

JANETTE K. BRIMMER (WSB #41271) THE HONORABLE JOHN C. COUGHENOUR
MATTHEW R. BACA (WSB #45676)

Earthjustice
705 Second Avenue, Suite 203
Seattle, WA 98104
(206) 343-7340 | Phone
(206) 343-1526 | Fax
jbrimmer@earthjustice.org
mbaca@earthjustice.org

*Attorneys for Plaintiffs Puget Soundkeeper Alliance,
Columbia Riverkeeper, Spokane Riverkeeper,
RE Sources for Sustainable Communities, Pacific Coast
Federation of Fishermen’s Associations, and Institute
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 ROBEN WHITE
FISHERIES RESOURCES,) IN SUPPORT OF PLAINTIFFS’
) MOTION FOR SUMMARY
Plaintiffs,) JUDGMENT

v.

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

1 I, ROBEN WHITE, hereby state and declare as follows:

2 1. I reside in Vancouver, Washington, where I have lived for 30 years. I was born at
3 Four Corners, Montezuma County, Colorado. I have lived in Colorado, California, Oregon, and
4 Singapore.

5 2. I am a member of Columbia Riverkeeper and have been since August 2013 but
6 have been involved with Columbia Riverkeeper programs and activities for a number of years
7 prior to 2013. I agree with Columbia Riverkeeper's goal of protecting fish, and people who eat
8 fish, from toxics.

9 3. I have been, or currently am, a member of many organizations dedicated to
10 environmental justice, fishing rights, habitat restoration, food sustainability and fighting climate
11 change. Some of these include, Rowdy Creek Fish Hatchery, C.A.S.T. for Kids, Kline Kids
12 Fishing, Columbia Springs Hatchery and Educational Center, and Columbia Riverkeeper.
13 C.A.S.T. for Kids gives thousands of children, particularly disabled children, the opportunity to
14 fish and experience resource education nationwide. Kline Kids Fishing is a regional
15 organization that gives around 2000 kids a year the opportunity to learn to fish and how to be
16 good environmental stewards. Columbia Springs Hatchery provides kids and disabled people
17 fishing opportunities as well as environmental education in the community and local school
18 systems. It also provides many of the fish for these events in the region. The other organizations
19 provide cleanup and restoration project opportunities, public education and advocacy.

20 4. As a citizen of The Great Sioux Nation and enrolled member of the Oglalla,
21 Lakota, Pine Ridge, I have been taught that my physical and spiritual being is absolutely
22 connected to the earth around us. My responsibility to the earth is a responsibility to my very
23 existence and life around us. Hunting, fishing and gathering of food has been a matter of both
24 physical and spiritual survival.

25 5. I responsibly and sustainably grow and preserve most of my own food and

1 supplement the food source of elders and others in my community.

2 6. I have fished since I was a very small child and have fished in many parts of the
3 world. In the past, I was also involved in commercial fishing and commercial harvest diving.

4 7. In recent years I primarily fish the Columbia/Willamette and its Tributaries,
5 several of the inland lakes in Washington State and Oregon State, as well as the Coastal Rivers
6 of Washington, Oregon, and California.

7 8. I consume these fish as part of my diet and as part of my religion.

8 9. I would say I fish approximately twelve times per month on average, and I
9 estimate I eat three fish meals per week. I also purchase Washington fish approximately three
10 times per month. I previously ate fish of some sort every other day until approximately
11 sometime in the mid-1990s.

12 10. Over the past decades I have seen a marked and continuing decline in populations
13 of native fish species and an increase of physical anomalies in all species of fish. These include
14 sores, tumors, fungal growths, physical birth defects, loose scales, discolored gills, and general
15 unhealthy appearance. I have found this to be especially true in sturgeon, yellow perch, large
16 and small mouth bass, catfish and walleye, but not exclusively. My observation has been that
17 these anomalies seem to be more prevalent around or downstream of concentrated commercial
18 agriculture, high population densities, industrial activity, and manmade water impoundments.

19 11. As a result of those anomalies and my understanding of Washington State's
20 under-protective water quality regulations due to its underestimate of the state's fish
21 consumption rate, I am concerned about being exposed to toxics when I eat fish. I am also
22 concerned about the health of those I share my catch with.

23 12. For example, I no longer fish at all in the Spokane and Duwamish Rivers and
24 parts of the Columbia. I used to fish in those rivers and would gladly do so again if I thought the
25 fish I would catch there would be safe to eat.

1 13. In general, because of my concerns about toxics in Washington fish, I now
2 primarily eat migratory fish out of specific watersheds and with some caution. I eat crayfish
3 only from waterways above high population and agricultural areas and that are mostly devoid of
4 logging and herbicide use. These precautions are extremely limiting and I would eat much more
5 locally-caught Washington fish but for my worries about toxins.

6 14. Many of the ponds and lakes we traditionally took children to teach them to fish
7 or to have fishing events, such as Kline Lake, any waters around Bonneville, Lake
8 Washington, and scores of others, I no longer take children to out of fear of them returning,
9 catching, and eating contaminated fish. The groups I am a member of and I now primarily rely
10 on hatchery raised trout species planted shortly before these activities begin, though we would
11 prefer wild species if it were an option. It is troubling that part of the curriculum when teaching
12 children and first-time anglers how to fish, about resource stewardship and about sustainability is
13 about safety regarding consumption and handling of fish. I believe children and others who
14 catch fish in Washington waters should be safe eating those fish.

15 15. There are many troubling results of contamination in Washington's fish. Among
16 the ones I see are:

17 a. My and many others' ability to use and enjoy these waterways and their fish
18 is diminished because of contaminated stocks. Related to that problem is that the shift to
19 using less toxic stocks and contaminated waterways puts increased pressure on already
20 endangered and listed watersheds and fish species, particularly salmon, steelhead and sea
21 run cutthroat.

