

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

NOV 13 11:15

NORTHWEST ENVIRONMENTAL DEFENSE  
CENTER (NEDC) and JOHN R. CHURCHILL,

No. 86-1578-HO (lead case)  
and No. 00-679-HO  
(CONSOLIDATED)

Plaintiffs,

v.

CAROL BROWNER, in her official capacity as  
Administrator of the United States Environmental  
Protection Agency,

Defendant.

CLIENT COURTESY COPY  
FYI

AND

CONSENT DECREE

NORTHWEST ENVIRONMENTAL DEFENSE  
CENTER (NEDC), and NORTHWEST  
ENVIRONMENTAL ADVOCATES (NWEA),

Plaintiffs,

v.

CAROL BROWNER, in her official capacity as  
Administrator of the United States Environmental  
Protection Agency,

Defendant.

DEPT OF ENVIRONMENTAL QUALITY  
RECEIVED

NOV 30 2000

NORTHWEST REGION

WHEREAS, the subject of this Consent Decree is the establishment of Total Maximum  
Daily Loads ("TMDLs") for waters listed as impaired by the Oregon Department of  
Environmental Quality ("DEQ") pursuant to Section 303(d) of the Clean Water Act ("CWA"),  
33 U.S.C. § 1313(d);

CONSENT DECREE

107

WHEREAS, Case No. 86-1578-BU was resolved by a Consent Decree entered in this Court on June 3, 1987 that required, inter alia, the establishment of TMDLs for certain water bodies in Oregon;

WHEREAS, this Consent Decree becomes effective only after (a) entry of this Consent Decree by the Court, and (b) either termination as to all parties of the June 3, 1987 consent decree, or modification of the June 3, 1987 consent decree so that the requirements of the June 3, 1987 consent decree are identical to the requirements set forth in this Consent Decree.

WHEREAS, at the time the June 3, 1987 Consent Decree was entered, DEQ had identified eleven (11) water bodies as impaired in its submissions to the United States Environmental Protection Agency ("EPA");

WHEREAS, the 1998 list submitted by DEQ to EPA pursuant to Section 303(d) of the Clean Water Act ("Section 303(d) List") identified 1,158 Water Quality Limited Segments ("WQLSs") requiring more than 1,500 TMDLs;

WHEREAS, Case No. 00-679-HO (originally filed in the Western District of Washington in 1996 as No. C96-1438), involves, among others, claims by Plaintiffs NEDC and NWEA to compel EPA to establish TMDLs for all WQLSs on Oregon's Section 303(d) List;

WHEREAS, Section 303(d) of the CWA, 33 U.S.C. § 1313(d), and EPA's implementing regulations, 40 C.F.R. § 130.7 (b), (c), (d), and (e), provide for (1) identification of waters for which applicable technology-based and other required controls are not stringent enough to implement water quality standards (the "Section 303(d) List"); (2) establishment of a priority ranking for such waters; and (3) establishment of TMDLs for pollutants for which those waters are not in attainment with water quality standards;

WHEREAS, the State of Oregon has lead responsibility for the identification and prioritization of waters still requiring TMDLs and for establishment of TMDLs pursuant to Section 303(d) of the CWA, 33 U.S.C. § 1313(d);

WHEREAS, DEQ has established priorities for the establishment of TMDLs for the waters identified on Oregon's 1998 Section 303(d) List;

WHEREAS, it is the understanding of the parties to this Consent Decree that the State of Oregon presently intends to develop TMDLs for the WQLSs identified in its 1998 Section 303(d) List on the schedule set forth in the February 1, 2000 Memorandum of Agreement between EPA and DEQ regarding implementation of Section 303(d) of the Clean Water Act;

WHEREAS, Plaintiffs and EPA have agreed to a settlement of these actions without any admission of fact or law, which they consider to be just, fair, adequate and equitable resolution of the claims raised in these actions;

WHEREAS, it is in the interest of the public, the parties and judicial economy to resolve the issue in these actions without protracted litigation, including a trial;

WHEREAS, the Court finds and determines that this Consent Decree represents a just, fair, adequate and equitable resolution of the claims raised in these actions; and

WHEREAS, in light of the changes in circumstances since the June 3, 1987 Consent Decree was entered and the obligations undertaken by EPA in this Consent Decree, the Court finds it in the interests of justice that this Consent Decree be entered;

NOW, THEREFORE, it is hereby ordered, adjudged and decreed as follows:

## I. PARTIES

1. The parties to this Consent Decree are Plaintiffs and EPA. The parties understand that (a) Carol Browner was sued in her official capacity as Administrator of the United States Environmental Protection Agency ("EPA") and (b) the obligations arising under this Consent Decree are to be performed by EPA and not by Carol Browner in her individual capacity.

