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December 21, 2010

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Lisa P. Jackson, Administrator
U.S. Environmental Protection Agency
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1200 Pennsylvania Ave., NW
Washington, DC 20460

Dennis McLerran, Regional Administrator
U.S. Environmental Protection Agency Region 10
Regional Administrator's Office, RA-140
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Robyn Thorson, Regional Director
U.S. Fish & Wildlife Service
Pacific Region
911 NE 11th Avenue
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Re: Sixty-Day Notice of Intent to Sue for Failure to Perform Mandatory Duties Pursuant to the Clean Water Act and Endangered Species Act Regarding Oregon's Water Quality Standards for Toxic Pollutants

Dear Ms. Jackson, et al.:

This letter provides notice that Northwest Environmental Advocates (NWEA) intends to file suit pursuant to Section 505(a)(2) of the Clean Water Act (CWA), 33 U.S.C. § 1365(a)(2), and Section 11(g)(1)(A) of the Endangered Species Act (ESA), 16 U.S.C. § 1540(g)(1)(A),

against the U.S. Environmental Protection Agency (EPA) for violating the CWA and the ESA with regard to Oregon water quality standards for toxic pollutants.[1]

On July 8, 2004, after more than fifteen years of inaction on water quality standards for toxic pollutants, the Oregon Department of Environmental Quality (DEQ) reviewed its criteria for toxic pollutants and submitted revised criteria to EPA for human health and aquatic life. On June 1, 2010, pursuant to a consent decree in *Northwest Environmental Advocates v. EPA*, CV 06-479-HA, six additional years after Oregon had submitted its criteria to EPA for approval, EPA approved, disapproved, and took no action on various aspects of Oregon's 2004 revised water quality criteria for toxics, including both human health and aquatic life criteria. *See* Letter from Michael A. Bussell, Director, EPA Region X Office of Water and Watersheds to Neil Mullane, Oregon DEQ, Re: EPA's Action on New and Revised Human Health Water Quality Criteria for Toxics and Revisions to Narrative Toxics Provisions in Oregon's Water Quality Standards, June 1, 2010 (hereinafter "Disapproval Letter") and Technical Support Document for EPA's Action on Oregon's New and Revised Human Health Criteria, June 1, 2010 (hereinafter "TSD").

As explained in detail below, EPA's actions and inactions failed to comply with the CWA and ESA. First, EPA has failed to act, as required by the CWA, on several key changes to Oregon's toxics standards, including changes to narrative criteria and the removal of certain numeric criteria to "guidance values." Second, EPA has disapproved numerous criteria without specifying the changes Oregon must make to comply with the CWA, and without promulgating replacement criteria in the face of Oregon's subsequent delay. Finally, EPA has failed to comply with its ESA Section 7 obligations to consult with expert agencies regarding its actions and ensure against jeopardy and adverse modification of critical habitat.

I. Clean Water Act Violations

States must submit revised or newly adopted water quality standards to EPA for review and approval or disapproval. 33 U.S.C. § 1313(c)(2)(A). EPA must notify the state within 60 days if it approves the new or revised standards as complying with the CWA. 33 U.S.C. § 1313(c)(3). If EPA concludes the state standards do not meet CWA requirements, within 90 days of the state's submission, EPA must notify the state of the disapproval and "specify the changes to meet such requirements." *Id*. If the state does not adopt the specified changes within 90 days of the notification, EPA shall itself promulgate standards for the state. *Id*.; 33 U.S.C. § 1313(c)(4).

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[1] In addition, some of the actions and failures to take actions by the U.S. EPA referenced in this letter constitute actions that are arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law and/or an unlawful withholding and unreasonable delay of agency action under the Administrative Procedure Act, 5 U.S.C. §§ 706, 702.

A. EPA Failed to Take Action on Oregon's Revisions to Narrative Toxic Criteria and Removal of Aquatic Life Criteria

In reviewing Oregon's 2004 submission, EPA failed to act on the deletion of Oregon's existing narrative toxics criteria, the new language Oregon added to the narrative toxics criteria, and the deletion of existing numeric aquatic life criteria and replacement with "guidance" values. EPA's failure to act on these water quality standards revisions, deletions, and additions violated EPA's mandatory duty under Section 303(c), 33 U.S.C. § 1313(c), of the CWA.

First, EPA failed to act on Oregon's revisions to its narrative toxics criteria. Specifically, EPA took no action on Oregon's removal of its provision authorizing the use of bio-assessment methods to identify and address conditions toxic to aquatic life. TSD at 39–40. Prior to its deletion, Oregon's water quality criterion stated:

> If the Department determines that it is necessary to monitor the toxicity of complex effluents, other suspected discharges or chemical substances without numeric criteria, then bio assessment studies may be conducted. . . . If toxicity occurs, the Department will evaluate and implement necessary measures to reduce or eliminate the toxicity on a case by case basis.

