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### **Court Rules for Coho Salmon and Questions In-Stream Gravel Mining Permit**

Portland, Ore.—Yesterday afternoon United States Magistrate Judge John Acosta issued an important decision on in-stream gravel mining. Judge Acosta ruled that the U.S. Army Corps of Engineers (Corps) unlawfully shut the public out of the permitting process and failed to justify the use a controversial commercial gravel mining permit to allow gravel mining on the Chetco River, near Brookings, Oregon. In addition, the court found that the National Marine Fisheries Service (NMFS), the federal agency charged with the protection of the critically imperiled southern Oregon/northern California coastal coho salmon, failed to correctly evaluate the risks to the coho associated with the proposed mining.

“This is a great day for the Chetco River and for government transparency,” said Mark Riskedahl, Executive Director of NEDC. “The Corps invited industry to the table to negotiate a long term extraction plan for the Chetco River and the public was intentionally shut out of the process. Not only is such an approach unconscionable, but the judge ruled it is illegal.”

NEDC filed litigation in response to the Corps closed-door meetings that led to a permit for instream gravel mining on the Chetco River. In violation of the Federal Advisory Committee Act, the Corps and NMFS meetings with the mining industry that resulted in a new gravel mining were shielded from the public. The Corps also failed to comply with the Clean Water Act’s requirement that the agency ensure that the mining will have no more than minimal adverse effects.

“Throughout this unlawful process the industry and the Corps actively ignored or sought to dismiss the best available science on the impacts this mining will have on the river, coho salmon, and citizens who cherish this area,” said NEDC Staff Attorney Andrew Hawley. The Chetco provides significant environmental, recreational, aesthetic, spiritual and economic benefits to a wide range of people, in addition to providing vital habitat for critically imperiled coho.

Compounding the Corps’ error, the Court found, is NMFS’ failure to properly analyze the impacts of the mining on the Chetco population of coho. NMFS estimates that fewer than 100 fish remain in a population that once numbered over 60,000 individuals. Despite this, and the significant impact historical mining has had on the population, NMFS failed to critically examine the effects of the permitted mining and the impact it will have on the species’ continued existence.

The permitted mining will allow in-stream gravel mining that will have significant direct and indirect impacts on the Chetco River. These impacts may include altering and destabilizing the stream channel, eliminating the pool or riffle structure, increasing turbidity and sediment levels, causing bank erosion and/or downcutting, and degrading or destroying fish habitat. These impacts will have significant adverse impacts on the critically imperiled coho salmon by disturbing and eliminating spawning sites; increasing sedimentation and turbidity, blocking sunlight and reducing available oxygen levels for fish eggs, disturbing behavior, migration, and spawning; and limiting food sources.