



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

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OFFICE OF THE
REGIONAL
ADMINISTRATOR

SEP 06 2012

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

Dear Mr. Sturdevant:

I am writing today to provide some additional clarity from the United States Environmental Protection Agency, Region 10, regarding the State's process for revising water quality standards for toxic pollution to protect human health in Washington State. We strongly support adoption of human health criteria that are derived using scientifically sound data, including applicable regional and local fish consumption surveys. The surveys demonstrate that tribal and other high fish consuming residents are eating fish at rates significantly higher than the current default rates.

The EPA's recent actions in Idaho and Oregon provide strong precedent for the current process in Washington. In the case of Idaho, we recently disapproved human health criteria that were not reflective of consumption rates identified in the fish consumption surveys conducted by the Columbia River Inter-Tribal Fish Commission. In Oregon, after an initial disapproval, we strongly supported adoption of new standards based on a fish consumption rate of 175 grams per day.

Further, it is important to note that the EPA supported flexible implementation mechanisms in the Oregon rule making and would support implementation flexibility in other states. It was clear in Oregon that implementation flexibility was needed to address issues presented for some sources that discharge these toxic pollutants. I understand that the State and the EPA have been having productive conversations regarding flexibility mechanisms and while each state is unique, we expect such mechanisms will be appropriate and necessary in Washington. It is crucial that the Department of Ecology continue to make progress in adopting human health criteria that incorporate scientifically sound data, including current information regarding realistic fish consumption rates.

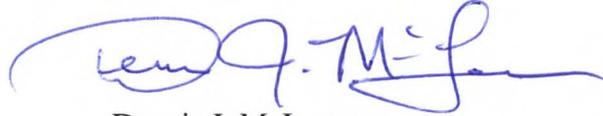
Our understanding is that Ecology is committed to updating water quality standards based on the best available science. The best available science now in-hand demonstrates that current standards are not based on realistic consumption rates for high fish consumers. If and when there is regional or local data showing higher fish consumption rates, it needs to be utilized for derivation of the State's human health criteria.

Your July 16 letter indicates a commitment to commencing the rule making process for surface water quality standards this month. We will be monitoring that process closely and are supportive of its timely completion. The EPA will continue to support Ecology in adopting a revised set of standards. We can continue to help in keeping key stakeholders engaged, providing technical support on the best available science, and developing implementation flexibility that maintains the integrity of the standards but

recognizes challenges for certain key sectors. I look forward to working together on this critically important issue.

Please feel free to call me if you have any questions at (206) 553-1234 or you may contact Matthew Szelag of my staff at (206) 553-5171.

Sincerely,



Dennis J. McLerran
Regional Administrator

cc: Billy Frank, Jr, Chairman
Northwest Indian Fisheries Commission

Brian Cladoosby, Tribal Chairman
Swinomish Tribe