## II. PARTIES BOUND

2. This Consent Decree applies to, is binding upon, and inures to the benefit of Plaintiffs (and their successors, assigns, and designees) and EPA (and its successors and assigns).

## III. JURISDICTION

3. The Court retains jurisdiction for the purposes of resolving any disputes arising under the Consent Decree, and issuing such further orders or directions as may be necessary or appropriate to construe, implement, modify, or enforce the terms of this Consent Decree, and for granting any further relief as the interests of justice may require.

## IV. DEFINITIONS

4. Whenever terms listed below are used in this Consent Decree, the following definitions shall apply:

a. "Consent Decree" means this decree.

b. "Day" means a calendar day unless expressly stated to be a working day. In determining any period of time under this Consent Decree, where the last day would fall on a

Saturday, Sunday or federal holiday, the period shall run until the close of business of the next working day.

c. "Effective Date" means the latter of (1) the date on which this Consent Decree is entered by the Court and (2) the date on which the June 3, 1987 consent decree entered in Case No. 86-1578-BU is either terminated or modified as provided in paragraph 7.

d. "EPA" means the United States Environmental Protection Agency and its Administrator.

e. "Establish" for purposes of this Consent Decree means (1) final agency action taken by EPA to adopt a TMDL after proposal for public comment on that TMDL by EPA or (2) final agency action taken by the State of Oregon to adopt a TMDL after proposal for public comment of that TMDL by the State.

f. "Execute" or "Execution" means that all parties have fully signed original counterparts to this Consent Decree and have caused such documents to be delivered to each party.

g. "Plaintiffs" means the Northwest Environmental Defense Center ("NEDC") and Northwest Environmental Advocates ("NWEA").

h. "Section 303(d) List" means the list required to be submitted by Section 303(d) (2) of the CWA, 33 U.S.C. § 1313(d)(2), and 40 C.F.R. § 130.7(b) as promulgated as of the Effective Date of this Consent Decree or as subsequently amended.

i. "Total Maximum Daily Load" or "TMDL" has the meaning provided at 40 C.F.R. § 130.2(i) as promulgated as of the Effective Date of this Consent Decree, or as subsequently amended.

j. The "United States" means the United States of America including its officers, agencies, departments and instrumentalities.

k. "Water Quality Limited Segments" or "WQLSs" has the meaning provided at 40 C.F.R. § 130.2(j) as promulgated as of the Effective Date of this Consent Decree, or as subsequently amended.

l. Oregon means the 33<sup>rd</sup> State of the Union, admitted as a sovereign State of the United States forming a Constitution and a state government, including its officers, agencies, departments and instrumentalities.

#### V. TERMS OF AGREEMENT

##### 5.A. ESTABLISHMENT OF TMDLS

(1) The Parties understand that the State of Oregon has primary responsibility for the establishment of TMDLs pursuant to Section 303(d) of the CWA, 33 U.S.C. § 1313(d). It is the Parties' understanding that the State of Oregon presently intends to develop TMDLs for the WQLSs identified in its 1998 Section 303(d) List on the schedule set forth in the February 1, 2000 Memorandum of Agreement between EPA and DEQ regarding implementation of Section 303(d) of the Clean Water Act.

(2) EPA shall ensure that the cumulative number of TMDLs established by DEQ and approved by EPA, or established by EPA, on or after January 1, 2000 for Oregon's waters shall be no fewer than the number of TMDLs set forth in the table below by the end of each of the corresponding years in the table:

CUMULATIVE NUMBER OF TMDLs  
TO BE ESTABLISHED

YEAR	CUMULATIVE NUMBER OF TMDLs TO BE ESTABLISHED ON OR AFTER JANUARY 1, 2000
2004	310
2008	982
2010	1,153

For purposes of counting the number of TMDLs established or approved as required by this paragraph, TMDLs shall be counted per pollutant and per WQLS. That is to say, one (1) TMDL shall be counted for each pollutant on each WQLS for which a TMDL is established or approved. For example, establishing or approving TMDLs for all listed pollutants on a water body with four (4) WQLSs, each of which is listed for three (3) pollutants, would count as twelve (12) TMDLs for purposes of measuring compliance with the requirements of this paragraph.