22 b. I suspect there are adverse economic impacts due to declining license
23 purchases, fee permits, etc. There is also reduced reclamation, enforcement, and fishing
24 opportunity.

25 c. I have experienced crowding at "safe" fisheries, which reduces enjoyment of

1 recreational fishing and reduces the availability of subsistence and religious harvest.

2 d. Fishing accessible by driving, walking, or taking public transit is diminished,
3 particularly affecting the poor and disabled. This has negatively affected the outdoors
4 advocacy and recreation groups of which I am a member and has affected me personally as I
5 am a leader of such outings.

6 e. Economically disadvantaged people are affected through decreased
7 availability of nontoxic species and habitat quality and are often completely unable to use
8 fish as a predominant part of their diet. Worse still, many people are forced to eat these
9 contaminated fish. This of course is particularly damaging to children and pregnant people.

10 f. These changes are harming wild species and the commercial fishery. I
11 prefer fishing for wild species, but doing so has become increasingly difficult.

12 g. I believe these problems undermine treaty responsibility. Through treaty
13 between the Aboriginal Tribes and the United States Government, an agreement was made
14 that these Tribes would be able to enjoy and reap the harvests of natural resources in
15 accustomed places as they have in perpetuity. It is the responsibility of the United States to
16 protect the existence of these resources as well as the right of these native peoples to access
17 those resources. The health of those resources is necessary to carry out these Treaties.

18 h. In the spring of 2013 I was invited by the Cowlitz Tribe to participate in the
19 Euchalon (Smelt) Welcoming Ceremony. This ceremony is held to honor The Earth, the
20 Great Spirit and our kin, and the Euchalon in its return to the Cowlitz River as they have in
21 all memory. The Euchalon have provided sustenance, nourishment, heat and light as well as
22 an economy for the Cowlitz People.

23 i. I was racked by mixed emotion during the ceremony realizing that on one
24 hand a proud people has so far survived the persecution and indignities perpetrated against
25 them, and have continued to honor their custom and society. On the other hand I realize that

1 there were and have been such poor returns of the Euchalon that there would be no harvest
2 in this ancient ceremony, no drying, no smoking, no rendering, no passing on to the young
3 of the tribe what should have been a rite of passage in learning all the aspects of this part of
4 the hoop of life. The true essence of this tragedy made itself brilliantly clear when a few
5 Euchalon, dried and canned from seasons earlier, were torn apart in tiny pieces and passed
6 among the celebrants to share.

7 j. Most of my Native friends and I have either quit taking eel or take only what
8 is needed for ceremony. It has almost disappeared and was once a staple along the coast and
9 prized for trading due to its high fat content.

10 k. These practices perpetuate the increased production of commercial/
11 industrial, cultivated species, which I believe to be unsustainable and tend to irresponsibly
12 ignore the immediate and continued need to repair natural fish stocks and habitat. It also
13 increases pollution; damages fish stock genetics, and increases disease. Commercially
14 grown foods are mostly unaffordable to the poor and therefore undermines the basic right to
15 pure natural food and the harvesting thereof.

16 16. I feel that knowing that the health of fish reflects and affects the general health of
17 mankind we should be proactive in their protection. This is in addition to the economic impacts
18 of declining health and numbers of fish stocks.

19 17. The effects of toxicity are cumulative. While food consumption is part of that
20 equation, it is one of the only ones we have less control of as our access to food sources is no
21 longer largely under our control. I can make decisions somewhat about certain products I
22 consume but since I have no ability to determine the toxicity levels in the fish and other foods I
23 consume by testing or labeling, I fear that I am not aware of the types and amounts of toxins I
24 and my family are consuming and the cumulative effects on our health.

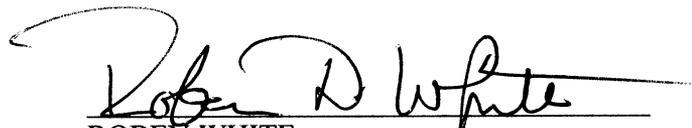
25 18. My view is that Washington State's assumption that fish consumers eat only 6.5

1 grams per day of fish is inaccurate. I consume fish in amounts far above that level, and I am
2 counting on the U.S. Environmental Protection Agency ("EPA") to change Washington's rate to
3 accurately reflect what I and others actually consume. If the EPA does not change Washington's
4 fish consumption rate and the water quality standards that go with it, I will continue to be harmed
5 in the ways I describe above.

6 19. I have witnessed a decline in fish stocks, in water quality, and in the health of
7 fish. I worry that my family and community are suffering from ailments not known to us
8 previously and that our health has been adversely and directly impacted by Washington's lax
9 water quality standards. I see chemical, agricultural and industrial pollution increasing and water
10 and air quality decreasing. I see a decrease in government intervention and enforcement of
11 existing regulation and law, including Washington's and EPA's failure to issue a protective fish
12 consumption rate. I see government failures that undermine protective legislation and treaty
13 rights; this damages the environment and subverts existing treaty rights. My ability to practice
14 my religion is curtailed because I am less able to feed myself with the fish I catch. My ability to
15 harvest, gather, hunt and fish is my natural right but is diminished and may soon be nonexistent.
16 My livelihood as a commercial fisherman was damaged. My recreational opportunities are
17 decreased. My mental and spiritual wellbeing is terribly affected.

18 20. As one who depends on fish, shellfish, clams and other wild sources as a primary
19 source of nutrition, the levels of toxics in Washington fish is economically and medically
20 devastating to me and my family. The ability of the children to fish now and in the future is in
21 jeopardy.

22 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
23 and correct to the best of my knowledge. Executed this 30th day of January, 2014, in Vancouver,
24 Washington.


ROBEN WHITE