



May 30, 2008

Science Advisory Board
Department of Ecology
c/o David Bradley
Ecology Headquarters Building
P.O. Box 4760
Olympia, WA 98504-7600

Re: Port Angeles Harbor/Proposal by Lower Elwha Klallam Tribe

Dear Members of the Science Advisory Board:

The City of Port Angeles, Port of Port Angeles, and Nippon Paper Industries USA, all share concerns about a proposal presented to you for evaluation by the Lower Elwha Klallam Tribe (LEKT). As we understand it, this proposal was first presented in December, 2007, was discussed during your meeting in March 2008, and will be discussed again at your meeting on June 2.

On May 28, we met with Rebecca Lawson, Cynthia Erickson, and Marian Abbett, all of the Toxics Cleanup Section, to explain our concerns about the LEKT proposal. At that time, the Port, Nippon, and the City found it most efficient to make a single, combined presentation. For the same reason, this single letter presents to you the concerns and mutual requests of the City, Port and Nippon. All three join and concur in the comments and requests made in this letter.

Just yesterday we were made aware that significant conclusions about the LEKT proposal may be made by the Science Advisory Board (SAB) at the meeting to be held June 2, 2008. These conclusions could have far-reaching implications for policy in the State of Washington and a direct impact on assessment and cleanup efforts in the Port Angeles Harbor. Scientists who are knowledgeable about the details and analyses inherent in the ten questions DOE propounded to you have advised us that the LEKT seafood consumption issues currently under consideration by the SAB warrant further comment and input. Although our formal comments are currently being prepared, it is not possible

Phone: 360-417-4500 / Fax: 360-417-4509

Website: www.cityofpa.us / Email: citymanager@cityofpa.us

321 East Fifth Street - P.O. Box 1150 / Port Angeles, WA 98362-0217

to finalize those comments in the four days between now and the SAB meeting. The unexpectedly advanced timeline on which the SAB is operating means Board members will not have the benefit of reviewing important information, data and analyses that would better inform their scientific decision-making process. Thus, we are requesting the SAB postpone issuing recommendations on the 10 questions posed by Ecology relating to LEKT seafood consumption issues until our formal comments are received. In addition, we ask that you arrange a time in the future, when we might make that presentation. Again, as a matter of efficiency we would plan to make a single presentation to you on behalf of all three entities.

The City has been working collaboratively with Ecology to address the environmental and public health issues associated with evaluation and cleanup of the harbor. Seafood harvest and consumption is important to both the Tribe and to the residents of Port Angeles and thus, comprises a significant element of the evaluation underway for the harbor. Recommendations made regarding seafood consumption from the site can have direct and practical implications for the development of sediment and water cleanup levels, public perception of risk, and resource evaluation. Scientifically rigorous methods should be used to evaluate conditions and set cleanup levels that protect public health and this important resource, and we look forward to providing you important information and analysis as you proceed with your scientific evaluation and advice.

The specific issues on which we will be commenting include data gaps that should be addressed by both Ecology and the SAB in order to make a fully informed scientific decision regarding the proposed LEKT changes to MTCA default values. Some of these data gaps are outlined below.

- Additional data will be forthcoming from the Ecology Sediment Investigation (Sediment Investigation) slated for Summer 2008 and this information should be provided to the SAB once it is available. A decision should not be made without information from this study, as it will contain relevant chemical data from Port Angeles Harbor. The Sediment Investigation is a multi-million dollar study, and important regulatory decisions should consider and incorporate the most relevant, up-to-date data.
- The site boundaries (as referenced in MTCA) are currently undefined because the extent of contamination has not been determined. Results of the Sediment Investigation will be used to define that boundary and to resolve numerous "site" issues (e.g., determination of the fish diet fraction parameter).
- There is a need for a current, independent shellfish habitat assessment to be conducted to evaluate the locations and quantity of shellfish beds in Port Angeles Harbor. This information would be used to determine whether a harvestable and

sustainable shellfish resource exists to support the proposed LEKT fish consumption rate.

- There are no Sediment Management Standard (SMS) criteria for dioxins. Site-specific Biota-Sediment Accumulation Factors (BSAFs) need to be determined in order to calculate sediment dioxin cleanup levels associated with the MTCA-calculated fish/shellfish tissue concentration. Site-specific BSAF values would be calculated from data collected from the Sediment Investigation planned for Summer 2008. Incorporation of the LEKT proposed changes to MTCA default values would result in sediment and water cleanup levels below reference conditions.

Accurate measurement of usual food intake is a difficult undertaking. As with all dietary survey studies, the Suquamish study has limitations that should be assessed. All of the standard dietary survey study designs are subject to limitations. Results can be highly influenced by participants' perceptions of the how the data will be used, whether the food is "good for you" or not, and the expectations of the surveyor. Other important issues that must be assessed are survey method, number of survey days, and timing of the survey period relative to related events (e.g., harvest seasons and festivals). Therefore, it is extremely important that studies are peer-reviewed and that the limitations are evaluated in the context of how the results will be used. This is particularly important when the study will be used to set practical public health policy. The Suquamish study has not received the benefit of a formal, external peer-review process.

- The LEKT proposes use of data from the Suquamish seafood consumption survey that has been reanalyzed (but not peer reviewed) by EPA. This assumes that the quality of the resource available to the LEKT and their proximity and access to that resource is equivalent to the Suquamish, and that their eating and cultural habits would result in the same level of resource usage. There are currently no scientific data available that address these issues. A rigorous scientific evaluation of the relevancy of the Suquamish data to the LEKT is necessary.
- The EPA Framework, which has not received formal peer review or public comment, recommended a 95th percentile consumption rate from the Suquamish data set. The Suquamish study itself neither presents nor recommends the use of a 95th percentile value. The appropriate percentile value selected to represent typical daily seafood consumption over a lifetime should be carefully considered. The data from the Suquamish study represents the extreme upper end of reported consumption rates from a study group that only includes the highest end of subsistence seafood consumption.

Some of these gaps will be filled by data collected during the summer 2008 Sediment Investigation. All of these issues will be addressed in detail in our formal written

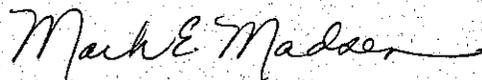
comments currently being prepared. By postponing recommendations until this study has been completed, the SAB will have the benefit of incorporating this information in their scientific decision-making process, thereby improving the quality and strength of their recommendations.

For these reasons we respectfully request that you take no action and make no decision with regard to the LEKT proposal until we are afforded an opportunity to present information to you in a more detailed fashion.

Again, this letter represents the joint opinion and request of the Port, Nippon, and the City.

Thank you for your attention to this.

Sincerely,



Mark E. Madsen
City Manager

cc: Rebecca Lawson
Jim Pendowski
Port of Port Angeles
Nippon Paper Industries, USA