Confederated Tribes and Bands
of the Yakama Nation

Established by the
Treaty of June 9, 1855

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

March 25, 2014

Re: Washington's Water Quality Human Health Criteria Update

Dear Governor Inslee,

Thank you for including Yakama Nation in the Governor's Informal Advisory Group (GIAG) on Water Quality Human Health Criteria (HHC). As we have discussed in the GIAG, Yakama Nation is steadfast that the water quality standards, including the HHC, must be protective of all Yakama people, not just a percentage of them. We support your efforts to bring together a broad range of interests to discuss the HHC, but the discussion has been full and complete and a decision must be made.

Yakama Nation supports the March 14, 2014 letter presented to you by chairmen Allen, Forsman, and Cladoosby summarizing the comments of the Jamestown S'Klallam, Swinomish, and Suquamish tribes on the HHC. We do have one major difference from the other tribes present at the GIAG and that is Yakama Nation has not agreed to a fish consumption rate (FCR) of 175 g/day. The HHC must be protective of all Yakama People, not just a percentage of them. As stated by Yakama Tribal Council Chairman Harry Smiskin in our January 17, 2011 letter to Ecology, "Tribal Council members are not elected to decide how many Yakama people should be subjected to increased health risks to allow for industrial and agricultural development. I cannot explain to the people I represent why some of them or their children should be asked to sacrifice their health for the economic benefit of others." It is important that you understand we are unwavering on this position as you draft the new HHC.

It appears you are considering two potential pathways for the new HHC. One would adopt an "Oregon-like" FCR with a cancer risk of one in a million with many compliance tools to help industry meet the standards. The second pathway is an "Oregon-like" FCR with a cancer risk of one in a hundred thousand and no extra compliance tools to help industry. An Oregon-like FCR is a step in the right direction but will still not protect 100 percent of Yakama people. Increasing the allowable cancer risk and using a 175 g/day fish consumption rate will simply ease the burden on discharges while continuing to put Yakama people at undue risk for eating our traditional foods. We cannot accept a cancer risk that is less than one in a million because it is not protective of Yakama people and resources.

We understand the regulated community fears that it will not be able to meet the subsequent requirements of more protective HHC, but we feel that these standards will be attainable under the correct implementation regime. Provisions that ensure measureable progress to meet the

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more protective standards in a defined timeline are to be expected. We would prefer that the standards be met immediately but would be open to a defined timeline for compliance. At the same time, steps should be taken to implement creative solutions that result in substantial reduction and do not create further confusion in standards.

Unfortunately, we believe Ecology's "Special Chemical Options" are inappropriate and actually allow more pollution to be legally discharged into the waters of Washington. For example, Ecology's current proposal would more than double the allowable discharge of PCBs into the Columbia River. As we presented at the February 7, 2014 GIAG, PCBs are a major contaminant in the Columbia River with concentrations of PCBs in bass fish tissue at Bonneville Dam among the highest in the Northwest. Over 75 percent of the mainstem Columbia River soon will be posted with resident fish consumption advisories due to PCB and mercury contamination. This is a shameful admission in a state known for its environmental values, and it should be intolerable for a Governor committed to environmental protection. Your stated goal of real toxic reduction is not supported by Ecology's plan that would double the amount of PCBs allowed to be discharged into the Columbia River. Any update in the water quality standards needs to result in better water quality, not more pollution.

Finally, we want to support you in the state's efforts to complete HHC rulemaking by the end of 2014. The federal and state governments have had the scientific evidence for more than two decades showing 6.5 grams of fish/day is far less than what tribal people on the Columbia River eat. We are encouraged that you have set a timeline to complete the HHC update and strongly urge you to maintain it. EPA shares our concern and has indicated in a letter of June, 2013 to the Tribes that time is growing short for Washington to update its HHC without federal intervention.

If you have any questions please feel free to contact me at 509-865-5121 ext. 4655 or prigdon@yakama.com.

Sincerely,

Phil Rigdon, DNR Deputy Director
Yakama Nation

cc: Dennis McLerran, EPA Region 10 Administrator (Transmitted via Email)
Maia Bellon, Ecology Director (Transmitted via Email)
Dan Opalski, EPA Office of Watersheds and Water Director (Transmitted via Email)