

Mid-Coast Water Quality Legal Efforts

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Mid-Coast River Steward, Paul Engelmeyer, will likely serve on a Technical Advisory committee being assembled this fall to develop a Total Maximum Daily Load (TMDL) for the Mid-Coast basin. Unlike any ordinary TMDL, this is a pilot project to demonstrate the efficacy of the new Oregon Coastal TMDL Approach that will eventually apply to all of Oregon's coastal watersheds. This new approach will set a national precedent by issuing load allocations, containing specific practices necessary to meet water quality standards, as enforceable orders to significant landowners and agencies. In effect, this allows Oregon's Department of Environmental Quality (ODEQ) to supersede agencies such as the Oregon Board of Forestry, and essentially amend logging practices on timber lands to meet water quality standards.



This new approach to controlling nonpoint source pollution in Oregon coastal watersheds stands to reverse over a decade of federal agencies' finding Oregon's logging practices fail to meet water quality standards. This finding has been made repeatedly by the U.S. Environmental Protection Agency (EPA) and the National Oceanic and Atmospheric Administration (NOAA) in the context of their evaluation of Oregon's coastal nonpoint plan under the Coastal Zone Act Reauthorization Amendments (CZARA).

The pilot project is a result of a 2010 settlement in a lawsuit filed by Northwest Environmental

Advocates (NWEA) against NOAA and EPA. The settlement also calls for the federal agencies to decide in 2014 whether to fully approve Oregon's coastal nonpoint program or to immediately begin withholding federal funds from the Oregon Departments of Environmental Quality (DEQ) and Land Conservation and Development (DLCD). With a substantial loss of federal grant funds at stake, many believe that is the incentive for DEQ to finally make critical and lasting improvements in the protection provided to Oregon coastal streams and rivers.

This financial incentive was built in to CZARA by Congress when it required NOAA and EPA to withhold Clean Water Act and Coastal Zone

Management Act funds from states that failed to design approvable coastal nonpoint source programs. When states failed to meet the statutory deadlines, however, EPA and NOAA found a way around this requirement by issuing "conditional" approvals. Instead of losing funds, ODEQ continued to receive approximately \$3

million per year in CWA grants, despite its failure to demonstrate it had a way to control logging pollution. After more than a decade of stalling, it was more than apparent that the system was broken. Oregon's citizens and ESA-listed fish are among those still waiting for the protections established under CZARA and the CWA.

As a result of the NWEA settlement, Oregon has committed to a new approach to override inadequate forest practices and to attain and maintain water quality standards that are necessary for the protection of cold water salmonids. Specifically Oregon has agreed to:

- (1) Identify specific nonpoint sources, including logging, in each TMDL;
- (2) Identify the logging practices that are

necessary to meet the TMDL load allocations;
(3) Issue the load allocations as enforceable orders to significant land owners and agencies;
(4) Provide a schedule or developing this new type of TMDLs to cover all coastal watersheds;
(5) Develop the Mid-Coast TMDLs by June 30, 2012 using the new approach to demonstrate that ODEQ can and will use TMDLs to control water pollution from logging.

The Native Fish Society commends NWEA for its

work to hold NOAA, EPA and ODEQ accountable to the water quality standards that are necessary to protect Oregon's aquatic life. We hope that ODEQ will acknowledge Paul Engelmeyer's expertise and history on the Mid-Coast and appoint him to the Technical Advisory committee for this important pilot project to resolve the water quality problems of Oregon's coastal waters. Ultimately, what is good for the citizens of Oregon is also good for wild fish, clean water and sustainable forestry practices.