OAR 340-041-0033(4) (superseded). This rule required a determination and mandatory actions in the event the determination identified a problem. Oregon revised this narrative criterion to read:

> The Department may also require or conduct bio-assessment studies to monitor the toxicity to aquatic life of complex effluents, other suspected discharges, or chemical substances without numeric criteria.

OAR 340-041-0033(3). Oregon's revised narrative criterion deletes the previous Department determination and the requirement that the state evaluate and implement necessary measures if the results of studies find toxicity. This change converted what had been a mandatory element of Oregon's water quality standards into a discretionary and non-binding provision. These changes to Oregon's narrative criteria required EPA action.

Second, EPA failed to take action on the removal of the numeric aquatic life criteria for 59 toxic pollutants Oregon deleted from its water quality standards and placed into Table 33C as

non-binding "water quality guidance values." OAR 340-041-0033(3) Table 33C.[2] In failing to act, EPA did not evaluate the loss of protection for aquatic life from the removal of numeric aquatic life criteria for which human health criteria are less stringent, such as acenaphthene, acrolein, ethylbenzene, flouranthene, phenol, toluene, and hexacholorocyclopentadiene. Nor did EPA evaluate the loss of protection for aquatic life from the removal of those criteria for pollutants with no numeric human health criteria, such as for the pollutants beryllium and tricholoethane 1,1,1-. Moreover, the removal of these criteria means that these 59 pollutants will not be regulated under Oregon stormwater permits regardless of whether Oregon has human health criteria for them, because Oregon's current stormwater permitting policy precludes the use of human health criteria. *See, e.g.*, Oregon DEQ, Fiscal and Economic Impact Narrative, For RWG and Non-NPDES Workgroup Discussion October 4, 2010, draft September 27, 2010, at 8, *available at* http://www.deq.state.or.us/wq/standards/docs/toxics/humanhealth/OutlineFiscalAnalysis20101004.pdf (last visited December 20, 2010).[3]

As EPA has demonstrated in actions on other proposed state deletions of criteria, a state's *removal* of a water quality criterion is a revision that requires EPA action. *See, e.g.*, Letter from Michael F. Gearheard, EPA Region X Director, Office of Waters and Watersheds, to Barry Burnell, Water Quality Program Administrator, Idaho Department of Environmental Quality, Re: EPA Disapproval of Idaho's Removal of Mercury Acute and Chronic Freshwater Aquatic Life Criteria, Docket No. 58-0102-0302, December 12, 2008, *available at* http://www.deq.idaho.gov/water/data_reports/surface_water/monitoring/epa_letter_mercury_criterion_disapproval.pdf (last visited December 20, 2010) (hereinafter "Idaho Disapproval"). Yet EPA did not take action here on decisions by Oregon to remove both narrative and numeric water quality criteria. In failing to

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[2] The pollutants are: acenaphthene, acrolein, acrylonitrile, antimony, arsenic, benzene, benzidine, beryllium, BHC (hexachlorocyclohexane-, technical), carbon tetrachloride, chlorinated benzenes, chlorinated naphthalenes, chloroalkyl ethers, chloroform, chlorophenol 2-, chlorophenol 4-, methyl-4-chlorophenol 3-, chromium (III), DDE 4,4'-, DDD 4,4'-, diazinon, dichlorobenzenes, dichloroethane 1,2-, dichloroethylenes, dichlorophenol 2,4-, dichloropropane 1,2-, dichloropropene 1,3-, dimethylphenol 2,4-, dinitrotoluene, dioxin (2,3,7,8-TCDD), diphenylhydrazine, ethylbenzene, fluoranthene, haloethers, halomethanes, hexachlorobutadiene, hexachlorocyclopentadiene, hexachloroethane, isophorone, naphthalene, nitrobenzene, nitrophenols, B nitrosamines, pentachlorinated ethanes, phenol, phthalate esters, polynuclear aromatic hydrocarbons, tetrachlorinated ethanes, tetrachloroethane, tetrachloroethanes, tetrachloroethylene, tetrachlorophenol thallium, toluene, trichlorinated ethanes, trichloroethane 1,1,1-, trichloroethane 1,1,2-, trichloroethylene, trichlorophenol 2,4,6-.

[3] This document explains DEQ's current policy that "[b]ecause stormwater discharges are intermittent, DEQ does not apply the human health criteria (which are generally based on a 70 year exposure) to permits for these discharges and instead uses the aquatic life criteria as the basis for stormwater permit requirements." *Id.*

take action on these revisions, additions, and deletions to Oregon's water quality standards, EPA violated its mandatory duty to act pursuant to CWA Section 303(c)(3), 33 U.S.C. § 1313(c).

