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RE Sources for Sustainable Communities, Pacific Coast  
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for Fisheries Resources*

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

PUGET SOUNDKEEPER ALLIANCE, )  
COLUMBIA RIVERKEEPER, SPOKANE )  
RIVERKEEPER, RE SOURCES FOR ) No. 2:13-cv-01839-JCC  
SUSTAINABLE COMMUNITIES, PACIFIC )  
COAST FEDERATION OF FISHERMEN’S )  
ASSOCIATIONS, and INSTITUTE FOR ) DECLARATION OF BRETT  
FISHERIES RESOURCES, ) VANDENHEUVEL IN SUPPORT OF  
Plaintiffs, ) PLAINTIFFS’ MOTION FOR  
SUMMARY JUDGMENT

v.

UNITED STATES ENVIRONMENTAL )  
PROTECTION AGENCY and GINA McCARTHY, )  
Administrator, United States Environmental )  
Protection Agency, )  
Defendants. )

1 I, BRETT VANDENHEUVEL, hereby state and declare as follows:

2 1. I am over the age of 18, have personal knowledge of the following, and could  
3 competently testify if called as a witness in this legal action.

4 2. My principal place of business is the office of Columbia Riverkeeper, located at  
5 111 Third Street, Hood River, Oregon 97031 and at 833 S.E. Main Street, Portland, Oregon  
6 97214. I serve as Executive Director of the organization and have since 2009. I received a law  
7 degree from Lewis and Clark Law School in 2005 and am licensed to practice in Oregon. I  
8 reside in Oregon but my work on the Columbia River occurs in both Oregon and Washington.

9 3. As executive director of the organization, I work with our board, direct policy  
10 choices and program work of the organization, manage our staff of nine full-time employees and  
11 two contract workers, and oversee and manage our finances.

12 4. Columbia Riverkeeper's mission is to protect and restore the water quality of the  
13 Columbia River and all life connected to it, from the headwaters to the Pacific Ocean. Columbia  
14 Riverkeeper was founded to provide a single, consistent voice and organization to work on the  
15 entire Columbia River; to provide the whole river perspective, in recognition of the impact that  
16 both upriver and downriver polluters have on the entirety of the River, including pollutants in  
17 and affecting migrating fish. As part of the national Waterkeeper Alliance, we share a model of  
18 strong citizen involvement, grassroots organizing, a science-based approach to conservation and  
19 environmental protection, and determination to enforce key environmental laws.

20 5. The vast majority of my time is consumed in the design and implementation of  
21 programs and actions to protect the Columbia River. This includes ensuring that dischargers  
22 comply with the Clean Water Act, and working with local, state and federal agencies to reduce  
23 pollution. I also work with our volunteers in our water-quality monitoring program—a program  
24 involving the collection and analysis of water quality samples, with regular reporting to both the  
25 states of Washington and Oregon.

1           6.       I also assist in our patrol of the River, spending at least a day each month (outside  
2 of the winter months) responding to reports of major spills or threatened spills—sometimes in  
3 conjunction with state and federal responders—or investigating pollution spills. I travel the  
4 River by boat to observe and learn about different parts of the River and river ecology,  
5 sometimes in conjunction with allied organizations or the media.

6           7.       An important component of Columbia Riverkeeper’s work is protecting the  
7 “fishability” of the Columbia River for subsistence, commercial, and recreational fishing. As  
8 part of that work, Columbia Riverkeeper was heavily involved in the recent revisions to  
9 Oregon’s fish consumption rate and human health criteria, spending many hours working with  
10 various interested parties and regulators on improving Oregon’s standards so that they better  
11 protected human health. That work continues with the implementation of Oregon’s new  
12 standards.

13           8.       I have reviewed information from EPA and, as a result of my organization’s work  
14 on the revised Oregon fish consumption rate and human health criteria, I understand that  
15 Washington’s current human health criteria water quality standards and fish consumption rate do  
16 not accurately reflect the amount of fish and shellfish that residents of Washington eat and  
17 therefore is not protective of Washington consumers of fish.

18           9.       Columbia Riverkeeper has been deeply engaged in advocacy aimed at the State of  
19 Washington and revising its fish consumption rate and human health criteria to ensure that it is  
20 more protective of all consumers of fish. This is important to Columbia Riverkeeper’s mission  
21 and work in its own right, but also is important to complete the work we started in Oregon to  
22 protect users of the Columbia River.

23           10.      I am aware the EPA has repeatedly communicated its disapproval of  
24 Washington’s fish consumption rate and attendant human health criteria to the Washington  
25 Department of Ecology (“Ecology”).

