Water Act.

Brett VandenHeuvel, the Executive Director of Columbia Riverkeeper, issued the following statement:

"The Trump administration and Army Corps are continuing to attack our states' efforts to protect clean water and sustainable fisheries. The Army Corps' appeal shows that the federal agencies are blocking progress. We desperately need Northwest elected leaders to develop solutions to protect salmon and reinvest in river communities.

"Washington and Oregon stood up to the Trump administration to protect salmon and the orcas that depend on salmon. This is an important power shift where federal dam operators must answer to our state leaders instead of ignoring the law. We appreciate the leadership from Gov. Inslee and Gov. Brown; we'll fight alongside them to defend the Pacific Northwest's iconic salmon and orcas from the Army Corps and the Trump administration."

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BACKGROUND

Washington and Oregon's Historic Decisions:

- On May 7, 2020, the Washington Dept. of Ecology exercised the state's authority under Clean Water Act Section 401 to help ensure that the Columbia Basin's federal dam operators address rising water temperatures, protect salmon, and help save the Southern Resident orcas from extinction.
- Federal dams on the Columbia and Snake rivers have never obtained water quality certifications under Section 401—leaving Washington without authority to protect its own water quality and fisheries.
- For the four Lower Columbia River dams—Bonneville, The Dalles, John Day, and McNary—the [State of Oregon issued an "objection letter"](#) based on its authority as a downstream state. In the letter, the Oregon Dept. of Environmental Quality (DEQ): (1) determined that discharges from the dams violate state water quality standards, including temperature and total dissolved oxygen, and (2) requested a public hearing.
- A 2013 lawsuit by Columbia Riverkeeper required the Army Corps to obtain water pollution permits from the U.S. Environmental Protection Agency (EPA). For decades, the Army Corps violated state and federal laws, releasing toxic oil and heat pollution into the Columbia and Snake rivers. Before it can issue water pollution permits, EPA must obtain Clean Water Act 401 Certifications from Washington state and incorporate the state's requirements into the federal permits.

Why Washington's Decision Matters for Orcas, Salmon:

- [Southern Resident orcas are on the brink of extinction](#), partly because they cannot find enough Chinook salmon to eat. Orca scientists point to the steep losses of once-plentiful Columbia River spring Chinook as being particularly harmful to the survival and reproduction of the orcas. Despite these declines, salmon biologists also view the Columbia-Snake Basin as among the best Chinook salmon restoration opportunities anywhere on the West Coast.
- The federal dams create large reservoirs of slow-moving water that frequently get too hot for salmon to survive. As our climate warms, so do rivers. Climate change and dams combine to warm the Columbia and Snake rivers to unsafe levels. During the summer, the rivers are frequently so warm that salmon are unable to migrate upriver to spawn. When river temperatures exceed 20 °C for several days at a time—as happens more often due to dams and climate change—salmon have difficulty migrating upstream and begin succumbing to stress and disease. According to the Fish Passage Center, an independent government agency, "under a climate change scenario, the long-recognized and largely unaddressed problem of high water temperatures in the [Columbia and Snake rivers] becomes an ever-increasing threat to the survival of salmon."
- Last month [EPA issued a temperature pollution budget](#), known as a Total Maximum Daily Load (TMDL), for the Columbia and Snake rivers. In December 2019, the Ninth

Circuit Court of Appeals ruled in favor of conservation groups and ordered EPA to protect Columbia basin salmon and steelhead from dangerously warm river temperatures. Washington state's 401 certifications require the dams to comply with the temperature TMDL.

Trump Administration Efforts to Undermine State Authority:

- Late in 2018, the Trump administration sent the Washington Dept. of Ecology draft pollution permits for nine federally owned and operated dams located in Washington state. The water pollution permits triggered Washington's right to enforce the state's water quality standards, including for oil pollution and temperature.
- In January 2019, Washington state announced plans to [initiate state regulation](#) that would require the federal government to, for the first time, address oil pollution and salmon-killing hot water in the Columbia and Snake rivers. Less than 48 hours after Washington state opened a public input process, the Trump administration pulled the rug out from under the state by withdrawing the request for Clean Water Act certification.
- On June 4, 2020, EPA [issued new rules that limit states' rights to protect clean water](#), including the rights exercised by Washington state and Oregon over federal dams. In October 2019, [Washington denounced EPA's proposal](#), calling it "reckless" and an "attempt[] to subordinate states and unlawfully subvert our authority under Section 401 of the federal Clean Water Act."

Next Steps:

- The Army Corps' appeals will be heard by the Washington State Pollution Control Hearings Board, an administrative court that specializes in issues of environmental law and the Clean Water Act. The Pollution Control Hearings Board will decide whether Ecology's requirements that the Army Corps protect water quality and endangered salmon comply with the Clean Water Act.

RESOURCES

- [Army Corps' Notice of Appeal for 401 Certification of Bonneville Dam](#)
- [Washington Dept. of Ecology 401 Certifications for Eight Federal Columbia and Snake River Dams](#)
- [Public Comments on Ecology 401 Certifications](#)
- [Oregon Dept. of Environmental Quality 401 Certification Objection for Four Federal Columbia River Dams](#)