B. EPA Failed to Specify the Changes Required Where EPA Disapproved State Water Quality Standards, and EPA Failed to Promulgate Standards for Oregon

In its June 1, 2010 action, EPA disapproved Oregon's human health criteria for 47 carcinogens and 55 non-carcinogens because the criteria were based on an inadequate fish consumption rate. EPA concluded that the criteria were inconsistent with the 175 grams/day fish consumption rate that Oregon's Environmental Quality Commission (EQC) had chosen to protect American Indians and other subpopulations, and EPA disapproved the criteria on this basis. TSD at 14, 20, 27–28. Through EPA's disapproval actions, Oregon's human health criteria for toxic pollutants have reverted to standards that are over two decades out-of-date, and are based on a fish consumption level well under the EPA-recommended national average. Additionally, EPA's disapproval comes six years after Oregon's submission, yet EPA proposes to give Oregon an additional year or more to complete its revisions, only after which EPA *might* consider its own federal promulgation. None of these EPA actions and inactions is consistent with the CWA.

First, EPA violated the CWA by failing to specify required changes after disapproving Oregon's standards. In its disapproval letter, EPA acknowledged its mandatory duty:

> Under CWA Section 303(c)(3) and EPA's regulations at 40 CFR Parts 131.21 and 131.22, if EPA disapproves a state's new or revised water quality standards, it must "specify the changes" necessary to meet the applicable requirements of the Act and EPA's regulations. If the state does not adopt necessary changes, EPA is required to propose and promulgate appropriate changes.

Disapproval Letter at 3. EPA did not, however, do precisely what it stated the statute requires: *specify* what level of fish consumption would meet statutory and regulatory requirements so that Oregon would know what action it *must take* to avoid federal promulgation.

Second, EPA violated the CWA by failing to promulgate replacement standards for Oregon within 90 days of notifying Oregon of its disapproval. In its letter to Oregon, EPA again acknowledged the statutory timeframe, and then proceeded to ignore it. EPA acknowledged that "[t]he Clean Water Act requires that these disapprovals be addressed in a timely manner," but EPA went on to say that "[w]e prefer that the State of Oregon address these disapprovals under its current process," with an estimated mid-2011 completion date. *Id*. at 4. Congress did not

grant EPA the authority to "prefer" an extended timeframe over the 90-day timeframe Congress established.

In sum, the CWA does not allow EPA to make the assumption that a state will complete its triennial review in any timeframe other than the 90 days before EPA's mandatory duty to remedy the disapproval is triggered. Instead, the CWA expressly requires that EPA specify the changes necessary to meet the Act's requirements and that EPA proceed to promulgate standards in the event that the state has failed to adopt the specified changes within 90 days after the date of such notification. EPA's failure to specify the required changes and to promulgate replacement criteria is a violation of the CWA, 33 U.S.C. § 1313(c)(3) and (4).

II. Endangered Species Act Claims

The ESA requires that "[e]ach federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat of such species." 16 U.S.C. § 1536(a)(2). An agency must initiate consultation under Section 7(a)(2) whenever it undertakes an action that "may affect" a listed species or critical habitat. 50 C.F.R. § 402.14(a). Effects determinations are based on the direct, indirect, and cumulative effects of the action when added to the environmental baseline and other interrelated and interdependent actions. 50 C.F.R. § 402.02 (definition of "effects of the action").

Regulations implementing Section 7(a)(2) broadly define the scope of agency actions subject to consultation to encompass "all activities or programs of any kind authorized, funded, or carried out, in whole or in part, by Federal agencies." 50 C.F.R. § 402.02 (definition of "action"). Agencies must also consult on ongoing agency actions over which the federal agency retains, or is authorized to exercise, discretionary involvement or control. 50 C.F.R. § 402.03; 50 C.F.R. § 402.16. *See also Pacific Rivers Council v. Thomas*, 30 F.3d 1050, 1054-56 (9th Cir. 1994). Finally, "[e]ach Federal agency shall review its actions *at the earliest possible time* to determine whether any action may affect listed species or critical habitat. If such a determination is made, formal consultation is required . . . ." 50 C.F.R. § 402.14(a) (emphasis added).

EPA is currently consulting on 19 revisions to Oregon's aquatic life criteria for toxic pollutants. *See* Region 10, EPA, Biological Evaluation of Oregon's Water Quality Criteria for Toxics, 2008 (hereinafter "BE"). EPA *has not* consulted and *is not currently* consulting on Oregon's human health criteria or other actions EPA took on June 1, 2010, with respect to Oregon's toxics criteria. EPA is in violation of Section 7(a)(2) by failing to ensure through consultation with NMFS and FWS that EPA's actions are not likely to jeopardize the ESA-listed species in Oregon or result in destruction or adverse modification of critical habitat.