(3) (a) For purposes of measuring EPA's compliance with this Consent Decree (and specifically including, but not limited to, the milestones in paragraph 5.A(2) and the termination clause in paragraph 8), EPA may count:

- (i) TMDLs established by Oregon and approved by EPA, and
- (ii) TMDLs established by EPA.

(b) In fulfilling its obligations under this Consent Decree, EPA is under no obligation to establish TMDLs for any pollutants for WQLSs which are determined not to need TMDLs consistent with section 303(d) of the CWA, 33 U.S.C. § 1313(d), and its implementing regulations, including 40 C.F.R. § 130.7(b) as promulgated as of the Effective Date of this Consent Decree or as subsequently amended, or are removed from the Oregon Section 303(d)

List or a future list of waters/pollutants needing TMDLs consistent with the provisions of the Clean Water Act and EPA's implementing regulations as promulgated as of the Effective Date of this Consent Decree or as subsequently amended.

(c) EPA and the Plaintiffs understand that future Section 303(d) Lists may include waters and pollutants that may warrant TMDL development prior to TMDL development for waters or pollutants listed on Oregon's 1998 Section 303(d) List. EPA may count TMDLs established or approved for such waters or pollutants listed on future Section 303(d) Lists for purposes of compliance with this Consent Decree.

(4) To the extent EPA establishes TMDLs in Oregon pursuant to this Consent Decree, and for the purposes of EPA deciding which TMDLs to establish pursuant to this Consent Decree, EPA is not bound by any prior Oregon TMDL selection decision or by TMDL work started but not completed by Oregon. In selecting waters or pollutants for TMDL establishment, EPA shall consider, among other factors, the priority ranking assigned to the water/pollutant by the State's then-applicable Section 303(d) List.

#### B. EPA REPORTING

On January 31st of each year, EPA shall submit to Plaintiffs a report detailing EPA's progress in meeting the commitments of this Consent Decree. The report shall identify by water segment and pollutant the TMDLs established on or after January 1, 2000, including:

- (1) the TMDLs established by Oregon and approved by EPA;
- (2) the TMDLs established by EPA, if any;



(3) the WQLSs included on Oregon's 1998 Section 303(d) List that have been determined not to need TMDLs pursuant to subparagraph 5.A(3)(b), including a description of the basis for such determination; and

(4) the TMDLs established by the State of Oregon and disapproved by EPA.

EPA shall also send with the January 31 Report a copy of each final TMDL approval and/or disapproval letter for the prior year to plaintiffs at the address for Northwest Environmental Advocates in paragraph 12.

#### VI. SECURING COURT APPROVAL

6. Plaintiffs agree to join in and support such legal proceedings as necessary to secure the Court's approval and entry of this Consent Decree, including, but not limited to, filing a joint motion with EPA to enter this Consent Decree; provided, however, that NEDC shall move the court to terminate only its own interest in the consent decree entered in Oregon case number 86-1578-BU.

#### VII. EFFECTIVE DATE

7. This Consent Decree shall become effective on the later of (a) the date on which this Consent Decree is entered by the Court, and (b) the date on which the June 3, 1987 consent decree entered in Case No. 86-1578-BU is either terminated as to all parties, or is modified so that the requirements of the June 3, 1987 consent decree are identical to the requirements set forth in this Consent Decree. The June 3, 1987 consent decree entered in Case No. 86-1578-BU shall terminate as to NEDC upon the effective date of this Consent Decree. However, if the

decree entered June 3, 1987 in Case No. 86-1578-BU is modified so that its requirements are identical to the requirements of this Consent Decree, then NEDC's interest in the decree entered June 3, 1987 in Case No. 86-1578-BU shall not be terminated. If for any reason the Court does not enter this Consent Decree or does not either terminate as to all parties the June 3, 1987 consent decree entered in Case No. 86-1578-BU, or modify the June 3, 1987 consent decree as set forth in this paragraph, then this Consent Decree shall not become effective.

