

# MEDIA RELEASE

## The Ocean Conservancy    WaterKeepers Northern California Northwest Environmental Advocates

### Media Contacts:

Linda Sheehan, The Ocean Conservancy	415/979-0900, lsheehan@oceanconservancyca.org
Nina Bell, Northwest Env'l Advocates	503/295-0490, nbell@advocates-nwea.org
Jonathan Kaplan, WaterKeepers N. Calif.	415/561-2299 x14, jonathan@sfbaykeeper.org
Aaron Courtney (Attorney)	503/768-6727, aaron@lclark.edu
Deborah Sivas (Attorney)	650/723-0325, dsivas@leland.stanford.edu

For Immediate Release: January 30, 2002

### EPA Ordered to Respond to Petition to Regulate Invasive Species Discharges under the Clean Water Act

**San Francisco, CA.** The U.S. District Court for the Northern District of California today ordered the U.S. Environmental Protection Agency (EPA) to respond to a petition filed three years ago by environmental, fishing, drinking water supplier, tribal and other groups seeking controls on pollution discharges from ships. The ships at issue discharge ballast water containing non-native species, which damage U.S. coastal waters and the Great Lakes. The petition asked EPA to withdraw its regulation exempting these ships from Clean Water Act pollution controls. The U.S. District Court today ordered EPA to respond to the petition within 30 days.

"For three years EPA has effectively ignored our petition and allowed unregulated discharges of ballast water," said Linda Sheehan, Director of the Pacific Regional Office for The Ocean Conservancy. "Now the agency will have to deal with this important issue. Invasive species in ships' ballast water threatens native plants and animals that are on the verge of extinction, hurts commercial fishing and shellfishing, and threatens significant damage to California's water supply facilities."

Three of the petitioners – The Ocean Conservancy, Northwest Environmental Advocates and WaterKeepers Northern California – filed suit in April 2001 to compel EPA to respond to the January 1999 petition, then over two years old. In a summary judgment

ruling issued today, the court found EPA had violated the Administrative Procedures Act by its failure to respond and ordered EPA to either grant or deny the petition within 30 days.

Live species from other countries are carried to U.S. waters in ballast water, which ships use for stabilization. The ballast water is discharged into bays, estuaries and the Great Lakes when cargo for export is loaded. Over 21 billion gallons of ballast water from international ports is discharged into U.S. waters each year. Ballast water is the number one source of new aquatic species in our coastal waters. Estimates of the cost of invasive species to the U.S. economy run in the billions of dollars annually.

“The San Francisco Bay ecosystem has been devastated by invasive species,” added Jonathan Kaplan, San Francisco BayKeeper for WaterKeepers Northern California. Kaplan noted that over 99% of the weight of living organisms in the Bay are now non-native, and that a new non-native organism establishes itself in the Bay every 14 weeks, a rate that is increasing. “Up to one billion gallons of foreign ballast water is discharged into San Francisco Bay each year, and EPA’s regulation exempts all of it from Clean Water Act controls set up to protect us from such threats. We hope through our petition to change that.”

“It is a disgrace that EPA is using delaying tactics when instead it should be taking speedy action to stop the environmental and economic crisis caused by invasive species,” added Nina Bell, Executive Director of the Portland, Oregon-based Northwest Environmental Advocates (NWEA). “Citizens should be able to count on the federal government to do its job without having to be taken to court. Fortunately, today’s legal ruling takes us one step closer to EPA assuming responsibility for protecting our waters.”

Craig Johnston and Aaron Courtney of the Pacific Environmental Advocacy Center (PEAC) and Deborah Sivas of the Earthjustice Environmental Law Clinic at Stanford University represent the groups.

###-

# **FACT SHEET**

## **Invasive Species in the San Francisco Bay/Delta Estuary**

- Over 234 non-native plant and animal species are now established in the San Francisco Bay/Delta Estuary. Alien animal species now living in the Bay include the Asian clam, the European green crab, the New Zealand sea slug, the Chinese mitten crab, and species of sponges, fish, anemone, snails, mussels, clams, and barnacles.
- Invasive species are the number two threat to native threatened and endangered species nationwide, just after habitat destruction. Specific threats include: consumption of natives species and their food sources, dilution of native species through cross-breeding, alteration of native species' habitats, and poisoning of native species through bioaccumulation of toxics that are passed up the food chain.
- Up to 97% of the total number of organisms and up to 99% of the biomass in the San Francisco Bay/Delta Estuary is now non-native, making it possibly the most invaded estuary in the world.
- Invasive species are becoming established in the Bay Area at a faster rate than ever before. A new species is now established every 14 weeks, up from one every 55 weeks in 1960.
- Once established, aquatic invasive species are "here to stay" - costs are simply to minimize damage.
- The Port of Oakland has stated in environmental documents that non-native species can "seriously upset the existing ecological balance" of the environment into which they are released, and can have a "profound impact" on the Bay/Delta environment in particular.
- Nationwide costs of combating zebra mussels alone total \$3 billion annually; costs of the Asian clam and European green crab - now established in San Francisco Bay area - total \$1 billion and \$44 million nationwide each year, respectively.
- Invasives such as Chinese mitten crabs threaten to clog water pumps and disrupt water supply, threaten stability of Delta levees, and threaten efforts to rebuild salmon fisheries. The mitten crabs, which may have been brought in via ballast water and remain a ballast water problem, may spread up to the largest dams in the state, and may imperil salmon populations due to their appetite for juvenile salmon. At one point, intake screens at the Central Valley Project, which shifts water south for crops and people, were clogged with 20,000 crabs a day.
- The Asian clam feeds voraciously on the bacterioplankton, phytoplankton, and zooplankton (copepods) that are the primary food source for local fish. As a result, the copepod-eating native opossum shrimp has suffered a near-complete collapse in some regions, and fish that feed on the native shrimp have, in turn, dramatically decreased in abundance. The Asian clam also bioaccumulates toxic metals in the Bay such as cadmium and selenium, and passes on those toxics to aquatic predators such as sturgeon and diving ducks. The clams' magnification of toxics in the food chain could also affect fish- and shellfish-eating marine mammals such as harbor seals, sea lions, and sea otters. The Asian clam thus may be both "starving out" and poisoning Bay Area wildlife.
- The shimofuri goby, introduced into the Bay from Japan via ballast water, both consumes and interferes with the mating habits of the native tidewater goby, a seriously endangered species. Its presence may mean the extinction of the native tidewater goby.
- The European green crab has dramatically reduced the level of the native shore crab and native clams. Because they prey on Dungeness crabs and Pacific oysters, they are a serious threat to the local shellfish and aquaculture industries.
- Ballast water discharge from vessels is the major source of aquatic invasives (53% -88% of invasives introduced into San Francisco Bay in last decade are from ballast water).
- Up to 1 billion gallons of foreign ballast is discharged into the San Francisco Bay/Delta each year.
- In an April 2000 report, the San Francisco Regional Water Quality Control Board found that the Bay has been significantly degraded by non-native species, and that their discharge is "one of the greatest threats to the integrity of the San Francisco Estuary ecosystem, perhaps as great as any pollutant under the Clean Water Act." The report concluded that there should be "no exotic species introductions"; that is, the only "safe" level of invasive species in the Bay is zero.