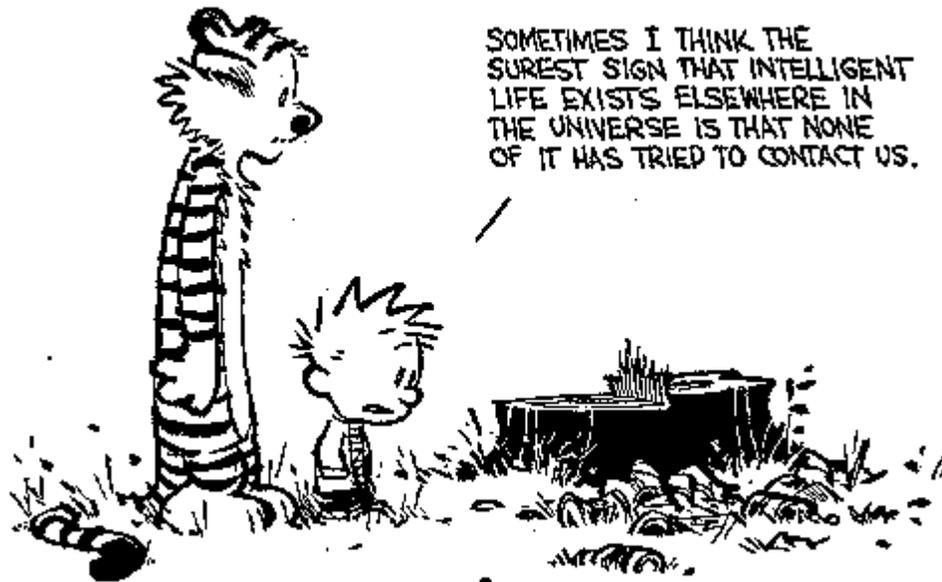


# TRIBAL FISH CONSUMPTION RATES



LARRY DUNN, LOWER ELWHA KLALLAM TRIBE



# MTCA STANDARD

The Model Toxics Control Act (MTCA) Cleanup Regulation establishes cleanup levels for surface waters using a fish consumption rate of 54.1 grams/day (g/day) and a fish diet fraction of 0.5 (WAC 173-340-730, Equations 730-1 and 730-2). The default fish consumption rate and fish diet fraction results in an effective fish consumption rate of 27 g/day. Ecology uses this value to establish MTCA risk-based cleanup levels for surface waters.

# WHERE ARE WE NOW

- ◉ In 2008 the Lower Elwha Tribe through their involvement in the Rayonier Cleanup, was asked to address fish consumption. (This was done with the help of ecology staff and EPA Region 10 staff.)
- ◉ We collected data and studies to support a consumption rate that was one of the highest available.
- ◉ We lobbied for the use of the Region 10 Fish Consumption Framework, to be used as a basis of our rate.

With the help of Ecology Policy staff we presented our justification to the Science Advisory Board for Ecology.

The conclusions of the board were:

- The current fish consumption default rate does not adequately reflect or protect Tribal Consumers.
- That the fish frame work is an appropriate tool for the Lower Elwha Klallam Tribe to establish a fish consumption rate.
- That the Suquamish survey rate was an appropriate surrogate for the Lower Elwha Klallam Tribe to use in establishing their consumption rate.
- That the discounting of salmon from the rate for the site cleanup, though practical should be researched further.

# 2010

- ◉ 583 gpd Lower Elwha consumption rate used for the Rayonier Cleanup (2008)
- ◉ 175 gpd Oregon Water quality standard
- ◉ EPA APPROVES UMATILLA TRIBES' WATER QUALITY STANDARD, HIGHEST FISH CONSUMPTION RATE IN COUNTRY 389 grams per day.
- ◉ Ecology is reassessing the MTCA rule fish consumption rate methodology for a rule revision.

# DEPARTMENT OF ECOLOGY

## CONSIDERATIONS:

There is a wide range of technical and policy issues associated with characterizing fish consumption rates for high fish consuming populations and using that information to establish cleanup levels.

Issues include:

- Identifying High Fish Consuming Populations
- variability in fish consumption rates
- high fish-consuming populations that may warrant special consideration or protection (for example young children, pregnant women, and breast-feeding infants)?

- How should tribal treaty-reserved fishing rights be considered in developing a fish consumption rate under MTCA?
- How should tribal water quality standards be considered in developing a fish consumption rate under MTCA?
- How should state and federal water quality standards be considered in developing a fish consumption rate under MTCA?
- Should Ecology amend the rule to establish a single default fish consumption rates for high fish-consuming populations? If so, how should Ecology consider the variability in fish consumption habits among different populations?
- Should Ecology amend the rule to establish multiple default fish consumption rates for high fish-consuming populations?
- Should Ecology amend the rule to establish a less cumbersome process for establishing area- or site-specific fish consumption rates for high fish-consuming populations?

# WHAT ARE WE CURRENTLY DOING?

- ◉ Currently Tribes are working on several fronts, Water Quality being a strong driver towards change.
- ◉ Those on the MTCA review are proposing using a fish consumption framework, which includes additional studies as they become available. (such as the Umatilla and Swinomish studies)  
With the addition of a default possibly the Oregon Water Quality 175gpd.
- ◉ Tribes are submitting comments on the proposed dioxin standard used by the DMMP and the proposal of the BOLD survey as a background standard for Puget Sound.
- ◉ We are currently working to establish a method to identify background in cleanups, both MTCA and SMS.

- ◉ The time has come for tribes to become active in reviewing and commenting on rule changes.
- ◉ The tribes have a strong voice in what happens next, but one has to speak to be heard.

## Current and Up coming Rule Revisions

- ◉ The Dredge Material Management Program is changing the rules on the level of Dioxin allowed to be released at dispersive sites and non-dispersive sites, tribes should be commenting on this issue. They are also looking at establishing the BOLD survey results as the natural background for Puget Sound, not a good precedent.
- ◉ When the MTCA rule revisions are up for public comment, tribes should be commenting.
- ◉ When the Sediment Management Standards rule revisions are open for public comment, tribes should be commenting.

**It's Time to Get Actively Involved**

# QUESTIONS ?

