

Final Transcript

DEPARTMENT OF ECOLOGY: Session 2

March 12, 2015

SPEAKERS

Karen Baldwin
Jim Peters
Heather Trim
Tiffany Waters
Jennifer Whitner-Orich

PRESENTATION

Karen Okay. I'm Karen Baldwin, the hearings officer for this hearing on the proposed amendment to the water quality standards for surface water for the state of Washington, Chapter 173-201A, WAC, Washington Administrative Code. Let the record show it is about 7:20 p.m. on March 12, 2015 and this 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 12th: 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 23rd.

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. I apologize in advance if I mispronounce your name, so please feel free to correct me.

Remember, limit comments to about eight minutes and audience, no extra noise. When you have 30 seconds left to complete your testimony, Gary will let you know and then I will call the next person up to testify. We will begin with Jim Peters followed by Heather Trim here in the room.

Jim

Good evening. My name is Jim Peters. I'm Squaxin Island Tribal Council member. My address is 3025 81st Avenue Northwest, Olympia, Washington, 98502. I'm here representing the Squaxin Island people.

We've been working on this for a long time with the tribes and the state on a government-to-government basis. We are—at the beginning of this whole process, throughout the years, it was our intent that status quo was not acceptable. And so, that's where we had started this type of discussion out to deal with this issue, working to develop the standards has become a technical exercise to address political type of problems when we are trying to look at this as a public health issue and trying to lessen the pollutants that we are putting into the water.

The tribes have been very clear and steadfast on the fish consumption rate at 175 grams per day at the cancer risk rate of ten to the minus six, which protects one in a million individuals. This is actually a compromise that the tribes came up with the state of Washington. For example, the Squaxin Island fish consumption rate, that doesn't include shellfish, is at around 280 grams per day.

We also will be submitting tribal comment letters, and they're being developed right now. There's other tribes and groups of tribes that are

going to be working on those letters and we'll be bringing those forward to the state.

We're aware that there are many factors that are [indiscernible] to the development of the criteria and like we said, the big movement and the good movement to accept the 175 grams per day was a good one, and we support that. However, increasing the cancer risk rate to ten to the minus fifth, which only protects one out of 100,000 is not acceptable. For our tribe and tribal people and other people that eat quite a bit more than 175 grams per day, this is actually impacting our cancer risk rate ten-fold. We need to protect not only our future generations coming in here, but our women that are childbearing age and our elders. This is going to impact them. It deals with the development of their immune system, and we cannot accept the status quo of the regulation.

The state's overall toxic strategy tends to kind of diminish the importance of these standards and the rule. The tribes have a fundamentally disagreement and want to make sure that we have strong standards and believe that we'll drive other important toxin reduction work into the future.

So, I just want to be closing my comments on a quote from Chairman Ron Allen when he was talking on this issue is that this is not a one

generational economic-type of issue, but a seven generation health issue, public health issue. And also, we want to try to change this culture of continuing to try to figure out how much we can pollute our waters, and we need to change that to cleaning up our water. By allowing status quo-type of things to continue to go on, we are actually going to lose that battle and our future generations are not going to be able to enjoy what my ancestors were able to enjoy.

And so, we encourage the state of Washington to really rethink this, especially the cancer risk rate and that we will need to try to look at working along with you, or willing to work along with you to deal with the implementation issues that come up with it. Thank you very much.

Karen Thank you. Heather Trim followed by Tiffany Waters.

Heather Good evening. I'm Heather Trim. I'm here tonight on behalf of Sierra Club, 180 Nickerson Street in Seattle.

My first comment actually has to do with the word "Seattle." I do not think it's okay for Ecology to continue to have public hearings on very important topics and exclude having the city of Seattle residents easy access to public hearings. For greenhouse gases purposes, it doesn't make sense and here we have two hearings in Olympia, and one of those really

could have been held in the evening in Seattle. It just is very concerning that Ecology seems to have gone to this mode, and I understand you have had low turnout for less controversial hearings, but I know you would have had good turnout for this one, and it's very concerning that we haven't had that opportunity in Seattle and that people had to drive all the way down here for this.

