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# National Marine Fisheries Service Releases Biological Opinion Requiring Stronger Floodplain Protections for Salmon and Communities

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For Immediate Release

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On April 14, the National Marine Fisheries Service (NMFS) concluded that the Federal Emergency Management Agency (FEMA) must change its implementation of the National Flood Insurance Program in Oregon to better protect imperiled salmon, steelhead and Southern Resident Killer Whales. In its biological opinion (BiOp), NMFS concludes that FEMA's flood insurance program violates the Endangered Species Act by subsidizing development in floodplains that jeopardize the continued existence of salmon, steelhead and Southern Resident Killer Whales and adversely modifies the designated critical habitat of anadromous fish species in Oregon. The BiOp includes a list of reforms FEMA should implement that will not only protect federally listed salmon, steelhead, and killer whales but will also reduce flood risks to people and property.

NMFS Writes: "NMFS concludes that the proposed action is likely to jeopardize the continued existence of 16 ESA listed anadromous fish species and Southern Resident killer whales, and it will result in the destruction or adverse modification of designated or proposed critical habitat for the 16 anadromous fish species. A reasonable and prudent alternative (RPA) is included in this opinion."

FEMA's National Flood Insurance Program provides low-cost federally subsidized flood insurance to cover risks incurred through construction or rebuilding in areas prone to flooding. Without federal taxpayers footing the bill to cover the inevitable damage to such risky developments, much of the building in flood zones – and damage to important salmon habitat in these areas – would not occur. Due to increased losses in floodplains in recent years, the national flood insurance program is more than \$24 billion of dollars in the red.

NMFS' Oregon BiOp is the result of a lawsuit brought in 2009 against FEMA by Audubon Society of Portland, Northwest Environmental Defense Center, National Wildlife Federation and the Association of NW Steelheaders. The suit argued that FEMA violated the Endangered Species Act by failing to consider the National Flood Insurance Program's role in fostering development in floodplains and thereby harming federally listed salmon and steelhead. The plaintiffs were represented by Earthrise Law Center. Under the terms of the settlement in this case, FEMA agreed to enter into consultation with the National Marine Fisheries Service, the federal agency responsible for overseeing recovery of listed salmonid species. The BiOp that emerged this week confirms the plaintiffs' concerns and recommends significant changes to FEMA's implementation of the Federal Flood Insurance Program in order to avoid pushing listed salmon toward extinction.

"It has been a long time coming, but we are very pleased that the National Marine Fisheries Service has outlined sensible improvements to FEMA's flood insurance program to help recover listed salmon and steelhead," said Bob Sallinger Conservation Director for the Audubon Society of Portland. "The changes recommended by NMFS will protect not only listed salmon and steelhead but also people, property, and American taxpayers. The challenge now is for FEMA, working with state and local agencies in Oregon, to change the flood insurance program so that only sensible development take place within Oregon's floodplains."

Floodplains are areas along rivers, streams and shorelines that are regularly inundated with water. They provide important fish and wildlife habitat, increase flood storage capacity, and protect water quality. In an age of climate change, floodplains provide critical landscape resiliency in the face of larger and more extreme flood events.

Despite the importance of protecting floodplains, FEMA implementation of the National Flood Insurance Program has promoted development in floodplains that places wildlife, people, and property at risk. The NFIP program identifies 251 communities in Oregon as flood-prone. These communities have experienced damaging floods in 41 of the last 53 years; since 1995, there have been 12 flood related presidential disaster declarations in Oregon. Since 1978, Oregon has had 5,299 flood claims under the National Flood Insurance Program totaling more than \$91 million, costs that were directly borne by taxpayers. Oregon currently has more than 31,600 flood insurance policies in place totaling more than \$7.5 billion dollars.

“We have waited long enough for FEMA to make these necessary, common-sense changes to its program,” said Andrew Hawley, Staff Attorney for the Northwest Environmental Defense Center. “Now it is time move forward and ensure that FEMA works with Oregon’s state and local governments to manage floodplain development in ways that protect salmon and make our communities more resilient in the face of increasing threats from extreme weather events.”

The BiOp recommends a series of significant changes to the National Flood Insurance Program in order to comply with the Endangered Species Act and ensure that the NFIP program does not push listed salmon and steelhead closer to the brink of extinction. The new guidelines tie eligibility for federal flood insurance subsidies to better protection for floodplains, including restrictions on development in floodplains, strong mitigation requirements when development does take place in these areas, and new reporting requirements to ensure compliance.

The BiOp will not prevent floodplain development altogether, but it will provide local jurisdictions with strong incentives to reduce unwise floodplain development, as well as to mitigate impacts when construction does take place in floodplains. FEMA will need to work with cities and counties to meet a timeline outlined in the BiOp to implement the new requirements in order to avoid violating the Endangered Species Act and to ensure that communities remain eligible for the Federal Flood Insurance Program. These reforms will ultimately prove beneficial for our economy, our communities and our environment. We are currently in the process of reviewing the Biological Opinion and will provide a more detailed analysis in the coming days.

[Click here to read the full Biological Opinion.](#)

