The Department of Ecology's Response to:
Tom Ostrom – Suquamish Tribe (Comment 61)

New Category 4B listings for metals

- The 2008 list was evaluated based on data up to December 31, 2006 that was in our SEDQUAL database. If data exists (historical or current) that had not been submitted to Ecology, we would not have been able to use that data for our evaluation. Therefore, if new data has been collected and is submitted to Ecology's environmental database it will be evaluated regardless of how a grid was previously listed.
- All grids are evaluated with the most recent data that is in our SEDQUAL database. If a grid was designated Category 5 in 2004, it could be designated Category 1, 2 or 3 if new data existed for that grid.
- The Sinclair Inlet 2008 Category 4B metals listings are based on new data (2003) versus 1994 samples for the 2004 list.

Mercury listings changed
Previous organic contaminants dropped without any rationale
Comparison of the 2008 list to the 1998 and 2004 lists

- For clarification, the 303(d) listing process under the Clean Water Act, and the sediment cleanup process/designation of cleanup sites under the Model Toxics Control Act Chapter 70.105D RCW and the Sediment Management Standards 173-204 WAC, are mutually exclusive. The SMS were promulgated both under the authority of the CWA and MTCA. Because of this dual authority, a 303(d) listing process is required for sediment. However, because of the cleanup designation and remedial process under MTCA and the SMS, a sediment cleanup site can be designated without being on the 303(d) list. The 303(d) listing process for sediments is a means of providing an inventory of impaired sediments but not a definitive designation for required cleanup actions. Both MTCA and the SMS provide a rigorous, legal process that Ecology must follow for designation of sediment cleanup sites and determination of cleanup goals and remedies. The 2008 303(d) list was evaluated based on a new Policy 1-11 written by Ecology's Toxics Cleanup Program. This policy was written to ensure that the 303(d) evaluation process was as closely aligned with the SMS as possible. Because of the new policy, there will be differences in Category 5 listings compared to the 2004 303(d) list. These Category 5 differences center, in most part, around the requirement under the SMS rule for three chemically similar and spatially distinct stations that exceed the CSL, or average a CSL exceedance, for the same parameter to be designated a cluster of concern [WAC 173-204(500, -510, -520)]. Ecology decided to correlate Category 2 and 5 listings with this requirement in the SMS rule to the most practicable extent possible.

- This is a different evaluation process than was done for the 2004 303(d) list. For the 2004 303(d) list, grids with CSL exceedances were placed in Category 5, not necessarily with the three station requirement. In addition, grids with SQS exceedances were placed in Category 2. It is Ecology's opinion that this new policy, and therefore the 2008 303(d) list, more accurately reflects the requirements in the SMS to designate impaired sediments. A strict comparison between the 2004 vs. 2008 303(d) list is not possible

because of the deficiencies in the 2004 evaluation process. Specific reasons for Category 5 differences are detailed below and entail grid size changes, GIS coverage analysis, bioassay override of chemistry, and cleanup site work.

- **GIS Coverage.** For Sinclair Inlet, 2008 quarter grids identified by a GIS coverage representing the US Navy PSNS OUA and B area were placed in Category 4B based on location within the cleanup site, regardless of parameter. The 2008 quarter grids 47122F6E6_NE was listed as Category 4B because it fell within the boundaries of the cleanup. It appears that mercury was not included in the list of parameters for Category 4B. This will be corrected.

- **Grid Size.** A full size 2004 grid does not necessarily equate to all four 2008 grid quadrants. A 2008 quarter grid is listed based on which quadrant sediment data resides. The 2008 reduction in grid size can result in fewer than the three samples needed for a sediment 303(d) evaluation. If a grid fell outside the PSNS GIS coverage the grid was evaluated as detailed in the sediment policy flowchart. A grid with fewer than three samples would be placed in categories other than Category 5. As noted above, a number of 2004 Category 5 mercury listings were delisted because of the grid size changes and bioassay overrides. However, this change will not impact Ecology's current and future efforts to complete cleanup in this area in compliance with the Record of Decision and the Sediment Management Standards for all chemicals of concern.

- **Bioassay Override.** In 2004, even though a grid contained bioassay data the chemical parameters were provided. There could be a scenario where a chemical decision lists a grid one way and a bioassay decision another. This distinction was not provided in the 2004 list. In 2008, a grid is listed based on the combination of chemical and bioassay data within the grid following the sediment 303(d) evaluation process flowchart. The 2004 grids 47122F6E6 and E7 were changed because of the smaller grid size and bioassay data that overrode chemistry. The 2008 quarter grids 47122F6E6_NW and E7_ NE were listed as Category 5 based on bioassay data and the smaller quarter grid size.

There is a record of decision for the CERCLA site associated with Puget Sound Naval Shipyard (Operable Unit B - Marine), but the ROD addresses only PCBs.

- The Suquamish Tribe, EPA, and Ecology are currently in consultation to address sediment quality and cleanup concerns based on Suquamish specific consumption rates for multiple parameters. This process will continue under the authority of CERCLA, MTCA and the SMS exclusive of any 303(d) designation. Regardless of a Category listing for this area, Ecology will continue to work with the EPA and the Navy on the cleanup to address mercury and other contaminants under the authority of MTCA and the Sediment Management Standards.