It's great that Ecology is updated its standards. It's something that's well overdue, but similar to the previous comments and the other comments you've heard, it's very concerning about some of the aspects of it that appear to be a political calculation rather than based on the science. Ecology staff did quite an extensive amount of work to determine the science and unfortunately that science has not been followed through in the final amendment that's being proposed.

This includes the ten to minus five cancer risk, which is very concerning not only for PCBs and the chemicals in this particular amendment, but also the precedent that it's setting, that we're going backwards on our [indiscernible] cancer rate in this state, a state where we have some of the highest rates of cancer in the United States already. So, why would we want to go backwards on that?

Another issue is that we have more and more people who are moving to the state of Washington. We live in a great place; people want to move here and they're also climate refugees as well. We already have anecdotal evidence that that's starting to occur. So, that means we're going to have greater waste loads going into our waterways. So, we don't want our rate of pollutants to stay the same. We want our rate of pollutants to go down so that the load of pollutants going into our waterways goes down, or at least stays the same, but certainly goes down. With the Puget Sound Partnership working very hard with partners like Ecology to restore the health of Puget Sound, unfortunately this amendment is not going to give us what we need for that.

It's concerning that a political compromise, which was 175 grams per day rate, that was a compromised arrangement or come to in Oregon, is now being, okay, so maybe there's some acceptance of having that rate for Washington, but then we're compromising that by having the ten to the minus fifth of rate going along with that.

Another major issue, which isn't in this amendment, but we'd like to see Ecology take action on is phasing out mixing zones for bio accumulative toxin pollutants. We have a very large concern that the toxic chemicals are continuing to come in our waste loads into the Sound and into other waterways in Washington. These very low levels of chemicals bio

accumulates into our species in the areas nearby and maybe not so nearby, up the food web. We are not addressing mixing zones to address these. Mixing zones may be appropriate for some chemicals, but dilution is not a solution for bio accumulative toxic levels.

The other major concern or another major concern is the issue about the extended off ramp times that's been given to the dischargers. It may make sense to give them some more time, but if you have an unlimited time and not [indiscernible], abolish the five-year and ten-year increments is very concerning. The fact that there is an off ramp is challenging in itself. But, the fact that there's no time limit being given is, I'm certain, very concerning to the environmental community.

Arsenic is already addressed in the Clean Water Act and other regulations in terms of natural levels. So, it's concerning to feel like arsenic can't be addressed through those other means.

Lastly, I'd like to just comment that many people have been advised to eat a lot more fish for health reasons. It's very concerning that we are not doing our part in Washington State as an agency to deal with reducing those toxic chemicals in something that is otherwise a very healthy foods.

We are one of the apex species like orcas, like eagles and osprey and we need to protect all of our species, and especially our vulnerable environmental [indiscernible]. Thank you.

Karen Thank you. So, Tiffany Waters followed by Brandon Stevens.

Tiffany So, my name is Tiffany Waters and I live at 727 4000 and East, Apartment 14, Olympia, Washington.

So, I live in Olympia now. However, I was born and raised on the Hood Canal of the [indiscernible] Peninsula of our Washington State and I've been eating fish and shellfish since before I could eat solid food. I mention this as my kind of important background, and I don't say it because my background is unique. I say it because it's not.

It's so much a part of Washingtonians as a broader culture to both native and non-native people. In fact, it was the one kind of common binding threading on the Hood Canal. Like I said, it can be contentious in regards to resources and it's the one thing that's binding everyone together and that we all worked in and ate fish and shellfish.

So, my parents were like a lot of people in Washington State and didn't have a lot of money when they were raising us when we were young. And

so, we ate what they ate. And so, whether that was fish and shellfish or elk and deer, it all went into the food grinder. And rather than eating expensive baby food that's what we ate. I actually think that's something that's really important now in retrospect. Again, my background is not unique.