1           11. EPA’s failure to promptly promulgate human health criteria based on an accurate  
2 fish consumption rate for Washington that adequately protects designated uses is directly  
3 contrary to Columbia Riverkeeper’s mission to protect the River from pollution that harms water  
4 quality and people who use the Columbia River or eat fish caught in the Columbia River and  
5 impairs or weakens work that we have already done to improve standards in Oregon and  
6 Washington.

7           12. Part of our work at Columbia Riverkeeper is also to encourage people to use the  
8 River and thereby understand it better, enjoy it more, and deepen personal commitment to its  
9 protection. To the extent the Columbia River and its fish are allowed to be contaminated with  
10 toxins to levels that are unsafe for levels of actual consumption by residents of Washington and  
11 Oregon, the River’s value as a natural resource, destination, and locus of sustainable commercial  
12 and outdoor recreational activity is diminished. Columbia Riverkeeper’s members and the area  
13 residents that Columbia Riverkeeper seeks to protect will be less able and willing to engage in  
14 recreation and other uses of the River. Less citizen engagement with the River impacts  
15 Columbia Riverkeeper and its mission in a direct and negative way.

16           13. Diminished use and protection of the Columbia River also negatively impacts the  
17 economic vitality of our region. Columbia Riverkeeper works toward protecting fish not only to  
18 ensure the viability and health of species, but for sustainable harvesting. Our members include  
19 recreational and commercial fishermen, and our mission includes helping people in their  
20 livelihoods requiring a health river ecosystem.

21           14. The economic interests of our burgeoning recreation industry similarly depends  
22 on a healthy river system, including companies engaged in guided kayaking, fishing guides for  
23 salmon and sturgeon, wind sports (kite boarding and wind surfing), and tours of the Columbia  
24 River. Aesthetic values are also in the balance here, including the desire of many Columbia  
25 Gorge residents—including my family and me—who choose to live here because we believe it is

1 a healthy place. Knowing that exposure to the River's water and consuming its fish is not  
2 adequately protected by Washington State and EPA harms this aesthetic value. Negative effects  
3 on the economy of the River and region directly impact me personally and Columbia  
4 Riverkeeper in donations of time and money.

5 15. Turning to my personal concerns, I live and own property less than a mile away  
6 from the Columbia River, travel by it nearly every day, and work in Columbia Riverkeeper's  
7 office in the City of Hood River just a few blocks from the confluence of the Hood and  
8 Columbia Rivers.

9 16. My recreational interests include a number of rivers and lakes in Washington that  
10 I have visited frequently, and that I intend to visit again on at least an annual basis, all of which I  
11 believe are affected by the human health criteria and fish consumption standards that are the  
12 subject of this lawsuit. These include: the Columbia River, Kalama River, Lewis River, Cowlitz  
13 River, Washougal River, Rock Creek (Stevenson, Washington), Wind River, Little White  
14 Lake, Spearfish Lake, and numerous other little lakes and wetlands along the Columbia. I also  
15 visit the Puget Sound area and rivers, streams, and estuaries that feed the Puget Sound on a  
16 regular basis. I am concerned about the environmental and aesthetic impacts on these waters as  
17 well.

18 17. I regularly engage in boating, canoeing, kayaking, swimming, rafting and tubing,  
19 hiking, nature study, and photography on or along the banks of these waterbodies, and I walk and  
20 cycle along the Columbia River weekly.

21 18. My awareness of the failure of Washington State and EPA to protect the fishable  
22 and swimmable uses of the Columbia River makes me less eager to be in the water, and I worry  
23 that for my own health I will at some point in the near future need to curtail my recreational  
24 activities—particularly water-contact sports—if this lawsuit does not succeed.

1           19. As well, I am increasingly concerned about the healthfulness of eating the fish  
2 that we catch or purchase and consume from the Columbia River. While it has been a few years  
3 since I've fished and eaten my own catch from the Columbia, I intend to do it again unless I  
4 determine that contamination of the River makes that unwise. Currently, I frequently purchase  
5 wild salmon caught from the Columbia by commercial fishermen, primarily Native Americans  
6 selling from their "in-lieu" sites. My concern about the contamination from various sources runs  
7 to their catch as well. My special concern here is for the healthfulness of its consumption by my  
8 family, in particular our very young children whose developing systems may be more vulnerable  
9 to toxins that may become entrained or concentrated in the flesh of Columbia River fish.

10           20. I estimate I consume approximately 450 grams of Columbia River fish each week,  
11 far in excess of Washington's underprotective 6.5 grams per day fish consumption rate.

12           21. I believe that these harms will be reduced, and perhaps eliminated if, through this  
13 legal action, EPA is required to promptly promulgate human health criteria based on an accurate  
14 fish consumption rate for Washington that adequately protects designated uses.

15           Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true  
16 and correct to the best of my knowledge. Executed this 12<sup>th</sup> day of ~~January~~<sup>February</sup>, 2014, at Hood River,  
17 Oregon.

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BRETT VANDENHEUVEL