

Media Advisory For Tuesday March 27

**Court to Hear How Federal Flood Insurance Policies in Puget Sound
Harm Salmon and Orcas**

Preliminary injunction sought to protect people, property and endangered species

WHAT: Hearing before U.S. District Judge Ricardo S. Martinez
United States District Court
Western District of Washington

WHEN: March 27, 2012, 10 a.m.

WHERE: Federal Courthouse

700 Stewart St.
Seattle, WA 98101

Courtroom 13th Floor

**(Identification is required to enter courthouse. Allow time to go
through courthouse security.)**

**CAMERAS in
COURTROOM:** Please see conditions on page 2

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BACKGROUND

In December 2011, National Wildlife Federation (NWF), represented by Earthjustice, asked a judge to temporarily stop the U.S. government from issuing federally-backed flood insurance policies for new development projects in flood-prone areas around Puget Sound.

The motion for a preliminary injunction, filed in U.S. District Court for the Western District of Washington, alleges the Federal Emergency Management Agency, (FEMA) is failing to ensure that new floodplain management standards protect salmon and orcas (both federally protected species) as required by the Endangered Species Act.

The purpose of the preliminary injunction is to prevent irreparable harm to critical salmon habitat by the flood insurance. If the preliminary injunction is granted, the federal government will be prohibited from issuing insurance for new structures in the most important salmon habitat areas of Puget Sound. The preliminary injunction would remain in place until FEMA alters its flood insurance program to protect the native fish and wildlife covered by the Endangered Species Act.

NWF first raised concerns with the effects of FEMA's flood insurance plan in Puget Sound in 2003 when the conservation organization filed its initial lawsuit. In 2004, a federal judge agreed with NWF and found that FEMA failed to design its floodplain management standards with protection of these species in mind.

As a result of NWF's lawsuit, in 2008 federal wildlife experts with the National Marine Fisheries Service (NMFS) told FEMA that its flood insurance program actually promotes construction within sensitive Puget Sound floodplains and could lead to the extinction of Puget Sound chinook salmon and orcas. Because most private insurers refuse to issue policies to floodplain homes, NMFS found that FEMA's flood insurance program encourages development where it otherwise would not and destroys or degrades critical salmon habitat.

NMFS's analysis and decision, as documented in its official Biological Opinion, called for changing how the federal flood-insurance program is implemented in the region and it gave FEMA three years to make the needed changes. That deadline passed in September 2011, and still FEMA has made few, if any, changes.

The results of this litigation in Puget Sound could be a harbinger for similar challenges to FEMA's National Flood Insurance Program throughout the country. As a result of legal pressure, FEMA has agreed to analyze the effects of its insurance program on federally protected species in Oregon, Florida, and California and is considering changes at the national level in response to NWF's lawsuits.

In Puget Sound, FEMA continues to support development in sensitive floodplain habitat areas, promoting activities not just harmful to endangered species, but harmful to people as well.

Since 1990, there were 16 federally declared flood disasters in the Puget Sound region—more than one every other year. Those floods have caused at least 58 deaths and cost taxpayers more than \$1.4 billion in repairs statewide. Interstate 5 has been closed four times due to flooding, halting transportation and commerce and disrupting communities. More than 800 homes have been flooded multiple times. Due to climate change, scientists expect flooding to get worse.

FEMA is a major underwriter of flood policies in the U.S. According to FEMA's records, there are 42,000 flood insurance policies in force in Puget Sound, many of them for new development projects built after 2000. The previous year, the federal government listed Chinook salmon in Puget Sound as threatened under the Endangered Species Act, in large part because of the ongoing destruction of their habitat in streams and rivers and floodplains where development occurs.

NWF is represented by attorneys Jan Hasselman and Todd True of the non-profit law firm Earthjustice.

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Cameras in Courtroom: The Western District of Washington is participating in the [Cameras in the Courtroom Pilot Project](#). The Judicial Conference of the United States authorized this three year Pilot Program to evaluate the effect of cameras in the courtroom for civil cases in federal courts. Any party to a case, the media, or members of the public, may [request that a proceeding in a civil case be video recorded](#) by submitting a [Request form](#). Proceedings will be recorded if all of the parties consent and the presiding judge approves. Please visit our [Cameras in the Courtroom](#) pages for more information.

F.A.Q.

Visit the National Wildlife Federation – Pacific Regional Center’s website for more information on the [lawsuit](#) and [FAQs](#).