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October 26, 2012

Mr. Ted Sturdevant, Director
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Re: Fish Consumption Rates Technical Support Document, Version 2.0

Dear Mr. Sturdevant:

Thank you for the opportunity to comment on the Second Draft of the Department's Fish Consumption Rates Technical Support Document. These comments are being submitted on behalf of TransAlta Centralia Generation LLC and TransAlta Centralia Mining LLC. The comments presented here are general although some specific comments are referenced by chapter or section number in the draft document.

Chapter 1, Table 2

The table shows the relationship of specific "grams per day" consumption rates to other ways of expressing the rate. In the 17.5 grams per day column the "frequency of 8-ounce meals" actually equates to over 18 ounces of fish per month or approximately two meals, not "one 8-ounce meal" as shown on Table 2.

Chapter 2, Section 2.3.2 and 2.3.3

Section 2.3 estimates the number of "high fish consuming" individuals using only the 90th percentile information for Washington State or national values. In this section it does not clearly identify that the Department intended to convey the 90th percentile as an example of one of the many choices for defining high fish consumers. The choice of the 90th percentile is clearly a policy choice which is not identified as such in this document. This section should be modified to show ranges and/or other options for the policy choice of defining what constitutes high consumers. The section should include all information for ranges like the 75th, 90th, and 95th percentiles, similar to information presented elsewhere in the document, and not focus a single value thereby leading the reader to believe that the 90th percentile is the only choice. The choice of what level defines a high fish consumer is a policy decision that must be made outside of this technical support document and the TSD should supply all the information necessary to support that policy decision.

Washington State General Fish Consumption Rate Survey

As is noted in Chapters 3 and 4, there is no specific survey data that identifies the fish consumption rates that would generally apply within Washington State. The Department has made the effort to re-assess the national survey and assumed it applies appropriately to Washington residents, but it is not clear that a survey performed in Washington would give similar results. TransAlta suggests that Washington should perform a survey to determine the appropriate rates and the source of the fish consumed (local native fish, local farmed fish, or fish from waters not under Washington State control) for the general population of the State.

Chapter 6, Statewide Default Fish Consumption Rate

Discussion in Chapter 6 still implies that a statewide default fish consumption rate is the goal of the Department of Ecology (see section 6.4), although the section is discussing policy implications, the options listed lead the reader to believe that “default” rates and “statewide” rates are the only choices available for policy decisions. As noted in our comments on Version 1.0, there is no justification for setting a statewide default rate for fish consumption given in this document particularly with respect to sediment management. Therefore, references to “default” and “statewide” rates should be eliminated from this portion of the document.

Ecology must not set a default statewide fish consumption rate to be used by multiple programs or a default rate to use statewide. Each program (MTCA, sediments, water quality, etc.) should set rates appropriate for the intended location or intended needs of the program. Additionally, there are clearly multiple regions and watersheds in Washington with different fish, different needs, and different populations of fish consumers. At a minimum the Puget Sound, coastal rivers and their tributaries, and the Columbia River and its tributaries should be considered as separate and distinct ecosystem types with different needs, uses, and different fish consumption rates should be evaluated for each of these regions. Any discussion of a statewide default rate should be eliminated from this document by the Department of Ecology and left to consideration by the water quality policy group.

Chapter 6 and Appendix C, Accounting for Exposure and Fish Diet Fraction in Salmon Consumption

Section 6.4 and Appendix C of the document identify salmon consumption, fish diet fraction, and the fact that salmon and other anadromous fish may obtain a large or small fraction of their body burden of contaminants from Washington waters as issues. However, Appendix C of the document proceeds to state that the Department will include salmon in the fish consumption estimates for cleanup decisions. TransAlta assumes this means the proposal to modify the Sediment Management standards (SMS) that is currently proceeding through the public comment process. The Department may need to modify this section of the document based upon comments received on the SMS rulemaking.

Additionally, Appendix C does not offer enough information to make informed policy decisions on including salmon or some fish diet fraction of salmon consumption in the decision making process. It is a general review of salmon life cycles and contaminant body burdens, without clear indications of where the salmon obtained those pollutant burdens. If that information is included in other documents, like the July Technical Issue Paper referenced in Section 6.4, those documents or the necessary parts should have been included in Appendix to this document and included in this public review process.

Additionally, any discussion of fish consumption rates (including salmon consumption) needs to include where the fish are obtained as Appendix C discusses farmed salmon consumption. This data must be included in the document as the general population of Washington State is unlikely to obtain the majority of the fish that it consumes directly from Washington waters. The fish consumption rates must remove any consumption of fish where the contaminants in those fish are not directly attributable to Washington waters. To include consumption of fish that was harvested or raised in Washington water in the rates used for regulation of Washington waters would increase stringency of Washington water quality standards while providing no reduction in health risk for Washington residents.

Chapter 6, Sources of Fish

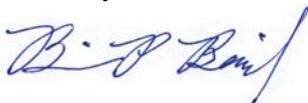
The first paragraph of section 6.5 states “a uniform level of protection should be maintained for all fish-consuming populations in Washington State”. However, the EPA’s 2000 Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health states in section 1.6 “With AWQC derived for carcinogens based on a linear low-dose extrapolation, the Agency will publish recommended criteria values at a 10^{-6} risk level. States and authorized Tribes can always choose a more stringent risk level, such as 10^{-7} . EPA also believes that criteria based on a 10^{-5} risk level are acceptable for the general population as long as States and authorized Tribes ensure that the risk to more highly exposed subgroups (sportfishers or subsistence fishers) does not exceed the 10^{-4} level.” The Department of Ecology seems to have ignored this guidance in the document. This is clearly a much higher level of protection than is required by “federal law and policy” and is also clearly a “policy” decision not a “technical” issue to be addressed in this document. If the Department is planning to set fish consumption rates at a level to protect all fish consumers at “a uniform level”, then that is a policy decision to be made later and it should not be expressed in this document as if that decision has already been made. Any discussion of a “uniform protection” must be removed from the document and left to consideration by the water quality policy group.

Chapter 6, Acceptable Risk Levels

Section 6.8 discusses risk levels and references only Oregon State’s policy discussions. As noted in the above paragraph, the EPA has risk policy and guidance that is directly applicable to Washington’s efforts to address this issue. The Department should rely on the EPA guidance and not guidance from the State of Oregon that has made policy decisions to create a standard that exceeds the requirements of the EPA rules and guidance. Oregon has chosen a much higher level of protection than is required by federal law and policy and should not be referenced as the sole guidance to follow. This discussion is clearly a policy decision to be addressed with policy group and the EPA. As such, EPA guidance should be referenced in this section not Oregon guidance.

Please feel free to contact me at (360) 807-8031 or at brian_brazil@TransAlta.com if you have any questions related to these comments.

Sincerely,



Brian Brazil
Environmental Manager
TransAlta Centralia Generation