

For Immediate Release

December 7, 2021

Contacts:

Nina Bell, Northwest Environmental Advocates, (503) 295-0490, nbell@advocates-nwea.org

Andrew Hawley, Western Environmental Law Center, (206) 487-7250, hawley@westernlaw.org

Allison LaPlante, Earthrise Law Center, (503) 768-6894, laplante@lclark.edu

**LAWSUIT TARGETS EPA FAILURE TO
CLEAN UP POLLUTION IN PUGET SOUND**

PORTLAND, OR – Citing agency “foot-dragging” in cleaning up Puget Sound, an environmental organization sued the U.S. Environmental Protection Agency (EPA) in federal court today. The lawsuit challenges EPA’s failure to take a key step towards cleaning up nitrogen pollution in Puget Sound that is causing a wide range of ecological degradation, including reduced oxygen levels in the water and massive algae blooms.

“After years of inaction, it’s clear that nothing short of a court order will force EPA and Washington’s Department of Ecology to clean up Puget Sound,” said Nina Bell, Executive Director of Oregon-based Northwest Environmental Advocates (NWEA), which filed the lawsuit. “The mechanism for absolutely ensuring adequate regulation is the pollution diet required by the Clean Water Act, not another weak half-measure cooked up by Ecology to avoid the law,” she said.

Two decades ago, Ecology announced that nitrogen is a serious problem in Puget Sound and that sewage treatment plants, as well as polluted runoff from human activities, are the cause. Ecology began to develop a model of the Sound to support the development of a “pollution diet” called a Total Maximum Daily Load (TMDL) that is required by the federal Clean Water Act to assign needed pollutant reductions to all sources. But then it stopped working on the TMDL.

In the intervening years, Ecology took no regulatory action to address nitrogen pollution other than to restrict nitrogen discharges from a single sewage treatment plant, the LOTT facility in Olympia. Then last week, on December 1, 2021, Ecology issued a Puget Sound Nutrient General Permit that purports to regulate nitrogen discharges from 58 sewage treatment plants. The permit does not include pollution limits as required by the Clean Water Act because, according to Ecology’s permit materials, “additional modeling work is still necessary.”

NWEA’s lawsuit alleges that, in 2018, Ecology decided not to complete a TMDL that would be subject to EPA approval under the Clean Water Act and, instead, decided to issue a non-binding plan. EPA approved Ecology’s decision to avoid issuing the legally required Puget Sound nitrogen TMDL in June 2019.

“The nitrogen pollution that is robbing Puget Sound of its health is the source of ‘dead zones’ around the world, so there is nothing novel about this problem,” said Bell. “Nitrogen causes algal

- M O R E -

blooms on the surface of Puget Sound in a whole rainbow of colors, but beneath the surface it is far more damaging, causing fundamental changes to the Sound's food web. Although Ecology has predicted the situation will get much worse, it still seeks to avoid the requirements of the law at every turn."

The group sees no alternative to going to court.

"The Washington Department of Ecology has announced that it will not follow the law and EPA has, unlawfully, agreed with that approach, leaving us no choice but to file this lawsuit," said Andrew Hawley, senior attorney with the Western Environmental Law Center.

"This failure to clean up Puget Sound using the dependable tools of the Clean Water Act is just one more in a series of inactions by EPA and Washington State," said Allison LaPlante, co-director of the Earthrise Law Center. "It's EPA's job to stop the Department of Ecology from failing Puget Sound, yet at every turn the agency misses the boat."

Removing nitrogen pollution from treated sewage prior to discharge has the added benefit of removing a wide variety of toxic pollutants, including pharmaceuticals and personal care products that are not clearly regulated under the Clean Water Act.

NWEA is currently suing EPA over Washington's failed statewide TMDL program, a lawsuit first filed in 1991, as well as a separate lawsuit pertaining to the state's failure to complete a TMDL for nitrogen pollution in Budd Inlet. Oxygen depletion in Budd Inlet is caused in part by nitrogen discharged by sewage treatment plants in the central area of Puget Sound.

NWEA is represented by Andrew Hawley, senior attorney with the Western Environmental Law Center, and Allison LaPlante, co-director of Earthrise Law Center at Lewis & Clark Law School.

###