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For Further Information:

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**LAWSUIT SEEKS FEDERAL ACTION ON WASHINGTON'S FAILURE
TO CONTROL PUGET SOUND POLLUTED RUNOFF**

Calling for federal action, an environmental group filed a lawsuit today against two federal agencies for their failure to force Washington State to control polluted runoff in the state's coastal watersheds, including Puget Sound. A similar lawsuit in Oregon resulted in cuts to that state's federal funding earlier this year.

Filed by the Portland, OR-based Northwest Environmental Advocates (NWEA), the lawsuit asks the federal district court to force two federal agencies—the U.S. Environmental Protection Agency (EPA) and the National Oceanic and Atmospheric Administration (NOAA)—to impose Congressionally-mandated funding cuts 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 the federal agencies are required to use fear of funding losses to kick coastal states into high gear on protecting water quality,” said Nina Bell, Executive Director of NWEA. “But, for 18 years, the federal agencies have blatantly ignored the law and done nothing to protect the coastal water quality that Washington citizens desire and Washington species require. The Department of Ecology's failure to control polluted runoff from farms, urban areas, and logging is an attack on salmon, orca whales, shellfish beds, and recreation.”

NWEA filed a similar lawsuit, focused on inadequate logging practices in Oregon, under the federal Coastal Zone Act Reauthorization Amendments (“CZARA”) in 2009. After the case was settled in 2010, Oregon refused to carry out the agreement. 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 suffer disapproval of its coastal nonpoint program and to lose federal funds.

The federal 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 in 1996. The Washington Department of Ecology receives 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 grant programs are subject to the funding cuts.

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 federal agencies first informed Washington that its program was not working to control polluted runoff.

As Bell explained, “In 1998, the federal agencies told Washington that it was failing to control pollution from farming and logging, dairy operations, urban runoff, on-site septic systems, pesticides . . . you name it. There is no evidence that at any point in the last 18 years, Washington has improved its control of polluted runoff. Certainly Puget Sound is as polluted as ever. The passage of time demonstrates that the agencies’ decision to continue unlawful federal funding has not produced results.”

The federal Clean Water Act does not regulate polluted runoff, such as logging and farming, that does not come out of pipes. Congress amended the Clean Water Act in 1987 with financial inducements to encourage states to control this polluted runoff. Then, in 1990, Congress passed CZARA to focus states on controlling polluted runoff in coastal areas where increasing populations are putting added pressure on sensitive ecosystems, such as Puget Sound.

According to Bell, “the best outcome of our lawsuit would be Washington’s commitment to clean up the sources of pollution that only the state has the power to regulate. But if Washington continues to refuse, there is no reason why it should not suffer the consequences of its inaction, just the way that Congress intended. It’s a waste of taxpayer dollars to give federal funding to a state that refuses to do the first thing to stop nonpoint source pollution.”

The lawsuit also asserts that the federal agencies violated the Endangered Species Act by failing to consult with expert fish and wildlife agencies while continuing to fund Washington.

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

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