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**FEDERAL LAWSUIT ENDS DELAYS; AGENCIES TO ANALYZE
TOXIC IMPACTS TO THREATENED & ENDANGERED SPECIES**

A federal court today signed a consent decree in which the federal agencies charged with protecting threatened and endangered species agreed to evaluate the impact of Oregon's water quality standards for toxic chemicals on those species. The federal agencies, the National Marine Fisheries Service and U.S. Fish & Wildlife Service, committed to completing these separate analyses by the end of 2011 and June 2012 respectively.

"Species are on the verge of extinction but the federal agencies in charge of protecting them are moving at a glacial pace," said Nina Bell, Executive Director of the Portland, OR-based Northwest Environmental Advocates (NWEA). "Even EPA couldn't get their attention. This lawsuit was the only way to get their commitment to complete the evaluation."

The water quality standards at issue in the case were submitted by the Oregon Department of Environmental Quality (DEQ) to the U.S. Environmental Protection Agency (EPA) for its approval in July 2004. EPA has not yet approved or disapproved the standards for the protection of aquatic life over six years later because of the delay in the Endangered Species Act review. The federal Clean Water Act gives EPA 90 days.

"Congress requires states to keep up with rapidly evolving science on pollution impacts by revising their standards every three years, paying particular attention to toxic chemicals" Bell noted. "However, neither federal nor state agencies act as if there is any particular urgency to preventing toxic impacts to imperiled species."

EPA recently disapproved Oregon's 2004 human health criteria, taking action as required

under the federal consent decree filed in a separate NWEA lawsuit. The agency concluded that Oregon's water quality standards do not provide sufficient protection to American Indian tribal members who consume large amounts of fish from the Columbia River. EPA's disapproval requires Oregon to revise the standards or EPA will have to.

Water quality standards are the triggers for regulatory actions under the federal Clean Water Act. The standards must be met by dischargers with permits. In addition, the Oregon DEQ identifies waters with unsafe levels of pollution based on the standards. Those waters are subject to clean-up plans, called Total Maximum Daily Loads, which establish the actions that permit holders and land owners must take to clean up polluted river and streams.

"Despite federal agency agreements on the importance of preventing toxic impacts on threatened and endangered species, the agencies cannot manage to get it done anywhere in this country," said Bell. "This effort in Oregon could lead to a stronger effort nationally."

Toxic pollutants cause a range of reproductive and health problems for threatened and endangered species including a variety of birds, whales, salmon, steelhead, and bull trout. There are 20 toxic pollutants being evaluated for Oregon.

NWEA was represented in this case by Allison LaPlante of the Pacific Environmental Advocacy Center of Lewis & Clark Law School.

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