#### VIII. TERMINATION OF CONSENT DECREE AND DISMISSAL OF CLAIMS

8. This Consent Decree shall terminate upon the earlier of (a) the establishment of 1,153 TMDLs, which shall be counted as set forth in paragraph 5.A(3), or (b) the establishment of TMDLs for all pollutants on all WQLSs on the latest Section 303(d) List for Oregon approved by EPA consistent with Clean Water Act § 303(d) and EPA's implementing regulations. Upon termination of this Consent Decree, this case shall be dismissed with prejudice. The parties jointly shall file the appropriate notice with the Court so that the Clerk of the Court may close the file.

#### IX. FORCE MAJEURE

9. The parties recognize that the performance of this Consent Decree is subject to fiscal and procurement laws and regulations of the United States, which include but are not limited to the Anti-Deficiency Act, 31 U.S.C. §§ 1341, et seq. The possibility exists that circumstances outside the reasonable control of EPA could delay compliance with the timetables contained in this Consent Decree. Such situations include, but are not limited to, a government

shutdown such as occurred in 1995 and 1996 or catastrophic environmental events requiring immediate and/or time-consuming response by EPA. Should a delay occur due to such circumstances, any resulting failure to meet the timetables set forth herein shall not constitute a failure to comply with the terms of this Consent Decree, and any deadlines occurring within one hundred twenty (120) days of the termination of the delay shall be extended one day for each day of the delay. EPA will provide Plaintiffs with notice as soon as is reasonably possible in the event that EPA invokes this term of the Consent Decree and will provide Plaintiffs with a detailed explanation of EPA's factual basis for invoking this term. Plaintiffs may challenge the invocation of this term of the Consent Decree under the dispute resolution terms of paragraph 10 of this Consent Decree, Dispute Resolution, and EPA shall bear the burden of justifying its invocation of this term.

#### X. DISPUTE RESOLUTION

10. In the event of a disagreement between the parties concerning the interpretation or performance of any aspect of this Consent Decree, the dissatisfied party shall provide the other party with written notice of the dispute and a request for negotiations. If the parties cannot reach an agreed resolution within thirty (30) days after receipt of the notice by the other party, then either party may petition the Court to resolve the dispute.

#### XI. EXTENSIONS AND MODIFICATIONS

11.A. Any dates set forth in this Consent Decree may be extended by written agreement of the parties and notice to court. To the extent the parties are not able to agree to an extension,

EPA may seek a modification of this Consent Decree in accordance with the procedures specified below.

(1) If EPA files a motion requesting modification of a date or dates established by this Consent Decree totaling more than thirty (30) days and provides notice to the Plaintiffs at least thirty (30) days prior to filing such motion, and files the motion at least sixty (60) days prior to the date for which modification is sought, then the filing of such motion shall, upon request, automatically extend the date for which modification is sought. Such automatic extension shall remain in effect until the earlier to occur of (i) a dispositive ruling by this Court on such motion, or (ii) the date sought in such motion. EPA may move the Court for a longer extension.

(2) If EPA files a motion requesting modification of a date or dates established by this Consent Decree totaling thirty (30) days or less, provides notice to the Plaintiffs at least fifteen (15) days prior to the filing of such motion, and files the motion at least seven (7) days prior to the date for which modification is sought, then the filing of such motion shall, upon request, automatically extend the date for which modification is sought. Such extension shall remain in effect until the earlier to occur of (i) a dispositive ruling by the Court on such motion, or (ii) the date sought in such motion.

(3) If EPA does not provide notice pursuant to Subparagraphs XI.11.A(1) or XI.11.A(2) above, EPA may move the Court for a stay of the date for which modification is sought. EPA shall give notice to the Plaintiffs as soon as reasonably possible of its intent to seek a modification and/or stay of the date sought to be modified.

(4) If the Court denies a motion by EPA to modify a date established by this Consent Decree, then the date for performance for which modification has been requested shall be such date as the Court may specify.

(5) Any motion to modify the schedule established in this Consent Decree shall be accompanied by a motion for expedited consideration. The parties to this Consent Decree shall join in any such motion for expedited consideration.

B. This Consent Decree may be modified by written agreement of the parties and approval of the Court. Nothing in this Consent Decree, or in the parties' agreement to its terms, shall be construed to limit the equitable powers of the Court to modify those terms upon a showing of good cause by any party. Good cause includes, but is not limited to, changes in the law or regulations implementing CWA Section 303 that affect EPA's commitments under this Consent Decree. In EPA's view, the failure of Congress to appropriate sufficient funds to meet EPA's obligations in this Consent Decree would constitute good cause for the modification of this Consent Decree. EPA shall have the burden to demonstrate good cause. The Plaintiffs reserve their rights to object to such request for modification.