A. EPA Violated the ESA By Failing to Consult with the Services on Human Health Criteria that Protect Aquatic Life

While generally both human health and aquatic life criteria apply to any given waterbody, the more stringent of the two criteria controls the outcome of the regulatory action. 40 C.F.R. § 131.11(a)(1). Where there are no aquatic life criteria established for a particular pollutant, only the human health criteria – either drinking water or drinking water and fish consumption together – will apply. In this respect, human health numeric criteria play a significant role in protecting aquatic life, including federally listed threatened and endangered species.

Oregon revised 19 numeric criteria for the protection of aquatic life in 2004. In contrast, Oregon has roughly 94 numeric criteria for the protection of human health for which it does not also have aquatic life numeric criteria. *See e.g.*, "Table 40, Human Health Criteria for Toxic Pollutants DRAFT," December 15, 2010, *available at* http://www.deq.state.or.us/wq/standards/docs/toxics/humanhealth/rulemaking/ProposedToxicsTableChanges.pdf (last visited December 20, 2010) (attached hereto as Exhibit A). In both California and Idaho, EPA has recognized the role of human health criteria in providing at least interim protection for aquatic life for which no protective numeric criteria have been developed. For example, EPA explained that it disapproved Idaho's deletions of aquatic life criteria for mercury because Idaho "has not demonstrated that its human health methylmercury criterion would protect aquatic life." Idaho Disapproval at 2. As EPA noted in that action, Idaho had not "provide[d] specific information which would demonstrate that the designated aquatic life uses in Idaho are assured protection from discharges of mercury that would adversely affect water quality and/or the attainment of the aquatic life uses." *Id*. at 4. *See also* Letter to Felicia Marcus, Administrator, EPA Region 9 from Michael J. Spear, Manager, California/Nevada Operations Office, U.S. Fish and Wildlife Service Southwest Regional Office and Rodney R. McInnis, Acting Regional Administrator, National Marine Fisheries Service, March 24, 2000 (hereinafter "CTR BiOp") at 121, 145 (assessing the adequacy of California's human health criteria for protecting listed fish and wildlife species, where existing aquatic life criteria were less protective). In sum, EPA has relied on human health criteria in other states to provide some protection for aquatic life in the broad absence of aquatic life criteria. The same analysis applies to Oregon.

Oregon's human health criteria that serve as the only numeric criteria to restrict certain toxic pollutants "may affect" listed species, triggering EPA's duty under the ESA to consult with the expert species agencies and to ensure that water quality standards are not likely to "jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat." 16 U.S.C. § 1536(a)(2). EPA thus violated Section 7 of the ESA, 16 U.S.C. § 1536(a)(2), and its implementing regulations at 50 C.F.R. Part 402, when it failed to consult the Services and ensure against jeopardy and adverse modification of critical habitat prior to approving the state's human health criteria where

Oregon's human health criteria are intended to – or by default have the effect of – protecting aquatic life.

B. EPA Violated the ESA By Failing to Consult the Services Regarding the Removal of Water Quality Criteria

As discussed above, when Oregon revised its water quality standards in 2004, it deleted numeric aquatic life criteria for 59 pollutants from its water quality standards and converted them to non-binding guidance. Table 33C. This removal of aquatic life criteria results in less protection for aquatic life. For example, with the deletion of the aquatic life criteria for beryllium, Oregon no longer has any numeric criteria that protect aquatic life, directly or indirectly, from beryllium. Of those pollutants with deleted aquatic life criteria that do have human health criteria, in some cases the more stringent of the criteria that formerly applied has been removed. For example, Oregon's freshwater aquatic life criteria for acrolein were more stringent than both the Table 20 and the 2004 Table 33A human health criteria. To the extent EPA affirmatively decided not to review Oregon's removal of aquatic life criteria, EPA violated Section 7 of the ESA when it failed to consult the Services and ensure against jeopardy and adverse modification of critical habitat prior to taking such action.

Oregon also removed human health criteria for eight pollutants: beryllium, cadmium, chromium III and VI, lead, mercury[4], silver, and trichloroethane 1,1,1- on which EPA took action. Oregon has aquatic life numeric criteria for cadmium, chromium III and VI, lead, and silver and EPA is currently engaged in ESA consultation with the Services on these criteria. However, with the deletion of the human health criteria for beryllium and tricholoethane 1,1,1-, Oregon no longer has any binding criteria that directly or indirectly provide protection for aquatic life. EPA approved Oregon's removal of these criteria without an analysis of the action's impact on aquatic life protection. TSD at 33-36. EPA failed to consult the Services on its action on beryllium and tricholoethane 1,1,1-. *See* BE at 2-2. EPA thus violated Section 7 of the ESA, 16 U.S.C. § 1536(a)(2), and its implementing regulations at 50 C.F.R. Part 402, when it failed to consult the Services and ensure against jeopardy and adverse modification of critical habitat prior to taking such action.

