

# Final Transcript

## DEPARTMENT OF ECOLOGY: Session 1

March 12, 2015

### SPEAKERS

Karen Baldwin  
Chris Wilke  
Sandra Kilroy

### PRESENTATION

Karen I'm Karen Baldwin and I'm the hearings officer for the hearing on the proposed amendment to the water quality standards for surface water for the state of Washington, Chapter 173-201A Washington Administrative Code. Let the record show it is 2:58 p.m. on March 12<sup>th</sup> and the hearing is being held in the Department of Ecology's Headquarters Building Auditorium located at 300 Desmond Drive in Lacey, Washington.

Legal notice of the rule and this hearing was published in the Washington State Register, number 12-19-055 and 12-19-056 on February 4, 2015.

Ecology issued a statewide news release on the rulemaking and hearing on January 12, 2015. In addition, Ecology placed information about the

commentary and hearing on their website for the rule and in the online public calendar.

Ecology sent rule announcements via e-mail to the following listservs or e-mail distribution lists on January 12<sup>th</sup>: The Water Quality Listserv with 1,205 subscribers, and the Water Quality Partnership with 58 members. Ecology issued a reminder about the public hearing dates and times to these listservs on February 23<sup>rd</sup>.

It is now the formal comment period for anyone who would like to comment. I'll be calling you to testify in the order in which you signed in or pressed star one. When I call your name, please state your name, the company or organization you represent if any, and your address please. So, I apologize in advance if I mispronounce your name. Feel free to correct me.

Remember to limit comments to five minutes and [audio disruption] will be keeping time for me and to let you know when you've got 30 seconds left. So, we'll begin with Chris Wilke followed by Sandra Kilroy.

Chris

Hello. My name is Chris Wilke and I'm Executive Director at Puget Soundkeeper. I represent more than 3,000 members, supporters and volunteers who value a healthy Puget Sound.

I'm a lifelong resident of Washington State and Puget Sound. I'm a fisherman. I like to fish for salmon and trout and other marine species, clams, crabs, [indiscernible]. Often, I choose to release my catch for conservation reasons, but I've also released my catch because of fear of toxic pollution, and that's not okay with me.

The members of Puget Soundkeeper Alliance and myself are deeply concerned about the pathway that Ecology is on to revise the state water quality standards for human health. This process began with the recognition that we were not adequately protecting the people in our community. It began with the recognition that we were grossly underestimating the amount of fish people eat, and that we needed to fix that number so that our standards would be based on reality.

Unfortunately, the process as proposed is said to end right where it started, with the recognition that we are not going to adequately protect people in our community. The simple fact that Ecology, Governor Inslee and businesses and industry advocates are proposing the raise the cancer rate at the same time as the fish consumption rate masks a manipulation in the kind of industrial political influence that the Clean Water Act was setup to address.

The current proposal calls for an increase in the fish consumption rate of 27 times to 175 grams per day while offsetting that with a cancer risk rate that has increased 10 to 40 times; yes, 40 times because hidden in this proposal is a four times multiplier for PCB. Nobody is talking about this. It is not in any of Ecology's talking points. It just shows up as an asterisk in a spreadsheet and as a footnote to the statement that nothing is going to get any worse because Ecology is going to hold the line when a new standard would otherwise get worse.

While would a standard get worse? After all, we are proposing to increase the fish consumption rate. The reason why it will be getting worse is precisely because Governor Inslee and Ecology are essentially juking the staff here to create an outcome that they think our pollution dischargers can live with.

Ecology's own analysis shows that the resulting standards will result in no increase to the financial burden imposed on pollution dischargers. This is unacceptable. We already have fish consumption advisories for Puget Sound in much of the state, and what are our most common drivers of fish consumption advisories? Mercury and TCBs, which are precisely two standards that will not be changing under this rule.

So, if pollution is not reduced, is it safe to say that the proposal does nothing to protect human health? I think so, particularly in specific communities like tribal members, Asian Pacific Islanders and recreational fishermen. In fact, this proposal makes the current standards weaker by opening the door to an “Orwellian” set of implementation tools, you can mark my air quotes there, that do more to avoid implementation rather than encourage it.

Lastly, while not the subject of this rule, Governor Inslee states that he will not finalize this rule unless his legislative package of toxic control measures passes this session. Last night, his legislative package lost its most important element, the increased authority for Ecology to ban toxic chemicals.

Ultimately, toxic control is very important, but we absolutely need a strong water quality standards regulation. The Department of Ecology has a public trust responsibility to protect our common water resources. The current proposal abdicates that responsibility in favor of making compliance easier.

So, please restore the cancer risk rate to ten to the minus six, regulate mercury and arsenic and eliminate the gratuitous implementation tools.

