



ASSOCIATION OF WASHINGTON TRIBES
M. Brian Cladoosby, President

June 18, 2013

Re: FCR & WQS policies and regulations

Dear Governor Inslee:

Tribal leaders in Washington and Oregon recently met to review your June 5, 2013 letter to Director Bellon proposing the formation of an Advisory Group, and to review the issues surrounding the development of an accurate state “fish consumption rate” (FCR) and the timely completion of state water quality standards. We appreciate the Governor’s outreach to the Tribes in the spirit of the principles of the Accord. As we have previously conveyed, the Tribes’ agenda is simply to protect our treaty-reserved resources, economies and the health of our communities including our children and elders.

Tribes have repeatedly commented that they are willing to engage in discussions of human health criteria and state water quality standards as long as the discussion forum represents a government-to-government relationship under the Centennial Accord of 1989, and Federal trust responsibilities are represented by the EPA and other Federal Government representatives. We note that last year the U.S. Environmental Protection Agency (EPA), Department of Ecology (DOE), and several Tribes agreed to form a Leadership Oversight Group to convene periodically to review and coordinate the progress of rule making and implementation. DORE formed three discussion forums in 2012 related to the human health criteria, and it is not clear how the proposed Advisory Group is connected to other efforts. We recommend that the Governor review the Leadership Oversight Group, as we believe his Advisory Committee components can be incorporated into the Group. We would like to hear how the Governor plans to ensure that any discussion process avoids redundancy and additional delay, as well as honoring our respective roles as governmental representatives.

EPA and the Tribes have consistently been on record indicating that Washington’s current human health criteria, in particular the FCR, are grossly inaccurate and under protective. State agencies including the DOE and Health have documented this deficiency in depth. We strongly recommend that the state join EPA and the Tribes toward adopting a FCR of at least 175 grams per day at a cancer risk rate of one-in-a-million (10^{-6}), which is the current state standard.

The science confirms the validity of setting the FCR, and the timely adoption of a standard is an essential first step for the discussion and evaluation of implementation options.

Tribes have shared with EPA and the State of the need for an in-depth relationship with business interests in addressing the implementation of this issue, which is reflected in your inclusion of business interests on your proposed Advisory Group. Tribes have already begun to engage in discussion with business outside of the Ecology forums, and we have stated that we are willing to discuss implementation issues. However, we would like to reiterate that it is the Tribes' collective understanding that rulemaking is a government-to-government process that must move forward, and that implementation is a dialogue that can engage the stakeholders mentioned in your Advisory Committee.

The Tribes have already established a technical work group that works to support our leadership in preparation for decision-making, and they have been in discussion with Ecology staff from the Toxics Cleanup and Water Quality Programs. We are willing to commit our Tribal leadership and expertise to continued discussions of implementation, but it will be necessary to have concurrent participation from the EPA.

In summary, the Tribes are willing to advise the Governor on issues associated with the FCR and other human health standards on a government-to-government basis. We are sensitive to the fiscal and economic impact concerns raised by many of the stakeholders and remain willing to discuss implementation, but the need for adoption of a new and protective fish consumption rate is a necessary first step. We would like to meet with you to hear your thoughts on the goals, role, timing and structure of an implementation discussion.

Finally, we would like to highlight our strong support for Washington State to develop and implement accurate and protective water quality standards in 2013-2014 that will ensure a safe and healthy environment. The Tribes firmly believe that the challenge is not the scientific justification of setting the FCR and related water quality standards, but the politics of making it happen for the benefit of our future generations for all Washington citizens. Thank you for the opportunity to advance this important matter and do not hesitate to call upon myself or other Tribal leaders regarding this process.

Sincerely



Chairman Brian Cladoosby
President, Association of Washington Tribes

Cc: Director Maia Bellon
EPA Regional Director Dennis McLerran