C. EPA Has Failed to Consult on Oregon's Mercury Criteria

EPA approved Oregon's 1987 toxics water quality standards in 1988. 54 Fed. Reg. 18696, 18698 (May 2, 1989). The aquatic life criteria for mercury in Oregon's waters have been

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[4] In its June 1, 2010 action, EPA also disapproved Oregon's proposed adoption of a methylmercury criterion for human health. TSD at 17-20. In approving the removal of the mercury criterion and disapproving, without federal promulgation, the methylmercury criterion, EPA left Oregon with no human health criteria for mercury.

left unchanged since 1987, over two decades. OAR 340-041-0033. EPA has never consulted on the direct and indirect effects of Oregon's aquatic life criteria for mercury. EPA is thus violating the ESA and implementing regulations.

Since approving Oregon's water quality standards in 1988, EPA has retained the discretion to impose future alterations to the allowable concentration of mercury in Oregon's waterways, as necessary to protect designated uses, including those of threatened and endangered species. 33 U.S.C. § 1313(c)(4)(B). EPA also funds Oregon's development of state water quality standards. *See, e.g.*, Oregon Department of Environmental Quality and US EPA Region 10 Performance Partnership Agreement July 1, 2010 to June 30, 2012 at C-4, *available at* http://www.deq.state.or.us/about/ppa/PPA2010-12.pdf (last visited December 20, 2010) (EPA provides "partial" support for "[w]ork on revising the fish consumption rate, revising Oregon's human health water quality standards and adopting related implementation policies"). EPA's involvement in Oregon's execution of the CWA, including the State's adoption, revision, and application of water quality criteria for mercury, constitutes an ongoing discretionary action under the ESA, for which EPA has failed to consult under Section 7.

EPA's ongoing actions with respect to Oregon's mercury criteria indisputably meet ESA Section 7's "may affect" threshold. The adverse effects of mercury on ESA-listed fish and wildlife species are well documented in, among other places, the CTR BiOp. The Services found that California's adopted mercury criteria would cause potential jeopardy to listed fish and wildlife species, concluding for instance:

> the aquatic life mercury criteria of [.770 µg/L (chronic) and 1.4 µg/L (acute)] are so high as to effectively be without value for controlling mercury in even the most severely mercury-impaired California water bodies.

CTR BiOp at 144. In contrast, Oregon's acute freshwater and saltwater aquatic life criteria for mercury are 2.4 and 2.1 µg/L, respectively, which were EPA's recommended criteria in 1986. Quality Criteria for Water, EPA 440/5-86-001, May 1,1986 *available at* http://www.epa.gov/waterscience/criteria/library/goldbook.pdf (last visited December 21, 2010). When it revised its water quality criteria for toxics in 2004, Oregon maintained these acute mercury criteria without updating them to EPA's recommended 1.4 and 1.8 µg/L criteria, or any more protective criteria, including those proposed by the Services in the CTR BiOp. Ironically, DEQ explained that it was "maintaining Oregon's current criteria for [] mercury, because of concerns that the [EPA's] revised criteria are not protective of threatened or endangered populations of salmonids." Memorandum, Stephanie Hallock, Director, DEQ, Agenda Item B, Rule Adoption: Water Quality Standards, Including Toxic Pollutants Criteria (Apr. 29, 2004). One member of Oregon's Policy Advisory Committee "suggested that DEQ should adopt aquatic life criteria based on a value put forward by NMFS and USFWS in the CTR Biological Opinion; however,

no formal motion was entertained." Martin S. Fitzpatrick, Toxic Compounds Criteria, 1999 – 2003 Water Quality Standards Review Issue Paper, 53 (2004).

In the CTR BiOp, the Services found that for all ESUs of coho and chinook salmon and steelhead trout, an aquatic life criterion for mercury below 0.005 µg/L was necessary to prevent reproductive harm. CTR BiOp at 155-56. It then divided the criterion by a safety factor of two. *Id*. Accordingly, to prevent reproductive harm, a target criterion of 0.0025 µg/L ambient water concentration was deemed protective. The Services recommended an even lower mercury criterion for the protection of wildlife, including fish-eating birds, stating that 0.0017 µg/L "might be protective" of listed species such as the bald eagle. CTR BiOp at 159. Overall, the Services found that a protective concentration of mercury in water for ESA-listed fish and wildlife is less than or equal to 0.002 µg/L. This is almost five times more protective than the lowest aquatic life criterion for mercury in Oregon, the chronic freshwater criterion of 0.012 µg/L. Oregon's aquatic life criteria, in place since 1987, are clearly not protective of threatened and endangered species.

