

For Release: June 12, 2019, 8:00 AM
For Further Information: Nina Bell (NWEA) 503/295-0490
Allison LaPlante (Earthrise) 503/768-6894

Court Orders Timely Replacement of Oregon's Water Pollution Clean-Up Plans for Temperature

Portland (OR) – Oregon and the U.S. Environmental Protection Agency (EPA) have eight years in which to replace defective water pollution clean-up plans that allow temperatures lethal to salmon in some of the state's key river basins, a federal court ordered late Tuesday. U.S. District Court Judge Marco A. Hernández ordered the agencies to place a higher priority on completing clean-up plans that affect the most pollution dischargers regulated by Clean Water Act permits.

Northwest Environmental Advocates (NWEA), which brought the case in 2012, said the court got the order of priorities just right. "In typical Oregon DEQ fashion, they wanted to push the Willamette River towards the end of this long process even though that's where most of the pollution dischargers are," said Nina Bell, NWEA Executive Director. "We are gratified that the court understands that Oregon doesn't actually use these clean-up plans to improve logging practices or stop agricultural pollution, as absurd as that is," she added.

The case involves clean-up plans called Total Maximum Daily Loads or "TMDLs" that are required by the Clean Water Act. Previously, NWEA obtained a court order that prohibited DEQ from using the TMDL clean-up plans to override temperature standards that protect salmon. As compared to those standards, which are generally 16° C or 18° C (61 – 64° F), the Oregon TMDLs established temperatures as high as 32° C (90° F), a temperature that EPA says kills salmon within seconds. The high temperatures that are ubiquitous in Oregon waters threaten the continued existence of the region's cold-water salmon, steelhead, and bull trout.

"We're happy that the court soundly rejected the agencies' unreasonable timelines for fixing a problem that is critical to protecting the salmon and steelhead that Oregonians treasure," said Allison LaPlante, Co-Director of Earthrise Law Center, one of the attorneys who brought the case. "The judge also made it very clear that he intends to keep the agencies feet to the fire to get this done," she said.

Under the court order, Oregon and EPA must complete new TMDL clean-up plans for the following river basins: Willamette Basin & Molalla Pudding Subbasin (Willamette); Umqua Basin; Rogue Basin and Middle Rogue Subbasin & and Bear Creek Watershed (Rogue); Willow Creek Subbasin and Walla Walla Subbasin (Umatilla); Miles Creek Subbasin (Middle Columbia/Hood); Lower Grande Ronde Subbasin (Grande Ronde); Malheur Basin; John Day Basin; Hells Canyon (Snake); Applegate Subbasin (Rogue); and Sandy Basin.

Aware that Oregon has repeatedly failed to meet deadlines to produce the clean-up plans, the court ordered the state and EPA to file a status report every four months through 2027.

– MORE –

Under an earlier court order, Oregon and EPA are completing replacement clean-up plans for mercury in the Willamette River basin and temperature in the Klamath & Lost River watersheds by November and September of this year, respectively. EPA had sought to voluntarily withdraw its approval of the Willamette Mercury TMDL and had never acted on Oregon's submission of the Klamath Temperature TMDL.

NWEA is represented in this lawsuit by Bryan Telegin of Bricklin & Newman, LLP and Allison LaPlante of Earthrise Law Center at Lewis and Clark Law School.

– END –