## XII. NOTICE

12. Any notice required or made with respect to this Consent Decree shall be in writing and shall be effective upon receipt. For any matter relating to this Consent Decree, the contact persons are:

For the Plaintiffs:

Mr. James S. Coon  
SWANSON, THOMAS & COON  
900 American Bank Building  
621 S.W. Morrison St.  
Portland, OR 97205-3892

Mr. Thane W. Tiensen  
COPELAND, LANDYE, BENNETT & WOLF  
300 First Interstate Tower  
Portland, OR 97201

Northwest Environmental Advocates  
133 S.W. 2d Avenue, Suite 302  
Portland, OR 97204

For the United States:

Associate General Counsel, Water Law Office  
Office of General Counsel, 2355A  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460

Office of Regional Counsel  
U.S. Environmental Protection Agency  
1200 Sixth Avenue  
Seattle, WA 98101

and

Chief  
Environmental Defense Section  
Environment & Natural Resources Division  
United States Department of Justice  
P.O. Box 23986  
Washington, D.C. 20026-3986

Upon written notice to the other parties, any party may designate a successor contact person for any matter relating to this Consent Decree.

### XIII. SCOPE OF JUDICIAL REVIEW

13. Nothing in the terms of this Consent Decree shall be construed to confer upon this Court jurisdiction to review any decision, either procedural or substantive, to be made by EPA pursuant to this Consent Decree, except for the purpose of determining EPA's compliance with the terms of this Consent Decree. Nothing in this Consent Decree alters or affects the standards for judicial review of final EPA action or authorizes review of final EPA action under this Consent Decree, including, but not limited to, final EPA action approving, disapproving, or establishing water quality standards, TMDLs, or Oregon's Section 303(d) List.

### XIV. AGENCY DISCRETION

14. Except as expressly provided herein, or in any supplement to this Consent Decree, nothing in this Consent Decree shall be construed to limit or modify the discretion accorded EPA by the Clean Water Act, 33 U.S.C. §§ 1251-1387, or by general principles of administrative law.

### XV. REPRESENTATIVE AUTHORITY

15. Each undersigned representative of the parties to this Consent Decree certifies that he or she is fully authorized by the party to enter into and execute the terms and conditions of this Consent Decree and to legally bind such party to this Consent Decree. By signature below, Plaintiffs and EPA consent to entry of this Consent Decree.

## XVI. ENTIRE AGREEMENT

16. This Consent Decree and the Settlement Agreement are the entire agreement between Plaintiffs and EPA in this case. All prior conversations, meetings, discussions, drafts and writings of any kind are specifically superseded by this Consent Decree and the Settlement Agreement.

## XVII. MUTUAL CONSTRUCTION

17. It is hereby expressly understood and agreed that both parties are represented by capable counsel who have carefully reviewed and considered all provisions of this Consent Decree. Accordingly, the parties hereby agree that any and all rules of construction to the effect that ambiguity is construed against the drafting party shall be inapplicable in any dispute concerning the terms, meaning, or interpretation of this Consent Decree.

## XVIII. COUNTERPARTS

18. This Consent Decree may be executed in any number of counterpart originals, each of which shall be deemed to constitute an original agreement, and all of which shall constitute one agreement. The execution of one counterpart by any party shall have the same force and effect as if that party had signed all other counterparts.

## XIX. RELEASE BY PLAINTIFFS

19. On the effective date of this Consent Decree, this Consent Decree shall constitute a complete and final settlement of all claims which were asserted, or could have been asserted, by



Plaintiffs against the United States in the complaints filed in Case 00-679-HO (originally filed in the Western District of Washington in 1996 as No. C96-1438). Plaintiffs hereby release, discharge, and covenant not to assert (by way of the commencement of an action, the joinder of the Administrator and/or EPA in an existing action, or in any other fashion) any and all claims, causes of action, suits or demands of any kind whatsoever in law or in equity which it may have had, or may now or hereafter have, against the United States based upon matters which were asserted, or could have been asserted, by Plaintiffs in the complaints filed in Case 00-679-HO (originally filed in the Western District of Washington in 1996 as No. C96-1438).