Oregon's unprotective aquatic life criteria for mercury apply to all species of fish and wildlife. Since 1988 dozens of fish and wildlife species and critical habitat areas have been listed by the Services pursuant to the ESA. Although EPA engages in ongoing discretionary action – the approval and control over Oregon's mercury criteria – it has never fulfilled its duty to consult or ensure against jeopardy and adverse modification of critical habitat. EPA is therefore in violation of Section 7 of the ESA, 16 U.S.C. § 1536(a)(2), and its implementing regulations at 50 C.F.R. Part 402.

III. Persons Giving Notice and Representing Attorneys

The name, address, and telephone number of the party providing this notice is:

Northwest Environmental Advocates
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(503) 295-0490

The attorneys representing the party in this notice are:

Allison LaPlante (OSB No. 02361)
Daniel Mensher (OSB No. 07463)
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IV. Conclusion

NWEA is open to engaging in a constructive dialogue to obtain a workable solution for the agency, Oregon, and NWEA's members. If EPA has a similar interest it should immediately contact me as NWEA's counsel. Please expect NWEA to file a lawsuit upon the expiration of 60 days from the date of this notice.

Sincerely,

Allison LaPlante
Daniel Mensher
Pacific Environmental Advocacy Center

cc:

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Portland, OR 97204

Eric H. Holder, Jr., Attorney General
United States Department of Justice
Office of the Attorney General
950 Pennsylvania Ave., NW
Washington, D.C. 20530-0001

No.	Pollutant	CAS No.	Carcinogen	Aquatic Life Criterion	Human Health Criteria for the Consumption of: Water + Organism (µg/L)	Organism Only (µg/L)
1	Acenaphthene	83329	n	n	95	99
2	Acrolein	107028	n	n	0.88	0.93
3	Acrylonitrile	107131	y	n	0.018	0.025
4	Aldrin	309002	y	y	0.0000050	0.0000050
5	Anthracene	120127	n	n	2900	4000
6	Antimony	7440360	n	n	5.1	64
7	Arsenic	7440382	y	n	.0022	.0175
	[A] The arsenic criterion is expressed as total inorganic arsenic. The "organism only" criterion is based on a risk level of 10^{-6}, while the "water + organism" criterion is based on a risk level of 10^{-4}					
8	Asbestos	1332214	y	n	7,000,000 fibers/L	--
	[B] The human health risks from asbestos are primarily from drinking water, therefore no "organism only" criterion was developed. The "water + organism" criterion is based on the Maximum Contaminant Level (MCL) established under the Safe Drinking Water Act.					
9	*Barium*	7440393	n	n	1000	--
	[C] The human health criterion for barium is the same as originally published in the 1976 EPA Red Book which predates the 1980 methodology and did not utilize the fish ingestion BCF approach. This same criterion value was also published in the 1986 EPA Gold Book. Human health risks are primarily from drinking water, therefore no "organism only" criterion was developed. The "water + organism" criterion is based on the Maximum Contaminant Level (MCL) established under the Safe Drinking Water Act.					
10	Benzene [represents range]	71432	y	n	1.6	5.1
11	Benzene	71432	y	n	0.44	1.4
12	Benzidine	92875	y	n	0.000018	0.000020
13	Benzo(a)anthracene	56553	y	n	0.0013	0.0018
14	Benzo(a)pyrene	50328	y	n	0.0013	0.0018
15	Benzo(b)fluoranthene 3,4	205992	y	n	0.0013	0.0018
16	Benzo(k)fluoranthene	207089	y	n	0.0013	0.0018
17	BHC Alpha	319846	y	n	0.00045	0.00049
18	BHC Beta	319857	y	n	0.0016	0.0017
19	BHC Gamma (Lindane)	58899	n	y	0.17	0.18
20	Bromoform	75252	y	n	3.3	14
21	Butylbenzyl Phthalate	85687	n	n	190	190
22	Carbon Tetrachloride	56235	y	n	0.10	0.16
23	Chlordane	57749	y	y	0.000081	0.000081
24	Chlorobenzene	108907	n	n	74	160
25	Chlorodibromomethane	124481	y	n	0.31	1.3
26	Chloroethyl Ether bis 2	111444	y	n	0.020	0.05
27	Chloroform	67663	n	n	260	1100
28	Chloroisopropyl Ether bis 2	108601	n	n	1200	6500
29	*Chloromethyl ether, bis*	542881	y	n	0.000024	0.000029
30	Chloronaphthalene 2	91587	n	n	150	160
31	Chlorophenol 2	95578	n	n	14	15
32	*Chlorophenoxy Herbicide (2,4,5,-TP)*	93721	n	n	10	--
	[D] The Chlorophenoxy Herbicide (2,4,5,-TP) criterion is the same as originally published in the 1976 EPA Red Book which predates the 1980 methodology and did not utilize the fish ingestion BCF approach. This same criterion value was also published in the 1986 EPA Gold Book. Human health risks are primarily from drinking water, therefore no "organism only" criterion was developed. The "water + organism" criterion is based on the Maximum Contaminant Level (MCL) established					

