Seattle Human Rights Commission

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October 24, 2014

Heather Bartlett, Water Quality Program Manager
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Water Quality Program
PO Box 47600
Olympia, WA 98504-7600

Transmitted by email to: swqs@ecy.wa.gov

RE: Comments on Determination of Significance and Scoping Notice for Revision to the Water Quality Standards for Surface Waters of the State of Washington

Dear Ms. Bartlett:

We are writing on behalf of the Seattle Human Rights Commission (the "Commission") to express our support for the Department of Ecology's decision to prepare an Environmental Impact Statement ("EIS") for proposed rulemaking relating to the revision to the water quality standards ("WQS") for surface waters of the State. We concur in the comments submitted by the Northwest Indian Fisheries Commission and we make these additional comments.

Health and access to the conditions that promote health are inherent human rights outlined in international human rights instruments. For example, Article 12 of the International Covenant on Economic, Social, and Cultural Rights recognizes that all peoples have the right to health, and to live in environments that enable health. The right of indigenous peoples to subsistence and to preservation of their traditional economies is also a human right as recognized in Article 20(1) of the U.N. Declaration on the Rights of Indigenous Peoples (the "Declaration"): "Indigenous peoples have the right . . . to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities." Finally, and significantly with respect to Washington treaty tribes, Article 37(1) of the Declaration also recognizes that "[i]ndigenous peoples have the right to the recognition, observance and enforcement of treaties."

In order to uphold human rights standards, it is thus critical that Ecology include the protection of indigenous peoples' rights to health, subsistence, traditional economies, and treaty enforcement within the scope of their EIS. Native Americans of our State—who as a matter of putting food on their family's tables (i.e., of practicing a subsistence culture), of maintaining their traditional economies, and (in the case of some tribal members) of exercising their treaty-reserved fishing rights—consume fish at a much higher rate than other segments of the population in our State. For example, Region 10 of the EPA has found that tribal members consume approximately 147 pounds of salmon, 68 pounds of other fish, and 400 pounds of shellfish per year (based on data from the Suquamish Tribe). The Spokane Tribe has set its fish

consumption rate to 865 g/day to reflect and protect the large volumes of fish its members consume. Native Americans are not the only high fish consuming population in our State. Members of Asian and Pacific Islander communities in our State consume fish at a rate of 306 g/day (based on a recent survey).

Given this data, we specifically request that Ecology consider a scenario in its EIS with a cancer risk level no less protective than 1 in 1,000,000 (or 10^{-6}) and a fish consumption rate of no less than 175 g/day. To do otherwise will be to ignore internationally-recognized human rights.

Thank you,

Sarah Bishop, Co-Chair

Ethel Branch, Co-Chair

cc: Patty Lally, Acting Director, Seattle Office for Civil Rights