#### XX. PLAINTIFFS' RESERVATION OF RIGHTS

20. This Consent Decree does not waive or limit in any way Plaintiffs' rights except as expressly provided in this Consent Decree. This reservation of rights specifically includes, but is not limited to, the right to challenge EPA's approval and/or disapproval and establishment of any Section 303(d) List for Oregon's waters submitted by DEQ after the entry of this Consent Decree. In any such lawsuit, Plaintiffs may challenge the inclusion on, or exclusion from, the Section 303(d) List of any pollutant for any water body or segment thereof. This reservation of rights also specifically includes, but is not limited to, the right to challenge EPA's approval and/or disapproval of any TMDL or any new or revised water quality standard submitted by DEQ.

## XXI. USE OF CONSENT DECREE

21. This Consent Decree shall not constitute an admission or evidence of any fact, wrongdoing, misconduct, or liability on the part of the United States, its officers, or any person affiliated with it, or on the part of the Plaintiffs, their officers, or any person affiliated with them.

## XXII. COMPLIANCE WITH OTHER LAWS

22. Nothing in this Consent Decree relieves EPA of the obligation to act in a manner consistent with applicable Federal, State or local law, including the notice and comment and other provisions of the Administrative Procedure Act, 5 U.S.C. §§ 551-599, 701-706, and applicable appropriations and law. No provisions of this Consent Decree shall be interpreted as or constitute a commitment or requirement that the United States is obligated to pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other provisions of law.

## XXIII. MODIFICATION TO REGULATIONS

23. As this Consent Decree is being negotiated, EPA is undertaking rulemaking to change the Agency's TMDL regulations. In the event of future regulatory changes that EPA determines will affect compliance with this Consent Decree, the parties will attempt to agree on appropriate changes to this Consent Decree. The definitions section of this Consent Decree contemplates such future regulatory changes; nevertheless, EPA may determine that those changes will affect compliance with the commitments in this Consent Decree. In such an event the parties agree to negotiate in good faith and not to withhold consent to reasonable changes to

this Consent Decree. If the parties are unable to agree, the dispute resolution provisions of Paragraph 10 apply.

#### XXIV. APPLICABLE LAW

24. This Consent Decree shall be governed and construed under the laws of the United States.

#### XXV. THIRD-PARTY BENEFICIARIES

25. Nothing in this Consent Decree shall be construed to make any other person or entity not executing this Consent Decree a third-party beneficiary to this Consent Decree.

#### XXVI. COSTS

26. EPA agrees that Plaintiffs are entitled to reasonable attorneys' fees and costs accrued as of the effective date of this Consent Decree on the claims asserted in their complaints. The parties will attempt to reach agreement as to the appropriate amount of the recovery. Plaintiffs shall file any request for attorney's fees within sixty (60) days of the effective date of this Consent Decree. EPA shall have sixty (60) days to respond to Plaintiffs' fee request.

For the United States of America:

LOIS J. SCHIFFER  
Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice  
Washington, DC 20530

Dated: Oct. 4, 2000

By: Michael J. Zevenberg

MICHAEL J. ZEVENBERGEN  
Environmental Defense Section  
Environment and Natural Resources Division  
c/o NOAA/Damage Assessment  
7600 Sand Point Way, NE  
Seattle, WA 98115-0070

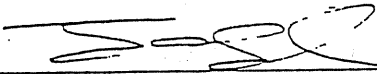
Of Counsel for the Defendants  
and the United States of America:

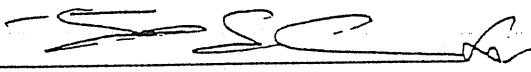
Karyn Wendelowski  
Office of General Counsel (2355A)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, DC 20460

Adrienne K. Allen  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
1200 Sixth Avenue  
Seattle, WA 98101

FOR PLAINTIFFS NEDC AND NWEA:

Dated: 10/6/00


By:   
JAMES S. COON  
Swanson, Thomas & Coon  
900 American Bank Building  
621 S.W. Morrison St.  
Portland, OR 97205-3892

By:   
THANE W. TIENSEN  
Copeland, Landye, Bennett & Wolf  
300 First Interstate Tower  
Portland, OR 97201

ORDER

UPON CONSIDERATION OF THE FOREGOING, the Court hereby finds that this Consent Decree is fair and reasonable, both procedurally and substantively, consistent with applicable law, in good faith, and in the public interest. The foregoing Consent Decree is hereby APPROVED.

SIGNED AND ENTERED this 17<sup>th</sup> day of October 2000.

  
Hon. Michael R. Hogan  
United States District Judge  
District of Oregon

CONSENT DECREE