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**RE: Comments on Proposed Human Health Criteria Water Quality Standards & Implementation Tools Rulemaking**

Dear Honorable Governor Inslee, Washington Department of Ecology, and U.S. EPA:

The Lands Council, a conservation organization based in Spokane, Washington, has been working to protect the Spokane River and its users for over 30 years. As part of the Spokane River Regional Toxics Task Force, we support improving water quality and reducing toxic substances in fish. We appreciate the opportunity to comment on the proposed rule.

We are concerned that the draft human health criteria rulemaking current proposal under consideration will not adequately protect those who eat fish from Washington waterways. For two of the most dangerous toxics in our waters—PCBs and methylmercury—Ecology has proposed a rule does not change protections; for a third, arsenic, Ecology has proposed a roughly 555-fold increase in allowable concentrations. This is unacceptable. We urge you to revisit the matter and propose rules that place a high value on protecting Washington communities by reducing—and eventually eliminating—dangerous toxic pollution in food.

First, by setting strong and accurate standards, the State can reduce the amount of pollution industry and cities discharge to waterways—a critical step toward reducing cancer-causing pollutants in fish and shellfish. Instead, the State's proposal provides only the appearance of

new protection while manipulating the math as necessary until the state is able to ensure that the actual water quality standards will remain largely-unchanged. While Washington State's proposal properly increases fish consumption rates, it inexplicably increases allowable cancer risk for Washington residents tenfold, from one in a million to one in a hundred thousand.

The draft proposal calls for a further four-fold increase in the cancer risk rate for PCBs, increasing it up to one in twenty-five thousand—a four-thousand percent increase. In attempting to explain these decisions, Washington indicates that it is doing so because it must consider heavier fish consumers in this rulemaking. That decision negates any of the progress made by using a more accurate fish consumption rate. We urge you to revise the proposed rules based on a cancer risk rate of one in a million across the board.

Second, we urge you to reject industry-backed compliance loophole proposals to gut the effectiveness of all water quality standards. The overarching purpose of water quality standards is to protect and return our nation's waters to a state of cleanliness that supports all uses of those waters. Specific to Washington's human health criteria, the point is to adopt new water quality standards to actually improve water quality and the health of people who regularly eat fish. We are deeply concerned, given the very modest change to the standards (and the fact that many of the standards won't change at all), that the "regulatory tools" proposed in the rulemaking package will, instead, result in more pollution in Puget Sound and waterbodies across the state. It is important to note that what Ecology proposes is not just compliance off-ramps and loopholes for new stricter standards, *but for all water quality standards throughout the state*. It thereby appears that industry has simply used the claim that it will be difficult to comply with new toxic standards to obtain variances and delays.

Industry already a suite of options that delay compliance with water quality standards. These include toxic mixing zones, compliance schedules in permits, variances, use attainability analyses, site-specific criteria, and water quality offsets. Ecology now proposes to greatly extend the timelines for these compliance loopholes—in many instances for decades—and to loosen the requirements for granting them. Variances and compliance plans will now, for all intents and purposes, be utterly open-ended.

The Clean Water Act directed toxic pollution to end in the 1980s. This has not happened and the proposed rule would allow the delay of clean-up efforts. A new study of PCB's in the Spokane River indicates newly made PCB congeners are entering the river from products such as paint, hydroseed, and de-icer. These new sources of inadvertently produced PCB's mean that the risk to the public may be increasing, so increasing cancer risks as well as delaying compliance as this rule proposes is not justified.

In closing, we urge Washington State to revise the proposed rulemaking package to:

1. Adopt a uniform cancer risk rate no less protective than one in one million, that does not allow exceptions for any pollutants, in particular for PCBs or arsenic.
2. Reject multi-discharger and statewide variances of more than five years.

3. Reject compliance plans that last longer than the underlying permits for which the compliance plan is required.
4. Reject so-called "intake credits" as difficult to enforce and because many of these pollutants are bioaccumulative and toxic even in very small amounts and many of them build up in fish and shellfish.
5. Revise the arsenic criterion which, as proposed, would become 555 times less protective.
6. Ban mixing zones for bioaccumulative toxic pollutants.

If the State fails to protect public health and correct its proposal, it would be appropriate for the U.S. Environmental Protection Agency (EPA) to exercise its authority to ensure that consumers of fish and shellfish are protected in accordance with Clean Water Act requirements.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Petersen", written over a horizontal line.

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