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Environmentalists Sue to Protect Water Quality

EPA charged with ignoring past court decision

WASHINGTON (December 19, 2014)— The Natural Resources Defense Council (NRDC) and the Environmental Defense Center (EDC) today announced they have sued the Environmental Protection Agency (EPA) to strengthen standards to prevent pollution from stormwater, one of the nation’s most widespread forms of water pollution. More than a decade ago a federal appeals court ordered EPA to strengthen those protections, but the agency has failed to take action.

The dirty water that runs off roads, parking lots and other hard surfaces in cities and suburbs when it rains is the prime cause of beach closings around the country, and is responsible for fouling tens of thousands of miles of streams and hundreds of thousands of acres of lakes, ponds, and reservoirs. In addition, sediment-laden runoff from forest roads threatens drinking water supplies and kills fish and other aquatic life.

“This inexcusable delay in obeying a clear court order is, unfortunately, all too typical of EPA foot-dragging on the crucial stormwater pollution problem. The agency has repeatedly promised a much-needed update of all its stormwater protections, and repeatedly failed to come through,” said NRDC senior attorney Larry Levine.

The suit, filed late Thursday with the U.S. Court of Appeals for the Ninth Circuit in San Francisco, charges EPA has failed to implement that court’s 2003 ruling ordering the agency to correct and strengthen rules for urban runoff that flows through municipal sewer systems. EPA also ignored the same court’s order to decide whether it has an obligation under the Clean Water Act to regulate runoff from forest roads that wash damaging sediment into water bodies. The ruling in *EDC v. EPA* resulted from a successful challenge brought by EDC and NRDC against EPA’s 1999 stormwater regulations.

“EPA’s failure to act deprives the public—and the environment—of the important clean water victory that EDC and NRDC achieved over ten years ago. Our waterways continue to remain at risk from stormwater pollution, which threatens public health, wildlife, and recreation. ” said Maggie Hall, Staff Attorney at EDC.

In urbanized areas, according to the suit, stormwater “picks up contaminants, including suspended metals, algae-promoting nutrients, used motor oil, raw sewage, pesticides, and trash,” that flows untreated through municipal sewer pipes directly into streams, lakes and the ocean. It is, the suit says, “one of the most significant sources of water pollution in the nation, at times comparable to, if not greater than, contamination from industrial and sewage sources.”

The appeals court found that EPA’s urban runoff rules for communities with populations under 100,000 don’t comply with the Clean Water Act because they rely on self-regulation by local municipalities and don’t allow for public participation when local pollution controls are being set.

Unpaved forest roads throughout the West are a major threat to water quality, undermining the billions of dollars that is spent on the recovery of native runs of salmon and steelhead, and harming other valuable fisheries and drinking water supplies.

In 2003 the court said the agency had given no justification for its failure to regulate runoff from forest roads and ordered the agency to address this issue.

In 2009, EPA announced it would undertake a major overhaul and upgrading of its urban stormwater rules, which NRDC and EDC welcomed as an opportunity for the agency to obey the court order on urban runoff. NRDC also encouraged the agency to promote green infrastructure—roof gardens, permeable pavements and the like—that would allow more rainfall to soak directly into the ground, and sharply limit runoff volume.

However, EPA never completed the new rules and recently disclosed it was abandoning the effort. EPA had been under heavy pressure from developers not to act.

EPA announced in 2012 that it was considering options for regulating forest road runoff, and that regulation may be appropriate. However, the agency has offered no timeline for a decision.

In the lawsuit, EDC and NRDC seek a court order imposing clear deadlines for EPA to act. “We hope this suit spurs EPA to get back into the business of modernizing its whole stormwater program, which badly needs updating and could greatly benefit from new green technologies,” NRDC’s Levine said.

Read more about this issue and the lawsuit, and find the pdf of the lawsuit at Larry Levine’s blog:

<http://switchboard.nrdc.org/blogs/llevine/>

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The Natural Resources Defense Council (NRDC) is an international nonprofit environmental organization with more than 1.4 million members and online activists. Since 1970, our lawyers, scientists, and other environmental specialists have worked to protect the world's natural resources, public health, and the environment. NRDC has offices in New York City, Washington, D.C., Los Angeles, San Francisco, Chicago, Bozeman, MT, and Beijing. Visit us at www.nrdc.org and follow us on Twitter [@NRDC](https://twitter.com/NRDC).

The Environmental Defense Center, a non-profit law firm, protects and enhances the local environment through education, advocacy, and legal action and works primarily within Santa Barbara, Ventura, and San Luis Obispo counties. Since 1977, EDC has empowered community based organizations to advance environmental protection. Program areas include protecting coast and ocean resources, open spaces and wildlife, and human and environmental health. Learn more about EDC at www.EnvironmentalDefenseCenter.org