PORT GAMBLE S'KLALLAM TRIBE
31912 Little Boston Rd. NE – Kingston, WA 98346

March 31, 2014

Governor Jay Inslee
Office of the Governor
PO Box 40002
Olympia, WA 98504-0002

RE: Fish Consumption, Health Risk, and Washington's Water Quality Standards

Dear Governor Inslee:

The state of Washington is on the brink of a decision about how much we are willing to protect the health of Washington citizens from exposure to toxic chemicals in water and fish. Tribes are especially concerned because fish consumption has been a way of life for tribal people in the Pacific Northwest since time immemorial. State water quality standards need to protect the treaty rights of tribes and the spiritual, nutritional, and economic benefit of all types of seafood. Therefore, the state of Washington should utilize a Fish Consumption Rate of no less than 175 grams per day and maintain the existing risk level of 10^{-6} in the calculation of human health criteria (HHC).

Tribes have been documenting their actual fish consumption rates using scientific protocols and outside peer review for two decades. There is widespread agreement that the existing fish consumption rate of 6.5 grams per day (one seafood meal per month) is inadequate to protect most of the population in Washington, let alone tribal people and other high fish consumers. Tribes have advocated that a tribal exposure scenario be used to calculate human health criteria, because this would protect most Washington residents as well as subsistence tribal consumers. Many tribes have advocated for a fish consumption rate that is at least as high as the Oregon standard of 175 grams per day, and studies of Puget Sound tribes have documented rates that are significantly higher—even during a period when fish consumption is already suppressed by the loss of fisheries resources and increased pollution.

The risk of cancer is also an important variable in the calculation of standards. . State standards for the cancer risk rate are currently set at one-per-million (10^{-6}). The Environmental Protection Agency (EPA) and Food and Drug Administration (FDA) have used 10^{-6} as a target standard for insignificant risk for several decades. It is disappointing that the state is considering raising the acceptable risk of cancer by ten-fold to 10^{-5} for every individual in Washington State. We also point out that the increased risk is not a random lottery; as the highest fish consumers, a ten-fold change in the cancer risk will affect tribes the most.

Additionally, changing the cancer risk level in conjunction with other HHC variables may cause many pollutant criteria to be less protective than the existing rule. This is contrary to what the department of Ecology has previously presented. During the November 6, 2013 public meeting, Ecology presented a graph called "Comparison of Alternatives" that showed even their least protective alternative proposed would still cut pollution in half compared to the current standard. Tribal technical staff have indicated that this is no longer the case, and

that Ecology's recent proposals related to updating human health criteria variables (e.g. body weight, relative source contribution, drinking water intake) exhibit a bias towards options that create leniency for dischargers rather than improved protection for human health.

Since the public meeting, the state has developed several special interest groups, including the Policy Forum, Delegates' Table, Toxics Reduction Roundtable, Governor's Informal Advisory Group, and the Creative Solutions Group. Tribal leaders who were invited to the Governor's Informal Advisory Group wrote to Governor Inslee on August 14, 2013, to make it clear that "The scope of the advisory group should address implementation, not the calculation of the human health criteria or the fish consumption rate." In a memo to the Governor dated March 14, 2014, these same tribal leaders were disappointed that most of the recent discussion continues to revisit issues related to the calculation of human health criteria, including the fish consumption rate, cancer risk rate, inclusion of salmon, and other technical topics that tribes have already considered to not be a point of discussion. It is not clear how these groups are related to the public process and there is no public review of meeting discussions. What little transparency there is, shows that many of the proposals are frequently off-topic, out of the scope of the group's original intent, or in violation of the Clean Water Act. We encourage a public process that uses best available science to develop water quality standards that have the highest potential benefits for all Washington residents.

Tribes recognize that achieving improvements in water quality will be a substantial transition for some for businesses and municipalities and that it will take time. However, the path forward is not in setting less strict standards. The solutions are in implementation-- tools to provide reasonable compliance pathways for permitted dischargers, cleaning up existing contamination, monitoring our progress, and reducing other sources of toxic chemicals.

We greatly appreciate the time and attention that you have personally given this issue, Governor Inslee. Tribes continue to offer their support in moving forward with protective standards and flexible compliance tools to achieve our mutual goals. It is time to make the right decision to protect the health of the people of Washington State.

Thank you.

Sincerely,

Jeromy Sullivan
Chairman

Cc: Dennis McLerran, Region 10 Administrator, EPA
Maia Bellon, Director, Washington Department of Ecology