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Nina Bell  
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**LAWSUIT CHALLENGES EPA'S TWO-YEAR DELAY  
ON DESCHUTES RIVER CLEAN-UP PLAN**

The U.S. Environmental Protection Agency (EPA) has stalled a state plan for cleaning up the Deschutes River through its inaction, an environmental group alleged today in a lawsuit. The suit asserts that EPA has failed for nearly two years to approve or disapprove a clean-up plan for which federal law requires action within one month after submission.

The lawsuit, filed by the Portland, OR-based Northwest Environmental Advocates, challenges EPA's failure to act—within the 30 days required by the Clean Water Act—on a science-based clean-up plan for the Deschutes watershed submitted by the Washington Department of Ecology nearly two years ago, in December 2015.

The Deschutes River is a tributary to Puget Sound, discharging to Capitol Lake and the marine waters of Budd Inlet in Olympia. Rivers and streams in the Deschutes watershed violate state water quality standards for temperature, dissolved oxygen, pH, fine sediment, fecal coliform, and bacteria.

“When Congress established the Clean Water Act it placed a premium on swift action to protect water quality from pollution, particularly where there are known problems” explained Nina Bell, NWEA Executive Director. “But when it comes to Puget Sound, there’s a lot of talk and no action. EPA’s failure to follow the law regarding the Deschutes clean-up plan is just one more example that its purported concern about pollution in Puget Sound is nothing more than crocodile tears,” she added.

The Clean Water Act requires Ecology to develop science-based clean-up plans, called a

“Total Maximum Daily Load” or “TMDL,” for waters that have been found to violate clean water goals. The Deschutes plan had a long and tortured history before it ended up sitting on EPA’s desk for almost two years without action. Ecology began working on the plan in 2002; it took another 13 years for Ecology to complete the plan and submit it to EPA for approval in 2015.

More recently, Ecology asked EPA to act swiftly on some parts of the Deschutes TMDL, however it was silent on what EPA should do about waters affected by unsafe levels of dissolved oxygen. Pollution causing problems with dissolved oxygen is likely why EPA has failed to approve the plan.

Although the draft plan included the marine waters of Budd Inlet, when Ecology submitted the plan to EPA, it carved Budd Inlet out of the final analysis. Ecology pointed to its inability to account for nitrogen pollution coming into Budd Inlet from sewage treatment plants throughout Puget Sound that are contributing to dissolved oxygen problems.

“Both EPA and Ecology are playing games with the Deschutes clean-up plan,” said Bell. “Both agencies are well aware that the Deschutes is connected to the larger pollution problems of Puget Sound but neither agency wants to tackle that political hot potato. So EPA just sits on its hands instead of taking the responsibility the Clean Water Act requires,” she added.

In October, NWEA submitted a formal rulemaking petition with Ecology seeking a clean-up plan for nitrogen pollution in Puget Sound, the analysis Ecology needs to complete the Budd Inlet part of the plan. State law gives Ecology 60 days in which to respond to the petition.

If EPA were to disapprove the Deschutes TMDL, the Clean Water Act requires EPA to complete the TMDL itself within 30 days.

Bryan Telegin of Bricklin & Newman LLP (Seattle) and Lia Comerford of the Earthrise Law Center at Lewis & Clark Law School (Portland) represent NWEA.