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For Further Information: Nina Bell, 503/295-0490, nbell@advocates-nwea.org
Bryan Telegin, 206/264-8600, telegin@bnd-law.com
Lia Comerford, 503/768-6823, comerfordl@lclark.edu

LAWSUIT CHALLENGES EPA'S YEARS OF DELAY ON CLEANING UP BUDD INLET, CAPITOL LAKE, AND THE DESCHUTES RIVER

Group says agencies consider Budd Inlet a “political hot potato” because it implicates Puget Sound sewage treatment plants

A new lawsuit filed today against the U.S. Environmental Protection Agency (EPA) takes aim at the agency's foot-dragging on cleaning up a corner of Puget Sound and Washington's Deschutes River. The suit challenges EPA's failure to issue water pollution clean-up plans in violation of the Clean Water Act.

“The regulatory agencies engage in a lot of public hand-wringing about pollution in Puget Sound but take almost no pollution control actions,” said Nina Bell, Executive Director of Northwest Environmental Advocates (NWEA). “Although Congress, through the Clean Water Act, promised citizens prompt action, the agencies have delivered decades of delay,” she added.

NWEA's lawsuit challenges EPA's failure to issue clean-up plans for Budd Inlet, Capitol Lake, and the Deschutes River watershed and disputes the legality of EPA's approval of plans to clean up temperature pollution in the Deschutes where 91 percent of the river reaches temperatures that are lethal to salmon. The Washington Department of Ecology's plan calls only to protect the shade cast by stream-side trees although it found other impacts were significant.

According to Bell, “this is not about science; it's all about political hot potatoes. Ecology has shown that cleaning up Budd Inlet requires reducing pollution from sewage treatment plants discharging to Puget Sound, making it a political hot potato. The other major source of Budd Inlet's pollution is the dam at Capitol Lake, which is highly controversial around Olympia.”

A tributary to Puget Sound, the Deschutes River discharges to Capitol Lake and the marine waters of Budd Inlet in Olympia, all of which have been violating numerous state water quality standards for decades. As far back as the 1980s, EPA identified low dissolved oxygen in Budd Inlet as a priority water quality problem.

“EPA's and Ecology's failure to clean up pollution in Budd Inlet and the Deschutes is a reflection of their inability to bring the tools of the Clean Water Act to clean up Puget Sound as a whole,” said Bell. “The years pile up and turn into decades while Chinook salmon, orca whales, and Dungeness crab continue to decline,” she added.

The Clean Water Act requires Ecology to develop science-based clean-up plans, called “Total Maximum Daily Loads” or “TMDLs,” for waters that violate clean water goals. Ecology began working on the Deschutes, Budd Inlet, and Capitol Lake TMDL plans in 2002. After 13 years,

Ecology submitted the Deschutes plan to EPA for approval in 2015, while abandoning clean-up plans for Budd Inlet and Capitol Lake.

A 2017 NWEA lawsuit forced EPA to act on the Deschutes TMDLs, resulting in EPA's 2018 approval of some temperature TMDLs and disapproval of TMDLs for dissolved oxygen, pH, fine sediment, temperature, and bacteria. The Clean Water Act requires EPA to replace disapproved TMDLs within 30 days.

Bryan Telegin at Bricklin & Newman LLP and Lia Comerford at the Earthrise Law Center at Lewis & Clark Law School represent NWEA in this case.

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