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FOR IMMEDIATE RELEASE: U.S. Court of Appeals for the Ninth Circuit affirms Olympic Forest Coalition's Clean Water Act Win, Advancing Protections for Hood Canal and Puget Sound



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Today the U.S. Court of Appeals for the Ninth Circuit issued their decision in Olympic Forest Coalition v. Coast Seafoods Company, a case in which Olympic Forest Coalition alleges Coast Seafoods is violating the federal Clean Water Act by discharging pollutants from an oyster hatchery on Quilcene Bay without a National Pollutant Discharge Elimination System (NPDES) permit. Coast previously claimed its oyster hatchery is the world's largest shellfish hatchery, capable of producing over 45 billion eyed oyster larvae per year.

Olympic Forest Coalition ("Olympic Forest") brought suit against Coast Seafoods Company ("Coast") under the Clean Water Act ("CWA" or "Act"), contending that discharges from Coast's oyster hatchery through "pipes, ditches, and channels" require a National Pollution Discharge Elimination System ("NPDES") permit. Coast moved to dismiss and lost at the District Court and now at the Court of Appeals. Olympic Forest Coalition alleges the facility discharges pollutants including: suspended solids, nitrogen, phosphorous, ammonia, nitrites, nitrates, Chlorophyll a, Phaeoshytin a, heat, pH, salinity, dissolved oxygen, and chlorine.

The court of appeals affirmed the district court's denial of Coast's motion to dismiss and held that pipes, ditches, and channels that discharge pollutants from non-concentrated aquatic animal production facilities are "point sources" requiring an NPDES permit.
[link: <http://cdn.ca9.uscourts.gov/datastore/opinions/2018/03/09/16-35957.pdf>]

Connie Gallant, President of the Olympic Forest Coalition said: "We are one step closer to bringing Coast into the NPDES permit program. We believe they are discharging pollution directly into Quilcene Bay in direct violation of the Clean Water Act and that Coast must apply for a permit so we can know what is going into the Bay and how much. The crab, shrimp, oyster and clam fishery in Quilcene Bay, the swimming beaches, endangered species, and the water quality of the Bay and Puget Sound are at serious risk from multiple issues. We want to know how much risk Coast's facility poses and what can be done to reduce any risk."

"The case is very important for Quilcene Bay and perhaps all of Puget Sound," said Paul Kampmeier, an attorney representing Olympic Forest Coalition, "because it clarifies the important legal issues – whether aquatic animal production facilities using ditches, channels and pipes are point sources that require NPDES permits. The Ninth Circuit ruled today that they do. The case is not over but the decision today should provide greater protection for Hood Canal and Puget Sound."

The Olympic Forest Coalition is a grassroots citizens advocacy organization based on the Olympic Peninsula working to protect the forests and marine waters of the Olympic Peninsula.