No.	Pollutant	CAS No.	Carcinogen	Aquatic Life Criterion	Human Health Criteria for the Consumption of: Water + Organism (µg/L)	Organism Only (µg/L)
	under the Safe Drinking Water Act.					
33	*Chlorophenoxy Herbicide (2,4-D)*	94757	n	n	100	--
	[E] The Chlorophenoxy Herbicide (2,4-D) criterion is the same as originally published in the 1976 EPA Red Book which predates the 1980 methodology and did not utilize the fish ingestion BCF approach. This same criterion value was also published in the 1986 EPA Gold Book. Human health risks are primarily from drinking water, therefore no "organism only" criterion was developed. The "water + organism" criterion is based on the Maximum Contaminant Level (MCL) established under the Safe Drinking Water Act. A more stringent MCL has been issued by EPA under the Safe Drinking Water Act.					
34	Chrysene	218019	y	n	0.0013	0.0018
35	Copper	7440508	n	y	1300	--
	[F] Human health risks from copper are primarily from drinking water, therefore no "organism only" criterion was developed. The "water + organism" criterion is based on the Maximum Contaminant Level (MCL) established under the Safe Drinking Water Act.					
36	Cyanide	57125	n	y	130	130
	[G] The cyanide criterion is expressed as total cyanide (CN)/L.					
37	DDD 4,4'	72548	y	n	0.000031	0.000031
38	DDE 4,4'	72559	y	n	0.000022	0.000022
39	DDT 4,4'	50293	y	y	0.000022	0.000022
40	Dibenzo(a,h)anthracene	53703	y	n	0.0013	0.0018
41	Dichlorobenzene(m) 1,3	541731	n	n	80	96
42	Dichlorobenzene(o) 1,2	95501	n	n	110	130
43	Dichlorobenzene(p) 1,4	106467	n	n	16	19
44	Dichlorobenzidine 3,3'	91941	y	n	0.0027	0.0028
45	Dichlorobromomethane	75274	y	n	0.42	1.7
46	Dichloroethane 1,2	107062	y	n	0.35	3.7
47	Dichloroethylene 1,1	75354	n	n	230	710
48	Dichloroethylene trans 1,2	156605	n	n	120	1000
49	Dichlorophenol 2,4	120832	n	n	23	29
50	Dichloropropane 1,2	78875	y	n	0.38	1.5
51	Dichloropropene 1,3	542756	y	n	0.30	2.1
52	Dieldrin	60571	y	y	0.0000053	0.0000054
53	Diethyl Phthalate	84662	n	n	3800	4400
54	Dimethyl Phthalate	131113	n	n	84000	110000
55	Dimethylphenol 2,4	105679	n	n	76	85
56	Di-n-butyl Phthalate	84742	n	n	400	450
57	Dinitrophenol 2,4	51285	n	n	62	530
58	*Dinitrophenols*	25550587	n	n	62	530
59	Dinitrotoluene 2,4	121142	y	n	0.084	0.34
60	Dioxin (2,3,7,8-TCDD)	1746016	y	n	0.00000000051	0.00000000051
61	Diphenylhydrazine 1,2	122667	y	n	0.014	0.020
62	Endosulfan Alpha	959988	n	y	8.5	8.9
63	Endosulfan Beta	33213659	n	y	8.5	8.9
64	Endosulfan Sulfate	1031078	n	n	8.5	8.9
65	Endrin	72208	n	y	0.0060	0.0060
66	Endrin Aldehyde	7421934	n	n	0.030	0.030

