



QUILEUTE TRIBAL COUNCIL

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March 27, 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 Quileute Tribe 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. The current draft creates increased cancer risk not only for tribal people, but also for other groups that consume significant amounts of fish and shellfish, and within the larger population, the unborn children of pregnant women.

Further, the Quileute Tribe has participated in the development of the comments prepared by the Northwest Indian Fisheries Commission and hereby supports, adopts, and incorporates by reference the complete Northwest Indian Fisheries Commission comments regarding the draft rule for Washington water quality standards. These comments 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 23, 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 multiple times per day. The Washington Department of Ecology has proposed a fish consumption rate of 175 g/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.

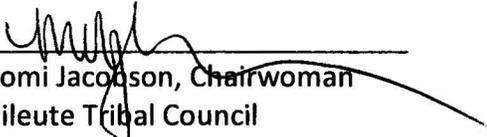
We are particularly disappointed in the state's decision to reduce the protective level of the cancer risk rate in state standards by ten times, down from 10^{-6} to 10^{-5} . Oddly in 1991 the state fully endorsed 10^{-6} as a criterion for carcinogens (NRT Final Rule Notice, 57 Fed. Reg. 60868 (Dec. 11, 1992)). Accepting a cancer rate of one in one hundred thousand largely negates any benefit of setting a higher fish consumption rate, 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. Fish used to be perceived as a healthy alternative to red meat, but with a tenfold increase in the cancer risk or other diseases from chronic exposure to toxics, can this still be said?

Therefore, the Quileute Tribe has other concerns about the proposed draft rule, which are addressed in detail in the comments submitted by the Northwest Indian Fisheries Commission and incorporated here by reference. We remain especially concerned that the standards for many highly toxic chemicals such as PCBs, Arsenic, and Mercury will not require any improvement by dischargers, and that the standards for arsenic will in fact 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 (10^{-6}) 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. 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.

Yours truly,



Naomi Jacobson, Chairwoman
Quileute Tribal Council

cc:

Dennis McLerran, Regional Administrator, EPA Region 10

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