I'm of mixed native and non-native descent. I have a lot of family and a lot of friends and a lot of community members in [indiscernible] and throughout the state that eat a lot of fish and shellfish. This is something that is common to all of us.

And so, I'm coming here today because I want this to be a part of the public record and I feel for the Ecology staff members. This isn't really directed at any of them. It's actually probably more directed at the governor than anything else.

But, I look at the current proposed rule and I find it completely unacceptable. I look at the 175 with ten to the minus five and it seems as this large compromise and it's not a compromise. It's a shell game. I say that because within EPA's own guidance, they say, "You want to know the difference between ten to the minus five and ten to the minus six? You can effectively change the decimal point of the fish consumption rate." That's what they say within their own guidance.

So, under this rule, 70% of the chemicals then are actually at 17.5 fish consumption rate and 30% of them are at 6.5 and neither one of them protect me or really anyone that I know. So, I find that completely unacceptable. That's just on the carcinogen side. So, to add insult to injury, you go in and you look at the non-carcinogens and there's no relative source contribution included at all. So, we're continuing to keep the one, which means nothing, which is the same at the national [indiscernible] rule that we all are basing our original rule off of.

And so, I look at all of that and again, I just see it as a shell game and I see it as really insulting. So for me and for my family and for the women I work with and people that I care about, I really need a 175 at ten to the minus six and that's why I'm here today. So, thank you very much.

Karen Thank you. Anybody on the phone?

Kristen [Indiscernible]

Karen So, Brandon is it Stevens followed by Patricia Greene.

M Patricia Greene had to leave.

Karen Oh, did she? Okay. Is Brandon still here? Is he out in the hall? Okay.

So, Jennifer.

Jennifer Can I lower it just a little bit?

Gary Feel free to pull just the whole thing down. There we go.

Jennifer I'll just set it on the ground. That'll be close enough. My name is Jennifer
Whitener-Orich. I live at 4305 Blubryd Lane Northwest, Olympia,
Washington, 98502.

My dad is an enrolled Squaxin Island Tribal member and I have grown up
eating local seafood and fish, picking mussels off the beach and doing all
of those things that to me were completely normal. I feel that the current
standards promoted here are too low.

My daughter should be able to do the same things that I've done and heard
other people talk about. But in our communities, that's part of our culture.
It's part of our life. I love food. We all love food feel like and being able
to consume local seafood is important, especially in Olympia where we
push kind of local food movement.

So, my daughter I feel should be able to eat more than six ounces of seafood and have any consideration over a period of 70 years of her life that her cancer risk rate is one in 100,000. That isn't acceptable to me.

I heard several times tonight that some of these decisions were made by Governor Inslee as a risk management decision. Well to me, Governor Inslee's risk management decisions are too risky for me, for my daughter and for all of the citizens of Washington State.

Karen I'm finishing my notes. Sorry. Would anybody else like to testify? Gary, can you see if anybody out in the hall wants to testify please? Anybody on the phone?

Kirsten There isn't anyone on the phone, but just as a reminder that if there are just to hit star one.

Karen No. If you would like to send in comments, they must be received by midnight on Monday, March 23, 2015. You may submit comments to Cheryl Niemi at the Washington State Department of Ecology, the Water Quality Program, P.O. Box 47600, Olympia, Washington, 98504-7600. Comments can also be mailed to SWQS@ecy.wa.gov. They can also be faxed to (360) 407-6426. These addresses are also available in the focus sheet at the back of the room just outside the door.

All testimony received at this hearing as well as e-mails, faxes and hard copy comments received by midnight on Monday, March 23, 2015 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.

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 will 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 to you, please do not hesitate to ask.

On behalf of Department of Ecology, thank you for coming tonight. Let the record show this hearing was adjourned at 7:43 p.m. Thank you.

Gary

For those on the conference call, this ends our public meeting and we will be ending the call. Thanks.