Northwest Indian Fisheries Commission

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RE: Comments on Fish Consumption Rate Technical Support Document

Thank you for providing the Northwest Indian Fisheries Commission with the opportunity to comment on Publication no. 11-09-050: "Fish Consumption Rates Technical Support Document: A Review of Data and Information about Fish Consumption in Washington" dated September 2011. The tribes appreciate the serious effort that Ecology staff members have made to meet with tribes throughout Washington on this important issue. Many tribes will also be providing specific comments about the document.

The tribes would like to emphasize the difference between tribal fish consumption rates and the default rates which will be established by the state of Washington.
Tribal governments have the ability to set their own fish consumption rates based on data they collect about the dietary habits of their tribal people. Tribal fish consumption rates are used for establishing standards on the lands and waters that the tribes govern. Tribes with water quality standards are responsible for monitoring, enforcement, and cleanup duties according to the standards they adopt.

Similarly, the state of Washington establishes fish consumption rates for Washington residents. Dietary surveys cited in the Technical Support Document indicate that Washington residents consume fish and shellfish at rates that are likely higher than national averages. Specific groups of Washington residents, such as tribes and Asian/Pacific Islanders, consume fish and shellfish at even higher rates. The state must consider these fish consumption rates in determining standards for water quality and toxic cleanup that are sufficiently protective of all people in Washington. We would like to emphasize that the proposed rates will be state standards, and tribes will continue to set their own standards based on their own fish consumption and availability.

Existing fish consumption rates have been suppressed.
Historical tribal fish consumption rates cited in the Technical Support Document include estimates of approximately 1,000 grams per day prior to dams and other habitat alterations (p 87). The availability of abundant and uncontaminated fish and shellfish is a major concern to tribes, since habitat loss and degradation and other factors have significantly reduced the amount and type of fish that is available for tribes to safely harvest and consume. As noted in the recent workshop on fish consumption rates, tribal consumption has been suppressed by several factors including declining abundance of fish resources, lack of opportunity to go fishing and loss of access to fishing grounds, prohibition of fishing and gathering due to known contamination, and avoidance of seafood consumption due to perceived contamination and risk warnings. In the 1970s, tribes struggled with legal suppression of fishing opportunity, leading to the affirmation of

treaty fishing rights in *U.S. v. Washington* 384 F. Supp. 213 (1974). In recent years, tribal harvest of Chinook and coho salmon has dropped below pre-Boldt levels, and the trend continues downward. The recent report by the Northwest Indian Fisheries Commission, "Treaty Rights at Risk," describes the loss and degradation of habitat throughout western Washington, and the resulting loss of tribal opportunity to fish for subsistence and livelihood. Historical habitat loss for salmon and the pollution of shellfish harvest areas in Puget Sound are further described in the Puget Sound Salmon Recovery Plan and the 2009 State of the Sound Report.

Tribes are constantly working to restore fish and shellfish populations above status quo levels and want to ensure that, once restoration is successful, they can safely consume these traditional and nutritious food sources. Contemporary tribal fish consumption rates of approximately 500 grams per day have been estimated by researchers who have investigated suppression effects. This research is acknowledged in the Technical Support Document (p 96). The state should align fish consumption rates with restoration objectives, and provide a clear path forward and commitment to re-address and adjust the default rate as habitat is restored and improvements to water quality are made. Individual tribal studies already indicate that fish consumption rates are likely to rise in the future as resource availability improves.

Fish consumption rates in Washington apply across many tribal usual and accustomed areas.
Tribal usual and accustomed fishing and harvesting areas were established by treaty; degradation of these areas prevents the full exercise of treaty and trust protected rights. Tribes are unable to adjust the location of fish and shellfish harvest if areas are contaminated or otherwise degraded. The Technical Support Document contains a section about the possibility of site-specific fish consumption rates (p 92) but does not specify criteria or how this option would be applied. Tribes assume that site-specific rates would be more protective than default rates throughout tribal usual and accustomed areas.

Salmon are essential to tribal cultures, economies, and diets and must be included in default fish consumption rates.
The Technical Support Document raises the question of whether salmon should be considered in fish consumption rates because they transit through contaminated and uncontaminated areas during their life cycle. Salmon must be included in fish consumption rates as they accumulate toxins within natal streams, local estuaries, and Puget Sound waters that are within the jurisdiction of Washington State. Salmon are the predominant seafood in tribal and non-tribal communities in the Pacific Northwest and exclusion of salmon from protective standards would create a substantial risk to public health and environmental quality.

Tribes assume that an increase in the fish consumption rate that is protective of human health will not coincide with a reduction of other protective factors affecting the standards.
For example, the target cancer risk level should not be relaxed as a condition of a more protective fish consumption rate. Fish consumption rates are part of a complex formula to address the potential risk from toxic chemicals that is used for toxic cleanup and water quality standards. A statement of assumptions about other relevant risk factors should be included in the document along with the basis for these assumptions.

Tribes support standards that are more protective of the fish-consuming population in Washington.
Existing default rates for fish consumption used in cleanup, sediment management, and water quality standards in Washington State are clearly inadequate to protect public health from persistent toxic contaminants. The proposed range offered in the Technical Support Document

for a range of 157 to 267 grams per day as a default fish consumption rate represents a substantial improvement over existing rates and is thus a step forward. However, many tribes have already documented higher fish consumption rates among tribal citizens and thus support revised state rates that are at or above the high end of the range. The higher end of the range reflects a more protective level, particularly since the proposed range does not account for the suppression factors described above, or the increasing trend of seafood consumption in the state and nation.

The proposed range of 157 to 267 grams per day is based on real consumption in Washington, not an imaginary or artificial standard. The range represents a statistical composite of locally-derived fish consumption data, set at the 80th to 95th percentile of fish-consuming populations. Some of our individual tribes and tribal citizens clearly consume more on a regular basis. The low end of the range (157 gpd) is less than the mean fish consumption rate derived in one Puget Sound tribe's dietary survey. Washington State is required to use local data, establish a high level of protection for populations throughout the state, and protect high-risk populations including tribes. Washington State standards should be at least as protective as the fish consumption rate of 175 grams per day that was recently approved by the EPA for the state of Oregon. In addition to establishing a more protective rate, the key to keeping fish safe for consumption will be a rigorous program of implementation as the standards are applied in the future.

Eating seafood in the Pacific Northwest is a lifestyle choice for most people, but for tribes the consumption of fish and shellfish is their life and legacy. Fish is a first food for tribal children and the foundation for the healthy hearts of the elders. Tribal communities are asking how to reduce the input of toxic chemicals into the environment in order to keep these essential food sources safe. A fish consumption rate that is more realistic and hence more protective of Washington residents will be an important step in protecting this healthy choice in the future.

Sincerely,

Billy Frank, Jr.
Chairman

cc: NWIFC Commissioners
Tribal Fish Consumption Workgroup
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