



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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October 26, 2012

The Honorable Jeromy Sullivan
Port Gamble S'Klallam Tribe
31912 Little Boston Rd. NE
Kingston, WA 98364

Dear Chairman Sullivan:

Thank you for your thoughtful letter of October 12 regarding participation at the Key Delegates Table in the Policy Forum we are establishing to help guide and inform our work on updating our Water Quality Standards. I appreciate your consideration of our request and respect your decision to not participate on the core group. I look forward to our government-to-government dialogue on these issues.

I also appreciate that you recognize we are trying to move forward on these important issues. I understand that you would prefer a quicker course to updating protections for fish consumers in our sediment and water quality standards. As you know, my concern was that we had gotten hung up on a technical document and part of the Sediment Management Standards, which I felt was going to prevent us from directly and expeditiously addressing protections for fish consumers the Water Quality Standards.

As it is, in our Sediment Management Standards, we have proposed the highest standard of protection for fish consumers – reasonable maximum exposure. In response to requests from tribes, ports and others, we have extended the public comment period but still hope to have the rule adopted by the end of this year. Also, we have nearly completed the challenging task of assembling the science on national and regional fish consumption patterns to inform these decisions on a site specific basis and will have the technical support document finalized next month. This document, along with any new relevant studies that may become available, will also inform our work on human health criteria.

As you note, I have moved up our work on updating the Water Quality Standards human health criteria ahead of schedule, while delaying work on implementation and compliance tools to have them move concurrently. In September, Ecology began formal rulemaking activities to adopt new human health-based water quality standards for toxics. The new standards will include a new fish consumption rate based on relevant regional data. This rule effort was identified in our triennial review process to be taken on next year, but we are moving that forward now.



The Honorable Jeromy Sullivan

October 26, 2012

Page 2

Since we have been operating under EPA's National Toxic Rule, we cannot just adopt a new fish consumption rate in our Water Quality Standards; we must adopt a whole new section in our standards addressing human health criteria. This will include a fish consumption rate but other important public policy issues as well, such as which cancerous and non-cancerous chemicals the standards should address, decisions about exposure assumptions and the appropriate levels of public risk that are acceptable within the standards framework. As you point out, the intent of the Policy Forum is to have an informed discussion and a mutual sharing of perspectives on these important public policy issues as we chart a path to genuine toxics reduction that continues to protect our fish consuming communities, while providing achievable compliance pathways for dischargers. I hope that your staff will be able to follow the process and discussion and offer perspectives and advice in a manner that is consistent with your policies and interests as we take on these tough issues.

I believe it is our responsibility to ensure that tribal communities are able to follow their traditions and culture, which includes a greater reliance on local fish and shellfish than the general population. Tribes reserved that right when they signed treaties ceding their lands to the United States. While treaties did not anticipate toxic contamination, it is our responsibility to ensure that fish are safe to eat at those higher levels of consumption. We are trying to address toxic threats to all of our communities in a meaningful and comprehensive way; updating our standards is just one tool to get there.

I look forward to our discussions on these issues. Please let me know when you feel that government-to-government consultation is needed. Your staff should also feel free to contact my staff at any time with questions or suggestions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ted Sturdevant', with a stylized, cursive flourish at the end.

Ted Sturdevant
Director

cc: Dennis McLerran, EPA Region 10 Administrator
Kelly Susewind, Ecology Water Quality Program Manager
Jim Pendowski, Ecology Toxics Cleanup Program Manger
Tom Laurie, Executive Advisor for Tribal & Environmental Affairs