



STILLAGUAMISH TRIBE OF INDIANS
True to Their Traditions as “Canoe Indians”

October 5, 2012

Ms. Fran Sant
Department of Ecology
SEPA Rule Coordinator
Fsan461@ecy.wa.gov

Re: Preliminary Comments on Preliminary Draft Proposed WAC 197-11 revisions

Dear Ms. Sant:

The Cultural Resources Department of the Stillaguamish Tribe of Indians has had an initial opportunity to review the Preliminary Draft proposed revisions to WAC 197-11, dated September 25, 2012, as well as the new Proposal C of October 2, 2012. Although we are aware that today’s deadline for comment is simply on the Preliminary Draft, and that there will in future be an initiation of a formal CR-102 process, the Department feels that the initial comment period has been too truncated on this important issue, and would like to request an additional period of 30 days for the Department, and the Tribe as a whole, to submit comments. One of the keystones of the Millennium Agreement of 1999 is to develop a consultation process, protocols and action plans that help to bring about “complete institutionalization of the government-to government relationship by seeking an accord among all the tribes and all elements of state government”¹.

Meaningful consultation requires meaningful thought and deliberation, and timeframes can militate against this. Therefore we specifically request that our Department, and the Tribe as a whole, be given an additional 30 days to supplement these comments.

SEPA Comments – Cultural Resources:

We recognize that efficiencies can be realized in regards to SEPA procedures and regulations. However, we do not believe these efficiencies can be realized at the expense of the environment and Cultural Resources. We therefore stress and concur with DAHP that “no net loss and no harm to significant cultural resources” must be a principle that is adhered to throughout this process. We do not believe this principle can be achieved with Options A, B, or C as they are written right now. The increased efficiencies realized through online resources should be more thoroughly investigated and integrated in these approaches, and less attention

¹ The Stillaguamish Tribe has on occasion been very supportive of the goals of the Department of Ecology (for example, the Tribe is one of the *amici* in *Lemire v. Ecology*, No. 87703-3, which is set for oral argument on November 13, 2012 in the Washington Supreme Court.



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should be paid to increased thresholds. If modernization of SEPA is a goal, then the role of how communications infrastructure can increase the distribution of information and the efficiency of this process should be stressed and articulated in greater detail.

In regards to cultural resource protection, consideration should be addressed on location, rather than size. We all want to be able to process permits as efficiently as possible, and not burden applicants that would have no impact on cultural resources and the environment. Therefore, guidelines, such as exemptions for areas of sterile fill, previous negative survey, or other such situations should be recognized. We believe adequate notice is a critical element of the SEPA process – one item that will need to be addressed is the efficiencies that can be realized through modernization of this process, while not sacrificing the ability to contact all parties of concern.

There is great disparity in how local regulations are adopted and implemented. To defer to such a disparate array of regulations, there must still be a foundation of state and national standards, that involve "no net loss or harm to significant cultural resources". In regards to defining the terms and language of "no net loss", DAHP has proven itself to be a capable and critical link in the process of recognizing and protecting Cultural Resources, and should be involved in the Cultural Resource language of any proposals that are submitted at the state or local levels.

In addition, Tribes are essential participants in this process. Every shovel turned on every piece of ground in Washington is taking place on land that has been the aboriginal homeland of tribes. Therefore, tribes need to be included at the first stage of the notice process as parties of concern.

Thank you very much for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "John Miller".

John Miller

Executive Director, Stillaguamish Tribe of Indians