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For Further Information:

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**FEDERAL LAWSUIT WILL SEEK TO PROTECT
PUGET SOUND FROM POLLUTED RUNOFF**

An environmental group is threatening two federal agencies with a lawsuit in 60 days over Washington State's failure to control polluted runoff in coastal watersheds, including Puget Sound. Late last week, the Portland, OR-based Northwest Environmental Advocates asserted that the agencies were failing to protect threatened and endangered species in violation of federal law.

The letter is the opening salvo in a case that is intended to force the federal agencies—the U.S. Environmental Protection Agency (EPA) and the National Oceanic and Atmospheric Administration (NOAA)—to levy Congressionally-mandated fines on the State of Washington for failing to comply with a law that requires the state to protect coastal water quality.

“Congress was very clear that it intended to use the power of the federal purse to kick coastal states into high gear on protecting water quality,” said Nina Bell, Executive Director of Northwest Environmental Advocates (NWEA). “The federal agencies have blatantly and illegally ignored that Congressional direction and done nothing to protect the coastal water quality that citizens desire and species require. Salmon, orca whales, shellfish beds, recreation . . . are all under constant attack by the state's failure to control polluted runoff from farms, urban areas, logging, and more.”

NWEA filed a similar lawsuit, focused on inadequate logging practices in Oregon, under the federal Coastal Zone Act Reauthorization Amendments (“CZARA”) in 2009. The case was settled in 2010 but Oregon reneged on its agreements. By 2013 the federal agencies had proposed to disapprove Oregon's program, in January 2015 they had disapproved it, and in March 2016 they cut Oregon's annual funding by \$1.2 million. Oregon was the first state in the nation to have its coastal nonpoint program disapproved and to be fined.

The law requires EPA and NOAA to withhold at least one third of federal grant funds from states that have failed to obtain approval of their coastal nonpoint source runoff programs,

starting two decades ago. Since 2004, Washington has received over \$45 million from EPA and since 1998 it has received over \$40 million from NOAA. It was in 1998 that the agencies first determined that Washington program failed to adequately protect coastal water quality from polluted runoff.

Bell explained that, “In 1998, the federal agencies told Washington that it needed to address pollution from farming and logging, dairy operations, urban runoff, on-site septic systems, pesticides, you name it. But over the last 18 years, EPA and NOAA have inched closer and closer to concluding that Washington has a complete and functional program even though Puget Sound is as polluted as it’s ever been. It’s well past time for the federal agencies to stop being lap dogs when what the public needs them to be are guard dogs.”

In recent years, the Washington Department of Ecology has received an average of \$3 million each year from EPA to support its nonpoint source program and \$2 million annually for its coastal zone management program. Both programs are subject to the fines.

The federal Clean Water Act does not directly regulate nonpoint sources of pollution, such as logging and farming. According to Bell, “the best outcome of our imminent lawsuit would be Washington’s commitment to clean up the sources of pollution that only the state can regulate. But if it refuses, there is no reason why it should not suffer the consequences of its inaction, the way that Congress intended.”

The warning letter pertains to the federal agencies’ failure to seek consultation with expert fish and wildlife agencies under the Endangered Species Act for continuing to provide full funding to Washington despite the legal prohibition against it.

Congress passed CZARA as an amendment to the Coastal Zone Management Act in 1990.

NWEA is represented in this case by Paul Kampmeier of the Kampmeier & Knutsen PLLC (Seattle) and Allison LaPlante of the Earthrise Law Center at Lewis and Clark Law School (Portland).

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