

News Release

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ENVIRONMENTAL ORGANIZATIONS SUE AGENCY OVER SHIP DISCHARGES AND INVASIVE SPECIES

Ten years after asking the U.S. Environmental Protection Agency (EPA) to regulate the discharge of pollution from ships, today environmental groups filed a lawsuit challenging the Clean Water Act (CWA) permit they fought so hard to obtain. The groups say EPA's permit fails to meet federal requirements because it allows ships to discharge untreated ballast water containing invasive species that are rapidly invading U.S. coastal waters and the Great Lakes.

“Not only did EPA pass up this tremendous opportunity to protect the country from invasive species discharged in ships' ballast water, it violated the Clean Water Act at the same time,” said Deborah Sivas, Director of the Stanford Law School Environmental Law Clinic, which represents the three plaintiff groups. “The law does not allow EPA to do what's politically expedient; it requires what is necessary to protect our waters,” she added.

Nina Bell, Executive Director of Northwest Environmental Advocates (NWEA), Portland, Oregon, one of the plaintiffs, noted that despite the rapidly developing field of ballast water treatment technology, EPA's permit requires only that ships rinse their ballast tanks in the ocean, through so-called ballast water exchange or salt-water flushing.

“The State of California's stringent treatment standards have driven the development of highly effective treatment technology,” Bell said. “Rather than to require its use, EPA chose to

ignore the existence of any treatment technology, giving the shipping industry a free ride at the expense of the environment and US taxpayers. Rinsing tanks at sea instead of using known technology to kill invasive species prior to discharge is like rinsing your mouth at night instead of brushing your teeth; it's better than nothing but it's no substitute for what works," said Bell.

The groups' original petition to EPA in January 1999 focused on the discharge of invasive species in ballast water which threaten the natural environment, human infrastructure, and cost an estimated \$9 billion each year. After EPA failed to act, environmental organizations successfully sued the agency, forcing it to issue the CWA permit on December 19, 2008. The plaintiffs in the new case are Northwest Environmental Advocates, People for Puget Sound, and the Center for Biological Diversity.

"Shippers have been getting a free ride for decades, polluting our nation's waters with invasive species that clog the intake pipes of drinking water facilities and power plants, harm the commercial fishing industry, and destroy habitat," said Bell. "It's time to reverse this travesty and protect American taxpayers, businesses, and our environment, all of which are paying the huge price of EPA's continuing refusal to properly implement the Clean Water Act," she added.

EPA's new permit covers 26 types of discharges, such as oily bilge water and cruise ship wastes, from ships over 79 feet long. In addition to the permit, States were allowed to add conditions that reflect their own laws and regulations. In some instances, notably those issued by California and New York, these State certifications add significant conditions to the EPA permit, particularly concerning the discharge of ballast water.

The case was filed in the Ninth Circuit Court of Appeals. The plaintiffs are represented by the Environmental Law Clinic at Stanford Law School and the Pacific Environmental Advocacy Center (PEAC) at Lewis and Clark Law School in Portland, OR.