No.	Pollutant	CAS No.	Carcinogen	Aquatic Life Criterion	Human Health Criteria for the Consumption of: Water + Organism (µg/L)	Organism Only (µg/L)
67	Ethylbenzene	100414	n	n	160	210
68	Ethylhexyl Phthalate bis 2	117817	y	n	0.20	0.22
69	Fluoranthene	206440	n	n	14	14
70	Fluorene	86737	n	n	390	530
71	Heptachlor	76448	y	y	0.0000079	0.0000079
72	Heptachlor Epoxide	1024573	y	y	0.0000039	0.0000039
73	Hexachlorobenzene	118741	y	n	0.000029	0.000029
74	Hexachlorobutadiene	87683	y	n	0.36	1.8
75	*Hexachlorocyclo-hexane-Technical*	608731	y	n	0.0014	0.0015
76	Hexachlorocyclopentadiene	77474	n	n	30	110
77	Hexachloroethane	67721	y	n	0.29	0.33
78	Indeno(1,2,3-cd)pyrene	193395	y	n	0.0013	0.0018
79	Isophorone	78591	y	n	27	96
80	*Manganese*	7439965	n	n	--	100
	[H] The manganese criterion for "organism only" applies only to salt water and is for total manganese. The criterion is EPA's recommended criterion and is based on potential human health concerns related to the consumption of marine mollusks, not on a fish ingestion calculation method or a fish consumption rate.					
81	*Methoxychlor*	72435	n	y	100	--
	[I] The human health criterion for methoxychlor is the same as originally published in the 1976 EPA Red Book which predates the 1980 methodology and did not utilize the fish ingestion BCF approach. This same criterion value was also published in the1986 EPA Gold Book. Human health risks are primarily from drinking water, therefore no "organism only" criterion was developed. The "water + organism" criterion is based on the Maximum Contaminant Level (MCL) established under the Safe Drinking Water Act.					
82	Methyl Bromide	74839	n	n	37	150
83	Methyl-4,6-dinitrophenol 2	534521	n	n	9.2	28
84	Methylene Chloride	75092	y	n	4.3	59
85	Methylmercury (mg/kg)	22967926	n	n	--	0.040
	[J] This value is expressed as the fish tissue concentration of methylmercury. Contaminated fish and shellfish is the primary human route of exposure to methylmercury					
86	Nickel	7440020	n	n	140	170
87	*Nitrates*	14797558	n	n	10000	--
	[K] The human health criterion for nitrates is the same as originally published in the 1976 EPA Red Book which predates the 1980 methodology and did not utilize the fish ingestion BCF approach. This same criterion value was also published in the 1986 EPA Gold Book. Human health risks are primarily from drinking water, therefore no "organism only" criterion was developed. The "water + organism" criterion is based on the Maximum Contaminant Level (MCL) established under the Safe Drinking Water Act.					
88	Nitrobenzene	98953	n	n	14	69
89	*Nitrosamines*	35576911	y	n	0.00079	0.046
90	*Nitrosodibutylamine, N*	924163	y	n	0.0050	0.022
91	*Nitrosodiethylamine, N*	55185	y	n	0.00079	0.046
92	Nitrosodimethylamine, N	62759	y	n	0.00068	0.30
93	Nitrosodi-n-propylamine, N	621647	y	n	0.0046	0.051
94	Nitrosodiphenylamine, N	86306	y	n	0.55	0.60
95	*Nitrosopyrrolidine, N*	930552	y	n	0.016	3.4
96	*Pentachlorobenzene*	608935	n	n	0.15	0.15
97	Pentachlorophenol	87865	y	y	0.15	0.30

No.	Pollutant	CAS No.	Carcinogen	Aquatic Life Criterion	*Human Health Criteria for the Consumption of:*	
					Water + Organism (µg/L)	Organism Only (µg/L)
98	Phenol	108952	n	n	9400	86000
99	Polychlorinated Biphenyls (PCBs)	NA	y	y	0.0000064	0.0000064
	[L] *This criterion applies to total PCBs (e.g. the sum of all congeners or all isomers or homolog or Arochlor analyses).*					
100	Pyrene	129000	n	n	290	400
101	Selenium	7782492	n	n	120	420
102	*Tetrachlorobenzene, 1,2,4,5-*	95943	n	n	0.11	0.11
103	Tetrachloroethane 1,1,2,2	79345	y	n	0.12	0.40
104	Tetrachloroethylene	127184	y	n	0.24	0.33
105	Thallium	7440280	n	n	0.043	0.047
106	Toluene	108883	n	n	720	1500
107	Toxaphene	8001352	y	y	0.000028	0.000028
108	Trichlorobenzene 1,2,4	120821	n	n	6.4	7.0
109	Trichloroethane 1,1,2	79005	y	y	0.44	1.6
110	Trichloroethylene	79016	y	n	1.4	3.0
111	Trichlorophenol 2,4,6	88062	y	n	0.23	0.24
112	*Trichlorophenol, 2, 4, 5-*	95954	n	n	330	360
113	Vinyl Chloride	75014	y	n	0.023	0.24
114	Zinc	7440666	n	n	2100	2600