



LUMMI INDIAN BUSINESS COUNCIL

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DEPARTMENT _____

DIRECT NO. _____

October 8, 2012

Mr. Ted Sturdevant, Director
Washington State Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

SUBJECT: August 15, 2012 Invitation to Join the Key Delegates Table for the Washington State Water Quality Standards Policy Forum

Dear Director Sturdevant:

Thank you for your August 15, 2012 letter that provided both an overview of the Department of Ecology's current efforts to improve the Washington Water Quality Standards relating to human health risk exposure, including updating the fish consumption rate, and inviting tribal participation as a member of the "Key Delegates Table" of a newly created Policy Forum. In response to your letter, I have the following comments:

1. Please include the recently completed Lummi Nation Seafood Consumption Study in the Ecology report that documents the most relevant fish consumption rate studies in Washington. Craig McCormack of your staff provided helpful comments following his quick review of a draft version of that study. The final report, which addressed comments received from the Tribal Advisory Committee and the Technical Advisory Committee for the study as well as other comments, is available on line at: <http://lnnr.lummi-nsn.gov/LummiWebsite/Website.php?PageID=211>. The Tribal Advisory Committee for our study recommended that the Lummi Seafood Consumption rate be no less than the 383 grams/day average rate determined by the study.
2. I agree that it is critical that Ecology receives input from high fish-consuming communities in Washington, particularly tribal governments, as the state fulfills its promise to adopt more realistic and protective fish consumption rates during this triennial review of your water quality standards. However, the Lummi Nation's consultation policy (LIBC Resolution No. 96-156) requires that we forego participation in stakeholder groups unless specifically authorized through a tribal council resolution and participate only in one-on-one, government-to-government forums. Lummi Nation policy representatives are to seek and respond only to a

unified federal position and a unified state position. Once the Policy Forum that you are creating has informed the Washington State position and you have developed the state position, please contact me and we will engage in government-to-government consultation on this matter.

3. We understand that the state has a deliberate rule making process. However, we are concerned that the adoption of more appropriate human health criteria for the Washington State Water Quality Standards is being and will be unduly delayed. Even the most ardent detractors of the need to protect the human health of Washington residents should be able to concede that the current consumption rate used to establish the Washington Water Quality Standards (6.5 grams/day) is neither reasonable nor accurate. The unreasonableness of the current rate is illustrated in Figure 1. A more reasonable and protective rate needs to be adopted in the very near term, not after a multi-year process to find consensus among parties that are unlikely to agree.

As you know, Oregon convened a Human Health Focus Group as part of their Fish and Shellfish Consumption Rate Project. Three of the six Human Health Focus Group members were either affiliated with the University of Washington or the Washington Department of Health. It seems that Ecology should start with the work conducted already in Oregon, make appropriate adjustments for Washington, and adopt water quality standards that reflect a revised and more protective consumption rate.

I understand that there may be politically difficult decisions to be made. However, I believe that the number of studies conducted to date coupled with the work already performed in Oregon provides a solid foundation for Washington to move forward in an expeditious manner to adopt appropriately protective water quality standards for all Washington citizens.

Sincerely,



Merle Jefferson, Sr., Executive Director
Lummi Natural Resources Department

Cc Dennis McLerran, EPA Region 10 Administrator

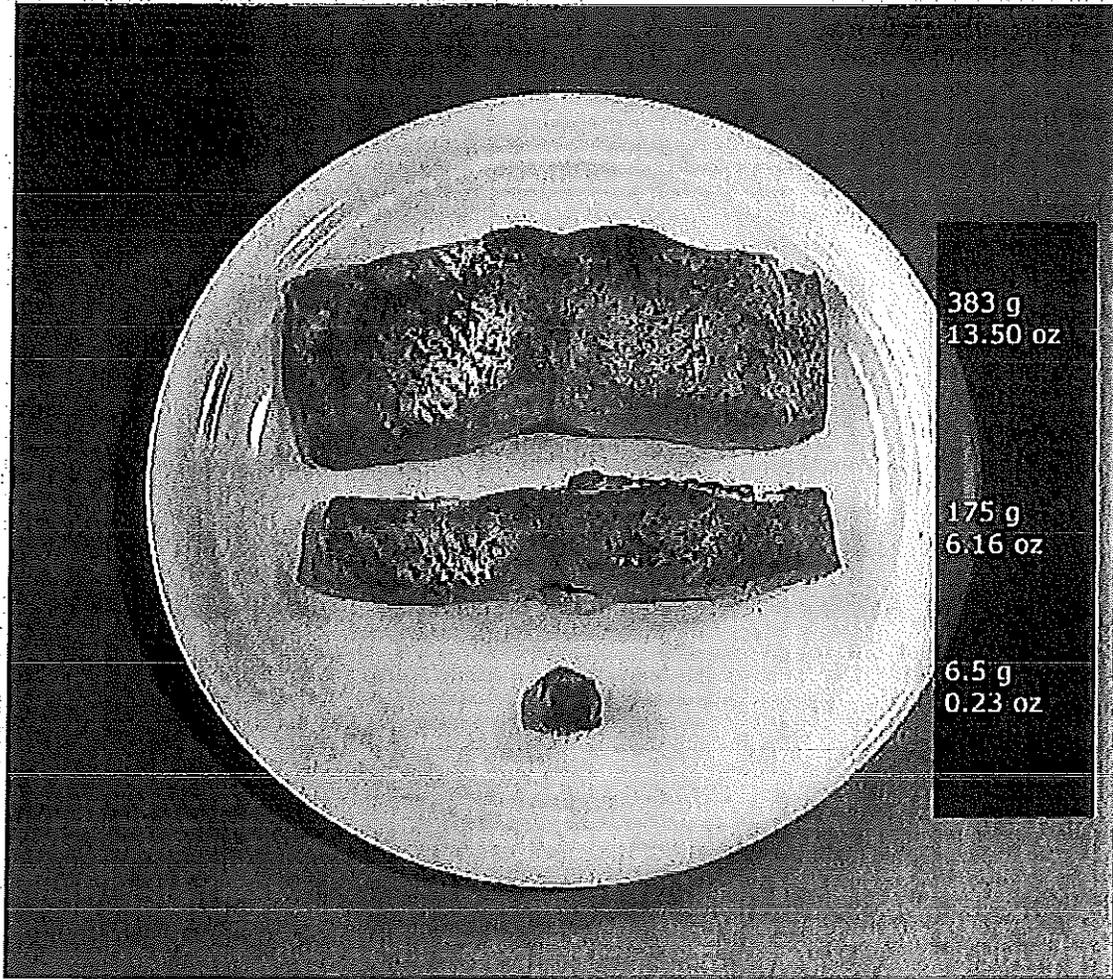


Figure 1. Relative Sizes of Seafood Consumption Portions