

The Honorable Marsha J. Pechman

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

NORTHWEST ENVIRONMENTAL  
ADVOCATES,  
  
Plaintiff,  
  
v.  
  
THE U.S. ENVIRONMENTAL PROTECTION  
AGENCY,  
  
Defendant.

Case No. 2:20-cv-01362-MJP  
  
ORDER GRANTING MOTION TO  
AMEND AND MODIFYING THE  
COURT’S DECEMBER 29, 2021  
ORDER ON CROSS-MOTIONS FOR  
SUMMARY JUDGMENT

Based on the foregoing motions and the parties’ joint request, and for good cause shown, the Court hereby VACATES the Order of its December 29, 2021 Opinion and Order (ECF No. 57 at 21, lines 17-19 and 22, lines 6 to 8). In addition, it is hereby ORDERED that: EPA will issue a new decision on Plaintiff’s 2013 Petition relating to water quality standards for the State of Washington to protect aquatic life (the “Petition”) no later than September 1, 2022. The Petition decision will contain the following provisions, which shall be enforceable as terms of this Order:

- 1           1. EPA shall grant the Petition for the following pollutants: Arsenic, Cadmium,
- 2           Copper, Cyanide, Mercury, Selenium, Nickel, Acrolein, and Aluminum.
- 3           2. EPA shall issue a CWA section 303(c)(4)(B) Necessity Determination for these
- 4           nine pollutants within nine months of the petition response, no later than June 1,
- 5           2023. If EPA finds that no new or revised criteria are necessary under CWA
- 6           section 303(c)(4)(B) for any one or more of these nine pollutants within nine
- 7           months of the petition response (and no later than June 1, 2023), then the district
- 8           court’s original December 29, 2021 order and January 19, 2022 judgment will be
- 9           reinstated—including page 21, lines 17-19 and page 22, lines 6 to 8 of the order—
- 10          and EPA will be obligated to comply within 180 days of reinstatement.
- 11          3. EPA will defer a decision on the Petition for three years for the following
- 12          pollutants: Chromium III, DDT and its metabolites, Endosulfan, Endrin,
- 13          Tributyltin, Zinc, Lead, and Nonylphenol. EPA shall issue a decision on the
- 14          Petition for these eight pollutants within three years of the effective date of this
- 15          Order.
- 16          4. EPA will deny the Petition for any remaining pollutants covered by the Petition.
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20           The January 19, 2022 Judgment (ECF No. 61) is likewise amended to incorporate the  
 21 terms of this Order.

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23           DATED this 30th day of August, 2022.

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 26           The Honorable Marsha J. Pechman  
 27           United States Senior District Judge

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