Puyallup Tribe of Indians

May 19, 2006

Dave Peeler
Department of Ecology, SWRO
PO Box 47775
Olympia, WA 98504-7775

Department of Ecology
Water Quality Program
MAY 22 2006

RE: Initial Comments on Preliminary Draft Phase I and Phase II Municipal Stormwater Permits

Dear Mr. Peeler:

The Puyallup Tribe of Indians requests government-to-government consultation with the Department of Ecology *prior to moving forward* with the draft Phase I and Phase II Municipal Stormwater Permits. We are dismayed that early notification, adequate information, and timely consultation were not afforded to us with regard to these permits.

The Water Resources Protocol between the Puyallup Tribe of Indians and the Washington Department of Ecology, signed by the Tribal Council Chairman Herman Dillon Sr. and Director of the Department of Ecology Tom Fitzsimmons, established implementation procedures for consultation between the Tribe and Ecology "in order to provide consistent and cooperative treatment of proposed governmental actions that affect water resources in the Puyallup/Carbon/White River Basins." The parties to the Agreement committed to: giving early notification, providing adequate information, and engaging in timely consultation.

> As soon as practicable, each party will send written notice....and inquire whether the other party wishes to engage in consultation.... The notice will provide sufficient information for the other party to determine if they may wish to comment or consult on the project....notification should occur as soon as practicable and prior to requesting additional information....or initiating any other decision making process.

Additionally, the 1988 Puyallup Land Claims Settlement Agreement, adopted as federal law in Public Law No. 101-41, commits the State, when carrying out federal delegated programs, to involve the Tribe "in a consultative manner and to work cooperatively where practicable" and "to enter into discussions which will result in a

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complementary approach to environmental issues, with the overall objective of consistent or compatible environmental controls in the areas under respective State and Tribal jurisdictions."

As regulator of water quality in the lower Puyallup River and co-manager of the fishery, the Tribe requests that the department not proceed further with its permitting process until it has cooperated with tribal water and fishery resources managers in scoping all relevant environmental and regulatory issues, including those of jurisdiction.

Situated in one of the most urbanized watersheds in the country, the Puyallup Reservation is also located near the mouth of the Puyallup River where cumulative impacts are greatest. Stormwater discharges from urban development pose a direct threat to endangered salmon fisheries and water resources (quantity and quality) of the Reservation. With population growth in the Puget Sound region expected to continue to grow by more than one million over the next 20 years, impacts will continue to increase. Water quality data collected by tribal environmental staff show an apparent seasonal trend of depressions in pH (below the water quality standard) in the lower Puyallup River to be strongly correlated with storm events. We believe this "depression effect" may get worse with increased stormwater flows.

We respectfully request that you delay further action until we have had a chance to work with you to obtain all necessary information that is critical to the protection of Reservation and treaty resources, and afford a genuine opportunity for consultation.

Sincerely,

for Bill Sullivan

Bill Sullivan, Director
Tribal Natural Resources