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## Swinomish Indian Tribal Community

A Federally Recognized Indian Tribe Organized Pursuant to 25 U.S.C. § 476  
11404 Moorage Way  
LaConner, Washington 98257-0817

August 24, 2012

Dear Administrator McLerran, *Dennis,*

As the Chairman of the Swinomish Indian Tribal Community, I am writing to express our Tribe's deep disappointment regarding the Washington State Department of Ecology's (Ecology) abrupt change of course which effectively stalls all progress made to date in revising key Washington State regulations - regulations that are currently grossly out-dated and sorely inadequate in protecting human and environmental health.

The Water Quality Standards (WQS) and the Sediment Management Standards have sat unchanged for far too many years with important components, such as the fish consumption rate (FCR), markedly less protective than the defensible science that Ecology itself has acknowledged would support. Swinomish views Ecology's actions as yet another example of why the Treaty tribes are spurred to act on the "Treaty Rights at Risk" initiative. Ecology has essentially halted the work required to more adequately protect our water, our resources, our health and our way of life.

On behalf of the Swinomish Tribe, we respect and are pleased with both your commitment, as well as the Administrator's commitment on these important matters. As the Chairman, I am requesting that our federal trustee address the much-needed revisions to Washington regulations. In particular, we seek the authority of EPA in promulgating higher FCRs into Washington's Water Quality Standards and Sediment Management Standards. We understand the complexity of the situation, and look to the sound regional and national leadership and expertise, as well as the mission and authority of the agency to guide the next steps.

The Swinomish are a fishing community, who has relied upon the water, lands and resources to sustain the harmony for our tribe since time immemorial. Our deeply-seeded connection to our local natural resources goes far beyond subsistence needs; they are part of our culture and identity as a people. These connections are not a thing of the past, they are alive and strong today. Yet our way of life cannot continue without regulations in place that protect the health of our natural resources, and the health of our people. In fact, the health of all Washingtonians will be better protected by implementing a higher, more realistic FCR.

Swinomish does agree with Ecology's decision to begin development of human health-based criteria in the surface WQS; however, we are concerned with Ecology's intended alterations to the September 2011 draft Fish Consumption Rates - Technical Support Document and also with the Sediment Management Standards "site specific" language. The Technical Support Document has already undergone review, with common grounds established, and we do not agree that the document should need to go through yet another two year review by stakeholder's whose motives may not be to protect the human health of Washington citizens.

The Technical Support Document should be published as it currently reads, representing one of the few measurable steps forward Ecology will have undertaken in this Administration. In addition, the new track to employ "site specific" standards for sediment is simply a slap in the face of the years of research and discussion undertaken by Ecology, Tribes and Stakeholders regarding setting State-wide standards..

Further more, Ecology's action impacts not only our local and regional approach, but also impacts the national movement on protecting human health. The discussion of fish consumption rates has not only been a regional priority for EPA, Washington State, Tribes and stakeholders, but has been a national priority for the past two EPA Administrators, the Office of Water, and the Office of Research and Development, as well as the US National Environmental Justice Advisory Council, as shown in the November 2002 Fish Consumption and Environmental Justice Report. ([http://www.epa.gov/compliance/ej/resources/publications/nejac/fish-consump-report\\_1102.pdf](http://www.epa.gov/compliance/ej/resources/publications/nejac/fish-consump-report_1102.pdf)).

So for the State to kick the can down the road by adding yet another lengthy process by developing new forums and planning efforts just affectively slows the progress of developing a true fish consumption rate beyond the scope of the current administration. This approach obscures the concrete results of work accomplished over the last two years opting for the vagueness of process and the uncertainty of future administrations, and continues to allow the human health of Washington Citizens, as well as my tribal members, to be in jeopardy.

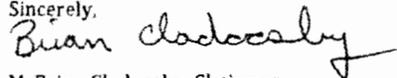
Moreover, any mention of economic hardships as reasoning for delaying revisions to Washington regulations improperly pits health against jobs and obscures the real issues. The Swinomish have endured poverty for many years, and even today Swinomish has an 18% unemployment rate, much higher than Washington State. Yet I will always say that I would never commit to a dollar gain over the health and wellbeing of my people or the resources that have sustained Swinomish for over 10,000 years. I refuse to make decisions that are short-sighted, as my sacred responsibility as a leader, father, and grandfather is to ensure a healthy and safe place for generations to come.

In conclusion, Ecology's newly announced plans rescind their commitment to have an updated FCR in place by the end of the current Administration. The net result is that the State will not establish a default FCR in either the Technical Document or regulations by the end of the term. The delay leaves Washington's Water Quality Standards noncompliant with the basic mandates of the Clean Water Act, which require WQS to be set at levels protective of human health.

Swinomish is committed to promulgating a more protective FCR in the State's WQS, and to ensure it is incorporated into the Sediment Management Standards. We value our federal trustee, and understand these matters are one of the most important issues being addressed by you, as well as Administrator Jackson. Swinomish respects the EPA's commitment from the Tribal Leaders meeting with Administrator Jackson on June 2012, and we seek the leadership of you both.

Should you have any questions regarding this request, or wish to further discuss this matter, please do not hesitate to contact me directly, or Debra Lekanof, [dlekanof@swinomish.nsn.us](mailto:dlekanof@swinomish.nsn.us)

Sincerely,



M. Brian Cladoosby, Chairman  
Swinomish Indian Tribal Community

cc: NWIFC Tribal Chairs and Commissioners  
Bob Perciasepe, Deputy Administrator, EPA