Thank you for hearing my testimony.

Karen Thank you. Sandra Kilroy.

Sandra Thank you. I'm Sandy Kilroy, King County, address 201 South Paxton [ph] Street, Seattle, Washington, 90104. I don't think I've had to use my address in quite a long time.

King County would like to thank the Department of Ecology for their extensive outreach activity supporting the development of this current draft rule. It's been a very complex lawmaking process and the time it's taken to educate and involve stakeholders is very appreciated.

King County treats and cleans wastewater from 1.5 million residents and businesses. In addition, we have well regarded programs and salmon recovery, hazardous waste prevention, land conservation, growth management, and other environmental and public health areas. King County is doing our part to apply leading edge environmental protections.

Our current regulations, however, drive a focus on end of the pipe approaches [indiscernible] today's chemical pollutants. Unfortunately, we don't control many of the sources and types of chemicals that come into our system.

King County does support the state's comprehensive approach to protect water quality and human health by reducing toxic chemicals at the source. This draft rule updates our fish consumption rate and defines water quality standards that are equal to or more protective than the standards in place today, and is coupled with comprehensive [indiscernible] strategies and funding. We believe that this holistic approach offers the best assurance of achieving real improvements in water quality and health outcomes over time.

We do have a few remaining concerns about the rulemaking. We will be submitting written comments, but I'll mention two of these here today. One concerns the cost benefit analysis, which we believe underreports the potential economic impact of the new rule. The analysis that would be used has used the presence of vinyl chloride as a chemical for the analysis, and this is a chemical which is not bio accumulative, not present in fish tissue and not routinely monitored in ambient waters. Therefore, using this to evaluate the need for changes to NPDS from it we believe underreports the economic impact of the rule. So, we urge Ecology to redo the economic analysis using common regulated bio accumulative chemicals.

We also believe the economic analysis does not address what could be reasonably expected changes over time that could occur in two to three

permit cycles, such as the effect of impaired water bodies and the changing of chemical analysis. I think then again we would urge Ecology to take those into consideration in revising the economic analysis.

The other area is looking at revisions to the Water Body Listing Policy Guidance. That could be done simultaneously with the rulemaking. There is currently a very low threshold for a water body to move into the state's highest level of impairment. Having more water bodies listed as impaired beyond what we can currently fund and handle does not actually help us improve water quality or human health statewide.

So, as a companion to the revised human health criteria, King County would urge Ecology to create a more sophisticatedly robust evaluation of [indiscernible] data to be implemented as part of the water body listing criteria.

So, with the objective in mind that we want to move the dial on human health and water quality goals, King County supports the rulemaking in conjunction with the [indiscernible] pollution [indiscernible] efforts proposed and with a focus on reducing toxics at the source. Thank you.

Karen

Thank you. Anybody on the phone would like to testify?

Kristen Not at this time.

Karen Okay. Any additional people here in this room would like to testify?  
Okay. Well, we're going to hit pause and wait and see if somebody shows up between now and 5:00. Thank you for coming. I'll close the hearing at 5:00.

Karen Okay. It is now 5:00 on Thursday, March 12<sup>th</sup> and we'll be closing the hearing. If you would like to send in comments, they must be received by midnight on Monday, March 23, 2015. You may submit comments by mail to Cheryl Niemi at the Washington State Department of Ecology, Water Quality Program, P.O. Box 47600, Olympia, Washington, 98504-7600. Comments can also be mailed to [SWQS@ecy.wa.gov](mailto:SWQS@ecy.wa.gov) or faxed to (360) 407-6426. These addresses are available on the focus sheet at the back of the room.

Additional open houses of public hearings will be held today, March 12<sup>th</sup> at 6:00 in Olympia at Ecology's Headquarters Building, 300 Desmond Drive, Lacey, Washington, 98503-1274.

All testimony received at this hearing as well as e-mails, faxes, hard copy comments received by midnight Monday, March 23<sup>rd</sup> will be part of the official record for the proposed standards. Ecology staff will respond to

comments in a document called a concise explanatory statement or CES.

The CES will be available after the rule is adopted on Ecology's website,

[www.ecy.wa.gov/programs/wq/ruleded/wac173201a/1203docs.html](http://www.ecy.wa.gov/programs/wq/ruleded/wac173201a/1203docs.html).

Ecology will send a notice about the availability of the CES in a news release and to a listserv.

The next step is to review the comments and make a determination whether to adopt the rule. Ecology Director, Maia Bellon, will consider the documentation and staff recommendations and make a decision about adopting the rule. Ecology expects to adopt the rule no earlier than July 1, 2015. If we can be of further help, please do not hesitate to ask.

On behalf of Department of Ecology, thank you. Let the record show that this hearing was adjourned at 5:02 p.m.