

For Release:

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**FEDERAL LAWSUIT SETTLEMENT WILL FORCE CHANGES
IN OREGON'S COASTAL LOGGING PRACTICES**

A federal judge issued a court order today that will compel Oregon to change its logging practices in coastal areas or risk losing substantial federal funds. The lawsuit, filed by the Portland, OR-based Northwest Environmental Advocates, sought to force federal agencies in charge of federal funding to comply with a law that requires protection of coastal water quality.

“This is a do or die moment for Oregon,” said Nina Bell, Executive Director of Northwest Environmental Advocates (NWEA). “Our lawsuit has demonstrated that the Oregon Department of Environmental Quality can and must override the Oregon Department of Forestry’s inadequate logging practices when they fail to protect coastal water quality, salmon and steelhead.”

NWEA filed the lawsuit under the federal Coastal Zone Act Reauthorization Amendments (CZARA) which requires states to have plans to control nonpoint source runoff from land uses, such as logging. The law requires the Environmental Protection Agency (EPA) and National Oceanic and Atmospheric Administration (NOAA) to withhold a significant percentage of federal grant funds from states without adequate plans, starting in 1996. Oregon has received over \$50 million since the federal agencies first determined that the state’s plan failed to adequately protect coastal water quality from logging.

In 1998, and again in 2004 and 2008, the federal agencies found Oregon’s plan deficient because Oregon Department of Forestry (ODF) logging practices cause unsafe water pollution. The agencies cited inadequate protection for riparian areas of medium, small and non-fish bearing streams, and inadequate protection from high risk landslide areas and legacy logging roads.

Bell explained that, “For a dozen years the federal government has begged Oregon to improve its logging practices, but failed to cut off its funds as Congress required. Our lawsuit developed a creative way for Oregon to restore water quality essential for coastal salmon while also allowing Oregon to continue to receive federal funds in the meantime.”

In their settlement with NWEA, the federal agencies agreed that the Oregon Department of Environmental Quality (DEQ) will develop the details of a “new and novel approach” to protecting water quality which will culminate in a demonstration of that approach in 2012 for Oregon’s Mid-Coast Basin. The federal agencies also committed to making a final decision on Oregon’s plan by mid-2014 and to cutting Oregon’s federal funding if the state refuses to improve logging practices. DEQ receives approximately \$3 million each year under this program.

The lawsuit has already produced an Oregon Attorney General’s opinion, issued in July, which concluded that Oregon DEQ can, and in some cases must, establish its own requirements and override the ODF practices if DEQ deems them inadequate.

The federal Clean Water Act does not directly regulate nonpoint sources of pollution, such as logging and farming. According to Bell, “the outcome of our lawsuit is Oregon’s commitment to use federally-required clean-up plans to actually clean up one of Oregon’s largest sources of pollution. It may sound like a no-brainer but this establishes a national precedent.”

“As a result of our lawsuit, Oregon is now faced with a clear choice: it will bring its logging practices out of the proverbial Dark Ages or the state will face grim consequences both for its environment and its coffers,” said Bell. “Oregon has been on notice for over a dozen years and now it’s time to give the taxpayers the clean water they’ve been paying for all that time.”

NWEA was represented in this case by Paul Kampmeier of the Washington Forest Law Center and Allison LaPlante of the Pacific Environmental Advocacy Center.

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Fact Sheet: *Northwest Environmental Advocates v. Locke, et al.*, Civil No. 09-0017-PK

***NWEA v. Locke, et al.* Complaint** (filed January 6, 2009)

***NWEA v. Locke, et al.* Settlement Documents**

Agreed Order (September 28, 2010)

Settlement Agreement (September 27, 2010)

Oregon Attorney General's Opinion (July 2, 2010)

Oregon DEQ Commitment Letter (July 26, 2010)

Complete text of CZARA: <http://coastalmanagement.noaa.gov/about/czma.html#section6217>

Text of CZARA provisions on withholding funds (16 U.S.C. § 1455b(c)):

(3) If the Secretary finds that a coastal State has failed to submit an approvable program as required by this section, the Secretary shall withhold for each fiscal year until such a program is submitted a portion of grants otherwise available to the State for the fiscal year under section 306 of the Coastal Zone Management Act of 1972, as follows:

- (A) 10 percent for fiscal year 1996.
- (B) 15 percent for fiscal year 1997.
- (C) 20 percent for fiscal year 1998.
- (D) 30 percent for fiscal year 1999 and each fiscal year thereafter.

(4) If the Administrator finds that a coastal State has failed to submit an approvable program as required by this section, the Administrator shall withhold from grants available to the State under section 1329 of Title 33, for each fiscal year until such a program is submitted, an amount equal to a percentage of the grants awarded to the State for the preceding fiscal year under that section, as follows:

- (A) For fiscal year 1996, 10 percent of the amount awarded for fiscal year 1995.
- (B) For fiscal year 1997, 15 percent of the amount awarded for fiscal year 1996.
- (C) For fiscal year 1998, 20 percent of the amount awarded for fiscal year 1997.
- (D) For fiscal year 1999 and each fiscal year thereafter, 30 percent of the amount awarded for fiscal year 1998 or other preceding fiscal year.