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**Clean Water Advocates, Commercial Fishermen File Suit to Protect Public Health
from Toxic Pollution**

Fish consumption rates underestimate risk to people—must be updated

Seattle, WA—Today, a coalition of clean water advocates and commercial fishing industry groups filed a legal challenge to force the U.S. Environmental Protection Agency (EPA) to protect public health by fixing Washington's inadequate water pollution rules. The suit seeks an end to years of agency delay in the face of robust evidence of health risk.

According to coalition members, EPA is violating federal law by continuing to allow Washington's Department of Ecology (Ecology) to grossly underestimate the state's fish consumption rate used to set water quality standards necessary to protect human health. Consequently, water pollution limits fail to protect people who eat fish. People who consume the most fish—for example members of native Washington tribes, sport and commercial fishermen, and members of some immigrant communities such as Asian and Pacific-Islander—face greater risk due to Washington's inadequate standards.

“EPA's inaction continues to allow polluters to discharge mercury, PCBs, lead and other toxins at levels that contaminate fish, pollute our waters, and threaten public health,” said Janette Brimmer, an Earthjustice attorney representing the coalition of groups. “We have a water pollution problem that needs to be fixed now, and it is EPA's responsibility under the law to act when states fail to do so. Everyone, including EPA, agrees Washington's fish consumption rate

and human health standards are under-protective. We can't allow EPA to continue kicking the clean water can down the road."

"The current under-protective standard allows too much toxic water pollution," said Glen Spain, Northwest Regional Director of the Pacific Coast Federation of Fishermen's Associations (PCFFA). "This hurts the livelihoods of fish-dependent families, communities, and industries. A fish consumption standard that reflects reality not only makes good sense but would better protect fishing jobs and public health."

During the summer, Waterkeepers Washington, a coalition of statewide clean water advocates, along with the Pacific Coast Federation of Fishermen's Associations and the Institute for Fisheries Resources, put the EPA on notice it could be sued under the federal Clean Water Act for failing to protect Washingtonians from toxic pollution entering Puget Sound, the Columbia River, the Spokane River and other waterways.

"Parents should be able to feed their families fish without fear of toxic exposure," said Brett VandenHeuvel, Executive Director of Columbia Riverkeeper. "Health experts are clear that the people most susceptible to health effects from toxics in fish are babies, children, and pregnant women. Despite the compelling evidence on the harm from toxics in fish, Washington State and EPA have sat on their hands for far too long. We've had enough."

Ecology has for years used a fish consumption rate of a scant 6.5 grams (less than a quarter ounce) of fish or shellfish a day—a morsel that fits on a snack cracker—a rate universally recognized as inadequate. The monthly estimate is slightly less than 8 ounces—a modest serving of fillet. Because of that underestimate, Washington's water pollution regulations are not protective for people that eat fish and shellfish.

"The one-fillet-a-month estimate is ludicrous," said Chris Wilke, Executive Director of Puget Soundkeeper Alliance. "A large number of local sport fishers, Native Americans, Asian Americans and others eat fish each week, if not each day. Fish and seafood play a significant dietary role for many Washingtonians, not to mention the cultural importance of local seafood for many of us. The current fish consumption rate set by the state does not reflect this and fails to protect fishing as a designated use of our waters."

EPA has long advised states that they should not rely on that old, inaccurate estimate. Instead, states must set fish consumption standards using the best available data including surveys of actual consumption in local populations.

"It is long past time for EPA and Washington Ecology to actually do what federal law has long required—step up to the plate and adopt a fish consumption rate that is based upon what people in Washington actually eat and that will improve water quality and protect public health," said Wendy Steffensen of North Sound Baykeeper.

EPA has made clear that the local information must include populations that traditionally consume high amounts of fish for cultural, religious, or social reasons. That means in Washington, commercial and sport fishermen, tribes, and communities such as the Pacific-Asian community must be considered. EPA has repeatedly informed Ecology that its rate and the human health standards that are based on the rate, are inaccurate and inadequate to meet the requirements of the Clean Water Act.

Surveys of local Native American tribes and Asian and Pacific Islander communities in Washington, dating back to the 1990's, show consumption rates greatly and regularly exceeding the one-fillet-a-month estimate—even with severely reduced stocks and contamination of salmon, shellfish, and other fish relied upon by these communities.

"Each year EPA fails to fix Washington's inadequate water pollution rules, it guarantees that dangerous levels of toxic contaminants will continue to flow into our waterways," said Bart Mihailovich of Spokane Riverkeeper. "This in action endangers our citizens. It endangers wildlife. It threatens our economy. It's hard to believe there is delay in the face of this kind of evidence."

Earthjustice attorneys Janette Brimmer and Matt Baca are representing the members of Waterkeepers Washington, a coalition of licensed Waterkeeper organizations in the state of Washington including Spokane Riverkeeper, Columbia Riverkeeper, Puget Soundkeeper Alliance, and North Sound Baykeeper, along with the Pacific Coast Federation of Fishermen's Associations, and the Institute for Fisheries Resources.

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