

TG

FILED\*03 AUG 13 09:34USDC-ORP

RECVD\*03 AUG 12 13:38USDC-ORP

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

**NORTHWEST ENVIRONMENTAL  
ADVOCATES**, a non-profit corporation,

Civil No. 01-510 HA

Plaintiff,

v.

~~PROPOSED~~ FINAL JUDGMENT

**U.S. ENVIRONMENTAL PROTECTION  
AGENCY**, et al.,

Defendants, and

**THE STATE OF OREGON, NORTHWEST  
PULP & PAPER ASSOCIATION**, a  
nonprofit trade association, and **OREGON  
FOREST INDUSTRIES COUNCIL**, a  
nonprofit Oregon corporation, and **OREGON  
METALLURGICAL CORPORTION**, an  
Oregon corporation,

Intervenor-Defendants.

This action came on for hearing before the Court, Honorable Ancer L. Haggerty, United States District Judge, presiding, on the parties' cross-motions for summary judgment (Docs. #49, 66, 70, 76), upon which a decision was rendered on March 31, 2003 (Doc. #107); on defendants' motion for clarification (Doc. #108), upon which a decision was rendered on June

11, 2003 (Doc. #134); on plaintiff's motion for further injunctive relief (Doc. #117), upon which a decision was rendered on July 14, 2003 (Doc. #143); and on the parties' stipulated compliance schedule (Doc. #116), which was adopted by the Court on June 11, 2003 (Doc. # 134). The issues having been heard and decisions having been duly rendered,

It is Ordered and Adjudged as follows:

1. The Administrator of the U.S. Environmental Protection Agency ("EPA") shall sign proposed regulations on or before October 1, 2003, and shall either sign final regulations or approve final State regulations on or before March 2, 2004 (including completion of consultation under the Endangered Species Act), with regard to each of the following:

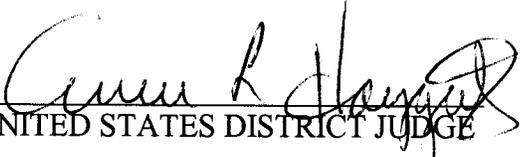
- (a) water quality criteria for temperature for the lower Willamette River;
- (b) methods for implementing the antidegradation policy adopted by Oregon, pursuant to 40 C.F.R. § 131.12;
- (c) numeric water quality criteria for temperature for the protection of salmonid rearing and bull trout rearing and spawning, accompanied by specific time and place designations for waters of the United States situated in Oregon; and
- (d) a water quality criterion for intergravel dissolved oxygen for the protection of salmonid spawning in waters of the United States situated in Oregon.

2. Oregon's alternate mixing zone rule does not apply until EPA approves the rule.

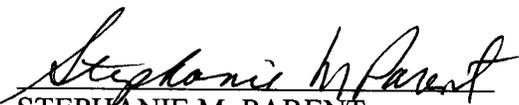
If EPA fails to approve an alternate mixing zone rule submitted by Oregon by September 12 (including completion of consultation under the Endangered Species Act), then the Oregon Department of Environmental Quality: (a) is ordered to withdraw all permits issued in reliance on the alternate mixing zone rule; and (b) is enjoined from issuing any new, renewed, or modified permits in reliance on the rule.

3. National Marine Fisheries Service ("NMFS") shall consult and issue its opinions, as required by the Endangered Species Act, 16 U.S.C. § 1531-44, and in accordance with the Opinion and Order on defendants' motion for clarification (Doc. #134), on EPA's actions taken pursuant to this Judgment.

Dated this 13 day of Aug, 2003

  
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:

  
STEPHANIE M. PARENT  
Pacific Environmental Advocacy Center  
10015 SW Terwilliger Blvd  
Portland, OR 97219  
(503) 768-6736

Attorneys for Plaintiff

THOMAS L. SANSONETTI  
Assistant Attorney General  
Environment & Natural Resources Division

*for*  *by permission*  
KENT E. HANSON  
U.S. Department of Justice  
Environment and Natural Resources Division  
Environmental Defense Section  
P.O. Box 23986  
Washington, D.C. 20026-3986  
(202) 514-1950

JEAN E. WILLIAMS, Chief  
SETH M. BARSKY, Assistant Chief  
JAMES A. MAYSONETT  
U.S. Department of Justice  
Environment and Natural Resources Division  
Wildlife and Marine Resources Section  
P.O. Box 7369  
Washington, D.C. 20026-7369  
(202) 305-0216

Attorneys for Defendants

*for* *Stephanie M. Parent by permission*  
Karen Moynahan  
Oregon Department of Justice  
Room 100  
1162 Court Street NE  
Salem, OR 97310

Attorney for State Intervenor-Defendants

*for* *Stephanie M. Parent by permission*  
Richard Gleason  
Michael R. Campbell  
Stoel Rives, L.L.P.  
900 SW 5<sup>th</sup> Avenue, Suite 2600  
Portland, OR 97204

Attorneys for Intervenor-Defendant Oregon Metallurgical Corp.

*for* *Stephanie M. Parent by permission*  
Jay Waldron  
Timothy Sullivan  
Schwabe, Williamson & Wyatt, P.C.  
Pacwest Center, Suites 1600-1900  
1211 S.W. Fifth Avenue  
Portland, OR 97204-2900

Attorneys for Intervenor-Defendants

## CERTIFICATE OF SERVICE

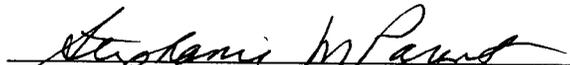
The undersigned hereby certifies that on Aug. 12, 2003, she caused one copy of this document to be served via pre-paid, first class, U.S. mail upon the counsel of record hereinafter named:

KENT E. HANSON  
U.S. Department of Justice  
Environment and Natural Resources Division  
Environmental Defense Section  
P.O. Box 23986  
Washington, D.C. 20026-3986  
(202) 514-1950

Karen Moynahan  
Oregon Department of Justice  
Room 100  
1162 Court Street NE  
Salem, OR 97310

Jay Waldron  
Timothy Sullivan  
Schwabe, Williamson & Wyatt, P.C.  
Pacwest Center, Suites 1600-1900  
1211 S.W. Fifth Avenue  
Portland, OR 97204-2900

Richard Gleason  
Michael R. Campbell  
Stoel Rives, L.L.P.  
900 SW 5<sup>th</sup> Avenue, Suite 2600  
Portland, OR 97204

  
STEPHANIE M. PARENT  
Attorney for Plaintiff