



PORT GAMBLE S'KLALLAM TRIBE

31912 Little Boston Road NE • Kingston, WA 98346

March 23, 2015

Maia Bellon, Director
Washington Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

ATTN: Water Quality Program
swqs@ecy.wa.gov
Cheryl Niemi

RE: Comments on the State's Draft Rule for Human Health Criteria and Implementation Tools in Washington State Water Quality Standards

Dear Director Bellon,

The Port Gamble S'Klallam Tribe (PGST) has been working with the State of Washington and the US Environmental Protection Agency for many years to develop and adopt revised water quality standards that will protect the health of tribal people and respect our treaty-reserved rights to the harvest of fish and shellfish. After all of this time and effort, we are writing to express our disappointment with many of the provisions of the proposed draft rule for human health criteria and implementation tools in the Washington State water quality standards. PGST also hereby, supports, adopts, and incorporates by reference the complete Northwest Indian Fisheries Commission (NWIFC) comments regarding the draft rule for Washington water quality standards, which were prepared on behalf and at the behest of its member tribes, including all materials, references and records, submitted to the Washington Department of Ecology on March 23rd, 2015.

Over the years of discussion, tribes have expressed particular interest in the adoption of a fish consumption rate that is more representative of the amount of fish consumption in our communities, and what we aspire to as fisheries are restored. Fish consumption is a lifeway and essential part of the nutrition and economies of tribal communities. The current FCR in Washington of 6.5 grams/day assumes only one meal of fish per month. Many tribal families and individuals eat fish and shellfish multiple times per day. The Washington Department of Ecology has proposed a fish consumption rate of 175 grams per day in the draft human health criteria—about one meal per day. Although this would be a step forward, subject to other provisions in the rule, it is far lower than the fish consumption rate that has been documented in tribal communities in Washington. PGST tribal members are estimated to eat 499 grams per day just from shellfish.

We are particularly disappointed in the state's decision to reduce the protective level of the cancer risk rate in state standards by ten times. This decision largely negates the benefit of setting a higher fish consumption rate, and leaves many cancer-causing and highly toxic chemicals at status quo, and sets a disturbing precedent for future rules, actions and expectation of standards. After 20 years of information that the fish consumption rate does not protect tribes and other people who consume high levels of fish, the state has now opted to cancel out the potential benefit to public health by reducing the protective level of other variables used to calculate the standards. PGST is disconcerted how these policy choices advance Ecology's goal of promoting healthy communities and natural resources.

PGST has other trepidations about the proposed draft rule, which are addressed in detail in the comments submitted by the NWIFC and incorporated here by reference. We remain especially concerned that the standards for many highly toxic chemicals such as PCBs and mercury will not require any improvement by dischargers, and that the standards for arsenic will be less protective. The Department of Ecology should reconsider the provisions of the draft rule, and restore critical elements including a cancer risk rate of one-per-million and other provisions that will protect fish consumers in the state of Washington. Additionally, implementation tools should be adjusted so that they are directed towards accountability and attainment of water quality standards, and not a set of tools to help dischargers avoid compliance.

Washington State is required to meet the provisions of the Clean Water Act to preserve the beneficial uses of water, including fishing and shellfish harvesting. The public health issues that are determined by these standards affect everyone in Washington who eats fish. On top of this concern, the state must not impair the tribe's treaty-reserved rights to take and consume fish at all their usual and accustomed fishing grounds and stations. The proposed rules by the state of Washington do not meet these requirements.



Jeromy Sullivan
Chairman

CC

Dennis McLerran, Regional Administrator, EPA Region 10

Angela Chung, EPA Region 10

Matt Szelag, EPA Region 10